

**Planning Board- Minutes January 17, 2008**  
**State of New York**  
**Warren County**  
**Town of Bolton**

Present: Co-Chairman Henry Caldwell, Sandi Aldrich, John Gaddy, Sue Wilson, Chauncey Mason, Donald Roessler, Town Counsel Michael Muller and Zoning Administrator Pamela Kenyon.

Absent: Chairman Herb Koster

H. Caldwell began the meeting at 6:03 PM and asked for corrections to the November 29, and December 2007 minutes.

November 29, 2007 minutes:

S. Aldrich, page 17, end of fourth paragraph, it should read "*Dr.*" Connerty.

Motion by Sandi Aldrich to accept the minutes as corrected. Seconded by Chauncey Mason. **All in Favor. Motion Carried.** (Note: Sue Wilson was not available for the vote and Don Roessler abstained because he was not in attendance for this meeting)

December 20, 2007 minutes:

S. Aldrich, page 4, last paragraph, line 6, should read "Nancy Williams stated that there are 9 lots on the east side of Padanarum Road for sale with 1 one on the *west* side"

Motion by Don Roessler to accept the minutes as corrected. Seconded by Sandi Aldrich. **All in Favor. Motion Carried.** (Note: Sue Wilson was not available for the vote)

**1) SD07-23 KEILB, JOE.** Represented by Jesse Pepper. Seeks to merge those parcels designated as Section 186.18, Block 1, Lots 16 & 27 then subdivide into 3 lots. Zone RM1.3. Minor Subject. Sketch Plan Review. Property Location: 4528 Lake Shore Drive and being part of the John R. Loomis Jr. Subdivision. Subject to SEQR. Note: This application is in conjunction with V07-78 for deficient density.

Note: Sue Wilson recused herself since she owns property next to this development.

Jesse Pepper stated that he and Joe Keilb, his brother-in-law are looking to merge the two parcels equaling 3.58 acres and subdivide into three lots. The lot closest to Route 9N would be Lot A (1.3 acres), Lot B in the middle (1.28 acres) and Lot C furthest in (1.0+ acres). He stated that they went before the ZBA on January 14, 2008 and received the necessary variance for lot deficiency. The two lots used to be six lots in the John Loomis Subdivision which included a 40 ft ROW. And their two lots are considerably larger than any of the other neighboring parcels. H. Caldwell asked if this was a part of Rainbow Beach Association. J. Pepper stated no it was in the Basin Bay Association.

H. Caldwell asked how they accessed the lake. J. Pepper stated that they would use the 40 ft. ROW to the Loomis Lane North Entrance and then to the beach. H. Caldwell asked if they were in the same area of the Rainbow Beach docks. J. Pepper stated that they are next to one another with some green area in between.

S. Aldrich asked how the septic system would be affected by the common septic area from Rainbow Beach. Jim Pepper stated that the common septic area for Rainbow Beach and the proposed septic system would have more than 100 ft because the Rainbow Beach HOA have a deed restriction against putting their septic closer to the subject property by one lot away, which is Lot 70 next to their lots. S. Aldrich asked how wide Lot 70 was. Jim Pepper stated 95-100 ft.

H. Caldwell asked if they had seen a copy of the letter from J. Warner regarding his concern over the character of the neighborhood. Jim Pepper stated that both Jesse and Joe Keilb have the same concerns as Mr. Warner; they too want to maintain a large wooded area. And with regard to no notification of this application, he feels that they went over and above. They contacted who they thought was the president of the Association, John Koch and he referred them to Robert Beebe who is the present president. Jim Pepper stated that Robert Beebe addressed some concerns with the ZBA in last month's meeting and since then Mr. Beebe has received a new map with corrections addressing his concerns. He stated that part of their property was sold twice by previous owner Lester Streever, first he sold a piece to the Rainbow Beach Association and second he sold the whole parcel including that piece to Mary Henley, but first come, first serve and it is owned by Rainbow Beach. He stated that since Robert Beebe has received the new information, Mr. Beebe has sent another letter in which he seems to support the application. Jim Pepper stated that although this piece does not belong to them, it does not affect the total acreage that they own.

H. Caldwell asked if these homes would be used year round. Jesse Pepper stated they will not be full-time residences but will be built for year round usage. H. Caldwell asked if they had a size in mind for the homes. Jesse Pepper stated they have not finalized the design for the homes, but does not envision it being larger than 1,500 sq. ft. S. Aldrich asked if it would be single or two story home. Jesse Pepper stated he was not sure on the final design but believes the style will be a log home. Jim Pepper stated with regard to John Warner and other neighbors concerns over the size of the home, the area contains either small cottages or very modest homes and they plan keep the same neighborhood character. Jesse Pepper stated that even if they went right to the setback lines, which they do not plan to do, they would still have 250 feet between them and the back of Mr. Warner's house and with summer foliage he would barely see the homes. Jesse Pepper stated in regard to Mr. Warner's comment about noise from the roadway, he feels that being as far back as Mr. Warner is, it is very unlikely that he hears any noise and they too want to have a buffer from the noise from 9N. With regard to Mr. Warner's claim that he received no notification of the project, Jesse Pepper stated that not only did they contact John Koch and Robert Beebe, but he personally contacted all of his surrounding neighbors with at least one letter and two phone calls, none of which were returned.

