

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday September 18, 2008
6:00 p.m.**

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.

H. Koster asked if there were any corrections to the August 21, 2008 meeting. Sandi Aldrich moved, seconded by John Gaddy to accept the August 21, 2008 minutes as written. Donald Roessler abstained. All others in Favor. Motion Carried.

1) SPR08-22 KING, JAMES & NANCY. Represented by Clark Wilkinson of Paragon Civil Engineering, PC. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 26,000 sq. ft. is proposed. Section 171.14, Block 1, Lot 5.3, Zone RL3. Property Location: Lake Ridge Road. Subject to SEQR.

Clark Wilkinson stated that this is Lot 3 of the Lake Ridge Subdivision. The plans that were submitted have been reviewed and approved by Nace Engineering. He stated that this is a single family home with 5 bedrooms. He has done the septic design with test pits and perc tests shown on the plan. He has done stormwater management design in conformance with the minimum requirements of the Town of Bolton and those test pits and perc tests are shown on the plan as well. He stated that there is a combined access as shown on the amended subdivision plan for short access for Lot 2 and Lot 3. He stated that they have a letter from Joe Aberelly who owns Lot 2 who has granted permission to do the grading and drainage associated with the proposed combined access driveway. He stated that they also received a letter tonight from Chris Navitsky, Lake George Water Keeper but he has not had time to read it.

John Gaddy stated that according to the deed between Mountain Air Management and Mr. and Mrs. King there was a conveyance on the first page that states that it is subject to a stream maintenance easement and asked what that means. Clark Wilkinson replied it refers to an area on the far western end of the property where there is a stream that traverses the property and there is also a stormwater management facility built in that area for the road construction. Counsel stated that it is a covenant to protect a private right between the parties.

John Gaddy stated that in the Site Plan the applicant proposes the siding, roofing and lighting to be neutral and natural colors to blend with the surrounding colors but is

concerned with what that actually means. He stated that the neighbors house is a dark brown with a dark brown roof and although it is a large house it does a great job blending in with the surroundings. He asked the applicant what he meant by neutral and natural colors. Jim King replied that they are considering earth tones, beige, green, brown and gray. John Gaddy stated that he did not see any proposed exterior lighting for the house and requested that it be downward facing and shielded. Jim King stated replied that he would include that in the plan.

Sandi Aldrich asked if some of their stormwater is on Lot 2. Clark Wilkinson replied that one dry well is on the lower portion. He stated that like the Lake George Water Keeper has caught, he did not have the transformer shown on the topography that he was provided. He found in measuring the field that this transformer might be in conflict and may have to move it downhill anyway and by doing so it will be moved back onto Lot 3. He stated that they would agree for that to be a condition of approval because he has to move it anyway due to the conflict with the existing transformer. Sandi Aldrich asked if there was another stormwater device up the driveway. Clark Wilkinson replied that was a sediment trapping device which is temporary only through construction. Sandi Aldrich asked if once construction is complete all the stormwater will be on Lot 3. Clark Wilkinson replied yes. Herb Koster asked if the sediment traps would be in place before construction. Clark Wilkinson replied yes and he further described the temporary stormwater devices. He stated that the soil in this area are gravelly and a little slow on the perc tests but they are still adequate for the temporary sediment traps and have been sized accordingly. Once construction is complete the traps will be removed, filled in and stabilized.

Sandi Aldrich stated that she has completed a site visit and there are not a lot of trees left on this property and she is concerned that they are going to take more trees down for the garage and house. She asked if they intend on providing a planting plan to replace any vegetation. Clark Wilkinson replied that he did not provide that in this plan but they were open to any suggestions from the Board. He stated that they tried to keep the majority of house and septic in the flat cleared area but to have maneuverability around it they needed to clear some additional areas to keep the house on the north side. They did not want to go over the front side of the hill because it is already established with vegetation. Sandi Aldrich asked the applicant if he had any planting plans for the open area. Jim King replied that they would like to wait until after construction and have someone complete a landscape design for them which would probably fulfill that request. Sandi Aldrich asked if he planned on any trees or would it just be shrubs and grass. Jim King replied that they plan on trees, but they do not know the quantity at this time because they need to get the final grading done and that will determine placement.

Herb Koster asked if the neighbor was aware of their proposal. Clark Wilkinson replied that the neighbor does not know that they need to move the dry well but he has seen the plans. Jim King stated that the neighbor has not seen the plans but knows that there is a shared driveway and he knows that there has to be grading done in order to construct it.

John Gaddy asked if all of the existing conditions of this subdivision have been satisfied before they move on with another house on this subdivision. Pam Kenyon replied yes. John Gaddy asked Pam Kenyon if Jeff Tennent has done any of the re-planting on this piece of property. Pam Kenyon replied that she has not looked at this in 4 years. John Gaddy stated that it looks like only 2 trees survived out of that re-planting plan. Pam Kenyon stated that she could look into that for them.

Herb Koster asked where they intend on moving the dry well. Clark Wilkinson replied that they would probably move it across the driveway which is downhill near the end of the retaining wall that is there. Herb Koster asked if they have tested the soil in that location. Clark Wilkinson replied no, but the soils have been consistent throughout the entire berm and he doesn't anticipate it being much different and would agree to make that a condition of approval. Herb Koster asked if Tom Nace has looked at these plans. Clark Wilkinson replied yes and he had the same comment as the LG Water Keeper and he assured him that if it was on the other property and conflicting with the transformer that he would move it. Herb Koster asked when they could see a re-design on this plan for this change. Clark Wilkinson replied that it could be done by Monday. Herb Koster suggested that they make it a condition of approval that he has the re-design approved by Tom Nace again.

Herb Koster asked about the retaining walls. Clark Wilkinson replied that they are 2 small retaining walls that are each 50 sq. ft. or less. The dry well will be placed on the east end of the second wall up the hill and will probably be about 8-10 feet to the center which will be right near the property line again and he will probably push it back on the hill so that they are not influencing the wall or on the other person's property. He stated that he would keep the grading the same but he would create a small depression and use another structure to drop into and pipe it across into the dry well or maybe just use a driveway culvert in the location of where the dry well is now.

John Gaddy asked the PB to open up their Oberer packet to look at some photos with regard to the use of colors. He stated that there is a picture of the building site with the neighboring house that is all brown which is difficult to see even without leaves on the trees. He stated that he would like the PB to restrict the colors to darker colors, such as browns or greens, as opposed to beige. He feels that this would allow the house but let it blend in at the same time. Clark Wilkinson and James King replied that they would not have a problem with that. Counsel recommended that in order to enforce this request it should be in the form of a deed covenant and not just a condition of approval because future owners will not be bound by that. John Gaddy stated that he thought the Town Board's could not enforce deed restrictions. Counsel replied that was true but if the Town is a beneficiary of the deed restriction they can enforce it. John Gaddy asked if this could be done with the lighting as well. Counsel replied yes. Herb Koster stated that he is not sure if this is territory that they should be exploring. Counsel replied that the existing code allows the PB to make reasonable requirements and the applicant can agree with those. Jim King stated that the colors will be dark, but he does not want to be limited to dark brown and green, because they have dark grays and neutrals and their objective is help the house blend into the surroundings.

