

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday June 19, 2008**

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

Absent: Sue Wilson

H. Koster opened the public hearing at 6:00 PM.

**PUBLIC HEARING**

**By resolution set forth by the Planning Board on May 22, 2008, this public hearing is hereby scheduled to review Appendix A - State Environmental Quality Review - Full Environmental Assessment Form as it pertains to Saddlebrook Subdivision, SD04-16, SPR05-11, SD06-14 & SD07-04. The FEAF was prepared by Rolf O. Ronning dated June 5, 2008, received by the Planning Office on June 5, 2008.**

**Items 1 through 4 are to be heard together.**

- 1) 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 48.11, 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. Preliminary Plat. Subject to SEQR. *Note: This application is in conjunction with SPR05-11, SD06-14, and SD07-04 and was originally approved on May 17, 2007. NOTE: THIS IS AN AMENDED APPLICATION. The public hearing was kept open at the March 2008 meeting pending additional information.*
- 2) 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 & 48.11, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot is reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to SEQR. *Note: This application is in conjunction with SD04-16, SD06-14 and SD07-04 and was originally approved on May 17, 2007. NOTE: THIS IS AN AMENDED APPLICATION. The public hearing was kept open at the March 2008 meeting pending additional information.*
- 3) SD06-14 RONNING, ROLF & LEONE, MICHAEL.** Seek lot line adjustment between those parcels designated as Section 139.00, Block 1, Lots 48.11 & 36.1, Zone

RL3. Property Location: New Vermont Road, approximately 2000 ft. north of County Route 11 intersection. Final Plat. Subject to SEQR. *Note: This application is in conjunction with SD04-16 Saddlebrook Subdivision, SPR05-11 and SD07-04 and was originally approved on May 17, 2007. **The public hearing was kept open at the March 2008 meeting pending additional information.***

**4) SD07-04 RONNING, ROLF & REED, WILLIAM.** Seek lot line adjustment between those parcels designated as 139.00, Block 1, Lots 28.1 & 48.11, Zone RL3. Property Location: 252 New Vermont Road. Final Plat. Subject to SEQR. *Note: This application is in conjunction with SD04-16, Saddlebrook Subdivision, SPR05-11 and SD06-14 and was originally approved on May 17, 2007. **The public hearing was kept open at the March 2008 meeting pending additional information.***

*Note: John Gaddy recused himself from the above public hearings.*

Rolf Ronning stated that he submitted the long SEQR form 2 weeks ago for all parties to review and asked the Board if they would like him to highlight the important parts. H. Koster replied that he did not need to read through it because they will be reviewing it fully in the regular meeting. H. Koster asked if anyone in attendance had any comments on the SEQR form submitted by the applicant.

Ann Marie Somma asked the applicant with regard to her property has the plan changed. Rolf Ronning replied no. Ann Marie Somma stated that she still has issues with the stormwater plan specifically the 36 inch pipe and the amount of water to be discharged from this pipe within close proximity to her property. She stated to keep those issues specifically related to the hearing, it would be related to the erosion of land and soil because where the water will discharge will be at a steep embankment. She believes that according to DEC's website, NYS law states that 17 feet of rip-rap from this pipe is required to prevent erosion and considering that this is a steep embankment there are additional things required and she does not see them in the current plan. She stated that currently in this area she has a vegetable garden that continues to get bigger each year, she is concerned that this pipe and the water discharged will create erosion and wash away the soil into the stream. Also, if there is a significant amount of water coming out of the pipe it is actually going to affect her property on the other side of the stream which is her house. She stated another concern based upon DEC website which indicates that a mosquito breeding habitat is created by these ponds and that the pond should be able to drain within a 48 hour period to prevent it. She stated that although she hopes that the ponds drain quickly to prevent a mosquito breeding area, it heightens her concern of the amount of water coming out of the pipe onto her property.

Rolf Ronning stated that the amount of discharge from the larger pipe which is in the same location as another pipe will not be greater than what already exists. The pipe is bigger so that it is easier to maintain. He stated that according to his engineer, and he believes that Tom Nace would agree, if they want to reduce the size to 24 inches they could do that. The reason that they have the stormwater retention ponds is so that there is no more water coming down along her property. He also stated that there will be a few

days a year when the pond will be wet, but mosquitoes are a part of life and he cannot fully control that situation. With regard to the water dumping into the brook, it dumps into the brook on their property, it does proceed on to Sommas' property but the project is designed so that no more water is going into that brook than was before. He asked Tom Nace if he would agree with that statement. Tom Nace replied that he was correct, no more water than before would be going into the brook. Ann Marie Somma replied that there may not be anymore water going into the brook than was before but at this point, according to the plan, it is at a concentrated point directly across from her property and she does not feel that is in her best interest. Rolf Ronning replied that is not exactly true and the water goes into the brook where the brook is near her property but not on it and it is the same amount of water going in. H. Koster stated for clarification that the pond is not only for retention, but it is also a recharge basin and it is designed to recharge the water into the ground underneath the pond itself and the pipe is strictly an emergency overflow pipe. Ann Marie Somma stated that Tom Nace stated that it would carry 22 cubic feet/second in a 10 year storm and 40 cubic feet/second in a 100 year storm and it was "a significant amount of water". Tom Nace commented that he couldn't verify those exact figures but there is certainly not more than that for a 100 year storm. He continued that the applicant's analysis does not examine exactly whether or not that discharge point at the end of the pipe is more or less than it was previously.

Counsel read a letter from Judy Budner stating her opposition to the application. Rolf Ronning responded to the comments in the letter. He stated that he promised that the roads would be good as or better than what is there currently and he has also stated that he is not requiring the Budners to be part of the HOA. The Budners have called him consistently over the last 4-5 years when High Meadow Farm Road washed out and he would go up and fix it. He stated now this road is going to be re-paved with stormwater management. He stated that the whole purpose of the stormwater management plan is so that no more water than currently goes on someone else's property. He is sorry that they feel that way but in his opinion when this project is approved and the road is built the Budners are going to be in a far better position with the new road.

### **RESOLUTION:**

**Motion by** Henry Caldwell to close the public hearing on the State Environmental Quality Review Full Environmental Assessment Form for SD04-16, SPR05-11, SD06-14 and SD07-04. **Seconded by** Sandi Aldrich. John Gaddy abstained. **All others in Favor. Motion Carried.**

### **REGULAR MEETING:**

H. Koster asked if there were any changes or corrections to the May 22, 2008 minutes.

1. S. Aldrich, regarding SPR08-12 Kershaw, page 22, paragraph 3, 4<sup>th</sup> line, should read "J. Gaddy asked for the length of the proposed home. Kevin Kershaw replied it is 115.5 feet long including overhangs."

**Motion by Donald Roessler to accept the minutes as corrected. Seconded by Henry Caldwell. All others in Favor. Motion Carried**

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Rolf Ronning stated that last month this was tabled because a public hearing was necessary for the changes made during the meeting to the SEQR form. He stated that tonight that hearing has closed and nothing has changed with regard to the plans or stormwater. He stated that his counsel has been meeting with Tom Ulasewicz, the LG

Waterkeeper's attorney, to see if they could stipulate to some concerns that would avoid another potential Article 78. He requested to move forward with final approvals.

Counsel reviewed the revised supplement to the original submission of the State Environmental Quality Review Full Environmental Assessment Form which includes the changes made at the previous meeting. He stated that there are 21 pages that constitute the project information.

