

**Town of Bolton
PLANNING BOARD
AGENDA
Thursday June 18, 2009
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

Herb Koster opened the meeting at 6:03PM.

Herb Koster asked if there were any changes or corrections to the May 21, 2009 meeting.

RESOLUTION:

Motion by Donald Roessler to accept the May 21, 2009 Planning Board meeting minutes as written. **Seconded by** Sandi Aldrich. John Gaddy was not present for the vote. **All others in Favor. Motion Carried.**

REGULAR MEETING

1) SPR09-12 KOLLAR, CHRISTOPHER & PHYLLIS. Represented by Hutchins Engineering. Seek Type II Site Plan Review to 1) construct a single family dwelling in the LC45 zone, and 2) a major stormwater project to remove more than 15,000 sq. ft of vegetation. 33,375 sq. ft. is proposed. Type I Site Plan Review is also sought for any development within 100' of a wetland. Section: 186.15, Block 1, Lot 2, Zone LC45 & RM 1.3. Property Location: South west corner of Homer Point Road and Treasure Point Road. Subject to WCPB and APA review. Subject to SEQR.

Tom Hutchins stated that the applicants propose to construct a residence off of Treasure Point Road. They have approximately 13 acres with a significant portion of it being wetlands. The location of the house is in the most ideal area where it is high and dry. It is a 2 story single family residence. He stated that they will have an on-site waste water system and stormwater controls, as well as an on-site water supply and small driveway.

There was discussion on access to this property as well as right-of-ways on this property to access other properties on Treasure Point.

Sandi Aldrich asked if they were 100' from the wetlands on the side of the house. Tom Hutchins replied no he is just over 75', but he is 100' with the wastewater system, but not with the house. Sandi Aldrich asked if the house has to be 100' from the wetlands. Pam

Kenyon replied no. Counsel stated that this one of the purposes of the exercise to do Type I site plan review.

John Gaddy asked for some clarification of the distance between the wetlands and structure. Tom Hutchins explained that it is a line that came off the mapping from the overlay on the GIS that surveyors use. He stated that the marks on the map are APA flagged wetlands.

John Gaddy asked what type of foundation they intend on using. Tom Hutchins replied that it will be a poured concrete foundation with a basement.

Pam Kenyon stated that there was no WC impact.

RESOLUTION:

Motion by Henry Caldwell to set a public hearing for application SPR09-12 on July 16th at 6:00pm. **Seconded by** Sandi Aldrich. Herb Koster opposed. **All in Favor. Motion Carried.**

2) SD09-05 MOUNTAIN AIRE MANAGEMENT, LLC. Jeff Tennent. Seeks to 1) divide into 3 lots that parcel designated as Section 156.00, Block 2, Lot 58, and 2) multi-lot line adjustments involving those parcels designated as Section 156.00, Block 2, Lots 57, 58 and 60, Zone RL3 & LC25. Property Location: North Bolton Road. Minor Subdivision, Sketch Plan Review. Subject to SEQR. Two options are provided for the Board's review.

RESOLUTION:

Motion by Donald Roessler to table the application until the applicant arrived. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

This application was heard as item 5 on the agenda.

Jeff Tennent stated that they proposed 2 options to access the 3 lot subdivision. The first option would be to utilize Jim Neumann's driveway. This would include improving the driveway by changing the grade, surface, screening and stormwater. The second option would be to create access, but this would mean more road than necessary.

Jeff Tennent stated that he has spoken to Jim Neumann who has indicated that he would be interested in sharing his driveway in exchange for some improvements to his lot. By utilizing this driveway, they will not have to run new lines for power. They will be stabilizing the driveway and providing stormwater management which currently does not exist.

Jeff Tennent gave further details of the driveway options and stated that he left the decision up to the PB.

John Gaddy stated that he likes that this is a creative solution to access these lots and asked if there was anything in the code that would prohibit them from doing this. Herb Koster replied that they have some leverage because it is common sense to use the existing driveway.

Jeff Tennent stated that this roadway would also include a maintenance agreement between all parties. Herb Koster asked if they intend to have a turn-around or cul-de-sac. Jeff Tennent replied yes and indicated where it would be located.

Jeff Tennent stated that he has no problem with Chris Navitsky's request that they have major stormwater for all the house sites. Chris Navitsky stated that he was not aware of the use of the other driveway and his major concern was to have major stormwater if they were to create a new driveway. Herb Koster stated if they will be re-doing the road and it will utilize 5 houses, he feels that it will need a major stormwater for the road. Jeff Tennent replied that he did not have a problem with that.