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 condition:

1) That the agreed upon movement of the stormwater devices would be redrawn and submitted to Tom Nace for his 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** Sandi Aldrich. **All in Favor. Motion Carried**

2) SD06-18 EAGLE RIDGE SUBDIVISION. Richard & Elizabeth Kranz.

Represented by Tom Jarrett of Jarrett Martin Engineers. Seek to divide into 3 lots that parcel designated as Section 140.00, Block 1, Lot 40.6, Zone RL3. Property Location: New Vermont Road, formerly known as the Observatory & Rugg Hill Subdivision. Minor Subdivision. Final Plat. Subject to SEQR. *NOTE: This item is in conjunction with SPR06-31 and was tabled at the November 2007 meeting pending additional information.*

3) SPR06-31 EAGLE RIDGE SUBDIVISION. Richard & Elizabeth Kranz.

Represented by Tom Jarrett of Jarrett Martin Engineers. 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. 1.9 acres is proposed. Section 140.00, Block 1, Lot 40.6, Zone RL3. Property Location: New Vermont Rd., formerly known as the Rugg Hill & Observatory Subdivisions. Subject to SEQR. *NOTE: This item is in conjunction with SD06-31 and was tabled at the November 2007 meeting pending additional information.*

Note: Items 2 and 3 were heard together.

Tom Jarrett stated that since they last met before the PB they have submitted preliminary design plans which were approved by Tom Nace. He believes that they have addressed all of the technical issues that were outstanding. He gave an overview of the project. He stated that there are 3 lots with approximately 6 acres each sharing a common driveway. The driveway will be built on the existing driveway that was installed years ago on the property but it will be upgraded with stormwater management provided along the driveway. The 3 homes are proposed on the upper section of the driveway and they have proposed wastewater systems, domestic wells and stormwater systems for those houses. Through negotiations with the PB, they have proposed, and the PB have acknowledged, a dry fire line up the slope to serve the 3 homes, which will make the fire fighting operations more efficient and facilitate much easier access up the slope.

John Gaddy asked what the requirements are for the fire lines to pump up 150 feet. Tom Jarrett replied that the fire company has the capability of lifting that distance. Herb Koster stated that they hook in to the bottom of the hill and connect another truck at the top to fight the fire. Don Roessler stated that he is not sure what the lift capacity is for one of their pumps, but he remembers discussing this last year and he believes that one of

trucks can pump up that high. Tom Jarrett stated that they reviewed this with the fire company and they felt that this was a good compromise for the situation. Don Roessler stated that he would let the fire chief know that this will be going in so they can work together on this. He stated that the fire company would like to test the system prior to there being a problem. Henry Caldwell asked if the line would be buried. Tom Jarrett replied no because there is a lot of rock in that area and they intend to cover it with some vegetation and drain it between use. Don Roessler asked about the size of the line. Tom Jarrett replied 6 inches. He stated that the hydrants have nozzles that he feels are consistent with Bolton's fire company. Tom Jarrett stated that he would be willing to meet with the fire chief if necessary. He stated that this type of design concept is being used in the area and it is becoming a baseline for these types of developments. Don Roessler asked when they will have the lines in. Tom Jarrett replied certainly before any structures are built but he is not sure of the schedule. Don Roessler asked that the fire company be notified when the line is installed so that they can test it or be present when it is tested. Tom Jarrett stated that they have a note on their plans that has the line tested before it can be accepted to make sure it works and he believes they conditioned it upon the fire department testing it. Herb Koster stated that he felt that the thrust lock should be lower on the pipe. Tom Jarrett replied that he was correct. Don Roessler asked how they will drain the pipe because the way it is set up some water will always be left in the pipe. Tom Jarrett stated that they have considered putting a small line with a valve on it which can be closed during fire fighting but can be opened after and left open. Don Roessler asked if they could put a bigger line off of there because he is concerned with debris. Tom Jarrett stated that they could put a t-line. Don Roessler agreed and stated that they could just put a cap on there so that it is easy to see if the valve is closed or not. Tom Jarrett agreed.

John Gaddy asked what the disturbance width would be for the driveway to meet compliance. Tom Jarrett stated that they mostly will be doing cutting and it won't be a much wider disturbance. John Gaddy asked if the existing road was stable enough to build upon. Tom Jarrett replied that they stabilized the road a few years ago when the Kranzs first bought it and it has been rock solid since. He stated that they plan to upgrade it to something even better. There will be a little bit of disturbance beyond the limits on the uphill side but not much.

Sandi Aldrich asked if "no further subdivision" has been added to the plans. Tom Jarrett replied yes. Sandi Aldrich asked who owns the driveway. Tom Jarrett stated that it will be common ownership but the Kranzs will have the uppermost house and will take ultimate responsibility for it. Don Roessler asked the width of the road. Tom Jarrett replied 12 feet with 1 foot shoulders. Herb Koster asked Counsel about protection of the other homeowners when one person owns the driveway. Counsel asked if there would be reciprocal responsibility for the road. Tom Jarrett replied yes it will be a 3 party responsibility for ownership and maintenance, but they have agreed that the Kranzs would have the fall back responsibility if the other owners defaulted. Herb Koster asked if there would be an HOA. Counsel replied that 3 lots would not require an HOA. He stated that the fee ownership is owned by 1 party, ideally the owner that travels the furthest on the driveway, and all parties by reciprocal easement have maintenance

obligations and equal access rights which is explained in the deeds and financial obligations are attached. Herb Koster asked if this protects the Town from being brought into this. Counsel replied yes, the property owners will have their remedy in the Court of Law and the Town has no responsibility. John Gaddy asked if the condition of no further subdivision would be added to the deed. Counsel replied that it should. Tom Jarrett stated that they would add that condition to the deed. Sue Wilson asked how the Kranzs can own the road without it being a separate parcel. Counsel replied that it is all attached and considered part of their parcel. Herb Koster asked if they will need to do metes and bounds for the road. Counsel replied that it would be best described by metes and bounds or by the map making reference to “as depicted” but it would be part of the fee description of the property in the deed.

With regard to Tom Nace’s letter, John Gaddy asked if the applicant would have to get the septic variances before they approve it. Counsel replied that if they need a septic variance it would be handled by the TB and their approval should not be contingent upon being able to obtain a variance from the TB or Board of Health. Tom Jarrett stated that they do not require a septic variance now because they adjusted their design to avoid the need for the variances.

Henry Caldwell asked if the driveway will be paved. Tom Jarrett replied that they designed the stormwater to handle a gravel or paved surface. Elizabeth Kranz stated that they intend to leave it as gravel. Herb Koster stated that the road could be icy for emergency vehicles. Tom Jarrett replied that he has driven up that road since it has been upgraded and it will be upgraded further. He also stated that it is a south facing slope so it will get some good sun. Don Roessler stated that the gravel can stay icy for a long time. Tom Jarrett stated that the owners may notice the same thing and if they find that it stays icy and it is tough to negotiate they will probably pave it. Herb Koster stated that from an environmental point of view, gravel will be better for permeability because there is a huge wetland across the street.

