

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday November 20, 2008**

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPB = Warren County Planning Board
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Department of Environmental Conservation

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

Absent: None

H. Koster opened the public hearing at 6:04 PM.

PUBLIC HEARING

1) SD06-05 OBERER, ERNEST. Represented by Scott Miller and Peter Loyola of CLA Site. Seeks to divide into 3 lots that parcel designated as Section 171.00, Block 1, Lot 6, Zone LC25. Final Plat. Minor Subdivision. Subject to SEQR. Property Location: Edgcomb Pond Road. *Note: This item was tabled at the October 2008 meeting pending a public hearing. Site Plan Review for a major stormwater project is required, but has not yet been applied for.*

(Note: Sue Wilson and Henry Caldwell recused themselves from application SD06-05)

Peter Loyola gave a brief history as to where they are at and what it has taken to get to this point. He stated that they have been planning this for a little over 2 ½ years. The Oberers bought the property in 2002 and another piece in 2005 creating the total 75 acres. The zone is LC25 and they bought the property with full intent to subdivide the property as permitted by the Town Code. He stated that they are not asking for any variances and all of this is within the limits of the Town Code. He stated that they have worked hard with the PB over the last few years to make sure that they address a lot of the issues that the public has and will raise tonight.

Peter Loyola explained the project in further detail. He stated that they have provided photo simulations that show the extent of what will be seen from different views. He stated that they realize how important this piece of property is to the community and they have always known that. It is also important to the applicant in his own personal history. The applicant is interested in creating one large lot for himself with two additional smaller lots. None of the homes are proposed to be built on the pinnacle. The applicant's home will be tucked in on a lower elevation from the pinnacle on the southwest side and the other homes will be on the northwest side of the pinnacle. The driveway is about 4,300 feet long and they have gone to great lengths to make sure that it will be safe. The majority of the driveway will be 12% with small portions at 15%. The driveway is 20 feet wide with 2 foot shoulders and have provided hammerhead pull-offs and turnarounds for emergency and fire vehicles. They carefully inventoried all of the fire equipment

used in the Town and have found that most vehicles could make it up this driveway. In fact some of the Town roads are much steeper than this road will be. All of the homes will have fire sprinklers and there will be a water storage tank at one of the hammerheads at the top for additional access for water.

With regard to visibility, Peter Loyola explained that he feels that there has been a lot of misconception in terms of where they will be placing the homes and what they are going to be able to see. He explained the view shed simulation that they prepared. He stated that the homes will be 350-400 feet from the pinnacle. He stated that they have done everything they possibly can to mitigate any views that there might be of the homes. One of the key aspects, which was directed by the PB, was to put together a filtered view creation plan. This is a legal document that they implement as restrictions to these homes which will limit the amount of clearing and selective cutting to about a half acre. Looking at the entire property about 13% of the property will be cleared, 8 acres for the road and each home lot would be approximately half an acre per home on a 7 acre lot. This application is not the typical development that they have seen in the past. He stated that they understand this ridge and he provided several examples of what they will not be doing in terms of development. He stated that many of the homes that have been developed in this area have cleared several acres to keep their view of Lake George. With this project they will be selectively cutting to provide filtered views. He stated that they understand how sensitive this site is to the community so they wanted to make sure that the Town had an enforceable action that they can take to the homeowner.

With regard to replanting and re-vegetation, Peter Loyola stated that the applicant owns a very successful landscaping business. They are horticulturists and have worked for 45 years on reclamation projects on very tough sites with slope stabilization and erosion control. He stated that what they are proposing is well in excess of what anyone would normally be required to do according to Town Code to reclaim and mitigate any of the clearing for the road work. They are proposing over 6 acres of planting and in addition to the road work they will do they are proposing to re-vegetate the pinnacle. He stated that they are requesting to exercise their right to develop the property in a sensitive way which they feel they have.

Yuliana and David Cummings, downhill neighbors, are concerned that they will be affected by any and all uphill disturbance. They are requesting protection for themselves personally as well as for the Town in which they live. They feel that all decisions made tonight will have the weight for centuries to come. They do not understand why someone would want to go to such extremes to build a road and home on such a steep site. They understand the views atop the pinnacle are the best in Town, but are concerned with allowing this benefit for only a small amount of people at such a high cost to the entire community. They are afraid that an approval would be crossing the line of irresponsible planned development. If they allow this to pass what will be allowed in the future and what grounds will they have to stand on? If the project is approved they will probably have to sell their home and move to a different town. However, it will be difficult to do that with the current market values and with a full knowledge of the approved project. They share the concerns over view shed, water quality, fire safety issues and massive

erosion, but they are concentrating their concern on the volume of water that comes down the proposed road and aimed at their house. In the spring the existing logging road channels water directly under their cabin and driveway. Removal of several acres of forest will only increase the amount of water. They have seen first hand what a 100 year storm can do, such as the incident with Rob and Ann Marie Somma in 2005. They are concerned that this could happen to them if development of this site is allowed. They requested the PB and communities members to not allow this type of development to occur.

Jerry Tolchin, adjoining neighbor, stated the adjoining property to the north and east, approximately 165 acres of woodland is protected from development and was placed in a Lake George Land Conservancy easement by Andrew Haigh. Andrew Haigh's home was to protect the pinnacle and to protect the entire watershed that the pinnacle provides. He wanted to keep the area forever wild and to provide a refuge for future generations. He stated that they purchased the property from the Haigh Trust to continue the protection. He stated that he would like some clarification from the applicant who mentioned that there have been other houses on the ridge with extensive clearing because there are no houses on the pinnacle ridge at this time. When the property was placed in the easement with the Lake George Land Conservancy it was called the pinnacle easement. He read the following from it: "The Haigh Tract is the second highest point in the Town of Bolton, 1,320 feet in elevation, clearly visible from Lake George. Protection of this parcel adds to the protection of Lake George view shed. Haigh Tract drains directly into Finkle Brook, a major tributary, for Lake George and a source of silt deposition; this tract decreases the impact of potential siltation of Lake George. The Haigh Tract is a large continuous block of undeveloped forest with protection further reducing the risk of further fragmentation of forest land in the Lake George Region." He stated that the pinnacle is the highest point that drains directly into Lake George. Cat Mountain is higher but does not drain into Lake George. Run-off from the Pinnacle even in its natural state is significant and can be seen by anyone living in the area with frequent wash-outs on Potter Hill Road and roads surrounding it. Clear cutting will be necessary for the development of this site due to the nature of the topography. Development poses a significant risk for and from forest fires. The fire a few years back was driven by the southerly winds and it threatened to burn its way down the eastern slope. The path of the fire would have gone directly into the proposed house sites. The ridge is a popular place for lightning strikes. His house was struck in the 1970's and was burnt to the ground. In spring and summer water tends to pool at the flatter elevations on the pinnacle, which forms small ponds and become havens for wildlife. He stated that if development should go forward he would encourage that it occur to the west of the pinnacle at a lower elevation, eliminating the need for the almost mile long driveway, reducing the run-off and siltation. Keeping the homes at a lower elevation would also allow for clustering of the homes.

Paul Cummings stated that he is related to David and Yuliana Cummings and is a municipal planning consultant by profession, but more importantly he owns property in Town and has grown up in Town. He stated that the applicant has 75 acres and feels that they could develop a plan that everyone could agree upon. With his understanding of the

Town Code and Comprehensive Plan he does not believe that the project as it stands should be approved for the following reasons: 1) Zoning- under the subdivision clause, it provides the PB the authority to ask the applicant to create lots and place houses in such a way that the interests of everyone in the community are met, such as avoiding natural resources and view shed issues, etc. There is also a cluster subdivision ordinance within the zoning and in it says an applicant meets a certain criteria that they shall be required that they submit a cluster subdivision. With regard to the LC-25 zone, there are “as of right uses” and “special use permits” and building a house is not an “as of right use” because it is an important natural resource area. 2) Bolton Comprehensive Plan- clearly identifies this as a very important area from its steep slope perspective, natural resources perspective and view shed perspective. The soon to be adopted zoning ordinance has a conservation subdivision ordinance in it that would require that this project be re-configured. 3) Environmental review- They are here tonight to just discuss the subdivision aspect of this property but SEQR requires that they consider a project in its entirety and if they do not it is called segmentation and no one part is mutually exclusive of the other. While they are talking about the subdivision of the property, part of the process would be to discuss proposed locations of the housing and if it were to go through an environmental review process, there is not a design scheme or method of hiding the house that will be able to mitigate what clearly in a scoping session would be identified and that is their view shed and steep slope concerns. He feels that it would really require the re-location of the houses off the summit where they are not as much of an impact to the environmental or communal resources.