RESOLUTION:

Motion by Donald Roessler to accept application SD09-05 as complete, waive a public hearing and grant approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

3) SPR09-13 ADAMO, HAROLD. Represented by James E. Hutchins, PE. Seeks Type II Site Plan Review for a major stormwater project to remove more than 15,000 sq. ft. of vegetation. 36,000 sq. ft. is proposed, Section 139.00, Block 1, Lot 13.2, Zones RR10 & LC25. Property Location: County Route 11 and being Lot 2 of the Todd & Kelley Subdivision. Subject to WCPB review. Subject to SEQR.

Zack Monroe stated that there is an existing access from County Route 11 and the applicants are proposing to upgrade the driveway. This would make for easier access and would allow them to construct the garage. He stated that the applicants still plan to construct the stormwater for the entire site and leave the house site until they are ready to construct the home.

Zack Monroe stated that the agenda states that they will be removing 36,000 sq. ft. of vegetation. However, the existing driveway is already there, which has been cleared and there is a somewhat cleared area where the garage is proposed to be constructed. He stated that the additional clearing will only be for about 12,000 sq. ft. of vegetation with some re-grading of the driveway in a couple of spots.

Sandi Aldrich stated that the plan shows a 1 bedroom apartment above the garage and asked if the applicants plan to live in the apartment while the house is being built. Zack Monroe replied no it is just a vacation home. He stated that the garage is just being used to store snowmobiles and boats. Sandi Aldrich asked when the applicants intend on

building the house. Zack Monroe replied he was not sure but probably not within the next few years.

John Gaddy asked what the steepest grade was for the driveway. Zack Monroe replied that most of the driveway is pretty flat and the steepest would be approximately 10%.

Sandi Aldrich asked if the garage would be visible from the lake. Zack Monroe replied no it will not be visible from anywhere.

Pam Kenyon stated that there was no WC impact.

RESOLUTION:

Motion by John Gaddy to accept stormwater amendment for SPR09-13 as complete, having met the criteria set forth in the code, grant approval for the major stormwater project. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented.

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

4) SPR09-14 CUMMINGS, DAVID. Seeks Type II Site Plan Review to construct a single family dwelling in the LC25 zone. Section 171.00, Block 1, Lot 5, Zone LC25. Property Location: 156 Edgecomb Pond Road. Subject to SEQR.

Note: Sue Wilson recused herself from this application.

David Cummings stated that he is proposing to build a straw bail house. John Gaddy asked if there were any other straw bail houses in the area. David Cummings replied none in Warren County but there is one in Washington County.

Henry Caldwell asked if he could walk them through the process of constructing such a home. David Cummings stated that it is a timber frame structure and the straw bales wrap around the structure itself. The bales are stacked like bricks and both the inside and outside exterior get covered in a plaster about 1 ½ thick. This is the complete wall system and insulation all in one package. Henry Caldwell asked what the R value was. David Cummings replied upwards of 50. He stated that it is fire resistant and a very quiet home.

Herb Koster asked what the next stage would be. David Cummings replied that he would probably need to deal with the County next and building inspection.

John Gaddy asked how far it would be from the current structure. David Cummings replied 20' to the west.

Chauncey Mason asked what type of finish he intended on using for the galvanized roof. David Cummings replied that he had not thought about that. He stated that he is looking for used materials for the roofing. Herb Koster agreed with Chauncey and stated that they would not like to see something reflective or shiny. David Cummings agreed.

Sandi Aldrich asked when the intended to start construction. David Cummings replied as soon as possible. He stated that they are hoping to be moved in by December.

RESOLUTION:

Motion by Donald Roessler to accept application SPR09-14 as complete, waive a public hearing and grant approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. Sue Wilson recused herself. **All Others in Favor. Motion Carried.**

5) SD09-04 TWIN BAY VILLAGE INC. Represented by Bartlett, Pontiff, Stewart & Rhodes PC and Vision Engineering. 1) Seeks lot line adjustment between those parcels designated as Section 186.06, Block 1, Lot 14.1 and Section 186.07, Block 1, Lot 13; and 2) in accordance with Section 200-86, 200-87 and 150-12 create a 30 unit cluster subdivision involving 186.06-1-14.1. Zones RM1.3 & RL3. Property Location: Route 9N. Major Subdivision. Sketch Plan Review. Subject to SEQR.