Sandi Aldrich asked if there will be any blasting for the upgrading of the road. Tom Jarrett replied that he believes there are one or two sections that may require blasting and he described those areas on the plan but he feels that it will be limited.

RESOLUTIONS:

Motion by Sue Wilson to accept SPR-06-31 application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following condition: 1) Site plan review is required for a major stormwater project on each lot when developed. 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.**

Motion by Donald Roessler to accept SD06-18 application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following conditions: 1) That a deed covenant is added to each deed to read “No further

subdivision”, and 2) Drilling and blasting are to only to occur between the hours of 9:00 a.m. and 5:00 p.m. 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.

4) 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. *Note: This item was tabled at the April 2008 meeting pending additional information. Site Plan Review for a major stormwater project is required, but has not yet been applied for.*

Note: Sue Wilson recused herself from this application.

Scott Miller stated at the last meeting in April they submitted a visual study for the subdivision and a series of view shed maps as well as a series of photo edits to depict what the subdivision will look like. One of the things that came out of the meeting was that the PB felt that before they could give their blessing to continue with stormwater design the PB wanted to see deed language for the cutting program that would be implemented in something that the PB would feel comfortable with to assure that the homes and the views to the lake would be created in a reasonable manner and for protection of the area in the future. He stated that they submitted draft deed language and a filtered view creation plan. The deed goes through easements for the shared driveway, easements for the maintenance, installation of utilities, stormwater structures, fire fighting tank on top of the hill as well as the road, and the easement for the fire department for access onto the lots. The deed also has the restrictions that are to be placed on the individual homes adhering to the initial clearing limits as shown on the subdivision plan. The initial clearing limits will have monuments placed around them so the homeowners know the area where they are allowed to clear to. No trimming or cutting will be allowed outside of those monuments unless it is in compliance with the filtered view creation plan. It describes the fines, the lighting for the structures, all homes will be equipped with automatic sprinklers and power generators, sharing of the maintenance costs and discussing the responsibility for keeping the fire tank full. The filtered view creation plan outlines the process that the homeowners will go through to create filtered views to Lake George. He stated that they are seeking something from the PB that suggests that they are comfortable with the information that has been provided so that they may move forward with stormwater applications and more detailed plans.

John Gaddy stated that he appreciates the extensive nature of the cutting plan but would like to see additional language to maintain additional planting of native species in the event that every tree dies off. Scott Miller agreed.

Don Roessler asked how big the fire storage tank would be. Scott Miller stated that they have not engineered that yet and what they are trying to get is an okay on the language before they provide more detailed planning. He stated that they plan on working with the fire company to make the tank large enough so there would be adequate water. Peter Loyola stated that they know have a 5,000 gallon tank. Don Roessler replied that truck is

the biggest but he does not think it will make it up the hill. Peter Loyola stated that they would make their tank at least 5,000 gallons so it could handle that if they needed to. Don Roessler stated that even if a truck makes it up the hill the 5,000 gallons will only last about 2 minutes. Scott Miller stated that the sprinkler systems will be hooked into the individual wells for the houses and fire fighting tank will be separate from the sprinkler systems. Don Roessler stated that the sprinklers will be the first line of defense in the event of a fire for these homes and hopefully it will save the house because the fire company will not be able to save it. Scott Miller stated that they understand that and one of the reasons that they decided to install sprinkler systems in each home. Don Roessler stated that other than fire they need to be concerned with access from emergency services. Scott Miller replied that the driveway that they plan to install will be 20 feet wide which is almost up to roadway standards. Don Roessler asked if it will be a dirt or paved road. Scott Miller stated that it will be a gravel road and the PB has already given them a preliminary sketch plan approval for that.

Sandi Aldrich that she noticed that they not only intend to clear for the shared driveway and storage tank but they also intend to clear for the individual driveways, houses, septic systems and lawns. Scott Miller stated that the applicant wanted to do that so when the houses go on the market potential buyers will be able to see where the houses will be placed and what the lots will look like. Sandi Aldrich asked if there were any other possible building sites for Lots 2 or 3. Peter Loyola stated that there are several places that would be acceptable for the homes but they feel that they have picked the best locations for the houses. He stated that if the buyer wants to move the house around they intend to have a building envelope and a clearing limit line. Sandi Aldrich is concerned with clearing the lot for the house because of the risk of having the buyer move the location of the house. Herb Koster agreed. Peter Loyola stated that they could adjust that language so that would be satisfied.

Don Roessler stated that he does not see a pull off for fire trucks and just sees an area of clearing and asked if that is where the fire tank is going to be. Scott Miller stated that it could move slightly and once they get past this step they will move forward with more test pits to come up with a location. Don Roessler stated that he would like to see a turn around where the tank is located. Scott Miller asked if the periodic hammerhead turn-arounds will suffice. Don Roessler replied yes as long as they have enough room to pull the truck in and off the road for other emergency vehicles to pass. Scott Miller agreed. Peter Loyola asked what size tank he would recommend. Don Roessler stated that he was not sure and feels that the sprinkler system will do the majority of the work. He stated that they go through water quickly and these tanks are back up to what they carry to the site. Don Roessler stated that it will take some time to access this road and the properties on that road. He stated that if the sprinkler systems cannot handle the initial attack then they will not be able to handle it either. Peter Loyola stated that they will have to research the costs of the tanks and the adequacy of the tanks especially since this is more for a back up if the sprinkler systems fail. Don Roessler stated that the time it takes to get there will be play a major factor. He stated that if it is too long there is not much that can be done. Herb Koster stated that by the sounds of it doesn't seem to make much difference if it is a 5,000 or 10,000 gallon tank. Peter Loyola stated that it would

primarily be used in the event that a structure is fully engaged to protect the surroundings. Don Roessler asked if the tank will be above or underground. Scott Miller replied underground and they would take measures to be sure that it would not freeze in the winter. Don Roessler stated that he would mention this to the fire chief and assistant chiefs to get their opinions on this.

With regard to the filtered view creation plan, Scott Miller stated that during the process of those views being created, there will be information that will come to the Town at 3 different occasions; 1) before anything is done a report will be done showing where those filtered views will be created, 2) before any cutting or trimming is done the Town will be notified and 3) after the views are created another report will be submitted with pictures taken of those views for documentation which will be used for future maintenance. John Gaddy suggested that they also have initial photographic surveys of record. Scott Miller stated that would be part of the first report. Herb Koster asked if they still intended to cut the areas for the homes, driveways, septic and lawns. Peter Loyola stated that they would take that out of there. Scott Miller stated that he also feels that the PB would like to see the roadway and stormwater structures in place and to leave the individual lots untouched until they are sold and the buyer would come to the PB with their site plan review. Herb Koster stated that he would still like to see that they have a building envelope that the buyer has to stay within even though they are not cutting it. Scott Miller agreed.