Mary Martialay, resident on Hiawatha Island, stated that she has submitted a letter to the PB. She stated that she understands the rights of the property owner but also does not feel that the rights of the property owner should not be considered over the rights of the existing property owners. She stated that not only in the view shed important because she will have to view it everyday, but she will know what the house is doing to her favorite place on earth not to mention her drinking water. She requested that the PB put whatever obstacles are within their legal power in the face of this project.

Anne Marie Somma stated that she wanted to speak on behalf of Yulianna and Dave Cummings. She stated that hearing Yulianna speak about the amount of water directed at her house it brought up some thoughts for her. She does not believe that this PB did their best to protect her and husband’s rights with regards to the Saddlebrook Subdivision and she hopes that the PB will make better decisions to this property.

Chris Navitsky, Lake George Waterkeeper, stated that he has the following concerns: 1) The amount of clearing for 3 building lots is excessive and will create significant impacts and will permanently alter one of the prominent vistas of the Town. The 8 acre proposed clearing does not take into account anything for stormwater management which will be major. The PB must balance the benefits to the applicants with the potential impacts to the community and environment. The proposal will clear 500 foot sections on 50% slopes creating large potentials for erosion conditions. This fact alone justifies requirements for the PB to consider a cluster subdivision. A true conservation cluster subdivision are lands of historical, recreational and local importance as well as

environmentally sensitive resources such as steep slopes and wetlands are preserved and left undisturbed. Development is concentrated in areas where the environment and aesthetic impacts are minimized as well as the amount of disturbance and clearing limits. The applicant has stated that this is a cluster development but they are simply clustering everything on top of the mountain to maximize their views. 2) No stormwater management plan. Chris Navitsky asked if the potential impacts be determined with such technical information as a stormwater management report. Because of the anticipated public input the PB has allowed the project and applicant to go ahead without the submission of the stormwater management report. Stormwater will have significant environmental impacts and will require significant additional disturbance. It seems the application should be reviewed in its entirety and otherwise could be viewed as segmentation. He stated that the LGPC says under their local stormwater management ordinance "No persons shall receive subdivision approval from a municipality until first receiving a stormwater management permit from the municipality for all building structures and impervious surfaces proposed." He stated that if they approved the subdivision they could be creating and approving lots which are not buildable. 3) APA Jurisdiction- He asked if an inquiry has been filed because it does appear that there are potential wetlands on the top which could be impacted and should be cleared by the APA. 4) Clearing for the driveway exceeds the allowable clearing under section 200-51C. In October 2007 the PB determined the access was a shared driveway. The Town of Bolton Code restricts its clearing width for single family construction for 16 feet for a driveway and he feels that this may require a variance. 5) Comprehensive Plan- Some of the stats show that 84% of the people in Bolton stated that they live in Bolton for the natural surrounding and desire to continue environmental protection. 82% of people state that the most important priority is to protect the environment. 75% of the people stated that the Town should strengthen regulations regarding hillside development. 6) It is unclear if the project will be able to meet the requirements of the stormwater management ordinance. The Town requires that there be no increase in the volume of stormwater from 10 year event and this requires that all stormwater be infiltrated. NYS prohibits infiltration on steep slopes greater than 15% therefore he does not feel that this will be the criteria. 7) The applicant is proposing that the Town of Bolton accept responsibility for the enforcement of their conditions, covenants and restrictions on clearing and asked if the Town would accept that responsibility.

George Goodman Homer Point resident, stated that he is concerned that when he looks up from his dock will this project be hidden from view. He stated that he sat on a Bolton Master Plan Committee and one of the discussions was to try and have the ridge line protected. He stated that he knows that this area sometimes has difficulty in getting water in the dry season in August and asked if there would be enough water access if they drilled wells.

Bryan Allen, Trout Lake Road resident, stated that he has 2 concerns 1) With regard to stormwater, living around Trout Lake Road, Coolidge Hill and Potter Hill Road they have seen these roads washout year after year coming from all sides of the pinnacle currently without any development. 2) Historical significance-for generations people

have enjoyed hiking up there for the view and as this development takes place he asked if the community will be pushed out.

Counsel read the following letters of those not present or not having spoke at the hearing:

1. Sierra Club Hudson Mohawk Group who wrote in opposition to the project.
2. Sam Caldwell who wrote in opposition to the project.
3. Deb Gaddy who wrote in opposition to the project.
4. George Hawkins who wrote in opposition to the project.
5. Bates Childress who wrote in opposition to the project.
6. Jane Neill Caldwell who wrote in opposition to the project.
7. Blair L. Keller who wrote in opposition to the project.

Ron Conover 4323 Lake Shore Drive, stated that he has reviewed the Comprehensive Plan, Zoning instruments and tries to attend as many meetings as he can and the word that they see used between development and environment in all of the planning instruments is balance. Balance between needing to grow as a community and the environment. He looks at this plan and think of that acreage as a habitat and then sees this mile long road with 8 acres of clearing for 3 lots. He asked if this is what they mean by balance. He stated that he knows that it is not easy to say no but feels that this is not the type of development that Bolton wants to see. He feels the applicant needs to present something that is less disturbing to the environment.

Meredith McComb stated that she submitted a letter last week. She stated that she hopes that they consider the current cluster regulations because they require taking advantage of an existing infrastructure, economic utilization of roadways and utilities. She stated that the house sites look very small and asked what the size of the homes will be. Peter Loyola replied that they would be approximately 2,500 sq. ft. footprint. Meredith McComb stated that if this is approved, as a right they will be able to add a garage and a guest house without review as long as they do not exceed the maximums. Herb Koster corrected her and stated that everything in the LC25 zone needs site plan review. Meredith McComb stated that creating one lot with 50 arces, and the other 2 lots much smaller than the 25 acre size, would seem that it would be a prime opportunity for the larger lot to have further subdivision in the future.

Peter Loyola stated that they fully intend to meet all of the regulations for stormwater. He stated that they are very aware of the steepness of the slope and have experience throughout the state on industrial projects with thousands of acres and they know that they will need to handle their stormwater. They are proposing sediment traps along the roadway with rip-rap to decrease the velocity. With regard to the Cummings' property, there is a lot of water that comes down that way already and when they improve the road and the access that is up there they will find that they will be eliminating 60-80% of the watershed area that is coming down towards them and directing it onto the applicant's property. They have plenty of room on 75 acres to capture stormwater run-off and handle it in an acceptable manner as per the DEC, LGPC and Lake George Waterkeeper. He stated that currently there is a ravine that runs through the Cummings' property and he

feels that they will be eliminating that and diverting it into their property. He stated that they will not increase the amount of run-off onto the Cummings' property.

Herb Koster stated that it was the choice of the PB to get this phase of their design over with and if or when this project gets approved it will be on the condition that the stormwater management will work and if it does not it will not be approved. Stormwater management for this project is a large project and they decided to have this part of the application done first before moving forward in requesting stormwater.