Jon Lapper stated that the goal of the project was to design a project that did not require any variances and was designed in accordance to the property itself to make it easier to develop and minimize the impacts on the site. He stated that they have sat down with Pam Kenyon to review the cluster subdivision regulations to make sure what they were proposing was compliant before further developing the plan. This new proposal will reduce the size of the Villa parcel from 7 acres to 3 acres which is sufficient for the main house and one guest cottage. This will allow better placement of the cluster subdivision on the remaining land.

Dan Ryan of Vision Engineering reviewed the design criteria that they are proposing on the site for the cluster subdivision. He stated that their main objective was to develop this site within its limits. In doing that they have looked at Bolton's Comprehensive Plan to derive other criteria that helped them develop the proposal as follows:

- 1) Gateway enhancements are recommended. In this proposal they are planning to demolish the existing motel which is very close to the highway with limited vegetation. This proposal moves any development away from the scenic corridor.
- 2) Increase and infill development within the hamlet. That is part of the strategic plan for the hamlet area. The site has 28 acres and including the Villa there are 35.74 acres, primarily undeveloped. This proposal would comply with the criteria of trying to infill and increase the density within the hamlet.
- 3) Balance economy with permanent residence. They feel that part of this community will be permanent residences and others will be seasonal. Bolton is very transient in nature and this has been recommended to balance the economy of this area.
- 4) Walk-able to town. This site is within walking distance of the Town center and provides the possibility in future for connections to the Town sidewalks.

- 5) Conservation Subdivision/Cluster Subdivision. They have designed this proposal as a cluster subdivision.

With regard to the allowed density requirements, Dan Ryan stated that the total allowed for the parent parcel and adjacent parcel is for 31 units. He stated that they are proposing a lot line adjustment to retain the Villa property with 1 single family dwelling and 1 guest cottage but reduce the size to 3.36 acres. The proposed lot for the cluster subdivision would then increase to 32.38 acres. For this parcel they have subtracted the 1 unit from the Villa property and would have 30 units remaining. They are proposing 14 duplex buildings for a total of 28 townhomes and there will also be 2 single family dwellings up on the mountain.

With regard to cluster subdivision, Dan Ryan stated that they are extremely beneficial especially to lakeside communities. Code sections 200-86, 87 and 150-12 outline the cluster provisions within the subdivision code. These provisions allow PB discretion to modify provisions that are the bulk requirements for the zone. This allows for flexibility in design, allows them to take advantage of the natural topography of the land, reduce the overall visual impact, allow for preservation of significant uplands and existing mature forest. In total approximately 20 acres will be preserved by this project by doing the cluster design. This will also minimize the disturbance and impervious surfaces.

Dan Ryan reviewed the aspects of the preliminary engineering report. He stated that they will be removing the 22 unit motel, parking area and swimming pool. This will prepare the site for future development. They will create a stormwater design which will meet the code for the Town of Bolton as well as the requirements of DEC. Dan Ryan stated that they are proposing underground gas and electric utilities along the roadway.

With regard to wastewater, Dan Ryan stated that they have done extensive onsite testing. They are proposing a collection system for sewage and will have a couple forms of treatment before entering the absorption system. All of the townhomes will utilize this system and the 2 single family dwellings on the hillside will have individual systems. With regard to water supply, Dan Ryan stated that this site is serviceable by the Town's municipal water system. They will utilize this off of Route 9N and will have a pump station proposed which will boost their pressures into the development. This will serve their domestic needs as well as fire flows.

With regard to landscaping, Dan Ryan stated that it is an important part of the development of this property not only aesthetically but for visual buffer and stormwater purposes as well. He provided further details of the landscape design. He also indicated that the access road to the cluster subdivision and single family homes will have an s-curve to diminish the visibility from the lake. He stated that they intend to take advantage of the natural topography and preserve as much of the natural vegetation as possible.

Mike Farrell of Vision Engineering reiterated the points that Dan Ryan had made with regard to their design for the cluster subdivision. He stated that they look forward to working together with the PB to further develop this property in a sensitive manner.

Don Roessler asked if the applicant plans to include the lakefront parcel on this project. Jon Lapper stated that the lakefront property has its own tax map number and stands alone. The applicants intend to leave it alone as a motel. They may do some cosmetic upgrades but there are no further development plans at this time. Don Roessler asked if any of the above parcels would have any contractual access. Jon Lapper replied no.