Don Roessler asked what the width of the driveway is. Scott Miller replied 12' with 2' shoulders and there will be drainage swales along the sides. Scott Miller provided pictures from the locations that they have chosen for the houses so that they can see the views. Scott Miller pointed out that on Lots 2 and 3 they are existing views from the approximate location of the proposed plans. He stated that they wanted to show the PB that there should be minimum cutting to create the filtered views. Don Roessler asked how much total disturbance would there be. Scott Miller stated that it would definitely put them into DEC review for stormwater. Peter Loyola stated that he would estimate 3-5 acres. Herb Koster asked if any blasting will be necessary for the driveway. Scott Miller replied that there are some areas where they will need to blast, but they would be happy to meet any conditions placed on that. Herb Koster asked if they knew the depth of the blasting. Scott Miller replied not until they do further test pits. Henry Caldwell asked if there was anyway to move the cuts for the driveway off of the neighbors' property. Scott Miller stated that they received a letter from the Cummings and they are sensitive to their concern and they can do that for them as well as the other neighbor.

Herb Koster asked if this was an approval of a final plat. Pam Kenyon replied that they approved a sketch plan already. Henry Caldwell stated that they should have a public hearing on this application. Even though it is a small subdivision but he feels that there is a lot of interest in this application. Herb Koster asked Counsel how they are supposed to go about this because stormwater management is an integral part of this and they have seen nothing on it so far. Counsel stated that he is wondering the same thing as well because he senses that in the earlier subdivision they got into an area of some concern where they were ahead of themselves with subdivision approval and there may have been

pending stormwater issues and he wouldn't want to see them do that again. He stated in fairness to the applicant he would like to let the applicant know what if anything else is necessary for the PB's consideration before they make a decision on the subdivision aspect and that it is their prerogative to hold in advance and ask them to submit all of the stormwater. He stated that this is a large financial commitment to do the stormwater when they don't have certainty of the subdivision but they are companion partners. Herb Koster stated that there are some changes that they have agreed to make, especially with cuts and fills close to neighbors' properties which will move the road again. Scott Miller stated that it will not move it very far and will not be a major issue. Herb Koster agreed but it is a change and the stormwater is such an integral part of this he would hesitate to ask for a motion to approve this in any sense, but he understands their financial concern of moving ahead. He doesn't know if the PB has reached a point where this project is feasible in its present state with minor changes. Scott Miller stated that they were hoping to have some resolution on the acceptance of the language that they provided. He stated that in April the PB did not want to give the impression for them to move forward until this language was created. He stated that if this language is acceptable then the applicant can authorize them to move forward with the stormwater and permitting process. Counsel stated that was a fair question and asked the PB if there is more information that they will require and if so they need to tell the applicant what is expected. He stated that he and Pam Kenyon would rather that they not go through with a final plat approval when they are completely uncertain as to the stormwater. Counsel stated that they need to know, based on what they have submitted, the positive if possible, the negative and any changes that they would like to see and it should be done by resolution. Herb Koster asked if any of the members had additional information or changes that they would like to see with this project.

John Gaddy stated that he would like to see the two additions to the clearing program; 1) the initial photographic survey record prior to any clearing and 2) the language before it got to enforcement, which would involve some clause that could specify that additional planting of the native species would be done to replace any of those trees that were needed to screen in order to maintain the originally documented condition. Counsel asked if there were provisions in the document with respect to maintenance of the driveway. Scott Miller replied yes. Counsel asked if they wanted to do anything in terms of lighting. Scott Miller replied that it is all covered in the deeds and it will be downward facing shielded lighting. Counsel asked if they have any language restricting colors. Scott Miller replied that they currently don't have anything in there regarding colors but the applicant would not have a problem with keep the colors dark. With regard to John Gaddy's comments earlier about the use of darker colors, Peter Loyola suggested that they use color model numbers for siding and roofs. He stated that everyone can provide palettes so that PB's can really nail down the actual color and it can be incorporated in the language. John Gaddy welcomed the suggestion.

Henry Caldwell read the following from the filtered view document: First to happen in creating filtered views will be to remove all dead material from the approved filtered view corridors. He stated that he is concerned with how that is interpreted. Scott Miller replied that they could certainly clarify and expand on that definition. Henry Caldwell

continued reading: “The cutting and trimming will start near the home and continue outward towards the lake. This process will assure that the heaviest cutting and trimming will be done closer to the home.” He stated that this is on a very steep slope and obviously they will not be cutting trees that will affect the view. Scott Miller stated that they put that in there so that it would make it clear that there was not going to be a clearing going down the side of the hill. Henry Caldwell stated that there will be no reason to cut the trees. Scott Miller stated that for Lots 2 and 3, that is correct, but they will have to cut for Lot 1 because it is flatter. Peter Loyola suggested that the PB come up for a site visit and they would be happy to mark the trees that will be cut to get their okay. John Gaddy stated that he could only compliment them in the efforts that they are making, they have had Barry Kincaid here, and it is proven that they can do these kind of things. He stated that they are looking for their cooperation to see how this could be done effectively.

Henry Caldwell asked if they had any thoughts on stormwater because he only sees one stormwater pond. Scott Miller stated that they will have more than one and he believes there will be a series of smaller ponds going up the driveway. Herb Koster asked if any of the homes will be placed in the burned area. Scott Miller replied no, the burned area is to the south. He stated that this area is filling in quite well and poplar is starting to re-grow. Peter Loyola stated that the applicant is very sensitive to this issue being a landscape contractor.

Herb Koster asked for a motion expressing the intention of this Board for the feasibility of this project moving forward or the dissatisfaction with this going further.

Don Roessler commended the work that they are trying to do here but he has some major concerns with the amount of clearing that will be done for the road to be at the appropriate grade. He stated that the amount of clearing and the slopes where that clearing will be done concern him. Scott Miller stated that at the last meeting he remembers mentioning the applicant’s willingness to re-plant those areas of where the grading will need to be done for the roadway. Peter Loyola asked if the fear was that they would be able to see the clearing or because of erosion. Herb Koster replied erosion. Scott Miller stated that would be addressed in the stormwater plan. Herb Koster stated from his experience it seems that most of this is going to be cuts and the cuts, as long as they remain undisturbed and will not have to be filled and replanting is done, they will not have a problem. Sandi Aldrich stated that she agreed with Don Roessler and she is very concerned with the amount of clearing on the back side of the mountain. She stated that even if it is re-planted it is going to take years to re-grow. She stated that she is also still concerned about the impact on the environment in relationship to the adjacent and nearby land uses. That ridge line from the lake right now is pristine and she doesn’t like the idea of 2 houses up there. She stated that there must be other building sites on the 75 acres. She understands that it is a gorgeous view, but she does not feel that what is being done can be justified for 2 houses. Scott Miller stated that he was on the lake a few weeks ago and looking at this pinnacle there is a huge house just to the north of this area. He doesn’t feel that the 2 houses that they are putting there are out of character from what it is currently there. He stated from the view east of the Sagamore there are a lot of

visible homes on that hill and a few close to that ridge. He also feels that what they are trying to achieve with the filtered view creation plan will also aid in the screening as well.