Robert Weisenfeld stated that even the best engineered roadways and stormwater systems can fail if not properly maintained. He asked how the applicant plans to maintain them, how the maintenance will be funded and how the mechanism will be enforced? Peter Loyola replied that they will build it right the first time. The vegetation that they are proposing, as part of DEC guidelines, requires that they construct in 5 acre increments, so that a portion of the road is built and stabilized with 75% cover established before moving on to the next phase. In terms of maintenance, once the system is in place they will be able to handle the maintenance. The driveway will be agreed upon by the homeowners and they will be responsible for that maintenance. Robert Weisenfeld asked if there will be a HOA and if so, will there be a reserve fund for the roadway. Peter Loyola replied that they will have a maintenance agreement in place but they are not required to have a HOA.

Rolf Ronning stated that he sold the applicant a lot of this land and he is in favor of the project. He stated that he is seeing signs to save the pinnacle and he looks at the economy and cannot understand why people do not want any development up there. He stated that this is private property that are paying taxes. The applicant knows that they will have to do everything according to the Town Law and regulations, they are facing up to the task and doing it well.

Janet Hughes Coolidge Hill Road, stated that there is a legal contract to prevent a certain amount of cutting but she is concerned that there is no HOA. She stated that the photo simulations look nice and the homes seem to blend in well but what is to stop the homeowners from using bright colors or other things that may affect the view. She asked if this is addressed in zoning law? Peter Loyola replied that the deeds have covenants and restrictions for all of the development of the property which would include house colors, lighting, etc. He stated that they also have the filtered view creation plan which gets into a pre-cutting report or inventory of what is there currently and what is going to be saved and after construction takes can be used to be sure that those conditions have been met. This is a legal document that goes well beyond anything that anyone has put together in this Town and they feel that it is a step in the right direction because it creates some enforcement that the Town may have for the community. Mary Martialay asked what the fine would be if someone were not to comply because some might feel that the fine is nothing in comparison for the view that they will receive. Peter Loyola asked Mike Hill to speak further about the covenants and restrictions.

Michael Hill stated that they submitted a proposed draft deed which refers to the filtered view creation plan and any conditions that are placed on the subdivision map and require compliance with these. With regard to penalties, he read the following: "The limits and the Plan (Filtered View Creation Plan) were created and incorporated herein as part of the deed as a condition of subdivision approval by the Town of Bolton Planning Board. The provisions and restrictions and limits of the Plan shall be enforceable by the Town of Bolton which is hereby deemed to be benefited by them. The Town shall have a right of action in Town Court and/or Warren County Supreme Court against the owners of any lot in the subdivision who commit any violation of the cutting limits or the filtered view creation plan or who contract with or otherwise grant access for purposes of trimming or removal of trees or other vegetation on such owners lot to any third party who violates the limits and/or Plan. Upon a judgment of liability by the Town Court or the Warren County Supreme Court such owner shall be subject to a penalty payable to the Town. In the discretion of the Court for any violation for which a judgment is rendered on or before December 31, 2009 the Court may impose a penalty which shall range from \$1,000 up to \$35,000 depending on the nature and/or severity of the violation. The range of penalty amounts to be imposed for violations committed on or after January 1, 2010 shall be adjusted in accordance with any change in the consumer price index. Furthermore, each tree, limb and or plant, trimmed or removed in violation of the limits of the Plan may in the discretion of the Court constitute a separate violation subject to penalties as provided for herein." Mike Hill stated that there are other conditions which govern other aspects of development for the property. For example, there is a provision that requires that all exterior lighting to be downward facing and shielded. There is also a provision that all houses constructed on the property must be equipped with an automatic fire sprinkler system and the houses must have an automatic standby electrical power generator that would power the well for the sprinkler system. There are also provisions for the shared maintenance of the driveway, water storage tank and stormwater control measures. Counsel Muller agreed that the Town has not seen anything like this before and it is state of the art and well structured. He asked Mike Hill if the fines are imposed would be rewarded to the Town. Mike Hill replied yes that is how the deed was written. The intent of the deed is to provide the Town with a specific right of action in the event of any violation. Counsel Muller stated that the fines exceed what is presently permitted in the Code and they also exceed what is provided for in the statute but that is permitted by private contract and by deed covenant.

Paul Cummings stated that given the stormwater management concerns and view shed issues and complexities of the deed related issues it could be argued that this is an unlisted action. He doesn't understand how they can look at this subdivision by itself and then the stormwater by itself. He doesn't understand how this wouldn't become an unlisted action and lead agency be declared and a full environmental impact statement be prepared if it is to move forward.

Ed Corcoran spoke with regard to the Comprehensive Plan. He stated that there were about 800 people who want to protect the ridge lines. There are some ridge lines that have been developed and those houses are going to forever be there. He understands that

this is private property but just asked that they consider protecting this ridge line because it will be forever changed.

Don Roessler asked if they close the public hearing would it start the 45 days. Counsel Muller stated that there were a couple of conditions that they went so far on, one of which was that you were going to allow a public hearing without them having to undertake stormwater plan and presentation because of the magnitude and cost to do so. The Code allows them to ask the applicant to agree in writing that upon the closure of the public hearing they will allow the waiver of those 45 days. He stated that the best that they can do would be a conditional approval because they do not have stormwater. Herb Koster stated that the PB understands that fully and so do the applicants. Mike Hill agreed and stated that they could put it in writing if they wish. Counsel stated that if anything changes with regard to the subdivision due to the stormwater plan they can re-visit this aspect. He also stated that they can choose to leave the public hearing open. Mike Hill stated that they would like the opportunity to prepare a written response to the comments that were made here tonight and submit them for the PB consideration. If the PB chooses to close the public hearing they are agreeable to waive the time requirement.

RESOLUTION:

Motion by Donald Roessler to keep the public hearing open for application SD06-05. **Seconded by** Chauncey Mason. **Sue Wilson and Henry Caldwell abstained. All Others in Favor. Motion Carried.**

With regard to the PB members who have recused themselves, Herb Koster asked Counsel if they will have to have the majority of the individuals sitting there or the majority of the total PB. Counsel replied that they would need the majority of the total Board which would be 4.

REGULAR MEETING

Herb Koster asked if there were any changes or corrections to the October 23, 2008 meeting.

1. John Gaddy, page 8, line 13, should read as follows: "John Gaddy stated that in section 200-28, section 3 "Review" it gets down to an approval of site plan..."

RESOLUTION:

Motion by John Gaddy to accept the minutes as corrected. **Seconded by** Donald Roessler. **All in Favor. Motion Carried.**

2) SD06-05 OBERER, ERNEST. Represented by Scott Miller and Peter Loyola of CLA Site. Seeks to divide into 3 lots that parcel designated as Section 171.00, Block 1, Lot 6, Zone LC25. Final Plat. Minor Subdivision. Subject to SEQ. Property Location: Edgecomb Pond Road. *Note: This item was tabled at the October 2008 meeting pending a public hearing. Site Plan Review for a major stormwater project is required, but has not yet been applied for.*

(Note: Sue Wilson and Henry Caldwell recused themselves from application SD06-05)

RESOLUTION:

Motion by Donald Roessler to table application SD06-05 pending additional information. **Seconded by** John Gaddy. Sue Wilson and Henry Caldwell abstained. **All Others in Favor. Motion Carried.**

3) SPR08-25 PARROTTA, ROBERT. Seeks Type II Site Plan Review for a Marina and Tourist accommodations. Section 171.11, Block 2, Lot 12, Zone RCM1.3. Property Location: 5102 Lake Shore Drive and known as the Contessa. The WCPB determined no county impact. Subject to SEQR. *Note: This item was tabled at the October 2008 meeting pending additional information and is in conjunction with V08-50 for deficient density and shore frontage.*

Bob Parrotta stated that he has received the area variance for the restaurant to be converted to 3 two bedroom motel units. The ZBA also decided that there was no need for a variance for the marina because he already has a marina license and is only seeking a modification for the marina. He stated that he feels that he has answered all of their questions from the previous meeting and provided the items that the requested. He reviewed how the restaurant will be converted to the hotel units. John Gaddy asked if there were any conditions on the area variance. Bob Parrotta replied no. He indicated the parking for the new units and boat rentals. He stated that the units will be seasonal from May to October. He stated the use will be decreased from approximately 1,200/week for the restaurant to 126/week for the proposed units, which substantially cuts down the use of the sewage and water.