Don Roessler asked what the maximum grade of the road will be. Jon Lapper replied a maximum of 10-12%. Don Roessler asked about the size of the proposed units. Jon Lapper stated that the proposal shows 40' x 80' for the entire building but that is only the conceptual design and they will still need to get architectural design. He continued that owners of the townhomes would only own the footprint of the structure and all remaining land would be the HOA. Herb Koster if the same would be true for the proposed single family dwellings. Jon Lapper stated that they still need to determine that.

Herb Koster asked if they intend on using a hydrant system on the property. Mike Farrell replied yes, there would be a water main running up the main road up to the cul-de-sac and there would be hydrants throughout.

With regard to the sewer treatment, Herb Koster asked if each building would have their own individual tanks. Jon Lapper replied that DEC has changed that and they want the HOA to be responsible so that it is done more regularly. Dan Ryan stated that their SPEDES permit will outline the requirements and they will require a licensed operator for the treatment.

Dan Ryan stated that the HOA is a very important part of this project, not only to maintain the units and enforce covenants but they will be responsible for the road, water system and wastewater system.

Henry Caldwell stated that a cluster subdivision is to keep the houses out of the environmentally sensitive area. However, the applicants are really doing both a cluster subdivision and a regular subdivision because lots 30 and 31 are going to be in the environmentally sensitive area. Dan Ryan stated that the cluster subdivision aspect of this proposal has minimized the impacts on the hillside as opposed to a traditional subdivision, which would require clear cutting of the entire site. Jon Lapper stated that it would also mean that there would be 1 acre house parcels all over the site. Henry Caldwell stated that with the proposed driveways they are affecting the whole site. Dan Ryan replied that they would be using 10-12' wide driveways with a maximum grade of 10-12%.

Sue Wilson asked if any variances would be required. Pam Kenyon replied no. Sandi Aldrich stated that the applicant claims that the cluster subdivision would not be visible from the lake but asked about the 2 single family homes. Dan Ryan stated that they

would employ the same techniques that they are using for the buffering and shielding of the cluster subdivision by taking advantage of the steeper slopes and grading.

John Gaddy suggested that they lower the tennis courts down on the lots closer to the cul-de-sac. Jon Lapper replied that they would look into that. John Gaddy also suggested that they drop the houses on lots 30 and 31 further down the hillside. He stated that they could still get a lake view from there while minimizing some of the roadwork. Dan Ryan stated that the grades are rather steep in that area, but they could look into the possibility of lowering the homes. With regard to the walk-ability aspect of the project, he asked why the applicant did not provide a walkway along the 9N property line. Dan Ryan replied that they have looked at that. However, the current retaining wall falls under the jurisdiction of the NYS DOT. He stated that in their previous discussion with the DOT, they were not willing to work too much with them because it is so tight. John Gaddy stated that they could also look into putting in a walkway behind the stone wall. Dan Ryan replied that it could be an alternative assuming that they have a good location for it.

Jeff Tennent stated that he sits of the Board for the Sembrich Museum and they have requested assistance to fix their retaining wall at the museum. He stated that DOT indicated that they have control over what they do to the wall, but they won't pay for it. He stated that the Sembrich is looking to redo their retaining wall and are proposing to move it back to allow for a shoulder area and set it up for the potential of connecting to the Town sidewalks. John Gaddy stated that when projects like this come along, this is when these types of plans should be set in place. Dan Ryan stated that the DOT also had concerns over having sidewalks to nowhere which poses a huge safety concern. However, he stated that they would be willing to talk to the DOT again.

Herb Koster asked if the cluster development area would have the same setback requirements. Pam Kenyon replied no and the requirements would be up to PB discretion. Pam Kenyon stated that her biggest concern is meeting the setbacks from the property lines. Jon Lapper stated that they more than meet the setback on front and back of the property and with regard to the sides, they have pulled back especially from the north east corner where the proposed sewer treatment will be.

Sue Wilson stated that she is pleased with the proposed cluster development and she would like to work with the applicant to complete this project. Herb Koster agreed but stated that he is concerned with the roadway running through the cluster development seems a bit narrow for people to get in and out of their properties. Jon Lapper stated that with the cluster they are trying to minimize the impact so it does look close together. However, he feels that they could make some compromises as this project progresses. Mike Farrell stated that they will be showing this at a much larger scale at the next step with the driveways and landscaping for each unit so they can see the space that is going to be available.

Henry Caldwell asked how many cars will be allowed per unit. Dan Ryan replied that they are trying to scatter spaces throughout for visitors and each unit will be able to accommodate 2 cars.