Henry Caldwell asked how much more clearing would need to be done for the stormwater ponds. Scott Miller replied that he would hope that they could go into the areas already shown as cleared, especially in the areas of where the switchbacks are. Herb Koster stated that he doesn't think that is a reasonable statement because they are at their maximum slopes right now. Peter Loyola stated that they will be complying with all erosion control standards required. Scott Miller stated that they will address that further in the stormwater report. Herb Koster stated that he doesn't think that this will be seen from anywhere. Henry Caldwell stated that Cat Mountain would be able to see this. Sandi Aldrich stated that Trout Lake will be able to see this as well. Henry Caldwell stated that it is a massive cut and fill on the back side that he is having difficulty with moving forward.

Don Roessler asked if it would be too early to hold a public hearing on this. Herb Koster stated that he feels that they should get a map that incorporates their requested changes and their stormwater before they hold a public hearing so that they can do it all at once. Don Roessler stated that they will need to put a lot of money into stormwater to get to that point. Herb Koster stated that they need to provide a motion to give the intention of this Board. Henry Caldwell stated that they cannot deny this application without having a public hearing. Herb Koster stated that they are not denying the application they just need to provide input to the applicant. He stated that once they have a public hearing they have a time limit to stick to. Don Roessler stated that the clock starts when the public hearing is closed, but if they keep the public hearing open then they set themselves up to public comment at every meeting. John Gaddy stated that he is not in favor of the application in terms of the amount of disturbance. Peter Loyola stated that they gone to great lengths to design the driveway to be able to accommodate emergency vehicles and some of the clearing and grading that they are talking about came out of the direction of this Board. He is concerned that they are now having a problem with the amount of clearing and grading. He stated that this road will not be seen by many people and they intend to comply with all of the erosion control standards required. He stated that he thought the driveway in the last couple of meeting was considered fully discussed. Scott Miller stated that they did feel that they had sketch plan approval of the driveway. Pam Kenyon stated that they did have sketch plan approval of the driveway on October 18, 2007. Herb Koster stated that it would not be in their best interest to insinuate that the PB approved the driveway. Peter Loyola stated that he was not trying to insinuate anything and they are just trying to follow what the PB has directed them to do in terms of the roadway. Herb Koster stated that he understands that but they have understood the PB's concerns all along.

Herb Koster asked if they hold a public hearing next month would they have the option not to have that public hearing at every meeting after that concerning stormwater management. Counsel replied that they have that option as long as no business is to be conducted but it is not fair to the applicant or the public if they have done everything that

they needed to do and they are just holding it in abeyance because they don't want the clock to start running. He stated that they could hold a public hearing on the minor subdivision. Upon conclusion of the public hearing, if they determine that the application is complete they can conditionally approve a minor subdivision with the condition that they must satisfy all requirements of the stormwater. Herb Koster stated that he does not like the idea of conditional approval. Counsel stated that he understands that but he is looking at it from where the PB is at, which is that they have given the applicant a green light on the sketch plan and where they are now procedurally is under 150-6 Review of a Minor Subdivision Plat, which they have submitted and they now need to act by stating that 1) they are fully satisfied with the complete application, 2) they are conditionally satisfied and there are further requirements of the applicant or 3) hold a public hearing because the PB is considering denial. Counsel stated that they cannot deny the application nor can they rescind or revisit what the PB has assured the applicant was satisfactory at the sketch plan point. Pam Kenyon read the resolution from October 18 "Motion by Donald Roessler to accept the application as complete sketch plan and to convert the sketch plan into a final plat and table the application pending the approval of the condition that the roadway will be considered a shared driveway with a 20' driveway width and 2' shoulder on each side." Counsel stated that since sketch plan approval was done 11 months ago the code says that unless otherwise agreed by the PB or the subdivider, the subdivider shall submit an application for minor subdivision plat approval within 6 months after classification of the subdivision shown by the sketch plan. Counsel asked what the PB expects of this applicant, do they consider this sketch plan again because of the time limit. Pam Kenyon stated that they were back before tonight and they fulfilled that part of the process.

Herb Koster stated that they are asking that the cut and fill areas that are close to property lines be moved away from the property lines. He stated that they would also like to see some sort of planting plan for the slopes including type, number and size of vegetation or trees. Counsel asked what happens at the next meeting if the applicant provides all that they are going to ask for but still no stormwater. Herb Koster stated that he would be uncomfortable either way because he forcing people to spend a lot of money on stormwater design on a project that might be turned down. Don Roessler stated that is a risk that the applicant needs to be willing to take. Herb Koster stated that his intention is to get their additional information next month and then they can open it up to a public hearing. He feels that it should be the applicant's choice to provide stormwater at the next meeting. Counsel stated that on this proposition they can only grant a conditional approval because they will not have stormwater.

Rolf Ronning asked if some of the cutting would be less severe if the driveway was only 18' wide especially since it is such a small subdivision. Herb Koster stated that this subdivision has 15% slopes on it. Scott Miller stated that they only have small area that has 15% slopes and the rest is about 10%. Don Roessler asked how many feet they want the cut and fills moved off the property line. Henry Caldwell replied 20'. Don Roessler stated that he would like to see a turn-off area for the fire trucks. John Gaddy stated that he wants the cutting language to reflect photographic surveys prior to any cutting and additional language for replacement of trees to the natural screening. Sandi Aldrich

stated that she would like to have the condition of the houses, septic and driveway areas to not be cleared. Herb Koster added that he would like the building envelope to remain in the same place. Peter Loyola asked what happens after they fulfill all of these requests. Herb Koster stated that they intend to hold a public hearing and the outcome will be determined from there. Peter Loyola stated that they have gone to great lengths to meet the PB's requests especially with regard to filtered views and visibility and he is not sure what additional issues are. Don Roessler asked if they were to make the road narrower, as per Rolf Ronning's suggestion, would the difference in disturbance be significant. Scott Miller replied given the length of the driveway it would cut down a considerable amount of disturbance. Don Roessler asked if the cuts along the side would be less. Scott Miller replied yes. Herb Koster stated that they left the road at 20' because of the grade, the amount of switchbacks in the driveway and for emergency access.

Counsel read from the April 2008 meeting " D. Roessler stated that after listening to the proposal he thinks the applicant has done his research and feels that they are headed in the right direction and he would not have a problem if the project were to go forward. H. Koster agreed that they have made improvements but feels that there is more to accomplish and asked Counsel how they should approach the next step. Counsel advised that they should encourage the applicant to believe that they could fulfill other requirements as part of the preliminary process and stated that if there are specific requirements that the PB has they should verbalize them. Peter Loyola stated that he feels the issues are the visibility of homes and stormwater management which he is confident they can handle. He requested that the PB express specifically what their concerns are so that they can work on them." Counsel stated that they did this in April and they should again be specific in their request of the applicant.