**Part 1- PROJECT INFORMATION**

Name of Action- Saddlebrook Subdivision  
Location of Action- Between County Route 11 and New Vermont Road  
Name of Applicant- Rolf O. Ronning  
Address- P.O. Box 1, Bolton Landing, New York 12814  
Phone- (518) 644-2500

Description of Action- 23 lot residential subdivision with a 24<sup>th</sup> lot consisting of approximately 65 acres of common land including a common access road.

**A. Site Description:**

- 1. Present Land Use- Rural and forested
- 2. Total acreage of project area- 169 acres.

<u>Approximate Acreage</u>	<u>Presently</u>	<u>After Completion</u>
Meadow or Brushland (non-ag)	5 acres	5 acres
Forested	150	122.8
Agricultural	0	0
Wetland	12	12
Water Surface Area	1	1
Unvegetated (rock, earth or fill)	0	0
Road, buildings, other paved surfaces	1	6.7
Other (lawns and landscape)	0	21.5

Sandi Aldrich commented that the numbers do not add up and they have gained an acre. The applicant's counsel recalculated and stated that the columns equal out to be the same 169 acres.

- 3. What is predominant soil type(s) on project site? Loamy soils
  - a. Soil drainage: 35% well drained, 50% moderately well drained and 15% as poorly drained.
  - b. No agricultural land involved.
- 4. Are there bedrock outcroppings on project site? Yes, there are minor bedrock outcroppings.

- a. What is depth the bedrock in feet? Suggested to see the soil test pits as shown in plans, there is 0 to less than 12 feet.
5. Approximate percentage of proposed project site with slopes:  
0-10% 50% 10-15% 30% greater than 15% 20%
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? As shown on E-1 of plans, but generally is between 0 and 8 feet to the water table.
9. Is site located over a primary, principal or sole source aquifer? No.
10. Does 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? There are none according to NYS DEC as reported by Dennis L. Dickinson and this is typical southern Adirondack terrain.
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.
14. Does the present site include scenic views known to be important to the community? No.
15. Streams within or contiguous to project area: Indian Brook
  - a. Name of stream or river to which it is a tributary: Lake George
16. Lakes, ponds, wetland areas within or contiguous to project area: There are two wetland areas presently on the project area.
  - a. Size in acres: 12 acres total
17. Is the site served by existing public utilities? Yes.
  - a. If yes, does sufficient capacity exist to allow for connection? Yes.
  - b. If yes, will improvements be necessary to allow for connections? Yes.
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, but the project is not in the wetlands.
20. Has the site ever been used for the disposal of solid or hazardous wastes? Yes, solid waste was identified by NYS DEC and is being removed by the applicant to a legal landfill during construction.

**B. Project Description:**

1. Physical dimensions and scale of project-
  - a. Total contiguous acreage owned or controlled by project sponsor. 169 acres.
  - b. Project acreage to be developed: 4 acres initially; 28.2 acres ultimately.
  - c. Project acreage to remain undeveloped: 140.8 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: 25 upon completion of the project.
  - h. If residential: Number and type of housing units: Initially 1 one family and ultimately 23 one family.
  - i. Dimensions (in feet) of largest proposed structure: 35' height; width and length variable as per code.
  - j. Linear feet of frontage along a public thoroughfare project will occupy is? 125 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? Residential use and associated utilities, driveway, septic and well.
  - 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? 30 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: N/A
7. If multi-phased:
  - a. Total number of phases anticipated- 5
  - b. Anticipated date of commencement phase 1: June 2008

- c. Approximate completion date of final phase: December 2008.
  - d. Is phase 1 functionally dependent on subsequent phases? No.
8. Will blasting occur during construction? Yes, possibly limited blasting.
  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, residential septic systems.
  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? Yes, but there will be no development in that flood plain.
  16. Will the project generate solid waste? Yes.
    - a. If yes, what is the amount per month in tons? 1 ton of household refuse
    - b. If yes, will the existing solid waste facility be used? Yes, the Bolton transfer station.
    - c. Will any waste not go into a sewer disposal system or into a sanitary landfill? No.
  17. Will the project involve the disposal of solid waste? Yes.
    - a. If yes, what is the anticipated rate of disposal in tons per month? With the exception of a one time removal as per A-20 of this form.
  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? Yes.
    - a. If yes, what type? Electrical utilities to be installed for 23 residences.
  22. If water supply is from wells, indicate pumping capacity. 5 gallons per minute.
  23. Total anticipated water usage per day. 8,855 gallons per day
  24. Does project involve Local, State or Federal funding? No.

25. Approvals Required:  
City, Town, Village Board- No  
City, Town, Village PB- Yes, Subdivision  
City, Town Zoning Board- Yes  
City, County Health Department- No  
Other Local Agencies- No  
Other Regional Agencies- No  
State Agencies- Yes, APA with a non-jurisdictional letter and NYS DEC concerning streams and stormwater issues.  
Federal Agencies- No

**C. Zoning and Planning Information:**

1. Does proposed action involve a planning or zoning decision? Yes.  
Zoning variance, subdivision approval, site plan approval and stormwater approval.
2. What is the zoning classification(s) of the site? RL-3
3. What is the maximum potential development of the site if developed as permitted by the present zoning? 56 single family residential lots
4. What is the proposed zoning of the site? RL-3
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning? N/A
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? Predominant land use within this area is mainly residential in the RL-3 zone.
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? 23 lots
  - b. What is the minimum lot size proposed? 2.35 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)? Yes.

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.

Counsel stated that the applicant states that the form has been amended and it supplements that which was previously submitted on January 2, 2008, including May 27, 2008 and intends to supersede the previous form. Counsel asked if the Board had any questions before they proceeded to Part 2 of the SEQR form.

Dennis Phillips stated that he wanted the PB to know that the applicant and the attorney for the LG Waterkeeper have worked hard to reconcile some issues in the stormwater application. He stated that they have agreed, if granted approval, to add 6 conditions to that approval. Upon agreement and fulfillment of those conditions there is a further agreement that the LG Waterkeeper would not commence an Article 78 against the PB or applicant. The 6 conditions are as follows: 1) Each of the lots in the subdivision would stay within the jurisdiction of the PB for Site Plan Review upon their sale. As part of that SPR each individual lot would have to produce a major stormwater plan site specific to that lot, 2) The lots having frontage on Indian Brook in the aggregate would have a 100 ft average no disturbance buffer zone, with a minimum buffer zone of 35 feet. The applicant and LG Waterkeeper have agreed to map that buffer zone on the map and filed as a supplement to the approval. 3) With regard to condition 2, there is a provision that no lot would be lost from development because of that buffer zone. 4) With respect to Pond 4, after the fact and within 28 days of approval the LG Waterkeeper will look at an infiltration area and modify the stormwater management plan by installing some infiltration. 5) A no salt zone on the road between the northwest end of Pond 6 and the southeast end of Pond 4. The no salt zone would be extinguished upon any transfer of that road to the Town of Bolton. 6) Possible modifications of the stormwater management plan approved by Tom Nace a) With respect to Lot 1, the LG Waterkeeper will analyze the soil data for Lot 1 and if the soil data on Lot 1 are such that Pond 3 could be downsized and relocated to Lot 1 and if Pond 7 could be downsized and a portion of it be added to what is structured to Lot 1 then the applicant would modify the stormwater management plan so as to move to Lot 1 thereby eliminating Lot 1 as a residential building lot. He stated that the science will determine whether or not that is feasible. b) With respect to Lot 23, the LG Waterkeeper will analyze the soil and possibly take a portion of Pond p6 and put it on Lot 23. The theory on these modifications is the low impact development concept that is being developed by the LG Waterkeeper. Dennis Phillips stated he would like the PB to consider these conditions as they go through the SEQR process. S. Aldrich asked Dennis Phillips to indicate on the map where the no salt zone was located and the potential changes to the Ponds. He stated that Mr. Ulasewitz was present and he invited him to add anything to his presentation of their agreement.