John Gaddy asked what types of provisions will be set in place for the overflow of the stormwater pond. Dan Ryan stated there on the upper portion of the site, they will use rain gardens and bio-retention to move the stormwater slowly down the hillside to the pond. He stated that this proposal shows just a conceptual plan with a preliminary volume and will have further details as they progress in the process. John Gaddy asked how compatible is the engineering for the low volume stormwater treatment with snow plowing. He asked if it will be easy to plow especially with the bio-filters in place. Dan Ryan replied that the roadway is 22' wide with a cul-de-sac at the end. He stated that they can push the snow into the pond. Henry Caldwell asked if the pond will be wet or dry. Dan Ryan replied that it has not been determined whether or not this will be a wet pond or a retention pond. Henry Caldwell asked if they have done any stormwater work on lots 30 and 31. Dan Ryan replied that each of those lots will have their own minor stormwater treatment facilities. They will be treated separate but they will include their calculations for the pond below. Herb Koster stated that he feels that they will end up with multiple ponds on this site. Dan Ryan agreed if that can be worked out in the design.

John Gaddy stated that Jeff Tennent has used permeable paving surface in a previous project and asked how it was holding up. Jeff Tennent replied that it is holding up well. However, they will need to be concerned with what they use for salting and sanding because it could break down the material. Chris Navitsky, LG Waterkeeper stated that the Surfside in the Village of Lake George just re-paved with the permeable surface. He stated that upon a site visit during a rain storm, there was no visible run-off. Jon Lapper stated that it would be something they would consider.

Herb Koster asked the remaining Board members to give their opinions of the project so that they could better direct the applicant.

John Gaddy stated that overall he likes the proposal. He does feel that the tennis courts and upper homes could be moved lower on the hillside. He also would like to see some engineering for providing for pedestrian traffic.

Jeff Tennent stated that the discharge from the culvert at the north end of the property on Route 9N discharges over to the Sembrich property. He is concerned that the pond would be infiltrating and exiting through the culvert which could further affect their property. Jon Lapper stated that the culvert would only discharge in the event of overflow emergency and they will address that.

Don Roessler stated that he likes the idea of the cluster subdivision. However, he does feel that it may be a bit tight for moving emergency equipment in there. Herb Koster stated that the applicant does understand that the cul-de-sac will need to be 140' diameter. Don Roessler also stated that the applicants should address the snow removal issue because of how tight it is. He is concerned that they could run out of room to put the snow. Don Roessler stated that he agreed with John Gaddy that the tennis courts and upper homes could be lowered on the hillside.

Chauncey Mason stated that he liked the new proposal. Sandi Aldrich agreed. However, she also agrees with John Gaddy that the tennis courts and upper houses should be lowered on the hillside.

Herb Koster stated that the Town is almost done with the zoning code revisions. The applicants are applying for the cluster development from the old ordinance and asked if it would be considered grandfathered. Counsel replied that if the applicants were in the process but did not have approval and Bolton changes its code, it would be bad for the applicant because the new code would then take precedent. John Gaddy stated that he sits on the revision committee and feels that they are far off from that happening. Counsel agreed and stated that once it goes through Bolton it needs to go to Warren County and the APA and feels the applicant will get approval before the revisions are set in place. After a short discussion with Pam Kenyon, Counsel stated that the zoning revisions do not include any revisions to the subdivision regulations.

Henry Caldwell asked if there were tax advantages with calling something a condominium. Counsel replied that there is a tremendous incentive for condo ownership because they do not pay their fair share in taxes. Jon Lapper replied that this would not be condos and that they are intending for them to be townhomes. Henry Caldwell stated that this development will present very unique challenges. The developer will have to be creative in their design so that people will want to buy them and live here. Jon Lapper stated that Bolton is a beautiful community and that is the draw and these will be high quality units.

RESOLUTION:

Motion by Donald Roessler to approve the sketch plan for application SD09-04.

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

6) The Town Board is requesting an interpretation as it pertains to cutting in the “No Development Area” noted on the Forbidden Forest Subdivision plat (SD88-22) approved by the Planning Board on June 24, 1993. Specifically, is the cutting of trees considered development?