D. Roessler asked how adding another lot would affect the Basin Bay Association. Jim Pepper stated that they separate entities and they are part of the Basin Bay Subdivision but not part of the Association. D. Roessler asked if they had any deeded rights to the lake. Jim Pepper stated yes they do because in the Loomis subdivision, each of the six lots were deeded rights to the lake. H. Caldwell asked Counsel if they can create another lot in this subdivision. Counsel stated that they are not creating another lot, they are reconfiguring them. W. Law stated that if anyone looks into the chain of title of these lots, there originally were six lots, each with granted lake rights. So if someone is accusing the applicant of crowding the lakefront or beach, they could say that they are only using three of the six deeded rights to the lake.

W. Law commented on Mr. Warner's letter stating that 1) being an adjacent neighbor, he would have had notice, 2) being 500 ft. from Route 9N, there should be plenty of buffering of noise, and his clients are interested in that buffering as well. He stated further that Joe Keilb has owned the property and cabin since 2002 and no trees have been taken down since and if and when they are able to build they will have to follow the strict cutting restrictions that the Town will impose upon them, 3) they have an APA non-jurisdictional letter which indicates there are no wetlands on the property, 4) this not a lake front lot, they are at least 1,200 ft from Lake George, and 5) there are regulations or rules that he is aware of that prohibit year round homes in this neighborhood. H. Caldwell stated that it has to be a year round home.

S. Aldrich asked how they will access the properties. Jesse Pepper stated there is a common road that they will use and then create a common driveway between the two lots.

H. Caldwell recommended that the PB do a Site Plan Review for each lot since they are not showing a lot of construction details. Jim Pepper agreed.

J. Gaddy asked if they have done test holes on the property. Jesse Pepper stated yes. Jim Pepper stated that upon a site visit, P. Kenyon approved a test hole for a conventional system. He reminded them that a few years ago Rainbow Beach Association created their common septic area and believes the soil conditions are the same.

RESOLUTION:

**Motion by** Donald Roessler to accept the application as completed sketch plan, convert the sketch plan to final plat, waive a public hearing and grant final approval as presented with the following condition: 1) Site Plan Review is required for the construction of a single family dwelling on lots B & C. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. Susan Wilson recused herself. **All others in favor. Motion Carried.**

**2) V07-82 LAGOON MANOR HOMEOWNERS ASSOCIATION.** Represented by the Dock Doctors. In accordance with Section 200-93A (Other regulations applicable to planned unit developments), seeks area variance to demolish and reconfigure the docks. Section 157.05, Block 1, Lot 88.1, Zone PUD. Property Location: Brookhill Drive. Subject to WCPB, PB and APA review.

P. Kenyon stated that they are only making a recommendation to the ZBA.

D. Roessler asked if they talked to WC. J. Provost stated that WC said it was non-jurisdictional.

J. Provost stated the original project in 1989 was permitted and received a variance for no more than 3 docks, with a total capacity of 35 slips, which were to be located easterly of the motel site. Since that time the Lagoon Manor HOA has realized that the original design was inadequate due to the close proximity of the docks to one another and the conditions of the lake in this location. They are limited to where they can place these docks due to other existing structures and Conservation lands. For full use of the 35 slips and for safety they are proposing to have two docks with the same amount of slips.

J. Provost stated that on January 11, 2008 they received a permit from the LGPC for this proposal. They are meeting with the APA next week and the only condition that they have is that the exact placement, configuration, and building materials of the docks be subject to approval by the LGPC, which they already have.

D. Roessler asked what the width was in between the fingers of the dock. J. Provost stated 48 feet, 24 feet between the figures and each finger is 24 feet, which would allow enough room for the boat to swing in and out.

H. Caldwell asked if the number of slips proposed were the same. J. Provost stated yes. C. Mason asked if the docks were to be seasonal or permanent. J. Provost stated permanent. H. Caldwell asked if they were going to be stake docks. J. Provost stated no they are going to be pile supported. D. Roessler asked how the docks would be stabilized. J. Provost stated that there will be some bracing like an ocean pier. He stated that it looks like a stake dock because it is wood, but the piling mechanism that supports the dock is driven into the lake bed 8-10 feet. D. Roessler asked if 8-10 ft is deep enough to support in deeper waters. J. Provost stated yes because the water depth at the very end of the dock is only 6-7 feet deep and as the water gets deeper the pilings get larger in diameter. D. Roessler asked if it would be steel pipe filled with concrete. J. Provost stated that it would be steel pipe but not filled with concrete.

J. Gaddy asked if lights were planned for the dock. J. Provost stated that in a similar project they put lighted buoys markers around the end of the dock. J. Gaddy stated that there is an existing light on the shoreline and if lights were to be proposed, he requested a design that was downward facing and shielded. J. Provost stated that currently there are no plans for lights on the dock. He stated that their standard procedure at the end of the docks is to put a reflective marker for boats, but nothing illuminated.

H. Caldwell asked if they were going to have electricity on the docks. J. Provost stated that there would be no permanent electricity, just for ice eaters. D. Roessler asked if there was going to be shore power. J. Provost stated no. D. Roessler asked if there was a restriction to stay overnight on boats. J. Provost stated he was not aware of any restriction and with the type of boats that are 21-24 ft, they really do not expect it.