Tom Ulasewitz stated that average 100 ft buffer area would not only be along Indian Brook, but it would also include the contiguous wetlands to that brook. He stated that if the pond is established on Lot 1, it would have the result of eliminating the 36 inch pipe that now runs adjacent to the property line on the Sommas' property. If Pond 7 is

reduced in size and allowed to take advantage of the drainage into the Pond on Lot 1 the 10 feet earthen berm would be substantially reduced in size or eliminated. He stated that Mr. Ronning has agreed that the machinery to do the additional work and the manpower which includes soil scientists that originally looked at this site and Tom Nace's time as needed will be covered financially by him. The LG Waterkeeper will try to have all of his work done within the 30 days of the filing of any approval. S. Aldrich asked if the Pond on Lot 1 is moved uphill if there still has to be an outlet. Dennis Phillips stated that the intent is that the pond would be an infiltration pond only. H. Koster asked if a pond would be located at the end of the road. Dennis Phillips replied if the pond can be built on Lot 1 there will be a smaller pond at the end of the road and the outflow pipe will be either eliminated or substantially reduced in size. H. Caldwell asked if a pipe is still necessary for that lower pond could they put some sort of dropped manhole in there so that they don't have a great elevation change from the outflow of the pipe across the Sommas' property. Dennis Dickinson stated that the downsized pond will downsize the discharge. He continued that the elevation in that area already exists and theoretically the discharge after development should be less than it is now. H. Koster stated that it is in a different place. D. Dickinson stated that he could argue that it should come out a little farther up, but it really isn't in a different place. H. Koster stated that he visited the site on Sunday after the rain storm and currently the water dissipates all over her property in many locations and this project intends to concentrate it into that lower pond and whatever is in that lower pond is going to be concentrated in one spot right next to Sommas' property. H. Koster stated that since they are considering making a lot of potential changes on the stormwater plan he requested that the applicant look into trying to put a dropped manhole at that location. The applicant agreed that they would do that.

Dennis Phillips stated in their written agreement with the LG Waterkeeper that everything is subject to the Town Engineers approval. R. Ronning stated that he is agreeing to these conditions and terms with the LG Waterkeeper not only to avoid another Article 78 but also because he feels the Waterkeeper has the best interest in stormwater management at heart and anything that he recommends is going to be something that the PB would like because it may be better than what exists now.

H. Koster stated that they are looking at the possibility of substantial changes to the plan and asked if they are looking at re-opening the public hearing. Dennis Phillips stated that they are looking at these as conditions of approval. He stated that the PB has the right to condition approvals. The non-stormwater issues fall into the environmental protection category and those would be reasonable conditions of approval they would impose even if they didn't have these discussions today. On the stormwater issue, they do not look at these conditions as being significant because they are agreeing to better the situation but only if the science allows them to do it. In any event relative to the pipe, whatever happens they would agree to downsize the pipe to 24 inches and cut the pipe off at grade so it is less visible and plant around the pipe for a visual buffer.

Counsel Muller stated that they have in the past reacted to circumstances that would change what has been approved on other subdivisions and major stormwater projects as field conditions dictate. He stated that it is slightly different here because they are

anticipating that there may be a change. He thinks that the people that would be relied upon to implement those changes if approved here tonight are capable of doing so. He also feels that they would be capable of determining that it is slightly beyond what they want to be individually responsible for and therefore they would take it back to this Board as a major modification to a major stormwater plan. He stated it is an acceptable proposition but wishes that they could have had this agreement in writing a month ago so that the PB could have had time to digest all of the information. Dennis Phillips indicated that they would have the agreement signed by all parties by the end of the meeting. R. Ronning stated that they didn't have to offer these changes because he feels that their plan is fine as it is. He is agreeing to these conditions to avoid an Article 78 and if the science can prove it, they will come up with a better plan to improve the stormwater.

Don Roessler stated that he has a huge problem with the conditions. The applicant is asking to potentially make substantial changes to stormwater and none of it is in writing. R. Ronning replied that they would have them in writing by the end of the meeting. D. Roessler stated that he is not trying to hold the applicant up or create problems but these are major changes to the plan and he will not make a motion or vote on approval on a motion when he has no idea what they are approving. H. Caldwell and H. Koster agreed with Don Roessler. Counsel stated that they have that discretion to table the application. D. Roessler stated that he wants to see the final plan and act on that.

Dennis Phillips stated that they tried to add conditions, which they have in writing and will be in front of them signed by all parties, to an approval because there is a possibility that they can better a situation. As they stand right now they have a stormwater management plan that has been worked on for a long time and he believes based upon the public hearing, all of the concerns and comments made by the Town Engineer have been satisfied. So as they come here tonight they have an approvable stormwater management plan and with that plan they tried to avoid another lawsuit. The conditions are all environmental protection provisions and they were trying to do good work to protect everyone and it was not their intent to confuse the PB. He requested that they take a second look at the agreement in terms that they have attempted to solve a lot of problems.

H. Koster stated that the applicant is telling them that theoretically there is a better plan out there than what they have presented. Dennis Phillips stated that Dennis Dickinson says that it cannot be done, but to accommodate the LG Waterkeeper they are allowing him time to test and prove that it can be done and if so, they have agreed to do it. H. Koster asked who will be the referee between the parties. Dennis Phillips replied that it will be science driven and if it can't be resolved between the developer and the Waterkeeper than they are looking at an Article 78. H. Koster stated that if they approve something that has conditions and the Waterkeeper still disagrees with their engineer and the Town Engineer, he could still commence an Article 78. Dennis Phillips stated that he feels that everyone has put a lot of good faith into this project and based upon what they have agreed upon they have come up a good product that will minimize the Article 78 problem. Dennis Phillips read the signed Stipulation Settlement Agreement. He stated that the essence of the agreement is that if the applicant follows through with the

conditions of approval then there will not be an Article 78 proceeding. He stated that Tom Ulasewitz has signed the agreement and Rolf Ronning will be signing the agreement as well. H. Koster stated that in theory the LG Waterkeeper cannot commence an Article 78 in this Town because he is not a resident and he needs help to do this. He asked if they could get every possible person that would possibly help him commence an Article 78 to sign that agreement also. Dennis Phillips stated that was a good question that he could not answer tonight. He stated that the Waterkeeper is hired to do a job and he is a public advocate and swings a lot weight in the Lake George Basin and people listen to him and so with the underlying good faith of this agreement there is an element of trust here.

Don Roessler stated that he is glad that the applicant and the Waterkeeper have finally gotten together to reconcile their differences but he is concerned that they are coming to the PB last minute and telling them what they have agreed to and it includes possible substantial changes to this project which they have not seen before. He stated that he would like to make a motion to table applications SD04-16, SPR05-11, SD06-14 and SD07-04 until the applicant can review his plan and come up with a definite final plan for site plan and stormwater including any and all conditions which need to be in writing so that the Board can review it.

R. Ronning stated that maybe they used the wrong strategy and they should have just come in and tried to get approvals on what they submitted and then had an agreement with the Waterkeeper. He stated that he would like to withdraw the conditions of approval and ask that the PB approve the plans as they have been set forth previously. He stated that if he can work something out with the Waterkeeper and the ponds change they will come back to the PB again with those changes. Dennis Phillips stated that he would like to second that request. He stated that they will continue to communicate with the LG Waterkeeper and his representative and withdraw their written stipulation that they were intending to present to the PB and request that they continue the process of SEQR review relative to this project. D. Roessler asked Counsel how they can ignore all of this. Counsel replied that they can't and that he should continue his motion if he feels uncomfortable in anyway.