Sandi Aldrich asked what is currently under the restaurant. Bob Parrotta replied that it is storage and the restrooms for the marina.

Herb Koster asked if anything was changing on the exterior. Bob Parrotta replied no, all changes will be to the interior.

John Gaddy asked what he intended on doing with lighting for these units. Bob Parrotta replied that there is only low voltage lighting on the decks. Sandi Aldrich asked if they will be sharing the deck. Bob Parrotta replied that units 2 and 3 will share the large deck and he will put a wall up to divide it and unit 1 will have its own deck.

With regard to the marina, Bob Parrotta explained the parking for the dock renters and boat renters. He stated that the hours of operation will be from 8 am to 5 pm. There are a couple of lights that operate on timers but they will not be adding to that. He stated that minor repairs for boats will done in the parking lot adjoining the Contessa and major repairs will be done at Norowal Marina. Winter storage will also be in the adjoining lot as well on the playground area and other areas on the property. He showed which docks will be used on the map. Sue Wilson stated that there is 18 feet between the docks and she is concerned about putting 2 pontoon boats there. Bob Parrotta replied that it is not a

problem because they are 8.5 feet wide and they put bumpers between them. He also stated that he thinks that there is actually 19 feet in between the docks but he went by the LGPC maps. He stated that he has never had a problem and there have been 16 boats at those docks every year. He stated that there was some concern with swimmers to the north on the property that adjoins his other parcel and the closest boat docked to them would be 165 feet. John Gaddy asked how far in the neighbors' dock is to their property line. Bob Parrotta replied that it is on the property line and they were granted a variance a few years back and he did not have a problem with it. He stated that they will not be pumping or storing gas on the docks. They will not be pumping waste or providing maintenance on the docks. He stated that they have bathrooms open 24 hours a day for the marina that are located under the restaurant. Henry Caldwell asked if he intends to start renting next summer. Bob Parrotta replied that he doesn't think the units will be ready but he was hoping to have the 1-2 boats for next year. Herb Koster asked if he has stored boats previously in the playground area. Bob Parrotta replied yes his personal boats. Herb Koster stated that he was concerned it was part of his leach field. Bob Parrotta replied that part of it is but not where the boats are stored. Herb Koster stated that the plans are showing that he intends to use those areas and that would not be allowed. Bob Parrotta replied that he has no problem moving the boats and using the other spaces indicated on the plan for winter storage. Pam Kenyon stated that she would follow-up on this.

John Gaddy stated that he is still concerned about how he can infiltrate the stormwater better on the property. Bob Parrotta replied that he had an appointment with the Waterkeeper today and they plan on meeting next week. They briefly talked about extending the bumps in the road and putting them off into the soil and having some kind of infiltration pit. He stated that there are also some oak trees that he planned to remove and put 20-25 fruit trees in their place. John Gaddy stated that he would like to keep some screening in there because there are a lot sick trees going down. Bob Parrotta replied that there are some trees in front of that area but there are some other sick trees on the property now. John Gaddy stated that currently the property is like a bowling alley and he would like to see more trees planted in there to break it up.

Sandi Aldrich stated that there is a constant flow of water on the very south end of the concrete wall deck area above the docking. Bob Parrotta replied that is an underground stream that runs right through the property and it comes out right there and it has done so ever since he was a kid. He stated that he spoke to Kathy Bozony about taking out some of the black top for the road, but he remember growing up having to shovel out 6-8 truckloads of sand and stone to fill in the ruts that would wash out in the road. He asked her where all of that goes because it doesn't stop at the bottom of the hill, it goes into the lake.

John Gaddy stated that one of the letters had a concern about the southern property line and the way it extends into the water and asked what he does with slip 16. Bob Parrotta stated that they put a regular boat in there and they have done so for 50 years. He continued that previous owners have had a Class A Marina license and they never had a problem with it. He stated that their dock is also built right on the property line. Henry

Caldwell stated that his dock is encroaching on the neighbor's riparian right. Bob Parrotta replied that their dock was there before they started doing that. Herb Koster stated that it is a pre-existing condition.

Bob Parrotta stated that he will only be renting pontoon boats which do not provide much draft in the water, they have the latest technology in 4 stroke engines and do not use oil in the gas and they are quieter. He stated that he will be hands on running the operation. John Gaddy asked about the time line to expand the boat rental operation. Bob Parrotta replied that he will not add to it this year and will probably add 2 more boats if the operation runs well or stop the rentals if it does poorly. He stated that he applied for all 12 now so that he won't have to keep coming back each time for more boats.

Henry Caldwell asked what kind of sign he will be using. Bob Parrotta replied that he will take the restaurant sign down and put the boat rental sign in its place. Sandi Aldrich asked if the new sign would be coming back for their review. Pam Kenyon replied no as long as it is the same size, a certificate of compliance is all that will be required. Bob Parrotta stated that it will be exactly the same size in the same spot.

Don Roessler asked if the moorings will be used. Bob Parrotta replied that if they get to using all 12 yes. The moorings would be used for seasonal use or to store his personal boats. He stated that they carry liability and other insurance on the property and they extend to each rental boat for a nominal fee.

Sandi Aldrich asked about the time frames in which the boats would be rented. Bob Parrotta replied that it would be either a half day or whole day and it would not be hourly.

John Gaddy stated that they have a lot of letters and asked if they should be having a public hearing. Herb Koster stated that he feels that they should make a note that the letters are on record. He stated that there are no additional boats or docks going on this site. John Gaddy stated that it seems that every neighbor seems to have written a letter. Bob Parrotta stated that he has copies of all the letters and has gone over them with the HOA leader Ed Zwick. He stated that he believes that he answered all of his questions and he wrote a letter back that he provided to the PB. He stated that he feels that Mr. Zwick was satisfied with his answers. Pam Kenyon stated that the letters applied for the variance for which there was a public hearing.

Sue Wilson asked if they will need to see whatever is developed with the Lake George Waterkeeper in terms of stormwater. Herb Koster stated that since the applicant is not changing anything on the exterior they really cannot require stormwater. Bob Parrotta replied that he has full intention to work with the LG Waterkeeper for stormwater.

John Gaddy asked if the applicant will be launching any boats. Bob Parrotta replied only canoes and kayaks. All other boats will be launched at Norowal. He stated that he is only renting pontoon boats and would not rent jet skies, wave runners or speedboats. He stated that he would agree to that being a condition of approval. He stated that he gets a lot of families and these boats would better accommodate large families rather than a

speed boat and they cost the same to rent. Sue Wilson asked if he would allow someone to rent a boat and not leave the dock. Bob Parrotta replied that he would not allow that.

RESOLUTION:

Motion by Donald Roessler to accept SPR08-25 application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following conditions:

1. There shall be no more than 12 rental boats.
2. Rental boats shall be pontoon boats only, no jet skis, wave runners or speedboats will be allowed;
3. Any exterior lighting on the tourist accommodation are to be downward facing and shielded;
4. The hours of operation, including maintenance, are to be between the hours of 8:00 am and 5:00 pm;
5. No major maintenance of the rental boats is to be done at the waterfront;
6. There shall be no pumping of gas on site;
7. There shall be no waste removal from the boats on site;
8. There shall be no launching of boats on site;

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. Sandi Aldrich opposed. **All Others in Favor. Motion Carried.**

4) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning. To discuss two conditions of approval set forth by the Planning Board on July 17, 2008. Specifically the conditions read as follows: 2) A bond in the amount of \$150,000 insured by a bonding agency licensed in the State of NY is to be submitted for Town Counsel's approval; and 3) In lieu of the bond, \$150,000 in cash can be placed in an escrow account maintained by Town Counsel. Section 139.00, Block 1, Lot 48.11.