H. Caldwell asked if this type of dock was approved by the LGPC. J. Provost stated yes, that there is very little lake bed disturbance, because they are not taking tons of stone and filling the cribs and timbers that can come apart over time. P. Kenyon stated that the LGPC has already issued the permit. J. Provost stated that the LGPC put two special conditions on the permit 1) no more than 36 vessels shall be berthed and 2) flags shall be placed to mark the intersection of mean high water and mean low water for each of the two docks prior to construction and will require inspection before construction takes place. D. Roessler stated the original approved design in 1989 had only 35 slips. J. Provost stated that it was for 35 boats but in the subtext of it, one guest boat was permitted, so he thinks the LGPC counted that spot. There isn't any water there to allow for a boat so he is not counting that spot as viable so their application is for 35 slips.

**RESOLUTION:**

**Motion by Donald Roessler** to send a favorable recommendation to the ZBA with the following conditions: 1) 35 slips are allowed. 2) Lighting that is to be located on the docks and the shore are to be downward facing and shielded with low wattage bulbs used. **Seconded by John Gaddy. All in favor. Motion Carried.**

*Note: Items 3, 4, 5 and 6 were heard together. J. Gaddy recused himself.*

**3) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning.** Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 23 lots that parcel designated as Section 139.00, Block 1, Lot 48.1, Zone RL3. Access to be gained through Section 139.00, Block 1, Lot 28.1(Reed) see SD07-04. Property Location: High Meadow Farm Road. Major Subdivision. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SPR05-11 and was originally approved on May 17, 2007. NOTE: THIS IS AN AMENDED APPLICATION.*

**4) SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq. ft. of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 28.1, 36.1 & 48.1, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot be reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to SEQR.

*Note: This application is in conjunction with SD04-16 and was originally approved on May 17, 2007. NOTE: THIS IS AN AMENDED APPLICATION.*

**5) SD06-14 RONNING, ROLF & LEONE, MICHAEL.** Seek lot line adjustment between those parcels designated as Section 139.00, Block 1, Lots 48.1 & 36.1, Zone RL3. Property Location: New Vermont Road, approximately 2000 ft. north of County Route 11 intersection. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SD04-16 Saddlebrook Subdivision and was originally approved on May 17, 2007.*

**6) SD07-04 RONNING, ROLF & REED, WILLIAM.** Seek lot line adjustment between those parcels designated as 139.00, Block 1, Lots 28.1 & 48.1, Zone RL3. Property Location: 252 New Vermont Road. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SD04-16, Saddlebrook Subdivision and was originally approved on May 17, 2007.*

R. Ronning stated that the subdivision has remained the same since approved last year, but was rescinded and that some stormwater changes have been made. He noted that this application is up for a public hearing at February's meeting and that he will not be in attendance however for the record indicated that Dennis Dickinson, Dennis Phillips, Tesha Brown and Teresa Ronning all have authority to speak for him at that meeting.

D. Dickinson stated that the subdivision has not changed at all since the first approval and the only minor changes have been to stormwater. It is more an issue of covering all the legal bases, because in that venue they have asked for and received two variances 1) the 2 foot separation distance to ground water and 2) lack of 10% frost free infiltration.

D. Roessler asked how many changes have they made to the project in all. D. Dickinson stated they got a review letter from T. Nace that had approximately two dozen items, much of which were regarding inconsistent details throughout the plans and the questions of essence were less than half a dozen. He stated the stormwater regulations for the LGPC and the DEC are different and their only issues were making sure that they covered both of those ordinances so that they could defend themselves.

S. Wilson asked Counsel if the litigation had been settled. Counsel stated yes by a written stipulation. He stated that it is a fair characterization that those variances have been received as they are applicable to the stormwater plan and they are appropriate, which is one of the preliminaries that they do not have to revisit. However, he suggested that with respect to everything that is on the subdivision, stormwater and all lesser applications that are a part of the subdivision be given a fresh comprehensive look even if there has been no change to the subdivision and only minor changes to the stormwater.

S. Wilson asked if these stormwater plans would require any further variance and if it is compliant with the code. He stated that the difficulty in giving the precise answer to her question is that this is a large, complex and detailed plan that the best that T. Nace could do is outlined in his letter. He stated T. Nace's letter specifically addressed the

applicant's engineer revisions and responses to comments and concerns. In summary, it was concluded that all of the PB's previous concerns and comments have been adequately addressed. That said it should also be noted that the currently proposed stormwater management systems "substantially conform" with the applicable stormwater requirements of the Town of Bolton and NYS DEC. The question is, has the applicant done it all and urges the PB to challenge them on these topics.

Counsel stated that he has a letter of opposition from Chris Navitsky, LG Waterkeeper, listing several points and he urged the PB to review all of the following as well as any other issues that may arise:

1. As per the settlement, he was not given the complete re-submission in a timely manner, therefore was not able to make timely comments.
2. Many of the comments from the previous non-compliant plan remain and it does not appear the applicant has made any substantial changes to the plan, which will have adverse impacts on water quality and/or neighboring properties.
3. Relocation of streams.
4. Inadequate subsurface soil investigations.
5. Failure to provide adequate setbacks to surface floors.
6. Failure to provide adequate quality and quantity treatment for stormwater.