Sandi Aldrich stated that they have closed the public hearing on Saddlebrook and asked since they are constricted by time should they re-open the public hearing. Counsel stated that they should give it consideration but the applicant has to agree to it. Don Roessler stated that the applicant has changed the plan since they closed the public hearing. Herb Koster stated that the applicant has stated that they have withdrawn that change and that the point is the information is not in front of us. Rolf Ronning stated that he has tried in good faith to stop another Article 78. He stated that he does not want to change the plan, the Board has a complete plan in front of them and he is requesting that they act on that. Herb Koster stated that this is exactly what concerns him, if the Board approves something that potentially has great changes to it and you don't want any part of these changes and he is concerned who is going to referee the battle between the three engineers as to what is feasible or not feasible. He continued that the Article 78 could still come back on them and if this goes before Court with all of these variables, they are

going to lose. Rolf Ronning stated that he was trying to say that it was not a battle because if the Town Engineer and the Lake George Waterkeeper agree, he will do it. He stated that he is saying that his engineer does not think it can be done the way the Waterkeeper says but they are allowing the Waterkeeper time to see if it can be done. He stated the he made the mistake in bringing the new proposal up and had they not brought it up, he feels that he would have gotten approvals. He stated that in other projects and his own projects, as you go along you might have to come back to the Board because they may have an improvement of the plan. Don Roessler stated that they are talking about significant changes, eliminating a lot, changing the size and location of ponds, which changes the stormwater figures. Rolf Ronning replied that it doesn't change the stormwater figures at all. Don Roessler stated regardless the whole project has changed. Rolf Ronning stated that the changes are that the subdivision is smaller with smaller ponds. Don Roessler stated that it is not the plan that he has before them right now. Rolf Ronning replied that the plan that he wants them to consider is the one in front of them. Don Roessler asked if they approve this plan what is to stop the LG Waterkeeper from commencing an Article 78. Rolf Ronning stated that there is no guarantee that he can't, but he is hoping that if they approve it tonight they will go back to the LG Waterkeeper's attorney and have further discussions about potential changes to stormwater and if necessary come back to the PB with those changes.

Henry Caldwell asked Counsel with regard to the time factor when a decision needs to be made. Counsel replied 45 days after the completion of the public hearing which would happen before the next meeting. He continued that they could re-open it with just cause but he wants them to deal with the motion at hand. Herb Koster stated that the totality of the public hearing did not close until tonight. Counsel agreed but technically the argument could be made that the public hearing on the subdivision closed in May, but the subdivision approval is contingent upon a stormwater plan. Henry Caldwell asked if they should table it pending more information. Counsel stated that he is not sure if there is more information or if they just looking for a final application. Rolf Ronning stated that this is the final application. Counsel agreed but stated that he has confused the Board tonight. He commended the applicant on his decision to work with the Waterkeeper and his attorney to come to an agreement which gives them substantial insurance that they will not exhaust a great deal of money on a lawsuit. However, he has confused the whole, clean, neat process that they need in Bolton. He continued that although they have come to an agreement there is no telling if any number of people that could be affected by this project could bring an Article 78 if the Board approved unfinished business. Rolf Ronning asked what is unfinished about the proposal that they have submitted. Counsel replied that there is ample record here that shows a mass of confusion. Rolf Ronning replied that he didn't think it would be as confusing as it is and is now concerned that they will not be on for next month because it will be more than 2 weeks before designs could be approved and he feels that it could be delayed for months. Counsel stated that it was odd that he would say that because he presented these as a good alternative project and that these changes were simple. Rolf Ronning stated that the agreement is that they have to solve the design problem within 28 days and for the next meeting he would have to submit within the next two weeks which would be impossible. Counsel stated that these delays, the applicant is complaining about, are delays caused by

changes in his plans or presentation. Rolf Ronning stated that the presentation came after his counsel and the Waterkeeper's attorney had a discussion after the public hearing and he thought this agreement would be something the PB would want to hear. He stated that none of it may happen other than the no salting of the section of roadway or the 100 ft average buffer along Indian Brook, they get that automatically, but the change in the ponds is only if science dictates it to be possible. He stated that his engineer doesn't think it is possible but they are giving the LG Waterkeeper an opportunity to show what can be done on paper and ultimately it needs to be approved by Tom Nace. He stated that he doesn't care which way it goes and they are not going to start constructing those areas until this is resolved within 28 days. He stated that he is not sure why the PB is afraid to grant approval of this because if the Waterkeeper finds that he can't do what he thinks he can do the approvals go as they are, but they are getting some additional protections of no salt on the road and larger stream setbacks.

Henry Caldwell asked Counsel if upon expiration of the 45 day period the application would automatically be approved. Counsel replied that the code indicates that is true. He stated that the applicant has already indicated that he could never stipulate to re-open the hearing, but that is a question that he would pose to him with the benefit of his counsel and they could have a brief private discussion. (Note: A brief recess was taken and the meeting resumed at 8:12 pm).

Dennis Phillips commented that the applicant has agreed to extend the 45 day period to the next meeting on July 17<sup>th</sup> so that the 45 day period does not force an unwanted decision and he will put that in writing so that all parties are protected. He stated that they also discussed the filing issue with the LG Waterkeeper's attorney and he has agreed that he would be satisfied with a late filing date for the July 17<sup>th</sup> meeting in the event that they do a stormwater modification to July 15<sup>th</sup> which is 2 days before the meeting. The only issue that they have between them is the issue of whether or not this stormwater management plan can be improved and it will take more than a couple of days to do the work on that. Therefore they are also requesting of the PB an extension of the filing date to July 15<sup>th</sup> for any new submission relevant to the stormwater management plan. Herb Koster asked if that July 15<sup>th</sup> date would include the Town engineer's oversight of it. Dennis Phillips replied that they anticipated that they would have an agreement with all of the engineers to be on the ground as quickly as possible when the Waterkeeper returns from his vacation. Tom Nace stated that he needs to be kept up to date and submissions need to be timely so that he has adequate time to review.

**RESOLUTION:**

**Motion by** Donald Roessler to table applications SD04-16, SPR05-11, SD06-14 and SD07-04 until the applicant can review his plan and come up with a definite final plan for site plan and stormwater including any and all conditions which need to be in writing so that the Board can review it. Seconded by Henry Caldwell. John Gaddy recused himself. **All others in Favor. Motion Carried.**

Don Roessler stated that he would make the motion to extend the submission date. Herb Koster stated that this motion should include a rescinding by the applicant of the 45 days.

Counsel stated yes, it is an extension of the 45 days so that the July 17<sup>th</sup> meeting date which is still within the code requirement. Counsel also recommended that they mention that all four applications receive the extension.

**Motion by** Donald Roessler to extend the application submission date for the stormwater plan for SD04-16, SPR05-11, SD06-14 and SD07-04 to July 15<sup>th</sup>, with the condition that by July 15<sup>th</sup> not only will all plans be submitted but also a letter from Tom Nace stating his approval of that plan and all the other information regarding the subdivision from all parties involved. This motion includes an extension of the 45 days for applications SD04-16, SPR05-11, SD06-14 and SD07-04 to July 17<sup>th</sup> meeting with an agreement to be signed by the applicant. **Seconded by** Chauncey Mason. John Gaddy recused himself. **All others in Favor. Motion Carried.**

**5) SPR08-15 BOLTON RESCUE SQUAD.** Represented by Peter French. Seeks Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Specifically 10 sq. ft. is proposed. Section 171.15, Block 2, Lot 32, Zone GB5000 & RM1.3. Property Location: 26 Horicon Avenue, Bolton Central School. Subject to WCPB Review. Subject to SEQR.