(Note: John Gaddy recused himself.)

Rolf Ronning stated that since his approval for Saddlebrook Subdivision on July 17, 2008 he has been trying to comply with the above mentioned conditions before he starts the road. He stated that he has tried to work with various insurance companies and performance bonds of this type are virtually impossible to get at this time. He stated that because of the nature of the economy and the cost of the delays and expenses he is not in a position to come up with \$150,000 cash to begin the road. He has funding to build the road but does not have the money for the bond. He stated that he went before the TB to discuss the \$4 million the Town has just received for urban development and growth and thought that there might be some way he could bond with the Town or to obtain some leniency to be able to go forward with building the road. He stated that the TB discussed it and he feels that they were sympathetic to his situation and asked that he be scheduled in front of the PB for this month's meeting. He stated that now would be the time to begin the road so that he could have it completed by spring and have it paved in May. He stated that he is not sure what to ask for. Herb Koster asked if the TB turned him down for a business loan. Rolf Ronning replied no the TB thought that it would be appropriate

for him to return to the PB. Counsel agreed and stated that Rolf Ronning sought relief from the TB and he takes the position that it is not proper for him to seek any relief from the obligations of the PB and that he needs to come before the PB. Under Section 150-9 of the Subdivision regulations the PB did impose a requirement for a combination of cash surety posted with Town Counsel and an additional personal promise, which is also satisfactory and permitted by the Code. He stated that the format in which they have operated on with Rolf Ronning in the past Counsel took \$150,000 cash and placed it in a CD and held it as a trust deed for Rolf Ronning and the Town of Bolton. He stated that they had the perfect structure within the requirements of escrow that it was not to be released until the Town Engineer signed a certificate that it was substantially completed. He stated that while that was pending, this Board and the developer had reached an understanding that the bond that was provided for to be the surety for Saddlebrook was going to spill over completing the prior escrow and he was just going to hold onto it and move into the next surety cash escrow agreement, same certificate from the engineer with the personal guarantee of Rolf Ronning. He stated that Rolf still needs some sort of performance bond and the PB can stand by the requirements of the Code and tell him that is still what they want. However, the applicant is stating that he cannot produce that and is requesting that the PB work with him on it and provide some other requirement. He stated that if they decide to listen to Rolf Ronning's plea and change the requirement it could be any combination of cash, letter of credit, less money, or a personal guarantee. Rolf Ronning stated that he is still willing to offer his personal guarantee he just has no money to put forward. He cannot get money from the bank because the economy.

Rolf Ronning stated that in many towns performance bonds are not necessary and he started doing performance bonds a few years ago with the Town. He stated that he is willing to give his personal guarantee, he owns a lot of property but he cannot come up with the money or the bond and he wants to start work. He stated that he would be open to any suggestions. Herb Koster asked what he was offering. Rolf Ronning replied that he thought that he could pay the fee that it would cost him for a normal kind of bond to pay interest in the amount of \$150,000 to increase the amount of the \$4 million the Town is holding. He stated that he is not trying to avoid responsibility he just cannot come up with the money. He stated that he doesn't feel like the TB said no, but under the advise of Counsel they felt that the PB would be the proper venue to be heard on this issue. Counsel replied that this is the only place that he can change the requirements or specifications of a subdivision approval.

Herb Koster stated that he wants some surety and if they ask the Town to lend the applicant \$150,000 it is just passing the money from one pocket to the other. Rolf Ronning stated that when Saddlebrook was approved it was to be done in 5 stages and only 2 stages would be worked on at a time. He requested a reduction in the amount of the bond because only 2 phases will be worked on at any one time. He stated that this will also need to be cash, because bonds like this do not exist anymore. He stated that a contractor can get a performance bond for his contract but companies will not issue a bond to the Town. He requested that they reduce the \$150,000 to 30-40,000 and over the course of 5 phases, they would get the \$150,000-200,000. Herb Koster stated that the worst possible scenario would be that they would finish one section and have to stop for

some reason and then the Town is sitting with 1/5 of 6,000 feet of road, which would be the worst stormwater scenario that they could imagine. Rolf Ronning stated that each of the 5 sections of the road have their stormwater management system and that is why it is designed in 5 phases. Each phase will have the stormwater signed off. Sue Wilson asked if all 5 phases of stormwater function separately. Rolf Ronning replied yes.

Herb Koster asked how much money he could put up for them. Rolf Ronning replied that currently he has very little money. However, recently he has gone to the Attorney General's office and as soon as he has them sign off he has a few people that are interested in purchasing the lots at a discount and he will have to see if something can be worked out with the deposit for bond money. Counsel asked if he has tried to obtain a letter of credit from any of the banks. He stated that the letter of credit looks at your assets and does not necessarily mean cash assets. Rolf Ronning stated that he has explored that and because of the economy and delays all of his properties have mortgages on them and the banks want something that is unsecured. Herb Koster stated that if these potential sales occur how much money could he then afford to offer the Town. Rolf Ronning stated that he is suggesting \$40,000. Sue Wilson stated that the \$150,000 was based on phases. Herb Koster stated that the road is a lot more expensive than \$150,000. Counsel replied that was exactly what they said when they imposed this condition. He stated that he remembers that Herb Koster was concerned that \$150,000 was not a lot of coverage for the amount of risk that was out there. He stated that he has a funding company that is willing to finance the road but not the bond. If he can make the deal with the Town then they will have the road funded because the funding company determines that the value of the project is worth more than the amount they fund to build the road assuming lots ever sell again. He stated that if the PB would like to make the condition that the bond becomes less and he could provide a signed commitment letter of a funding company that will fund the entire cost of the road. Don Roessler asked if a letter from the funding company make any difference. Herb Koster replied not unless they give them some monetary guarantees. Don Roessler asked if the funding company would put the money up front into an escrow and as they needed the money to pay for the road they could use it. Rolf Ronning stated that they do not do that, they do it in phases by hiring someone to come up every days to see the progress and fund accordingly. Don Roessler asked if they could ask for letter of commitment from the funding company. Counsel replied that it would not hold much weight. Sue Wilson stated that if they asked for \$150,000 for 2 phases she suggested that they ask for \$75,000 for 1 phase. Rolf Ronning stated that they cannot just work on 1 phase at a time.

Counsel reviewed the conditions of approval and stated that essentially there is no request for structural change in the conditions but he is just stating that he does not have the \$150,000. Everything else remains the same, he gives his personal guarantee, and it has to be all structured with regard to the phases. Herb Koster stated that he is concerned because the applicant has stated that he is mortgaged to the hilt on all of his properties and the Town would be last in line. Rolf Ronning stated that it would be to his benefit to build this road and build it well and sell lots to get out of the situation he is in. Counsel asked if the people that are holding mortgages on this development would they give consideration to subordinating their interest to a \$150,000 lien in favor of the Town of

Bolton. Rolf Ronning stated that the land that the road is on including the wetlands and stream, approximately 65 acres, is going to be deeded over to a HOA and there will be no incumbents on those 65 acres. He stated that those holding the mortgage would not be willing to subordinate because they have already subordinated to the funding company that will be building the road.

Rolf Ronning stated that he wanted them to consider that there have been many subdivisions in this Town and others where bonds were not required and if they look at his track record he has built many subdivisions and roads and there has never been a problem. He stated that he is not trying to avoid putting up some money he is just seeking for it to be lessened.

Henry Caldwell stated that given the size of the project he does not feel that it is unreasonable to ask for a \$150,000 bond. Anything less puts them in a position of taking on a liability in a particularly sensitive area with regard to stormwater and it has already cost the Town a small fortune to fix the road there. Herb Koster agreed that this is too sensitive of an area to have it be any less. Sue Wilson stated that originally they had talked about having a higher amount. Counsel agreed and stated that they reached a compromise with the combination of the personal guarantee and cash escrow. Herb Koster stated that they have spent a lot of time on the project and they could make themselves look very foolish if they were to reduce this amount and then something were to go wrong.