R. Ronning stated that he has not received a copy of this letter and in the four years of dealing with this application they have done everything that they have been asked to do to comply with Town code and the Town Engineer's concerns.

D. Phillips responded to Chris Navitsky's letter stating that all of those issues are public hearing issues and that there were subjective differences rather than being inside the law. He stated they came to the Board because they got the variances necessary in order to present the Board with a legal plan. He feels it is a question of whether their substantial conformity with the stormwater regulations is 1) legal and 2) does it protect the environment as those regulations are intended to do.

D. Dickinson stated that T. Nace has all of Chris Navitsky's correspondence and reviewed all of his comments and has made the applicant respond to any comments that he felt were relevant. He stated that he and T. Nace have worked together over the last nine months to come to a resolution on these matters and both of their interests are to come up with a plan that is bullet proof.

S. Wilson stated that they have previously discussed T. Nace attending these meetings. P. Kenyon stated that T. Nace was not able to attend tonight's meeting but said he would be available in February. R. Ronning requested that they have T. Nace at that meeting because it would be helpful for all parties.

Counsel agreed with Dennis Phillips that this application is complete and the applicant has the right to reasonably expect to move forward in terms with what has been submitted. The Town Engineer has carefully reviewed it and with Counsel's assistance

carefully offered that it is substantially compliant. He stated that the best way to hear further concerns is to open it to a public hearing.

H. Caldwell stated upon going on T. Nace's recommendation previously they approved the application but upon taking a closer look at it, they needed some variance and is now concerned that he does not know who to trust. He is concerned with T. Nace's substantial compliance and asked could that leave the door open for another engineer to look at it and find that they need more variances.

D. Phillips stated that they have three different kinds of engineers 1) the developer's engineer, who represents the developer, 2) the independent Town Engineer who represents the Town's best interests and 3) the Waterkeeper, who has an engineering degree but appears before this Board not as an engineer, but as an advocate for a non-for-profit organization constituency group that has their own mission. His advocacy is such that he can take some very aggressive positions, which the Town Engineer and PB have to listen to and deal with objectively, rather than subjectively, and in doing so may find some truth. He stated that in C. Navitsky's letter it does urge the PB to schedule a public hearing as soon as possible to discuss the critical non-compliant issues which remain outstanding with this project. He stated that if there are non-compliant issues that they certainly want to know what they are and feels that they are at this point in the due process of this application. R. Ronning stated that they have responded to all of C. Navitsky's previous comments and will continue to do so in the future. He requested that they move forward to a public hearing.

S. Wilson asked if the subdivision has changed at all. D. Dickinson responded that the lots and road layout have not changed at all. He stated the only things that have changed is that some of the stormwater has been moved around a little. P. Kenyon stated that the PB was provided a list of every change that was made to every map. S. Aldrich asked if have they still have the fire pond and stormwater retention pond at the bottom of the driveway with screening. D. Dickinson stated yes.

D. Roessler asked how many variances they received and what were they. D. Dickinson stated that there were two 1) deficient depth from soil to bedrock and 2) lack of 10% below frost and described each in detail. He stated that he felt that the second variance could have been dealt with from an engineering perspective but he went on T. Nace's request and got the variance. T. Nace also requested that since they were lacking the 10%, that they increase the storage capacity by a foot. S. Aldrich stated that just because they did not meet the 10% below frost does not mean that the pond won't work in the winter and that they just can't make the numbers work. D. Dickinson agreed.

D. Roessler stated that he remembered there was an issue that a retention pond was too close to a stream. D. Dickinson stated that was an issue and it was part of the variance process. D. Roessler asked if they got a variance for that. D. Dickinson stated yes that was a third variance they received and described it in detail.

H. Caldwell asked Counsel if they will be able to get three engineers to agree at this public hearing. Counsel stated that there could be differences between the engineers and advises that they follow the Town Engineer.

RESOLUTION:

**Motion by** Donald Roessler to accept the applications as completed sketch plan convert the sketch plan to final plat, and schedule a public hearing for SD04-16, SPR05-11, SD06-14 and SD07-04 to be heard on February 28, 2008 at 6:00 pm. The Planning Board requests Town Engineer, Tom Nace's presence at the public hearing. **Seconded by** Chauncey Mason. John Gaddy recused himself. **All others in favor. Motion Carried.**

**7) SD06-20 PADANARUM PARK. Rolf Ronning.** Seeks to merge those parcels designated as 107.00-2-8 & 9 and 108.00-1-1, 4 & 6 and then divide into 15 lots. Zoning LC45. Property Location: Padanarum Road. Final Plat. Subject to SEQR. Note: This item was tabled at the December 2007 meeting pending a public hearing.

R. Ronning stated that the application hasn't changed much except that 1) they have submitted some restrictions and covenants, 2) he and Nancy Williams met with John Quinn at the APA for jurisdictional purposes and they have indicated that if he gets approval from the Board that he will have to wait to record the mylar until they get APA approval as well. 3) The APA indicated that they would like a separate map showing proposed house sites, septic, well and driveway placement. Last month he agreed to a covenant of a no cutting zone of 200 ft on the east side of Padanarum Road and 100 foot on the west side, but in determining placement of the septic system, homes and driveways for the APA, they realized that it has be 100 feet on both sides except for the driveway and feels that this will still provide plenty of screening and the APA is agreeable.