Jim White stated that they are re-applying for the sign for the craft fair that the Bolton Rescue Squad has sponsored for the past several years. He stated that he believes that the permit has been issued. Don Roessler asked if it was the exact same sign that has been used the past few years with the exception of different dates. P. Kenyon replied yes. D. Roessler asked if there was any WC impact. P. Kenyon replied no.

### **RESOLUTION:**

**Motion by** Donald Roessler to accept the application as complete, waive a public hearing and grant approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

**6) SPR08-16 JUMBO REALTY LLC. Mark Bernstein.** Represented by James Gregoire. Seeks Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Approximately 32 sq. ft. is proposed. Section 185.00, Block 1, Lot 32, Zones **RCL3**, LC25 & LC45. Property Location: 429 Trout Lake Road known as Camp Walden. Subject to WCPB review. Subject to SEQR.

Mark Bernstein stated the sign represents their new logo and will dress up the entrance to the camp. The sign is multi-layered and made out of high density foam. He stated that it is similar to the sign used at Adirondack Extreme Adventures near Exit 24 with the same style of manufacturing and they are using the same vendor. S. Aldrich asked if there were any lights on the sign. Mark Bernstein replied yes, they are downward facing lights. S. Aldrich asked if the lights were to be on dusk to dawn or did they intend to turn them off at a certain time. Mark Bernstein replied that he had not given that much thought but thinks probably dusk to dawn. Don Roessler asked if there is any traffic that goes in and

out at night. Mark Bernstein replied no their main gate is closed at curfew which is around 10:30 or 11:00 pm. D. Roessler asked if he could turn the lights off at midnight. Mark Bernstein replied yes.

H. Caldwell asked if they needed a sign that large. Mark Bernstein replied that he doesn't think he needs it that big but he wanted the entrance to look appropriate. The gate is large and the driveway is 12-14 ft wide and didn't want to make it too small. He stated that he wanted the entrance to look really nice and feels that this is a very artistic and beautiful piece.

D. Roessler asked if the sign was only one sided. Mark Bernstein replied that they thought they might do a painting of the logo on the other side. He continued that during most of the year he would like to take it down to protect it from the elements and it would only be up for about 2-2 ½ months. Don Roessler asked if he would be agreeable to the condition that the sign only be in place from June 1<sup>st</sup> until September 15<sup>th</sup>. Mark Bernstein replied yes. H. Caldwell asked if the sign will be the same as presented with regard to color. Mark Bernstein replied yes.

### **RESOLUTION:**

**Motion by** Donald Roessler to accept the application as complete, waive a public hearing and grant approval with the following conditions: 1) Lights for the sign are to be downward facing and shielded with low wattage bulbs used, 2) the lights are to be turned off by midnight daily and 3) the sign be in place only June 1<sup>st</sup> until September 15<sup>th</sup>. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

**7) SPR08-14 JACKSON, SHIRLEY ANN.** Represented by Tene'e R. Casaccio. Seeks 1) Type II Site Plan Review to construct a single-family dwelling in the LC25 zone; and 2) a major stormwater project, specifically to remove more than 15,000 sq. ft. of vegetation, .72 acres is proposed. Section 200.00, Block 1, Lot 9.2, Zones RL3 and LC25. Property Location: Deer Creek Lane and being lot #2 of the Deer Creek Subdivision. Subject to SEQR.

Tene'e Casaccio from JMZ Architects and Planners stated that she was present with Carl Schoder of Schoder River Associates, Dick Cipperly, who has been assisting them as a forester and his right hand man Barry Kincaid. She stated that she and Carl have worked together on many projects in the college and university arena and this is only the second project that they have worked on together and brought to the PB that is residential. She stated that the other project was the Mastriani residence and she hopes that some of the members that were on the Board at that time remember how sensitive that project was to lakefront. She stated that the parcel is 19.6 acres in an approved subdivision. It is a two story single family home with a basement. The lower portion of the road from the National Grid right of way down was really an old logging road and they are making improvements to it. They already have an easement with National Grid that was signed

on May 29<sup>th</sup>. They are also in the process of a lot line adjustment at the lower end of the road to help address stormwater management on the lower part of the road, which they will handle with the Zoning Administrator, but she has been told that this deal has been completed as well. They have made improvements to the driveway as it crosses the right-of-way to comply with National Grids' requirements, most of which are clearance oriented and a small turn-off so that their maintenance vehicles can get up to this point. She stated that they have widened areas of the road for fire fighting access. The road will be paved and all stormwater management measures have been taken to address that. She indicated that Tom Nace has submitted a letter stating that the plans are meeting with his approval. Tene'e stated that the house is 5 bedrooms and the footprint including garages and porches is less than 1 percent of the lot coverage. The wastewater system has also been approved by Tom Nace. The height of the home is less than 35 feet and the length of the home has been designed to fit within the 120 foot square as per the ordinance. The style of the home is Adirondack in nature, cedar siding with stone at the base of the building, twig railings, dark roof shingles, most of the windows will have screens with deep overhangs that will shade the glass additionally and they are using wall mounted light fixtures that have a cut-off. The trees behind the home are much taller than shown on the rendering. They have no affect on the ridge line and they have taken efforts to depress the house into the site to minimize its height. The trees in the front that face the lake will be part of a tree thinning plan. She stated that Dick Cipperly could discuss this more in detail. She indicated that he intends to have view shed or view management through corridors. She stated that Dick Cipperly and Barry Kincade have a great reputation and they will be sure that this project becomes a shining example of how to properly develop on a hillside. She stated that Dr. Jackson speaks nationally and internationally about energy use and this project must be designed to be energy efficient and environmentally sensitive in every way.

John Gaddy stated that he has heard about some controversy regarding the stormwater for the subdivision road. Tene'e Casaccio stated that the lot line adjustment was done in order to address the stormwater issue. John Gaddy asked what the elevation of the landscape was behind the house. Tene'e Casaccio stated that they are slicing a section into the hillside to depress the home and the grade goes up slightly behind the house but the trees behind it are much taller than the rendering shows.

Don Roessler asked if there will be any blasting. Tene'e Casaccio replied yes. She stated that the tree thinning plan talks about the shallow roots of some of the trees there and one of the first goals of the tree thinning plan will be to remove any trees that would be unsafe for the house and they will have to blast for the foundation.

S. Aldrich asked Zoning Administrator Pam Kenyon if there is already a violation on this lot. P. Kenyon replied that there are absolutely no violations on this lot.

J. Gaddy asked what the length of the building was. Tene'e Casaccio replied that the house is within the 120 ft square that is required in the code including the overhangs. J. Gaddy asked if she could add the dimensions to the map. Tene'e stated yes, but the plans

in the set do include the dimensions. H. Caldwell asked what the overall size of the home. Tenee replied the footprint including garages and porches is 6,100 sq. ft.

S. Aldrich asked Carl Schoder about test pits for the infiltration ponds. Carl Schoder described that there are test pits throughout that area. He stated that it is rock up to grade in these areas which is typical. S. Aldrich asked if he would have to put in fill to get 24 inches of infiltration. Carl Schoder replied yes, and he stated that Tom Nace asked the same question and they have adjusted the locations a little bit. They are putting a material under and around those areas that are not a highly compacted material so that there is a good chance for effectiveness of infiltration.

J. Gaddy asked Carl Schoder about the block pavers and his experience with them in winter climates especially with regard to plowing. Carl Schoder stated that this area is the parking lot and is not intended to be plowed and the homeowner is aware of that. They did this because it is more permeable and environmentally friendly and frankly looks better.