Don Roessler originally requested that the applicant to present a stormwater plan as part of the resolution. He asked that the stormwater plan be reviewed and approved by Tom Nace at the applicant's expense. Michael Hill representing the applicant asked if he could speak with Scott Miller and Peter Loyola before they go through with the proposed motion. Herb Koster granted the request and the PB took a short break.

Upon return of the break Michael Hill requested that Don Roessler consider a possible modification to the resolution. Herb Koster stated that they should have someone second the motion before they have any further discussion. Henry Caldwell seconded Don Roessler's motion including the stormwater. Michael Hill stated that Herb Koster stated with regard to the stormwater management plan that it be at the applicant's option as to have that prepared for the next meeting. However, this motion would make that a requirement and he is requesting that they keep the submittal of the stormwater management plan at the applicant's option so that they can confer with their client and find out if they should go to the considerable expense of having the plan prepared or alternatively fulfill all of the other items and come to the public hearing and then submit the stormwater plan. Don Roessler stated that he did not have a problem having the stormwater plan optional but all that is going to do is make this procedure for the applicant longer. Herb Koster stated that before he amends the resolution he feels that they should take a vote on the resolution as it stands. Don Roessler stated that he feels

that Herb Koster wants the stormwater plan before the public hearing. Herb Koster stated that he does not feel that is absolutely necessary. Sandi Aldrich asked if they would then have 2 public hearings. Counsel replied yes they would need one for major stormwater. Herb Koster stated that theoretically this could be turned down without a stormwater plan and not knowing the stormwater plan might put a lot of doubt in some of the Board members' minds. He stated that he understands that stormwater is expensive but what he sees with the Board is a lot of doubt. Peter Loyola stated that they have complied with the PB's requests and they will continue to comply with their requests. Without the stormwater plan he knows that there is doubt but he does not know if it has any bearing on the overall concept of this 3 lot subdivision. Herb Koster agreed that if stormwater management is done properly on this property it should not be a problem but he cannot speak for the other Board members. Michael Hill stated that if they comply with all of the other requirements except for the stormwater submission and if the public hearing is held at the next meeting, if the Board's decision is to deny the project they will have the opportunity to do that and the applicant will not have expended all of the funds on the stormwater management plan. Herb Koster stated that the other problem is the timing of when they can provide this additional information because they cannot hold a public hearing without having a complete copy of the everything by Monday for next month's meeting. Michael Hill stated that he understands that and requested that they could make the motion that with a timely submission of the material that the hearing could be held in November. Counsel asked if they could act on the proposed resolution with the withdrawal of the stormwater management requirement. The Board agreed.

RESOLUTION:

Motion by Donald Roessler to table SD06-05 application and request the following information from the applicant:

- 1) Move cut and fill areas 20 feet from adjoining property lines.
- 2) Provide a planting plan for cleared areas.
- 3) Provide an area near the fire tank to have a turn-around for the fire trucks.
- 4) Photo survey of the trees and vegetation prior to any cutting or removal and that additional language would be incorporated to require replacement of native species to replace any of those trees that were needed to screen in order to maintain the originally documented condition.
- 5) House and septic locations are not to be cleared.
- 6) Driveways locations are not to be cleared.

Seconded by Henry Caldwell. Sue Wilson recused herself. **All others in Favor.**

Motion Carried

Michael Hill asked if a public hearing was scheduled. Counsel stated that is the PB's decision to make. Herb Koster stated that they may decide not to have a public hearing. Counsel agreed that if they come back with the additional information and they are fully satisfied they can conditionally approve this minor subdivision and the applicant can move forward with stormwater management. Herb Koster stated that the materials for the next meeting are due on Monday. Peter Loyola stated that they will not be able to meet that deadline. Herb Koster asked when they would be able to provide it. Peter

Loyola stated that they could have it together in 2 weeks. Pam Kenyon stated that continuing applications have up to 2 weeks prior to the meeting to submit information.

Pam Kenyon asked if they were considering granting subdivision approval without stormwater. Herb Koster stated that it would be conditional. Pam Kenyon stated that she doesn't think that they can do that. Counsel stated that he and Pam Kenyon would need to discuss it further because they have one section that states that they cannot grant subdivision approval without having a stormwater permit and another section that states that they can grant a conditional approval. He stated that they are not required to grant an approval at the closing of the public hearing if they feel that something is further needed, such as stormwater management they can leave it open.

5) At the request of the Town Board, to discuss the settlement agreement and contract between Ronning (Saddlebrook Subdivision), Somma, Lake George Waterkeeper and The Fund for Lake George as it pertains to item "V" which reads as follows:

The Town Board, in consultation with the Planning Board and the Town's Zoning Administrator, shall immediately begin discussion, and make every effort to advance, the following two regulatory practices for the processing of major subdivision applications to include all major stormwater permit applications; such regulatory practices to initially be enacted as policy and procedure and eventually to be incorporated into the Town's subdivision and stormwater management regulations:

- A. A specially qualified engineer, firm, or certified stormwater management designer/planner would be designated to act as an expert/consultant to the Planning Board, the Town Supervisor and Town Board, the Zoning Administrator, and other Town employees and contractors, on complex projects that involve controverted stormwater runoff issues. (This cost will presumably be the responsibility of the project sponsor under current local land use requirements.)
- B. The Town through the office of the Zoning Administrator, as facilitator, would include the Waterkeeper (who is a licensed professional engineer) in the earliest possible processing of all major subdivision with major stormwater permit application at the pre-application stage.

The provisions of this paragraph are not intended to be binding on Ronning, his Successors or Assigns. The intent of the Town to follow through with this effort is reflected in attachment A to this settlement agreement and contract, which is incorporated herein.

Herb Koster stated that as far as he is concerned Item A is already taken care of. Counsel stated that his comment was correct because it is a private agreement between the LG Waterkeeper and developer. The Town did whatever they could to cooperate but they are not necessarily an obliged party in that agreement plan. They satisfied themselves in terms of the requirements that did not in any way impair the limits, requirements and mandates that they imposed on that subdivision or on the stormwater. Counsel stated that he promised on behalf of the Town to bring this request forward to all of the Boards and

to allow the LG Waterkeeper the opportunity to explain his position of the proposed change.