Counsel stated that the Town of Bolton, through the Zoning Enforcement Officer, took issue with Mr. Harrington who is a lot owner in Forbidden Forest. The issue of contention was on many levels; 1) Mr. Harrington was accused of cutting trees within the scenic corridor. However, this issue has been resolved through PB input and TB allowing the growth to return. 2) With respect to the issue of cutting behind his house, Mr. Harrington did cut trees in the “no development” zone according to the map. Mitzi Nittmann’s interpretation of the “no development zone” is that cutting in this zone constitutes development. She bases this interpretation on the code which describes changing the character of the land. Counsel stated that they have also danced around what is tree cutting. Ultimately it was decided that tree cutting wasn’t development or cutting that they needed to be concerned about if the stumps were not removed and there was no bearing of earth. Mitzi disagrees and feels that interpretation is only for

stormwater regulations. Counsel stated that Mr. Harrington has cut in the “no development zone” but has only laid down trees and not removed the stumps. The Town has stated that he should leave this alone and let it grow back naturally and never to cut again. Mr. Harrington has stated that he intends to cut again whenever necessary. Counsel stated that in looking at pictures and visiting the site, one can see that significant cutting has occurred in the “no development zone”. However, it was a lot of sumac and white striped maple and popular, all of which is first growth. Some may argue that if you do not let the first growth, then there will be no second growth.

Counsel stated that he left in an awkward position because Bolton does not have a clear stance on what that “no development zone” is all about. In his opinion the PB created this area due to the clear cutting from Rolf Ronning when he began to develop the property and to prevent it from happening again.

Counsel stated that he is trying to be consistent for Bolton because, as he understands it, Pam Kenyon feels as though cutting is not considered development. Herb Koster agreed. He stated that there is a definition of tree cutting and if they start to label tree cutting as development they will be opening a big can of worms.

Sue Wilson stated that the minutes regarding this issue discuss “no development as no disturbance”. Counsel stated that the ZBA has already determined that they can cut down trees as long as they do not remove the stumps. Sandi Aldrich stated that in reviewing the minutes all the way back to the original approval, that PB and every PB since then, has wanted that “no development zone” to re-grow. Counsel stated that a great lesson learned is that there was great discussion on their intent but it did not make it into the resolution. Sue Wilson asked how enforceable are the conditions listed on the map. Counsel stated that on the public notice the particular areas just state “no development” in that area so they are left to determine the meaning of that. John Gaddy stated that on April 22, 1993, the “no development zone” was established as a result of clear cutting. They have a letter from May 27, 1993 which outlined the tree removal plan and discuss that in 20 years they should be able to maintain a view from this lot. John Gaddy asked if the conditions on this land would still be valid for subsequent owners of this land. Counsel replied yes, with the filed map.

Pam Kenyon read the section of the code that defines land use development. She feels that cutting trees does not materially change the land. She stated that she has trees on her land that need to be cut often and she does not feel that she is in any violation. She stated that property owners have the right to cut trees when necessary and this does not constitute materially changing the land. John Gaddy agreed. However, in speaking with Jim and Sally Pepper, they have indicated that clear cutting a lot significantly increases the property value. He feels that they should be enforcing what the original intent of the PB when it was approved. He is impressed with how far sighted the previous zoning ordinance was with regards to environmental protection because if they were to do nothing they have pretty strong laws.

Herb Koster stated that he is concerned with trying to stretch this interpretation to include trees. He was on the PB at that time and no one wants to stop an owner from cutting down first growth which is what is primarily up there. John Gaddy stated that he is the one who called this in and there is not just first growth there. Henry Caldwell agreed. Counsel agreed but stated that a large portion of this section is first growth. Sue Wilson asked what the original purpose was for the “no development zone”. Herb Koster stated it was set up to not allow building or construction. Sue Wilson disagreed and stated that she reads it to be the direct response to clear cutting that was done. The remaining Board members agreed. Sue Wilson stated that she is not sure that they have a legal leg to stand on with Mr. Harrington but the bottom line is that the Town’s intent was to see it grow back.

John Gaddy stated that they have previously dealt with decisions made that resulted in unintended consequences. He stated that Counsel then indicates the error of their ways and lets them know the direction that they should have headed in. He is concerned that when these types of situations arise it gives these people a great way of stalling for many years. Counsel stated that as the years progress, the process here has become more sophisticated and they are narrowing in on what is required by means of documentation and findings. He stated that the resolutions have continued to improve and are very detailed.

John Gaddy stated that Barry Kincaid and Jeff Tennent have shown that they can create beautiful views while being screened from the lake and asked how they can craft language to be able to re-heal some of these spots that have been intentionally cut and past Boards have attempted to get re-vegetated. Herb Koster was concerned with how far back they go. John Gaddy replied that they could go on a case by case instance and in this case, it is something worth pursuing.