H. Caldwell asked if emergency service vehicles would be able to reach the home. Carl Schoder stated yes, they have proposed a driveway with reasonable width, they have kept the turns wider and they have put some turn-outs on the driveway. H. Caldwell asked how much blasting will be necessary to get the road in. Carl Schoder replied that what controls the road grade is the clearance under the wires and from there he tried to get as much of the length of road to get to the required elevation as the house as he could reasonably get by cutting across the slope. He indicated on the map as to where the blasting may occur. S. Aldrich asked if they will be removing material from the site. Carl Schoder replied yes, but some of the material will be used on site for walls, but other soils that are not suitable for the project will be removed.

H. Caldwell asked Richard Cipperly if he is concerned if the disease affecting the hemlocks is going to come up to this area because this site is substantially hemlocks. Richard Cipperly replied that if the hemlock woolly adelgid gets up here that site would be the least of their problems, but if he had to guess based upon his experience no, at least not in the next 10 to 20 years. He has seen a lot of these things start and panic sets in. However, typically what stops these things are extended periods of cold weather which seems to have limited a lot insect problems in this area. What is working against us is the ever increasing average annual temperature in the winter that goes up by fractions of a degree and over a long period of time and it may become easier for the pest to endure. He stated that there are scientists from forest service and private institutes that are working on ways to combat the adelgid and he thinks that will happen.

H. Caldwell asked if Richard Cipperly could walk through the filtered cut plan for the site. Richard Cipperly replied that there is a keyhole view now and they are going to try and accent that view. As for the rest of the property they are going to thin it out so that they can see views under a canopy of trees. Barry Kincaid stated that they are going to be doing this thinning in stages to minimize the cutting. Tene'e Casaccio explained that Richard Cipperly's plan is a phased approach that will first remove the trees that are in

the footprint of the house and those that are in close proximity to house that could cause danger during construction. Once the framing is up then they would take a second pass at it and then groom the area once the project is complete. Tene´e stated the Dr. Jackson likes the privacy of the site and she is not interested in making this something that can be seen from anywhere.

S. Aldrich stated that the plans are marked not for construction. P. Kenyon stated that before permits are issued they will have final construction drawings. Tene´e Casaccio replied that they put that on all of their maps to protect their liability and only take that off if it is the final construction set with the original seal.

## **RESOLUTION**

**Motion by** John Gaddy to accept the application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following conditions: 1) Exterior lighting is to be downward facing and shielded with low wattage bulbs used. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Donald Roessler. **All in Favor. Motion Carried.**

**8) SPR08-07 THUNDERBIRD MOTEL OF LAKE GEORGE.** Represented by Leonardo Chiraboga. Seeks Type II Site Plan Review for a marina. Section 213.13, Block 1, Lot 55, Zone RCM1.3. Property Location: 3908 Lake Shore Drive. The WCPB determined no County Impact with conditions. Subject to SEQR.

Lenny Chiraboga stated that this is pre-existing permitted marina and he is looking to coordinate between the Town and LGPC. He stated that marina has been in existence for over 20 years and he would like to be acknowledged by the Town as a marina.

J. Gaddy stated that he is concerned about the public controversy concerning the project. He stated that he has attended many of the meetings where there have been questions about how the applicant's property may be encroaching on Town property. Counsel stated that the public controversy is a sensitive issue but he does not feel that is part of Mr. Chiraboga's plan. He stated that although there have been issues concerning the encroachment there has never been an issue with the operation of the marina. Counsel stated that the issue has been the riparian rights of the Town of Bolton as they are adjacent to Lower Brereton Road. He stated that he cannot speak for the public but the TB made a decision that they will not press the issue of the location of the boathouse and that they only asked that Mr. Chiraboga remove the added dock in the right-of-way. S. Aldrich asked if the docks that the TB asked to be removed are still on the plan in front of them. Counsel replied yes.

D. Roessler asked about a previous project for a restaurant and asked what happened to that plan. Lenny Chiraboga replied that they had a death in the family and the plans and ideas of use changed.

J. Gaddy asked if the applicant was still looking for boat storage on the property. Lenny Chiraboga replied not at this time. S. Aldrich asked since the TB has asked him to remove the L-shaped dock was that his intention. Lenny Chiraboga replied that he has not spoken to Counsel as to how to proceed on that but he doesn't feel that it affects the marina in any way. J. Gaddy asked if they have gas pumps or if they ever intend to have gas docks. Lenny Chiraboga replied no because they are right next to Yankee Marina. S. Aldrich asked if there would be public restrooms. L. Chiraboga replied yes. J. Gaddy asked if he intends to launch boats there. L. Chiraboga replied no. D. Roessler asked how many more slips he is requesting. L. Chiraboga replied that he is not asking for any more slips, just to be recognized as a marina. D. Roessler asked where the office will be. L. Chiraboga replied that they have a little desk set up on the docks because the APA reversed a ZBA approval for the 12' x 12' office. D. Roessler asked if they could put the office where the restrooms would be located. L. Chiraboga stated that they could, but it wouldn't be practical. He stated that they are looking to get recognition from the Town and then they will work on improving the situation to make it more efficient.

D. Roessler asked Zoning Administrator, Pamela Kenyon if he is looking to be recognized by the Town as a marina so that he can rent to the public. L. Chiraboga replied that they are not looking to rent docks to the public and their intention is to allow for guests to use the dock space or store his rental boats on the docks. He stated that they have been doing this for over 20 years and they have had their marina permit through the LGPC since 1995. He stated that he didn't realize that there was two separate agencies to go to for this. Counsel asked if he allows for docking for someone that is not renting a boat from him and not staying at the hotel. L. Chiraboga replied that there are provisions in the LGPC permit for that. Counsel asked if they have figured out an inventory of how many boats and which class category. L. Chiraboga stated that he has not been interested in that number because if they are permitted 15 dock spaces he will mix and match as needed. He stated that the LGPC permit allows him to have one seasonal dock space. He stated that he wants this recognition so that in the future he may decide to have more rental boats or public use dock space.

H. Koster asked if the north and south end docks are part of the marina permit. Counsel replied yes. P. Kenyon disagreed and stated that the south end is used for guest docking. L. Chiraboga replied not necessarily. H. Koster stated that he thought that the south end of the marina would not be included in this marina application due to the controversy. P. Kenyon stated that at the meeting that they had with Supervisor Simmes, Counsel Muller, L. Chiraboga and a few others, her concern was that he was going to have rental space in the Town's riparian rights and she suggested at the time that he might want to consider the space only on the north side. L. Chiraboga asked what he would do with the southern docks. P. Kenyon replied that she thought that was just for his guests. L. Chiraboga stated that his intention on putting that on the site plan is to give the impression that the marine activities primarily are from the northern docks. H. Caldwell asked how they can approve a marina for only half the property or how can they approve a marina operation on property that doesn't belong to him. Counsel stated that one option to approve this is that Mr. Chiraboga has to comply with the requirement that has been imposed by the TB, which states that there is no dock or docking on that extended L. He stated that according

to Mr. Chiraboga the boathouse is over 100 years old and he was uncomfortable with determining what came first, the boathouse or the Town's right-of-way. Counsel stated to answer H. Caldwell's question, they have some latitude to grant permission and the marina includes the entire boathouse because at this time the Town of Bolton is not exerting its rights at that boathouse on the riparian waters. L. Chiraboga stated that as of tonight the Town property has not been established legally by instrument or deed. Counsel agreed. H. Koster stated that L. Chiraboga's property line is established and they cannot grant approval for a marina that is south of his property line. Counsel stated that although it is not a perfect fit, the TB is not exerting the Town's right with respect to those boat slips in the boathouse. H. Koster stated that even though the TB has made its decision he cannot grant permission for the applicant to run a marina not on his property. Counsel stated that was legitimate grounds.