Chris Navitsky, Lake George Water Keeper, stated that he would like to thank the Planning Board for the opportunity to comment. He stated that he wanted to correct Item B because it was not their intent not to have a process that is exclusive to the LG Waterkeeper, but their hope is that the pre-application meeting could be open to the public in general. He stated that they came up with these recommendations for several reasons; 1) In the past 6 years there have been approximately 12 major subdivisions approved by the Town of Bolton PB and over half have resulted in post approval problems. For example, Cobblestone was approved in 2003 and there have been consistent stormwater and erosion problems, it has required 2 re-designs and has had a DEC notice of violation and other Town violations. He stated that the Lake Winds subdivision was approved in 2003 and litigation was filed after approval and settlement was reached where the Town enacted an actual stormwater permit process. He stated that Wright's Farm in 2004 required re-approval for the stormwater management system. The Bluebird Cottages in 2004 required re-approval for stormwater management. Federal Hill, Valley Woods and Westwood Forest and McGurl and Baer Subdivisions were all without problems. Litigations, re-designs and notice of violations require significant effort from Town employees and Boards to monitor and correct existing situations. A Town Councilman stated that these are problems that get ironed out. However, many of these issues are raised during the review of the application and are better addressed at that time. 2) The process can be improved. Many times applicants receive sign-offs from the Town Engineer and have significant time and capital invested into a project before there is any public input. It is understandable why an applicant would be hesitant to modify a project when there has been a financial expenditure and changes could result on logistical problems, increased cost and time delays. He stated that input from the public at an earlier stage can only improve the process. 3) The APA has a similar process and the Town of Bolton has a locally approved land use plan, so it would be a natural fit. The Town of Queensbury has public input at all stages of the review of the applications in front of the PB. The Water Keeper is currently reaching out to meet with developers to discuss concerns on applications as early as possible. He stated that the public involvement in the application would allow for the process to be more inclusive and more open. 4) With regard to concerns that their comments would be seen as anti-development, Chris Navitsky stated that the Water Keeper program has continued to advocate for the application in compliance with existing regulations and codes and the application of scientifically proven measures to protect the water quality and natural resources. This process would only improve the quality of development in Bolton as well as protect the water quality and natural resources. 5) Additional expertise and experience would benefit the Town of Bolton and planning decisions. He stated that they were interested in having the Town consider an outside consultant only for major subdivisions including major stormwater processes. Although the Town does not want to dictate and design projects for applicants the Town can steer and encourage through the use of an outside consultant experienced with balancing development with the natural surrounding and the environment. Project design is not simply meeting all of the code requirements but to be creative in development to fit the landscape in the community. Locating

stormwater basins within 5 feet of a Town right-of-way, within a scenic corridor or locations of stormwater basins along a boundary of a protected wetland requiring the clear cutting of entire buffers or replacing a 12" pipe with a 30" pipe located several feet from the neighbors property is not development in which the Town of Bolton should be approving.

Chris Navitsky stated there is a general support of the Lake George Water Keeper in the Town and their concern for protecting the environment. He stated that they are noticing subtle changes beneath the surface of Lake George and water quality in significant algae growth. It is only through a combined effort of partnership that they will be able to maintain the water quality of this national treasure. The level and quality of development must be raised to compliment the beauty of the natural surroundings of Bolton. The current process has not worked for all parties and there is room for improvement. This is why the LG Water Keeper has decided not to pursue litigation regarding Saddlebrook Subdivision but rather put forth an effort to improve the process.

Counsel thanked the LG Waterkeeper for clarifying his position and stated that his request is for the planning process be open at the earliest possible stage for public comment. With regard to Item A of hiring an expert on stormwater Counsel stated that has always been an option open to the PB. He stated that they use Tom Nace, which has worked extremely well, but if they feel for some reason that there is complexity that is beyond Tom Nace, or Tom Nace tells you that it is beyond his capability, they already have that option in the code. Herb Koster stated that he has no problem with Tom Nace and he feels that this is a slap in the face to Tom Nace.

Counsel stated that the issue needs to be dealt at the PB level and he does not feel that it is a TB issue because the PB controls the process and procedures and there is enough flex in the existing code to open it up at the earliest possible stage and call a public hearing on the first submission is their option. He stated that the TB has given this some consideration but they have not decided anything as of yet. Counsel stated that the only thing that he has to speak against the TB making a decision is that the PB needs to decide this because they are the ones who know the process best. Herb Koster stated that he does not want to open up a public hearing on all applications every month. Sue Wilson agreed and stated that she sees it being counterproductive. Herb Koster stated that it would bring it to a continuous argument which could create a blackmail situation which has happened in the past. He stated that the LG Waterkeeper says that a developer needs to change the project or they will file an Article 78 and he will not be a part of that. He stated that they have an order to a process that works very well as opposed to what the LG Waterkeeper say and this area has seen three 100 year storms in the last five years. He stated that they have a process that works well, and is improving all the time. He stated that they started as a Board with Apple Hill Subdivision, when no one had stormwater management. They tried to do a good job, but they failed up there, but every project since then has improved. Sue Wilson asked if the LG Waterkeeper was proposing to allow public hearings at every meeting for every project. Chris Navitsky stated that in the last application the PB stated that "stormwater is just an integral part of the project". He stated that a lot of times people bring in these subdivisions and they already have their

approvals from Tom Nace and expended \$20,000 and the public has had zero input. Their thought is that if they could get concerns and concepts at an earlier stage they may be more palatable and easier to work into a plan. Herb Koster stated that there are people that have their own agenda and are against any development and they will be here with their argument every month. He stated that they already have a tough job and a full agenda most months and cannot afford to get off track with personal agendas. He stated that the LG Waterkeeper is sometimes one of those people because he throw up items in environmental conservation rules that are totally insignificant because it throws a doubt in someone's mind. He stated that he cannot expect the PB to interpret DEC stormwater management and that is a thorn in their side. The applicant has to go to DEC to be approved and he asked to let the process play out with DEC. He asked why he is always asking the PB to enforce DEC's rules. Chris Navitsky stated that if the Town decides to be lead agency that is their responsibility. Secondly it is in the Town Code that they enforce the NYS DEC Erosion and Sedimentation Control Reviews Section 200-46. Saddlebrook was brought to Bill Lupo at DEC and he stated that he did not have time to look at because the Town of Bolton has had it so long. With regard to individuals with a personal agenda, Chris Navitsky suggested setting up time limits to speak. He also stated that he is not suggesting allowing public comment on every application and suggested public hearings only for the controversial projects.

Rolf Ronning stated that he would only like to speak positively on how to make the process better. He stated that he has learned with Saddlebrook and on a subdivision in Lake George that engineers think differently in ways to solve a problem that needs to be solve for effective stormwater management. He stated that he has worked with 5 different Town Engineers, he has hired 5 different private engineers in different Towns and there are different results. He stated that he was angry with the LG Waterkeeper's organization but when he realized that he can't beat him because he has more power and money than he has he went with a peace offering to help get approvals. He suggested to the LG Waterkeeper to hire an engineer that they trust and he will use that engineer because the Town will like it because their Engineer will like it and there won't be an Article 78. He stated that he feels that the LG Waterkeeper could offer the Town and developers by offering to provide an engineer to do the stormwater at an early stage. He stated that he and other developers would be willing to pay for the stormwater to be done. This would help because the stormwater could be done once and not several times. He stated that he is not opposed to having the Town hire a professional engineer and allow the applicant the option to hire either the Town Engineer or their own personal engineer. He stated that the way the process currently works, doesn't work.