H. Caldwell asked why they were having difficulty in complying with a 200 foot setback. D. Dickinson explained that they are having some difficulty because the APA is requesting some specific sites for homes, septic, sewer, water and driveways and on 2-3 lots it is quite steep at the 200 foot setback. He continued that they also have only done test pits within 100-200 feet and they have no test pits at 200 feet plus. He feels that it will be easier to deal with the APA if they reduce the setback and that the APA will hold them to the PB setbacks and conditions of approval.

D. Phillips asked if Bolton has an approved APA Plan. Counsel stated yes. D. Phillips questioned why the APA has jurisdiction, because the project site is in a rural use zone and it is under 20 lots which should be considered non-jurisdictional at the agency level. Counsel stated that he believes that it is a response from a jurisdictional inquiry. D. Dickinson stated that based on the meeting they had with the APA they were told it was jurisdictional and to submit an application. D. Dickinson stated that the APA said it was reviewable because it was more than 3 lots in a land conservation zone. D. Phillips stated that would be true, except they have an APA approved plan and would like to investigate this issue because he is not clear why they are asserting their jurisdiction. H. Caldwell

stated if they approve this is the APA going to want more modifications to the plan. D. Dickinson feels that it won't happen because the APA is looking for more generic plans and not site specific to be sure that each lot is viable. He stated that he is unsure why because the PB has the authority and will review each of these lots for a site specific stormwater plan that would go through the Town Engineer. He stated that he hopes that D. Phillips is correct because they have only 15 lots and are hoping to get out from under APA jurisdiction. R. Ronning stated that he believes the APA has jurisdiction because these lands are resource management and it is very possible they have jurisdiction even though they are not subdividing wetlands.

R. Ronning requested, barring any further questions, with the modification of the 100 foot no cutting zone on both the east and west from the center line of Padanarum Road, receive final approval with the stipulation that the mylar not be recorded until the APA gives their recommendation and/or approval. H. Caldwell stated that if they are 100 ft back from the centerline of the road, then it is really only 75 feet back from the ROW and is concerned with affecting the scenic corridor. R. Ronning stated that there is no cutting except for the driveway. R. Ronning stated that he would be agreeable for 125 feet for any building structure, but cannot do that for the septic. D. Dickinson pointed out that 20 years ago the previous owners in title logged this property hard. They did not cut 100 feet along the road but inside the property about 100 feet and because of that this cleared land cannot be seen from the road and believes that scenic corridor will be preserved. H. Caldwell agreed that 125 feet from the centerline for the house would be acceptable.

H. Caldwell asked if they could request dark earthen tone colors. D. Dickinson reminded the PB that each lot will be subject to Site Plan Review and it can further be discussed then. H. Caldwell stated that he just wants to let each prospective buyer be aware that the Board will be looking for earth tones.

Counsel stated that having reviewed the applicant's covenants, he feels they are rather bare and requested that they give them more detail or provide the actual instrument that they will be used in the transfer of the properties. D. Phillips agreed. Counsel stated that one of the covenants states that there is no further subdivision of approved lots, but is concerned because they have a variation on the lots going to the Lake George Land Conservancy he wants to be sure that this is clearly developed in the covenants. D. Dickinson provided Counsel with a copy of the map that had the covenants and restrictions outlined. S. Wilson asked if this should be part of the approval. Counsel stated that the covenants 1) should be part of the approval, 2) reviewed in an instrument that will be recorded in the Clerk's Office and 3) on the filed map. R. Ronning thought that they could just put it on the mylar and be done with it. Counsel disagreed because someone could argue that they never saw the mylar and he would like to have them in the deed. R. Ronning agreed.

H. Caldwell asked how they can be protected against no further subdivision. Counsel stated that the applicant does have the right to come and petition to have this requirement relieved, but since it is in the covenants it will require all of the other lot owners to agree.

Counsel reviewed the State Environmental Quality Review Full Environmental Assessment Form:

**Part 1- PROJECT INFORMATION**

Name of Action- Padanarum Park  
Location of Action- Padanarum Road- North Bolton  
Name of Applicant- Rolf Ronning  
Address- P.O. Box 1, Bolton Landing, New York 12814  
Phone- (518) 644-2500

Description of Action- Make 15 SFD Lots from 4 tax parcels (960+/- acres total)

**A. Site Description:**

1. Present Land Use- Forest

2. Total acreage of project area- 960 acres.

<u>Approximate Acreage</u>	<u>Presently</u>	<u>After Completion</u>
Meadow or Brushland (non-ag)	0 acres	0 acres
Forested	757	756
Agricultural	0	0
Wetland	200	200
Water Surface Area	0	0
Unvegetated (rock, earth or fill)	0	0
Road, buildings, other paved surfaces	3	4
Other (indicate type)	0	0

3. What is predominant soil type(s) on project site? Various

- a. Soil drainage: 50% well drained, 30% moderately drained and 20% poorly drained.
- b. No agricultural land involved.