D. Roessler asked if they could table this until this issue was resolved. Counsel replied yes but he does not know where it is going. D. Roessler asked if they could hold a public hearing on the matter. Counsel replied yes. H. Koster stated that they could approve the marina on the north end only. D. Roessler stated that he has been running this marina for over 20 years and all he is looking to do is be recognized by the Town. H. Koster asked how long the L-shaped dock has been on the boathouse. L. Chiraboga replied over 25 years. D. Roessler stated that he is suggesting that the applicant get this controversy straightened out before they move on it, so they know how many dock spaces are allowed and needed. This would also allow the applicant time to figure out where the office is going to be. L. Chiraboga stated that they will probably go with a 100 sq. ft. shed that doesn't need any approval or permits. He continued that he has contracted counsel to research deeds and surveys and no one seems to be able to find the ownership of that shorefront. H. Koster stated that his point is that he doesn't own it and he cannot approve a permit to utilize a marina that is not on his property. J. Gaddy agreed and asked if they could just approve the marina for the north dock only.

Zoning Administrator, Pamela Kenyon asked if he will now be renting dock space to the general public. L. Chiraboga replied no, he wants to have the dock spaces for his hotel guests and his rental fleet. However, at some point in the future he may want to be able to do rent the space to the public. P. Kenyon stated that his use will not change. L. Chiraboga replied that was correct and stated that he is still bound by the LGPC which allows only one non-guest boat. H. Koster asked if he even needed to be before them since he is not changing his use. L. Chiraboga stated the only thing that is changing is that he wants to be able to rent his rental fleet to the public and not just his guests. P. Kenyon asked if he has always rented the fleet to the general public. L. Chiraboga replied no.

J. Gaddy asked Counsel if they can just approve the northern docks. Counsel replied yes. He continued that although according to the code they cannot approve anything over the boundary line, Mr. Chiraboga has presented that he has a demonstrated right to the boathouse. Although it is of controversy, the TB chose for that to be unresolved. The TB did decide to have the extended dock removed but they did allow for Mr. Chiraboga to allow docking along side of the boathouse. H. Koster stated that if the applicant wants to continue using the boathouse for guests only, like he has been for the last 25 years that is

fine, but do not ask for a change of operation on that boathouse when it is over the boundary line. Counsel agreed and stated that if the applicant uses that boathouse as the TB chose not to find offensive right now and uses it for his guests this code takes notion of that. L. Chiraboga stated that he could agree to that. Counsel stated that they could approve the marina only for the north side with the condition that which goes on in the boathouse is not rental boats. P. Kenyon stated that this is consistent with what is on the applicant's site plan.

D. Roessler asked if the PWC float docks count as dock space as well. L. Chiraboga replied that yes and he intended that if he got approval tonight he was going to go to the LGPC to get a permit for those. However, he stated that he would like to withdraw that part of the application. H. Koster stated that he could leave those on there as long as they are on the north end. P. Kenyon stated that there may be an issue with the rental of wave runners. H. Koster stated that they could approve the northern docks, not deal with the south end and regarding the jet skis, they will need more information. J. Gaddy asked who the lead agency would be for the approval of additional docks. H. Koster replied that the Town is always the lead agency. L. Chiraboga asked what additional information they are looking for. H. Koster stated that if they don't pre-exist they are cannot be grandfathered. L Chiraboga stated that he doesn't feel that the dock has anything to do with the actual rental of the jet ski because he could put them anywhere. H. Koster stated that he doesn't have any information stating that he is allowed to rent jet skis. L. Chiraboga replied that he has the LGPC permit that specifies that he is allowed to have 2 jet skis. H. Koster stated that he would have to ask Counsel because the Town has its own rules about jet skis. L Chiraboga supplied the LGPC permit and Counsel read the permit which included the number and types of rental boats for motel guests only with the exception of one seasonal rental dock space.

P. Kenyon read from Section 200-14 "Commercial use of personal watercraft is prohibited in the Town of Bolton". H. Koster asked Counsel if they consider the applicant as grandfathered. Counsel replied only to the extent that substantiates the type of use and the type of vessels that have been approved. The permit states the number of PWC allowed, which is 2, and that they are only used for guests. H. Koster stated that he will not approve changing the use on the jet skis and that they have to remain for the guests only and the only thing that they can rule on is the 8 dock spaces on the north end of the property. L Chiraboga asked what the difference would be to rent the jet skis to the public. H. Koster replied that it is a change in the operation and that he would have to come before them with site plan review and by changing the operation it means that he is no longer grandfathered. H. Koster asked to have a motion for the 8 docks on the north side. He stated that they should mention that the drawing indicates other docks on the property which this motion does not cover. Counsel stated that they certainly could say that you did not render any opinion or decision on the personal watercraft docks. With respect to the southern dock, you have decided that it was not a requirement of this Board to grant site plan approval because it is permitted as guest dockage.

## **RESOLUTION:**

**Motion by** Donald Roessler to accept the application as complete, waive a public hearing and grant approval for the u-shaped dock on the northern part of the property to be used for 8 dock spaces for rental boats, seasonal dock space or guest docks and have not rendered any opinion or decision on the personal watercraft docks. With respect to the southern dock, it is not a requirement of this Board to grant site plan approval because it is permitted as guest dockage. 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. **All in Favor. Motion Carried.**

**9) SPR08-18 ROSEN, RON & NANCY.** Represented by Hutchins Engineering. In accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan Review for a major project to remove more than 15,000 sq. ft of vegetation. 28,000 is proposed. Section 186.14, Block 1, Lot 20.13, Zone RL3. Property Location: Trout Lake Road and being lot 3 of the Trout Lake Subdivision. Subject to SEQR.

J. Gaddy stated that this does not pertain to the applicant but commented that it looks like some of the stormwater work done in this subdivision needs to be re-seeded because it is starting to erode. P. Kenyon replied that she visited the site with Tom Nace and the LA Group and it seems that only minor things need to be done.

Tom Hutchins stated that the Rosens propose to construct a single family residence on Lot 3 of the Trout Lake Road Subdivision which was approved May 18, 2006. Lot 3 is a 3 acre parcel right off the end of the cul-de-sac. He described the layout of home and stated that it is in conformance with the conceptual layout from the subdivision design. It is a two story modular construction with a full basement and attached garage. He stated that it is in the general area as described in the original subdivision but they have pushed it up the hill a bit. He further described the plan.

J. Gaddy asked P. Kenyon if the cul-de-sac was the correct size for emergency services. P. Kenyon replied that it seemed small to her and that she would have to check to see what was approved. T. Hutchins agreed that it is quite small and that was discussed at the PB meeting when they looked at the subdivision and provided the minutes from that meeting. P. Kenyon read the minutes and stated that the applicant was stating that they would have a 50 ft radius, which would be 100 feet in diameter. T. Hutchins stated that according to the map it is only 50 ft diameter but he has not actually measured it. H. Koster stated that they shouldn't punish the applicant in any way because the developer did not follow through properly with the plans. J. Gaddy agreed but stated that it does need to be corrected.

J. Gaddy asked if the site was easy to develop. T. Hutchins stated that there is good soil and it is not tremendously steep. S. Aldrich asked if he could correct the map to reflect Huddle Brook. T. Hutchins replied yes.