Herb Koster asked if they will need to take action on this. Counsel stated that they will need to take some sort of action in the form of a motion by either standing by the original motion or changing something. He stated that they could table it but it would only delay something that does not need an awful lot of exploration or inquiry and the applicant is entitled to an answer.

Don Roessler asked if this was his last step to try and get the project up and running. Rolf Ronning replied yes, once he can get past this step he can build the road, sell the house and get the HOA going. Don Roessler asked if Bruce Mowery's place had sold yet. Rolf Ronning replied no because of the HOA the Attorney General's office needs to show the funding for the road but he cannot get the bond to get the funding. Don Roessler stated that he understands Henry Caldwell and Herb Koster's concerns about the cost of everything and putting the road in but this is not just holding up Rolf Ronning but they are holding up another family from purchasing a home. Herb Koster asked if that sale is a done deal. Rolf Ronning replied yes but they cannot close until the HOA is in place because he is lots 3 and 4 of the 23 lot subdivision that will be using the common roadway. Don Roessler stated that a lot is hinging and is being held up because of the \$150,000 bond. Herb Koster asked how much profit he will receive from this transaction. Rolf Ronning replied nothing because they will pay off another mortgage when he bought the property.

Herb Koster asked if Counsel had any suggestions. Counsel replied no and that they discretion lies within them as to what they believe is sufficient security for the risk. Sue

Wilson stated that if he does not have the \$150,000 than how does he have a personal guarantee. Counsel stated that the personal guarantee does not cost anything. He stated that he feels that a personal guarantee from Rolf Ronning does have some value a land developer and this is his hometown and he does have a good track record. Henry Caldwell asked if the TB considered loaning Rolf Ronning the money from the Economic Development fund. Counsel replied that the TB had a presentation from Rolf Ronning but the question was not answered by the TB. Sue Wilson stated that she was at that meeting and feels that it is safe to say that the request was not considered. Counsel agreed that it was not favorably received. He stated that if the Town were to do this and something were to go wrong then they would realize that they never had a guarantee because they were using their own money. Don Roessler asked if he could come up with \$100,000. Rolf Ronning replied that \$50,000 is more possible but he would take whatever they would be willing to give. Sue Wilson asked if the phases would be monitored. Don Roessler replied that provision is already there and he will have to have the 2 phases signed off on before moving on to the next phase. Herb Koster added that stormwater management would be completed first for each stage and then stabilized before moving on. Don Roessler stated that he feels that lowering the amount a little might change things enough that the applicant can get the money and start building the road. He stated that he understands that it doesn't take much to eat up \$100,000 when building the road but if the applicant starts and gets good portion of the 2 phases complete and then has to stop, \$100,000 could go a long way to finish stormwater on those 2 phases.

RESOLUTION:

Motion by Donald Roessler to amend the resolution for SD04-16 to reflect the following changes: “2) A bond in the amount of \$100,000 insured by a bonding agency licensed in the State of NY is to be submitted for Town Counsel’s approval; and 3) In lieu of the bond, \$100,000 in cash can be placed in an escrow account maintained by Town Counsel.” **Seconded by** Sue Wilson. **John Gaddy recused himself. All Others in Favor. Motion Carried.**

Counsel asked Herb Koster if Ed Zwick could comment about the Parrotta application. He stated that Mr. Zwick wanted to offer comment and criticism about his letter not being read.

Ed Zwick, chairman of the group to the north of the Parrotta property, wanted to challenge the Chairs decision to not hear the many letters submitted to Pam Kenyon which should have gotten to the PB members prior to the meeting. He stated that none of those letters were read and the Chair made the decision that getting them at 6 pm tonight was good enough and in his judgment it is not good enough. He stated that if they are not going to get them in advance then they should let Counsel read the letters to the group. He stated that he put a lot of time into this over the last 4 weeks. There are many interested parties on the north side and they should have received 6-8 letters and certainly one interested party on the south side of this property. He stated that he is not protesting their decision on the application but he is protesting their operating procedure which he thinks is very shoddy. Many homeowners exercise their right to convey their feelings

about an application. He found out minutes ago that his 5 page letter didn't even get to the PB and yet he put it in yesterday. A letter that he did not intend to go to the ZBA on Monday night was submitted to them by Mr. Parrotta. It was a private letter to his HOA members and was not supposed to be submitted to the ZBA. In his opinion, the ZBA should not have been considering a marina application. He stated that the PB showed no interest in holding a future public hearing as suggested by John Gaddy, which made a lot of sense because they had received so many letters of concerns about that application. No PB members mentioned any of the comments or positions expressed in the letters. He asked why they take the time to submit the letters if no one is going to acknowledge the content or that they got them. He stated that he will be very reluctant in the future to even bother communicating with the PB because it seems pointless. They do not allow him to speak during the issue and he is not sure why that is, but that is a weakness right from the beginning. There were a number of valid, viable issues in the letters that should have commanded some of their time and interest before they voted on the project. One of the issues was a legal issue of reducing some of the slips that he uses for rental. There are a lot of safety concerns with inexperienced operators operating an 8.5 foot wide boat in a 20 foot set of slips with another boat already in there it only gives you about a foot on each side. His personal comment that he really pushed was to not approve all 12 boats tonight and only approve 6 which is all by the applicant's own admission all he really wanted. He stated that he put hours into his letter which included attachments with it and then he was told that it was not entered into the deliberation. Counsel stated that he explained to Mr. Zwick that the PB did not have a public hearing and that it would be the PB prerogative to read letters or not in public. The complete lack of recognition from the adjoining properties that were carefully thought out and composed, at the very least denies these things 1) freedom of speech, 2) community interaction, 3) avoidance of the key issues. Henry Caldwell stated that these allegations were not true. This is the second time that this has been before them and they addressed a lot of their issues at the last month meeting and a lot at this meeting and they addressed them in their concerns to Mr. Parrotta. They gave him a list of conditions that they want him to address. He stated that they did discuss a public hearing. He asked Mr. Zwick if he was at the ZBA meeting. Mr. Zwick replied yes, but he felt that it was inappropriate to be talking about the marina issue there. Herb Koster stated that the ZBA is a public hearing forum and the public has the right to get up and speak. Ed Zwick stated that the ZBA decided that the marina issue should be decided by the PB. Counsel corrected him and stated that the marina was not discussed because it did not require a variance. Ed Zwick stated that the PB action discourages interested parties in communicating with the PB. It completely ignores the potential good that a public hearing where all points of view can be heard. He stated that Counsel advised him on the legal process in which to challenge their decisions tonight and it is too complex, but his main issue is the lack of consideration. Herb Koster stated that he doesn't believe that there was any lack of consideration of the neighbors' concerns. Henry Caldwell asked what did not get covered. Ed Zwick stated that they did not cover the following considerations: 1) to reduce the number of slips that he uses for seasonal rental by the same amount that he is adding for boat rentals which would bring it into compliance with the present ordinance; 2) not properly addressing safety and allowing the applicant to keep his moorings out in front while inexperienced boat renters try to negotiate through this area; and 3) approving only 6 rentals until they can see how

it works and have the applicant come back if necessary. He stated that he very much appreciated that this PB tabled the application last month so that they could have their questions answered and it gave him a chance to meet with the applicant and get answers to his questions. Pam Kenyon stated that she did find his letter in the file and that all of the PB members did receive a copy of same. Herb Koster stated that he is sorry that he is displeased with how the PB operates but everything that comes in front of them is read by all of the PB members and it is a judgment call on their part as to what issues to bring up in front of the applicant. Herb Koster stated that the PB devotes a lot of time to these issues and he is sorry that he is disappointed with the process. Ed Zwick stated that there is no denying the time that they put in but he feels that the process seems lacking to him. He thanked the PB for their time and possibly taking this through the legal process in the Courts. He stated that he will sleep on that possibility and decide in the future.