4. Are there bedrock outcroppings on project site? Yes

- a. What is depth the bedrock in feet? Varies (see plans)

5. Approximate percentage of proposed project site with slopes:

0-10% 20% 10-15% 20% greater than 15% 60%

6. Is project substantially contiguous to or contain a building, site, or district listed on the State or National Registers of Historic Places? No.

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? No.

8. What is the depth of the water table in feet? Varies (see plans)

9. Is site located over a primary, principal or sole source aquifer? No.
10. Do hunting, fishing, or shell fishing opportunities presently exist in the project area? Yes.
11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? No.

H. Caldwell stated that the response should be changed to a yes, but it is mitigated by the fact that the LGLC is purchasing the most critical wetlands on the site. Counsel asked what species specifically. Pitcher plants?

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations) No.
13. Is the project site presently used by the community or neighborhood as an open space or recreation area? No.

J. Gaddy stated that this land has been used for hunting in the past. R. Ronning stated that the land has posted signs on it, but people still use it to hunt. Ron Conover (public in attendance) stated that the land is also used for fishing, cross country skiing, snow shoeing and snow mobiling.

14. Does the present site include scenic views known to be important to the community? No.
15. Streams within or contiguous to project area: N/A

But upon discussion it was decided that the answer should read an unnamed stream, possibly a tributary to Indian Brook.

16. Lakes, ponds, wetland areas within or contiguous to project area: N/A  
But upon discussion it was decided that the response should read 200 acre wetlands.

17. Is the site served by existing public utilities? No.
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? No.
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? Yes.
20. Has the site ever been used for the disposal of solid or hazardous wastes? No.

## **B. Project Description:**

1. Physical dimensions and scale of project-
  - a. Total contiguous acreage owned or controlled by project sponsor. 960 acres.
  - b. Project acreage to be developed: 1 acre initially; 3 acres ultimately.  
Counsel asked how they determined the ultimate number. D. Dickinson stated that he calculated the measurement by multiplying the number of residences they have by an area sufficient for a house, yard and driveway to determine the disturbed area.
  - c. Project acreage to remain undeveloped: 956 acres.
  - d. Length of project, in miles: N/A
  - e. If the project is an expansion, indicate percent of expansion proposed. N/A
  - f. Number of off-street parking spaces existing- 0; proposed 0.
  - g. Maximum vehicular trips generated per hour: 3-4 (upon completion of project?)
  - h. If residential: Number and type of housing units: Initially 0 one family and ultimately 15 one family.  
S. Wilson asked why it says 15. D. Dickinson stated they included the Lake George Land Conservancy in order to meet the necessary appraisal. D. Roessler stated that this brings up the concern of no further subdivision on the LG Land Conservancy lots 1-6. R. Ronning stated that he has stipulated that there will be no further subdivision of lots 1-6 unless the Lake George Land Conservancy takes title to the property and if they do not take title to lots 1-6, then he agrees to no further subdivision of any lots. J. Gaddy asked if they would put a ceiling on the number of houses per lot. R. Ronning stated 1 house per lot.
  - i. Dimensions (in feet) of largest proposed structure: 35' height;
  - j. Linear feet of frontage along a public thoroughfare project will occupy is? 8,000 ft.
  
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? 0 tons/cubic yards.
  
3. Will disturbed areas be reclaimed. Yes
  - a. If yes, for what intended purpose is the site being reclaimed? Stabilization of disturbed areas.
  - b. Will topsoil be stockpiled for reclamation? Yes.
  - c. Will upper subsoil be stockpiled for reclamation? Yes.
  
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 acres.
  
5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project? No.
  
6. If single phase project: Anticipated period of construction: 8 months
  
7. If multi-phased:
  - a. Total number of phases anticipated- 1
  - b. Anticipated date of commencement phase 1: April 2008

- c. Approximate completion date of final phase: December 2008.
  - d. Is phase 1 functionally dependent on subsequent phases? Yes.
8. Will blasting occur during construction? No.
  9. Number of jobs generated: 6-12 during construction; 1-2 after project is complete.
  10. Number of job eliminated by this project: 0.
  11. Will project site require relocation of any projects or facilities? No.
  12. Is surface liquid waste disposal involved? No.
  13. Is subsurface liquid waste disposal involved? Yes.
  14. Will surface area of any existing water body increase or decrease by proposal?  
No.
  15. Is project or any portion of project located in a 100 year flood plain? No.
  16. Will the project generate solid waste? No.
  17. Will the project involve the disposal of solid waste? No.
  18. Will project use herbicides or pesticides? No.
  19. Will project routinely produce odors (more than one hour per day)? No.
  20. Will project produce operating noise exceeding the local ambient noise levels?  
No.
  21. Will project result in an increase in energy use? No.  
J. Gaddy stated that this should be a yes because of the power to the homes.  
Counsel stated that its residential use is customary to development.
  22. If water supply is from wells, indicate pumping capacity. N/A Counsel asked if they did not know what was going to be used. D. Dickinson stated that typically he fills in the 5 gallons/minute which is a Health Department standard.
  23. Total anticipated water usage per day. N/A  
From the previous discussion, Counsel stated that it should be 5 gallons/minute multiplied by 15 lots which equals 75 gallons/minute.
  24. Does project involve Local, State or Federal funding? No.