S. Aldrich asked if there was any exterior lighting proposed. Tom Hutchins replied that Mr. Rosen owns an electrical contracting business and he has discussed this with him today and he is willing to agree to shielded downcast lighting.

**RESOLUTION:**

**Motion by** John Gaddy to accept the application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following conditions: 1) Exterior lighting is to be downward facing and shielded with low wattage bulbs used. 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. **All in Favor. Motion Carried**

**10) SPR08-17 SALAMONE, KEN.** Represented by Bruce Mowery. For the construction of a proposed garage/utility building, seeks Type II Site Plan Review for an accessory structure greater than 1,500 square feet of floor space, approximately 3,658 sq. ft. is proposed. Section 213.05, Block 1, Lot 6.1, Zone RM1.3. Property Location: 4124 Lake Shore Drive. Subject to WCPB review. Subject to SEQR.

Bruce Mowery stated that he is presenting a storage utility building on a property in an approved subdivision called Wide Waters. He stated that they were before the Board last fall to get approval for a remodel of the guest cottage and they are now presenting this project. The primary use of the storage building is to house his boat, snowmobiles and other things. He indicated that eventually the main house will be rebuilt. The storage building is a two level building. The way that this is being plotted there are no trees being taken down and it will be built into the slope. The lower level will be strictly for storage and the upper level will be for the applicant to work on his machines and vehicles. He stated that they have a stormwater plan that has been designed by Kathy Suazzo with infiltration. He stated that the exterior will be finished off similarly to the guest cottage with stone veneer and clapboard siding with the use of darker earth tone colors. He stated that around this location of the structure there is an extreme rock outcropping to the east of this with a large stand of trees so it will be completely shielded from the lake. D. Roessler asked if the applicant will be renting any of this space. Bruce Mowery replied no.

**RESOLUTION:**

**Motion by** Donald Roessler to accept the application as complete, waive a public hearing and grant approval with the following condition: 1) Exterior lighting is to be downward facing and shielded with low wattage bulbs used. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

**11) HARRINGTON, TIMOTHY.** Represented by Atty. Michael Stafford. Seeks an advisory opinion from the Planning Board as it pertains to the proposed tree planting

plan entitled "4 Forbidden Forest Lane - Site Plan Lands of Tim Harrington" dated May 10, 2007. Section 156.00, Block 2, Lot 38 Zone RL3.

Michael Stafford stated that there is no application and that they are presenting a proposal pursuant to a stipulation between himself as counsel for Mr. Harrington and Counsel Muller for the Town. There is a pending Supreme Court action wherein the TB has brought a proceeding against Mr. Harrington and in the context of that litigation they have entered into a stipulation whereby the TB is asking the PB for its recommendation with respect to Mr. Harrington's proposed planting plan for trees in the scenic corridor. He stated that the Board should have a copy of the proposed plan which shows that Mr. Harrington intends to plant 60, approximately 6 ft. high, white pines to address the cutting issue in the scenic corridor.

J. Gaddy offered pictures of the site which showed extensive cutting. Michael Stafford stated that he is familiar with the pictures, however, they are pictures of the no-development zone and not the scenic corridor. J. Gaddy stated that his point is that on the plot that they have there were a number of conditions of the approval signed in July 13, 1993 and he listed those conditions. He asked if any of these conditions have been met for this lot. Michael Stafford stated that those are other issues that may or may not be important in the overall litigation and the limited issue for tonight is that Mr. Harrington proposed to address one of the things in the lawsuit which is the scenic corridor. He stated that the TB is only looking for a recommendation from the PB specifically with respect to the proposal to plant 60, 6 ft high, white pines in the scenic corridor. He stated that in looking at the scenic corridor on this property it is unique. In most places the scenic corridor is close to the County Route 11, but if you actually measure where the scenic corridor starts it is much further back and cuts through the corner of his house and driveway.

Counsel Muller stated that Mr. Harrington is trying to get the first step down. He stated that he has always looked at Mr. Harrington's property as three units, one is the scenic corridor, second, is the middle where his house is and third, that which is on the no-development area. Counsel stated that his instruction from a TB that no longer is comprised of the same members is that they will deal with that issue. One of the resolutions would be let it re-grow and restore itself. However, he stated that this is not the issue before them tonight. Counsel stated that the PB can take what has been presented and comment on it, bend it and shape it, supplement it or accept it, but it is only a recommendation and it is not binding on the applicant or the TB. The TB will look at the advisory opinion and come with an acceptable plan, but they must also convince the applicant.

J. Gaddy asked Counsel if they could add language to insure that the trees that were planted would stay there or be replaced in the event of some unfortunate demise. Counsel stated that it is already outlined in their stormwater regulations. H. Koster stated that if it is already part of their regulations that they make that recommendation to the TB. Counsel stated that they could but encouraged the PB to comment on the proposed amount, types or location of the trees. H. Koster stated that he would like to see some

hardwoods added to the plan. J. Gaddy agreed, but stated that he would like to see 120 trees, 60 white pine and 60 other natural species. H. Koster stated that the area is small and too many trees would crowd the area. J. Gaddy stated that they could make it 75 with 15 hardwoods with the condition that they are surviving 10 years later. H. Koster asked if that would be agreeable with the applicant. Michael Stafford stated that he would ask his client but he is not there to okay anything and that he is only there to listen to their suggestions.

John Gaddy asked Counsel if there is any interest from the Town to further pursue action on the area that was cut. Counsel replied that the previous Town Board stated to let that area re-vegetate itself. H. Koster stated that this area is not going to re-vegetate itself unless they take the downed timber out of there. Michael Stafford stated that they had discussed taking the downed timber out of there and his client would be more than happy to do so, but there was another regulation that said they could not do that either. Sandi Aldrich stated that she does not have a problem with the re-planting the 75 trees in the scenic corridor, but her personal opinion is that she doesn't want the Town Board to misunderstand because she does not think that they should just ignore that no-cut zone. She feels that this should be one step of many. Counsel stated that this is a wide open issue because it is a new Town Board. He stated that neither he nor Michael Stafford could make promises with respect to that, but they have some goals about how to solve the problem. Counsel stated that he did not realize that the Town told Mr. Harrington that he could not remove the downed timber. Michael Stafford stated that he had that discussion with Code Enforcement Officer Mitzi Nittmann and she stated that he could remove it as long as he could do it by hand and that he could not bring any heavy equipment for the removal. Pam Kenyon stated the reason for that is because it would create a major stormwater issue. Counsel stated that they could explore that further. John Gaddy stated that he would like to make a motion to recommend to the Town Board to continue pursuing the re-vegetation of the site in the no development zone to comply with the intent of the original subdivision approvals. Pam Kenyon asked if he was aware that it is starting to grow back. John Gaddy stated no, but the original approval stated no cutting without a cutting plan and this is like similar situations where people go in and cut and they have no re-vegetation plan. H. Koster stated that he believes the Town is doing this and he would prefer not to tell the Town Board what to do. Counsel suggested that they make the motions separate.

### **RESOLUTIONS:**

**Motion by** John Gaddy to recommend that the Town Board approve a planting plan for Timothy Harrington to replant 75 trees, comprising of 60 white pines and 15 hardwoods and that they must survive 10 years, any trees that do not survive in that time frame are to be replaced. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

**Motion by** John Gaddy to recommend to the Town Board to continue pursuing the re-vegetation or compliance with the original conditions of the subdivision approval. H. Koster stated that he believes the Town is doing this and he would prefer not to tell the

Town Board what to do. **Seconded by** Sandi Aldrich. Herb Koster and Donald Roessler opposed. **All others in Favor. Motion Carried.**

Meeting was adjourned at 10:35 PM.

Minutes submitted by Kristen MacEwan