5) SPR08-01 TENNENT, JEFFREY, WEISS, LORRAINE, CLARK, LAUREN & CLAUSEN, STANLEY. Represented by Jeff Tennent and Tom Jarrett. Seek Type II Site Plan review to 1) construct single family dwellings in the LC25 zone; and 2) a major stormwater project to remove more than 15,000 sq. ft. of vegetation on lots 6, 12, 13, 14, and 15 of the Diamond Ridge Subdivision. Section 212.04, Block 2, Lots 3, 4, 5, 6 and 12, Zone LC25. Property Location: Diamond Ridge Road off Route 9N south of Town. Subject to WCPB review. *Note: This item was tabled March 2008 pending additional information.*

Jeff Tennent stated that he is representing all 5 property owners who are acting as one to accomplish the task of putting in common shared driveways to serve the house sites in order to lessen the impact overall. He stated that this has been a collective effort and all property owners have agreed to all of the conditions necessary to accomplish this task. He stated that in March the PB liked the concept so they moved forward with it and went through the engineering process to work out all of the details. Tom Nace reviewed it and provided his comment and they have since responded to his comments and created a final plan that Tom Nace is comfortable with. They are here seeking site plan review for the 5 parcels to act as one instead of on an individual basis.

Sandi Aldrich asked if they are seeking approval for the individual house sites as well. Jeff Tennent replied yes because the agreement was that he was to prepare all of the houses, plans, elevations, septic and stormwater for each individual house and the driveways as they would be built. He stated that he will be in charge of building the roads to be sure that it is done correctly. Sandi Aldrich asked if all 5 homes will be built simultaneously. Jeff Tennent replied no, but to get to this point to do any work they needed to have a complete package. Sandi Aldrich asked about the timeline for the homes to be built. Jeff Tennent replied that it up to each individual owner and their economic situation. He stated that they are all in agreement that no clearing for views would be done and that would be a separate site plan review coming back before the Board. They have decided to do this because after the house is situated then they will know what the best thing to do for that so no further cutting outside of is shown on the plan would be addressed or done until then.

John Gaddy stated that he was at the site recently and found that there were a lot of outcroppings there towards the top. Jeff Tennent stated that the road will come up the back portion and he tried to fit them in naturally so that they were tucked in and less visible. Tom Jarrett further described the driveway placement with regard to the outcroppings and ridges. Jeff Tennent provided pictures taken this fall of the houses that are currently in the subdivision to show that they are not visible and that is their goal for these homes as well.

Sue Wilson asked if this will need to be done in 5 separate motions. Herb Koster replied that they can provide just one motion, and if someone wants to change something individually on their lot they will come in individually. Jeff Tennent replied that they provided individual information for each house but placed them all under one site plan.

John Gaddy stated that he noticed on the house plans that it indicates that the exterior shall be earth tone colors and he would like to see them deep and dark. Jeff Tennent agreed and stated that if they do it right it does disappear quite well. John Gaddy also noted that the lighting that it will be suitable downward facing lighting and asked what his definition of suitable was. Jeff Tennent replied that he likes the dark sky, he would like the lights low and dim, which is important to him, and he would like to see but not be seen. John Gaddy stated that he has demonstrated a great job with both before, but he just has to mention them like he does for all applications. Jeff Tennent stated that the houses sizes shown are worst case scenarios and if the applicants wanted to change anything they know that they will have to come back. Sandi Aldrich asked what the size of the houses will be. Jeff Tennent replied that they cannot be less than 2,000 sq. ft but the houses shown are approximately 3,000-3,500 sq. ft.

Henry Caldwell asked if Tom Nace has looked at these plans. Jeff Tennent replied yes and he has signed off on them. Sandi Aldrich stated that since the 5 applicants have agreed on this the house sites are carved in stone. Jeff Tennent replied that they cannot change anything on this plan without coming back to site plan review. Tom Jarrett stated that they tried to choose the best house sites. Jeff Tennent agreed and stated that they fit in nice, keep separation from the neighbors, no one house sticking out further than the others and keeping the driveways to the back to keep it less visible. Herb Koster asked if these are plans that the applicants plan to build. Jeff Tennent replied that they are all aware of these plans and they understand that if they make any changes they will have to come back to site plan review. Tom Jarrett stated that these are realistic plans and any comments so far have indicated that these houses would be smaller than shown on the plan. Herb Koster stated that if the changes are minor and create a lesser impact that Pam Kenyon could make that decision and it would not have to go before the PB. Pam Kenyon replied that if she has any concerns that she would contact Herb Koster to consult with him.

Sandi Aldrich asked when they will clear the house sites. Jeff Tennent replied not until the driveway is in up to that location and everything has been met. Sandi Aldrich stated that they also will be committed to the house site. Jeff Tennent stated that he shown the applicants that if they stick to the plan it will work and if it came here individually on

their own parcel to get driveways in would create a much more severe and sporadic impact. He stated that they do not see that road that goes up there now and it is way in excess of what it could have been and these driveways will be far less. Herb Koster asked if their cuts and fills work out equally. Tom Jarrett replied that they aim for that goal and according to their plans it seems that it is pretty close.

John Gaddy stated that with the LC25 zone they have used up their density on this lot and there would be no further subdivision here. Pam Kenyon replied that she would have to research that. Jeff Tennent stated that there will be no further subdivision it is in the homeowners' declaration and the APA required this as well. John Gaddy asked if there was a zone change somewhere along the property. Jeff Tennent stated that down at the bottom there is a different zone but all of these lots are in the LC25 zone. Most everything on the upper road is in the LC25 and getting over to the spur road to turn on there are the APA jurisdictional lots 1-5 but these parcels land hook across the road so the acreage shows less on the upper side of the road but they need to add in the lower side. He stated that they will not be allowed to go on the lower side of the road to build another house or structure without coming before the PB. He stated that they indicated the acreage separate because it is on the other side of the road and that is how it was and the APA made them re-do this map and they wanted certain things. John Gaddy asked if he could notate the land hook on the map and show the total acreage. Tom Jarrett replied that they would show the acreage on each side of the road with the land hook and total acreage. John Gaddy asked if they could just show it as one lot. Don Roessler stated that they have to meet APA requirements as well and what they are proposing would satisfy all of that. Jeff Tennent stated that the road is owned by the HOA and the original survey had all of the lines to the center of the road but the APA wanted the lines only to go to the edge of the road and to show the road as a separate parcel. Tom Jarrett stated that they will definitely be able to show the hook but they will have to get with the surveyor as to what would be allowed for the APA. Herb Koster stated that he would like to see a clear notation that they are the same lot. Sue Wilson asked if the ZBA made a ruling on this. Pam Kenyon stated that the ZBA determined that the road does not constitute a natural subdivision. Counsel stated that the APA has now lined themselves with this same position.

John Gaddy asked about some of the additional 50 feet of disturbance from the houses that are proposed for lots 14 and 15. Tom Jarrett stated that a lot of the disturbance is for stormwater and wastewater and some of it is for the house. Herb Koster stated that they have gone beyond the 20 foot standard for a while now and the new regulations will have it at 30 feet. He stated that it also depends on the terrain and each lot is different and to hold everyone to the 20 feet would be ridiculous. Tom Jarrett stated that for lot 14 the disturbance is mainly for stormwater and lot 15 is all for stormwater and wastewater.