25. Approvals Required:  
 City, Town, Village Board- No  
 City, Town, Village PB- Yes, Site Plan, Summer 2007  
 City, Town Zoning Board- No  
 City, County Health Department- No  
 Other Local Agencies- No  
 Other Regional Agencies- No  
 State Agencies- Yes, APA  
 Federal Agencies- No

**C. Zoning and Planning Information:**

1. Does proposed action involve a planning or zoning decision? Yes. Site Plan and Subdivision.
2. What is the zoning classification(s) of the site? LC-45
3. What is the maximum potential development of the site if developed as permitted by the present zoning? 21 lots
4. What is the proposed zoning of the site? N/A
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning? 21 lots
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? Yes.
7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action? LC-45, rural.
8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? Yes.
9. If the proposed action is the subdivision of land, how many lots are proposed? 15 lots
  - a. What is the minimum lot size proposed? 16.3 acres
10. Will proposed action require any authorization(s) for the formation of sewer or water districts? No.
11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? No.

Counsel stated the response should be yes, because they will need police and fire protection as well as and the subdivision will be required to have the

recreation fee. D. Dickinson stated that he answered some of these questions based on the fact that they are just selling the lots and the other issues will kick in when development of the land actually occurs.

a. If yes, is existing capacity sufficient to handle projected demand? Yes.

12. Will the proposed action result in the generation of traffic significantly above present levels? No.

## **Part 2- PROJECT IMPACTS AND THEIR MAGNITUDE**

### **Impact on Land**

1. Will the proposed Action result in a physical change to the project site?  
Upon discussion of the criteria listed it was determined that the impact would be small to moderate and the answer is no.
2. Will there be an effect to any unique or unusual land forms found on the site?  
No.

### **Impact on Water**

3. Will proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL) No.
4. Will proposed Action affect any non-protected existing or new body of water?  
No.
5. Will Proposed Action affect surface or groundwater quality or quantity? No.
6. Will Proposed Action affect drainage flow or patterns, or surface water runoff?  
No. Counsel stated that this is an appropriate response because each lot owner will be required to come before the PB for Site Plan Review they will be able to revisit this again.

### **Impact on Air**

7. Will Proposed Action affect air quality? No.

### **Impact on Plants and Animals**

8. Will Proposed Action affect any threatened or endangered species? Yes, but it is properly mitigated by the purchase of land by the Lake George Land Conservancy.
9. Will Proposed Action substantially affect non-threatened or non-endangered species. No.

### **Impact on Agricultural Land Resources**

10. Will Proposed Action affect land resources? No.

### **Impact on Aesthetic Resources**

11. Will Proposed Action affect aesthetic resources? No.

Impact on Historic and Archaeological Resources

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance? No.

Impact on Open Space and Recreation

13. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities? No.

Impact on Critical Environmental Areas

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)? Yes, but it is properly mitigated by the conveyance of land to the Lake George Land Conservancy.

Ron Conover (public in attendance) asked if this mitigation should not take place how will it affect any approval of the SEQR of the 15 lot subdivision. Counsel stated that it is a material alteration of the facts upon which the approval was based.

Impact on Transportation

15. Will there be an effect to existing transportation systems? No.

Impact on Energy

16. Will Proposed Action affect the community's source of fuel or energy supply? No.

Noise and Odor Impact

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action? No.

Impact on Public Health

18. Will Proposed Action affect public health and safety? No.

Impact on Growth and Character of Community or Neighborhood

19. Will Proposed Action affect the character of the existing community? No.

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts? No.

**Part 3- EVALUATION OF THE IMPORTANCE OF IMPACTS**

**DETERMINATION OF SIGNIFICANCE- Type 1 and Unlisted Actions**

Counsel recommended a negative declaration, if necessary with conditions, because there are no large adverse impacts that have not been properly mitigated.

S. Wilson stated that the previous motion stated that the development rights on the east side of Padanarum Road can be transferred to the Lake George Land Conservancy only

and asked if R. Ronning would lose his development rights. Counsel stated that it doesn't say that he couldn't develop that property and they need to have a clear understanding between the applicant and Board of what the expectation is on that issue. R. Ronning stated that if the Lake George Land Conservancy fails to purchase under the contract, he will stipulate that there will never be more than 15 lots on this property and none of those lots will be allowed to subdivide and will put that in the deed covenants. Counsel agreed that his offer would be appropriate. D. Roessler asked if the Lake George Land Conservancy doesn't purchase the land, then how it will change the SEQR form. Counsel stated that it is a material change and they will need to revisit this form again. He further stated that it would be wise to condition their approval on the conveyance to the Lake George Land Conservancy, so if that sale does not go through, then the applicant will have to come back for revisions. H. Caldwell stated that he feels that given everything, it has all been properly mitigated. Counsel encouraged the Board to strictly act upon the answers given in the SEQR and then they can talk further about the approval and conditions of approval.

RESOLUTION:

**Motion** by John Gaddy, based on the review of the materials provided by the applicant and thorough review by the Planning Board of the concerns of any environmental issues for this project have been considered, found to be small, moderate or able to be mitigated because a large portion of this property is going to be purchased by the Lake George Land Conservancy and thereby declare a negative impact. **Seconded** by Sandi Aldrich. **All in Favor. Motion Carried.**

The PB and applicant discussed the previous conditions that were agreeable as covenants and restrictions to be added to the plan, deed and mylar. The PB also requested the page numbers be adjusted so that it is better organized and correct the spelling of Padanarum Road on all materials.