John Gaddy stated that in defense of Chris Navitsky, he is not making up any new laws and all he is doing is reminding them of what they have on the books and they have not added any news laws. Perhaps since what they have left in the Town is marginal land that they come into the position of having a professional planner for the land that is left. He stated that Pam Kenyon is an administrator and not a planner. He feels that the PB should be called a reaction board and not a planning board because they never get to do the actual planning. He feels that a professional planner could meet with applicant to provide assistance or guidance with projects which could assist in facilitating projects

more effectively and efficiently. He stated that they have long questioned whether an engineer answers the questions from a technical viewpoint or from a planning viewpoint based on the Town's master plan. Herb Koster asked if he felt a professional planner would satisfy Chris Navitsky. John Gaddy stated that he does not know if it would but would hope that there could be some common ground.

Barry Kincaid suggested that they go back to the basics where the PB are the planners for the Town. He stated that there are seven members of this Board and there is not a biased side to it. He feels that if they have one person as a professional planner then the neutral ground is lost. Herb Koster stated that there have been several comments that they as the PB should be planning and he feels that is what can make the PB liable and they have to be careful not to plan for the applicant.

Don Roessler stated that he does not feel comfortable with the idea of hiring one person to do all the jobs. Herb Koster stated that this system is set up for a reason and that is to have a non-biased Board. Henry Caldwell stated that some developers do get so involved in developing stormwater and they get defensive if they try to turn them down. He asked how far the PB should be letting them go without more input. Sue Wilson stated that John Gaddy and Herb Koster are talking about two different things. John Gaddy is interested in involving a planner before any engineers come into the picture. Rolf Ronning stated that he has a lot of respect for Tom Nace but he feels that nothing that the Town has in its ordinance or Tom Nace's approval could keep the LG Waterkeeper from filing an Article 78. He feels that his back is against the wall and if the process would be easier by involving another engineer to assist he would do it. Herb Koster stated that Rolf Ronning is stating that he wants to fold to the LG Waterkeeper. Rolf Ronning stated that he would just like this for stormwater planning. Herb Koster stated that this is going down a bad path. Don Roessler stated that this is going nowhere and feels that they should move on with the agenda.

Barry Kincaid asked if the LG Waterkeeper has ever brought this to the Zoning Committee to try and make the plan better for all developers. He stated that he feels this is very shady and does not agree with the approach. Chris Navitsky stated that this proposal was set forth to avoid costly litigation.

Herb Koster stated that he feels that this Board should continue to operate the way they do. He feels that they do a good job and that every member on this Board gives their all to try and do stormwater properly and that is all that they can ask for. He thinks that it improves on a monthly basis and he does not feel that they should give up the democratic process here or carry it to the extreme of having a constant public hearing every month.

Chris Navitsky stated that he never intended to put down Tom Nace and he is suggesting more of a planner that takes into account the natural setting or environment. He stated that both items were not taken the way that the LG Waterkeeper meant. He stated that they did not draft those Town Counsel did. Counsel stated that he did not draft them. Pam Kenyon stated that it was from the LG Waterkeeper's agreement.

..

Herb Koster stated that if the TB is looking for a recommendation from them, he personally would recommend that they continue what they have been doing with the process that they have been following.

6) SD06-20 PADANARUM PARK, ROLF RONNING. To discuss conditions of approval set forth on 1/17/08.

Nancy Williams with the Lake George Land Conservancy provided her request submittal to the PB. She explained that the resolution for Padanarum Park condition #12 of the states “In the event that the Lake George Land Conservancy does not accept the property, the long SEQR form review shall be rescinded and subject to further review.” She stated that there is a memo from the Office of Parks who has granted them \$500,000 to purchase the land but they have had to go through an arduous process. She stated that they had 2 professional appraisals done, which cost about \$4,500-5,000 a piece. They submitted the appraisals to the Office of Parks and they were both disapproved. They were disapproved because of the SEQR business in the permit. The letter from the Office of Parks states that it appears that because the applicant is required to come back to the PB for a review of the SEQR form if the LG Land Conservancy does not purchase this land then it appears that it is not an arms length transaction in selling the property. That is a problem because their appraisers naturally assumed that these are independent lots but because of the stipulation it is the State’s opinion that it is not a real approval of the project. She referenced page 18 of her submittal which focuses in on a question that was asked by Don Roessler when the approval process was taking place: “D. Roessler asked if the Lake George Land Conservancy doesn’t purchase the land, then how will it change the SEQR form. Counsel stated that it is a material change and they will need to revisit this form again.” She stated that she is requesting a clarification of what that means. She stated she would like to tell the Office of Parks that Lots 1-6 are lots that have received permits but she cannot put words in their mouth. Sue Wilson asked how they appear on the tax map. Rolf Ronning stated that the subdivision map has not been filed. Counsel stated that when it is filed it will be 6 lots. Rolf Ronning stated that after approval they did not file the map because the APA stuck their nose in it and thought that the conveyance to Ed English required a permit from them and it delayed them. He stated that instead they decided to do a lot line adjustment and he asked Dennis to provide new maps but he did not attend the meeting tonight. He stated that he has no doubt that the Lake George Land Conservancy will buy those six lots. He also stated that he could change the subdivision to a 13 lot subdivision because of the lot line adjustment for Ed English. Counsel asked Nancy Williams what she needs from the PB. Nancy Williams requested that they remove condition #12. Counsel asked if they would be comfortable with doing that if there is a chance that they will not purchase. Henry Caldwell stated that they did the long form SEQR for the entire property and asked why they put this stipulation on these lots. Counsel stated that he thinks that the PB wanted the LG Land Conservancy to purchase the property. He stated that now the LG Land Conservancy is saying that they have every intention to buy it but the PB has created an impediment and he only then suggests to them that the risk is that they can’t buy. He stated that they went

through the SEQR process and they know what needs to be dealt with and they made findings that there was no negative impact and he asked if they were comfortable with that. Rolf Ronning stated that he will not go back on his word and if the LG Land Conservancy does not buy the property he will not convey them. Herb Koster stated that does not have a problem with removing that condition. John Gaddy stated that he remembers discussion about the two lots with regard to habitat disturbance and the PB felt that this would be more than adequate covered with the fact that the LG Land Conservancy would be purchasing this property and that was the only reason that this stipulation was put on. He stated that he made the original motion and would have no problem amending that motion.

Herb Koster stated that he heard tonight that the APA has not approved this and that the purchase cannot go through until the APA approves it. Nancy Williams stated that the plan is for them to clear through the contract process with the State, make sure that the appraisals work and then they would agree to purchase the property knowing that they have approvals here and they would take the risk of going to the APA themselves.

Sue Wilson asked what the status of the telephone and power lines. Rolf Ronning stated that they have the money at National Grid and they have most of the easements signed by neighboring properties. However, 2 people have not yet signed and may not sign, but he is hopeful that they can come to a resolution. If they do not sign the agreements then they will have to go to the Supreme Court to gain access to this land.

RESOLUTION:

Motion by John Gaddy to amend SD06-20 resolution submitted on January 17, 2008 whereby removing condition #12 which reads as follows: “In the event that the Lake George Land Conservancy does not accept the property, the long SEQR form review shall be rescinded and subject to further review.” **Seconded by** Sue Wilson. **All in Favor. Motion Carried.**

Meeting was adjourned at 9:48 PM.

Minutes submitted by Kristen MacEwan