John Gaddy stated that they have had some discussion about the clearing regulations were not going to be able to be continued on beyond the original contract with the developer unless they come up with better language. Counsel stated that in order to compel future owners to abide by the requirements should be in the form on covenants. Jeff Tennent stated that they have a HOA Declaration which has been filed. John Gaddy

is asking if it could be amended. Jeff Tennent replied that it would hard because it doesn't just affect these 5 people and they would have to get everyone else to agree to any of the changes. John Gaddy stated that he is just trying to protect themselves and as much of a good job that he does someone can come in there in 15 years and changes it all. Jeff Tennent stated that he has tried to protect them the best that he can with regard to colors, lights and cutting in the HOA Declarations. John Gaddy asked Counsel to see if they can make sure that these guidelines will be followed. Counsel stated that he would look at the new Code because if they are going to expect these things from applicants it better be in the Code and if it is not they do have any right to rely on the possibility of enforcing these things in the future.

RESOLUTIONS:

Motion by John Gaddy to accept SPR08-01 application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval for construction of the single family dwellings with the following conditions: 1) the homes will be constructed with the dark earth tone colors, 2) there will be a notation that any exterior lights are to be downward facing and shielded, 3) the applicant will amend the maps to indicate that the lots are connected with a land hook and 4) "No Further Subdivision" will be added to the map. 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.**

Motion by John Gaddy to accept SPR08-01 application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval of the major stormwater management permit. 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.**

6) SD06-09 RUFFOLO, SAVERIO. Represented by D.L. Dickinson & Assoc. & Peter Sisca. Seeks to divide into 7 lots that parcel designated as Section 185.00, Block 1, Lot 2, Zones RR5, RR10 & LC25. Property Location: South Trout Lake Rd. Sketch Plan Review. Major Subdivision. Subject to SEQR. *Note: This item was tabled at the April 2007 meeting pending additional information and is in conjunction with SPR08-26 for a major stormwater project.*

7) SPR08-26 SD06-09 RUFFOLO, SAVERIO. Represented by D.L. Dickinson & Assoc. & Peter Sisca. Seeks Type II Site Plan Review for a major stormwater project to remove more than 15,000 sq. ft of vegetation, specifically 160,000 sq. ft. is proposed Section 185.00, Block 1, Lot 2, Zones RR5, RR10 & LC25. Property Location: South Trout Lake Rd. Subject to SEQR. *Note: This item is in conjunction with SD06-09 for a 7 lot subdivision.*

Dennis Dickinson stated that they were here a few years ago for sketch plan review and they have been dealing with issues that were presented to them at that meeting, specifically the access road. He stated that they spent most of the last 2 years dealing

with the APA and they have a tentative approval from them and are back to the PB. He stated that Derick Mitchell would be giving a quick presentation and would answer any questions.

Derick Mitchell stated that they have an 8 lot subdivision, with 1 lot used for the common road. The common road will have a partial wetland crossing and stormwater will be handled using a few stormwater ponds, 2 of which are wet ponds. He indicated an existing woods road that they will be using and improving to gain access to the property. He stated that they initially wanted to use Kathy's Crossing to gain access to the subdivision road to avoid crossing the wetlands but that idea was not well received and they now will gain access from South Trout Lake Road. He stated that he met with Greg Vandel from the APA and they went over a few different options that they had and agreed that the current proposal was the best. He stated that they will be filling approximately 335 sq. ft of the wetlands and in order to remediate that they have wet ponds by the wetlands which would create approximately 2,790 sq. ft. of new wetlands. John Gaddy asked if this was a trade off with the APA. Derick Mitchell replied yes, generally the APA wants 2 times what they are filling and this would be 8 times. Sue Wilson asked if all of the properties would access their lot from this road. Derick Mitchell replied all except for lot 1 which is an existing cabin and has access through Kathy's Crossing and lot 2 which would be new construction would also have access on Kathy's Crossing.

Sandi Aldrich asked what, if any kind of improvements they would be making to Kathy's Way. Derick Mitchell replied that there will be some re-grading, but they do not expect a lot of traffic so it would mostly remain seasonal homes and they feel that it is big enough to facilitate these 2 lots. Sue Wilson asked if they will address any new run-off problems. Derick Mitchell replied that currently there are no run-off problems but they have proposed a stormwater basin for lot 2. Kathy Simmes commented that they do not own the whole road and they only have right-of-way. Derick Mitchell agreed and stated that the road is split between the two properties. Sandi Aldrich asked if they were to do any improvements to Kathy's Crossing it would have to be on their side of the right-of-way. She asked if the culverts on the side of the road would be repaired or replaced. Derick Mitchell replied yes. Sue Wilson stated that she doesn't understand how the road can be repaired when they do not own the whole road. Herb Koster asked the applicant to indicate the width of Kathy's Crossing and that they only have ownership of half the road. Kathy Simmes stated that the roadway is only 10 feet wide and they each own 5 feet.

Sue Wilson stated that there is a power line that runs through there and asked if there is a deeded right-of-way for National Grid. Derick Mitchell replied that he would assume so. Sandi Aldrich asked if that would interfere with what they want to do on lot 2. Derick Mitchell replied that he did not feel that it would be a problem if National Grid even has a right-of-way. Sandi Aldrich stated that she posed this question the last time. Dennis Dickinson stated that they did not find out if they had a right-of-way.

Sue Wilson asked how close the road is to the property line. Derick Mitchell replied that in one area approximately 20 feet. Sue Wilson asked if they will be putting in any screening or buffering in that area. Derick Mitchell replied that he does not have it shown on the map but it is something that can be done. He stated that they did do a buffer along the road with native evergreens.

John Gaddy asked if Tom Nace approved this plan. Pam Kenyon replied yes. Derick Mitchell stated that they are very close to getting APA approval as well. The APA has asked for a waiver from the 1,000 dead end road requirement for the cul-de-sac road. Sandi Aldrich stated that is just to the cul-de-sac and not to lot 7. Derick Mitchell replied yes. Sandi Aldrich asked why the house on lot 7 was located so far up on the lot. Dennis Mitchell replied that is one of the larger lots and they decided to provide more privacy for them. Sandi Aldrich stated that since everything past the cul-de-sac is accessed by the driveway they will not clear that until the lot is sold. Derick Mitchell replied that she was correct. Sandi Aldrich asked if there were any views from any of these sites. Derick Mitchell replied not of Lake George but there is a ridge line but they are not trying to get any of those views.

Sue Wilson asked how they improve the road when they only own half of it. Counsel replied that if it is an easement in common than the percentage of ownership is expressed as fee under the ground, but the right to pass and the right to improve is 100% over the width of the road. Sandi Aldrich asked if they decide to widen the road it would have to be only on their side that they own. Counsel replied yes, but he is only giving them a hypothetical because he has not seen an easement. Kathy Simmes stated that this came about because this was a Town road and it was abandoned by the Town. Counsel stated that if the road was abandoned it would bring the adjacent land owners to own right to the center of the road by law. Dennis Dickinson read part of the deed which describes the right-of-way to be 10 feet in width and that each adjacent land owner has ownership to the center of the road giving each 5 feet of ownership. Herb Koster requested that the road width and ownership of the 5 feet are indicated on the map. Counsel stated that he read the easement language which describes what Kathy Simmes has indicated.

Sandi Aldrich requested that they come up with a plan for a buffer and maintenance of that buffer where the access road is closest to the property line.

John Gaddy asked if there was any proposed recreation for this subdivision or would the applicant be submitting a recreation fee for each lot. Derick Mitchell replied no there would be no recreational facilities on the site.

RESOLUTION:

Motion by Donald Roessler to approve the sketch plan for SD06-09 which is to be converted to preliminary plat with the following conditions: 1) Map will show the width of the right-of-way on Kathy's Crossing; 2) the applicant will provide a plan for

establishing and maintaining a buffer at the bend in the road to block headlights from affecting the neighbor; 3) Site Plan Review will be required for each lot; and 4) A \$400.00 recreation fee will be required for each lot in the subdivision. A public hearing for applications SD06-09 and SPR08-26 is scheduled for 6:00pm on December 18, 2008. **Seconded by John Gaddy. All in Favor. Motion Carried.**

Meeting was adjourned at 10:32 PM.

Minutes submitted by Kristen MacEwan