D. Roessler asked Counsel if they can request that the mylar not be recorded until APA approval in case there is any change that they are asking for. Counsel stated that the applicant has a statutory period in which if they approve something, then he must file it within the approval period and if he fails to do so, he could be fined. H. Caldwell stated that he feels that they should go forward. Counsel agreed stating that they have an approved ordinance and they have done a very thorough analysis and if there are APA issues then they will have to deal with it.

Ron Conover (public in attendance) stated that when this project came before the PB previously under another owner, the land was to be subdivided into 23 lots he voiced his concern. However, he stated that in this project, the developer, Lake George Land Conservancy, PB members, Zoning Administrator and Counsel should be commended because they are doing something special by 1) preserving this open space for recreation, 2) protecting the wetlands and 3) maintaining a habitat for the species living in that area.

R. Ronning appreciated the comment and stated that he has heard from Nancy Williams indicating that she has received the necessary funding for this purchase.

**Motion by** John Gaddy, to accept the final plat as complete and with a public hearing having been held, grant final approval as presented with the following conditions:

- 1) The major stormwater regulations will be applied to each lot when developed.
- 2) Site Plan Review is required for the construction of a single family dwelling on each lot.
- 3) The proposed deed covenants will incorporate the Planning Board's conditions and will be submitted to the Zoning Administrator for the Town Counsel's approval and the covenants shall be added to each deed and placed on the mylar.
- 4) A \$400.00 recreation fee will be applied to each lot at the time a certificate of compliance is applied for should the Lake George Land Conservancy not purchase the parcels agreed upon.
- 5) There shall be no further subdivision of any parcel not purchased by the Land Conservancy.
- 6) Exterior lighting is to be downward facing and shielded with low wattage bulbs used.
- 7) Medium to dark earth tone colors are to be used on all structures.
- 8) All structures on the east side of Padanarum Road are to be setback 125 feet from the centerline of the roadway.
- 9) A cutting restriction of 100 feet from the centerline of Padanarum Road with the exception of driveway and septic will be applied.
- 10) All structures on the west side of Padanarum Road will be setback 100 feet from the centerline of the roadway.
- 11) Development rights on the east side can be transferred to the Lake George Land Conservancy only.
- 12) In the event that the Lake George Land Conservancy does not take title of the property, the long SEQR form review shall be rescinded and subject to further review.
- 13) If the A.P.A. does not flag the wetland on lot 7 before August 1, 2008, the Developer will flag them. A 100 foot setback must be maintained from the flagged wetlands.
- 14) Correct the spelling of Padanarum Road to Padanarum Road.
- 15) The proposed covenants and restrictions for Padanarum Park submitted on January 17, 2008 shall be modified to say; mobile homes or house trailers. Conditions one thru seven shall be subject to review by Town Counsel and agreed upon by Town Counsel and applicant's counsel.

**Seconded by** Sue Wilson. **All in favor. Motion Carried.**

Addendum to Planning Board agenda  
Item #8

**SD07-26 Keating, Joseph.** Seeks to divide into two lots that parcel designated as Section 140.00, Block 1, Lot 37, Zone RL3. Sketch Plan Review. Minor Subdivision. Property Location: Padanarum Road. Subject to SEQR.

Nancy Campagnone, Lenny Campagnone and Jamie Campagnone representing her brother Joseph Keating, who owns the property. He is looking to subdivide his 11.16 acre lot into two lots, one lot would be 3.0 acres and the other 8.16 acres. D. Roessler asked if there are any lands on the other side of the Indian Summit HOA and they stated that it is not part of that land. J. Gaddy asked if there were any deed restrictions on the property. Jamie Campagnone stated that if they build on that lot they would have to access it from Indian Summit Road. J. Gaddy stated that there was a concern in the original application of Indian Summit from neighbors concerning headlights and traffic and felt that if they came in that way, it would address the neighbors concern and it would be one less road cut. J. Gaddy asked if the building site was within the perc test area and the applicant stated yes. S. Aldrich asked if there was considerable vegetation between the road and placement of the house and the applicant stated yes.

The PB found no concerns with Section 200-31A-D of the Zoning Ordinance and C1-C7 on the SEQR form.

RESOLUTION:

**Motion by** Donald Roessler to accept the application as completed sketch plan, convert the sketch plan to final plat, waive a public hearing and grant final approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sue Wilson. **All in favor. Motion Carried.**

J. Gaddy provided literature on manufacturers and distributors that offer lights that are downward facing and shielded. He stated there is an industry standard with a fixture seal of approval. He stated that the materials also include options for outdoor wall lanterns and shielding that can be applied. He addressed the concern of specifying one type of light and stated that the materials provided show 20 plus manufacturers that have these type of lights approved. His point is that in keeping these conditions on the approvals that 1) these lights are commonly available, 2) they are relatively inexpensive and 3) they have made these design materials available for all applicants in the Zoning office. The PB agreed that this condition should continue to be applied and enforced.

Meeting was adjourned at 9:15 pm.

Minutes submitted by Kristen MacEwan.