Henry Caldwell stated that Rolf Ronning clear cut these trees before going to jail on a weekend when no stop work order could be issued. He then received a 5 year moratorium for no development which expired right about the time he got out of jail and perfect timing to start to sell these lots. He stated that Mr. Harrington did the same type of clear cutting without regard to what was there. He stated that there a few larger trees could have been left and would not have interfered with his view. He asked if they have any cutting regulations. Pam Kenyon stated that a part of the code that code apply would be the no cutting 20’ around the perimeter and the creation of a cutting plan thereafter. Herb Koster stated that he is more comfortable with applying this rather than changing the wording to include tree cutting as development. Henry Caldwell stated that if they can get Mr. Harrington to meet with the ZA and discuss a tree cutting plan he feels that they would be getting somewhere. Pam Kenyon and Counsel agreed but feel as though Mr. Harrington will not be agreeable to much.

John Gaddy stated that just because they may not have enforced these definitions as well in the past does not grant these people permission to continue operating in the same manner. He feels that they really need to enforce what is on their books. Herb Koster agreed that Bolton needs to be consistent with their interpretation and that they should

head in the direction that Pam Kenyon was headed in. However, he disagrees with considering tree cutting as development.

Sandi Aldrich asked if Mr. Harrington's property has anything that they could consider a tree, or would it all be considered brush. Pam Kenyon replied that a lot of it is brush but there are trees growing. She stated that if they could get Mr. Harrington to agree with this selective cutting she thinks that they would have a leg to stand on. Counsel agreed, but feels that he would not be able to get Mr. Harrington to agree. Sandi Aldrich stated that she is concerned that if it is all brush up there, Mr. Harrington will continue to cut and there will no trees allowed to ever develop in this area. John Gaddy asked if they had been up to count how many potential trees they had growing. Pam Kenyon replied no. John Gaddy offered that he would walk the area to find out how many trees were 6 inches in height and that could give them a start to what Mr. Harrington has to let grow.

John Gaddy stated that the Town has come so far in its proper development of land and feels that it cannot continue to let this type of improper development to keep going. Pam Kenyon stated that she strongly disagrees with how this development was done. However, she is more concerned with the definition of development which she feels should not include the cutting of trees. John Gaddy asked how they can craft language to state that they want to repair this spot without saying that cutting trees is development. Herb Koster stated that he can go up and count the stumps. Henry Caldwell stated that he would like to see Mr. Harrington to review a tree cutting plan before he cuts again. Pam Kenyon stated that it will be difficult to get Mr. Harrington to agree to that.

Counsel stated that Mike White of the LGPC does not agree with the ZA's interpretation. He feels that cutting a tree does create a problem in terms of stormwater. Although they are not removing the stump and bearing the earth they are still interfering with the absorption process. He stated that he is not here to implement the LGPC's interpretation; he is trying to implement Bolton's interpretation. He feels that Pam Kenyon rightly does not want to be alone in her interpretation. He feels that it is a sound interpretation and if Bolton wants to change this they can start here with a resolution.

Herb Koster stated that planning developed through this Town has made mistakes, but he feels that in his 23 years of experience, they are doing things much better now. He stated that everyone has the tendency to want to right all of the wrongs, but they were more lax at the time and they did not put it properly in the language. He feels that since that time they have greatly improved and continue to improve. Counsel agreed and stated that the record certainly shows that.

John Gaddy stated that he has not been trying to police the trees, but he would like to see some implementation of maintaining a screen. He feels that individuals will cut their interpretation of "dead" trees with no repercussions. Herb Koster stated that they cannot police what is dead or dying and they would be getting themselves into some serious issues if they go that route. Henry Caldwell asked how many acres they can cut and asked if Mr. Harrington has gone over that limit. Counsel replied that he was not sure. Henry Caldwell stated that they should look into that because they could get him on that.

Herb Koster again stated that tree cutting cannot be defined as development. He stated that if they want to go after Mr. Harrington they could do so under Pam's suggestions. Jeff Tennent agreed and stated that the Boards have come so far from this particular case but feels that they have to move on from this point. Henry Caldwell stated that Mr. Harrington is cutting just as Rolf Ronning did. Jeff Tennent stated that the other side of the argument is that Mr. Harrington is maintaining what he pays taxes on, which is a lake view property.

John Gaddy stated that there has to be a way to develop the property in the manner in which Jeff Tennent and Barry Kincaid have done. Jeff Tennent agreed but stated that they cannot go back in time. Herb Koster agreed that they cannot change history and they cannot change words to mean something that they do not mean. He stated that they can only go after Mr. Harrington with something that is in their ordinance.

Don Roessler asked what they needed from the PB. Counsel replied that he is looking for some support of Pam's interpretation because he does not want her interpretation to change. Pam Kenyon stated that her interpretation is that the cutting of trees is not considered development because it does not materially change the appearance the land. John Gaddy asked what constitutes a material change. Pam Kenyon replied new construction of buildings, parking lots, etc.

Sue Wilson stated that she does not want to change the interpretation. Herb Koster stated that is what is being discussed. Pam Kenyon stated that if they disagreed with her interpretation they would have to appeal to the ZBA. John Gaddy stated that he does not want the ZBA to deal with this because it is their issue. Pam Kenyon stated that is the reality.

Sandi Aldrich stated that she would strongly suggest pursuing the other options discussed with Mr. Harrington. Pam Kenyon and Counsel stated that they would further discuss this option.

RESOLUTION:

Motion by Donald Roessler to support the Zoning Administrator's interpretation of the "No Development Area", whereby the cutting of trees does not constitute a material change of the land and therefore does not constitute development. **Seconded by** Chauncey Mason. Henry Caldwell and John Gaddy opposed. **All Others in Favor. Motion Carried.**

7) Town Board Amendment of Local Law #3

Counsel explained that the TB has requested some amendments to the definitions in this section and read the amendments that they are considering.

Counsel read the new definition for a fence. Herb Koster asked why the TB is not adopting the language that they have put into the new code. Counsel stated that the current code states that a fence is a structure which would require it to meet setbacks.

Sue Wilson asked how this amendment differs from the proposed zoning revisions. Counsel replied that in the new code there will be a complete section of law for fences. Pam Kenyon replied that fences will be allowed without a principal building, but with this local law that will change. She feels that it is okay to put a fence on a property line and the zoning revisions allow for that. Herb Koster stated that he feels that they should use the proposed language for the zoning revisions because it has a whole section devoted to it and it would make a smoother transition when it is adopted. The Board agreed.

RESOLUTIONS:

Motion by Donald Roessler to recommend that the Town Board adopt the new definitions defined in the revised code for a fence. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

Counsel stated that originally they amended the definitions of structures in terms of jurisdictional and non-jurisdictional. However, in the end the TB ended up making provisions and requirements for non-jurisdictional structures. When the ZBA reviewed this they felt that these requirements no longer make them non-jurisdictional. The ZBA came up with the solution to call them Type I and Type II structures.

Type I are structures are more than 6" above grade and in excess of 100 sq. ft, including eaves and they will need to fit into compliance within the zone. However, this wording can create some controversy because if it is less than 6" above grade but over 100 sq. ft. they would not be considering it a structure. Counsel stated that he discussed this with the ZBA as well. Herb Koster stated that this used to be the interpretation in Town. The APA then got involved in this discussion and indicated that they didn't care about the height; it would still be considered a structure. Then the Town changed their interpretation of this to make it all structures. Counsel stated that the APA's latest version is that if a lawn mower can go over it, it is not considered a structure. There was further discussion of whether or not the 6" above grade should be left in the definition.

Type II are structures that are less than 6" above ground level or 100 sq. ft. including eaves. These structures would not require a certificate of compliance so long as each Type II structure is placed a minimum of 3' from any other structure and no less than 1/2 the distance of the setbacks. He stated that landscaping features would not be considered a Type II structure. Counsel stated that the TB wants Type II structures, if connected by walkways or stairs, to be counted as a whole. Herb Koster raised the concern that if they are connected with a walkway or stair that is less than 6" above the ground than it would not be connected. Counsel agreed, but stated that it would be difficult to do without running into other regulations.

There was discussion over how large someone could make a non-jurisdictional structure if it is under 6 inches. Henry Caldwell stated that at some point stormwater regulations

would kick in. Counsel agreed and stated that both stormwater and lot coverage regulations would take effect.

Counsel explained the genesis of why these amendments have come about. He stated that the TB wanted to close this loophole on this issue before the waiting for the adoption of the new code. He stated that Pam Kenyon wants to be able to better regulate things that are over 100 sq. ft.

Motion by Donald Roessler that with regard to the amendment of Local Law #3, to recommend to the Town Board that anything less than 6 inches above the ground surface is not considered a structure. **Seconded by** Sue Wilson. **All in Favor. Motion Carried.**

The meeting was adjourned at 9:13 pm.

Minutes respectfully submitted by Kristen MacEwan.