

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday September 17, 2009**

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, Donald Roessler, Chauncey Mason, Town Counsel Michael Muller and Zoning Administrator Pamela Kenyon.

**Absent:** none

Herb Koster opened the meeting at 6:07 PM

Herb Koster asked if there were any changes or corrections to the August 20, 2009 meeting.

John Gaddy, page 7, 5<sup>th</sup> paragraph, 4<sup>th</sup> sentence should read "He stated that the septic tanks would need to be pumped out regularly but it would be an *effluent* system."

**RESOLUTION:**

Motion by John Gaddy to accept the August 20, 2009 minutes as corrected. Seconded by Sue Wilson. Donald Roessler and Herb Koster abstained. **All others in Favor. Motion Carried.**

**1) SPR09-24 JUMBO REALTY INC.** Mark Bernstein. Represented by Michael Schreiber. Seeks Type II Site Plan Review for a group camp. Specifically to construct a new 38'x 38' cabin. Section 185.00, Block 1, Lot 32, Zones RCL3, LC25 & LC45. Property Location: 429 Trout Lake Road known as Camp Walden. Subject to WCPB review. Subject to SEQR.

Mark Bernstein stated that a year ago August they received a conditional approval from the Town to build 3 cabins. However, due to the economy and overall plan, they decided that they would not demolish 2 cabins as previously proposed. They intend to keep those cabins and build one in between these existing cabins and to build one other additional cabin.

Donald Roessler asked what the square footage of the 2 buildings was. Mark Bernstein stated that all 3 cabins were to be the same size and now they will just have 2 additional cabins that are the same size. He stated that they decided to retain the 2 cabins because of a conflict in the NYS fire code. There was no classification for a summer cabin the fire code. Instead they grouped them into a group dwelling or dormitory. A dormitory would require 50 sq. ft/person instead of the 30 sq. ft/person which the DOH requires for summer camps. He stated that this classification also requires additional sprinklers and equipment for fire prevention. A bill is proposed to pass today that will eliminate this conflict. If this passes jurisdiction will solely lie with the DOH. Mark Bernstein stated

that due to this issue, it became too costly to consider having to meet all of the fire code requirements and therefore he eliminated a cottage and decided to refurbish the existing cottages.

Henry Caldwell stated that he appreciates all of the hard work that the applicant has put into the property. He has taken a dilapidated camp and really turned it around. However, he is concerned that he has taken down a lot of trees. Mark Bernstein stated that they did remove a lot of trees but it was for safety reasons. Henry Caldwell asked if they intended on replanting. Mark Bernstein replied yes but they will not be using the same tree type. He stated that the white pine grow dangerously high. He stated that he had 2 of them fall and they were very lucky that they did not lose anything. He stated that in his mind they provided too great of a risk to the safety of the children at the camp. He stated that he was very upset with having to remove the trees, but he did not want any injuries or damage. Henry Caldwell stated that he would like to see something planted since it really does affect stormwater for the property. Mark Bernstein stated that Peter Loyola of CLA Site was working on a landscaping plan for the camp and he would address these issues.

John Gaddy stated that previously the applicant agreed to downward facing, shielded lighting with the use of low-wattage bulbs, but he does not see that on any of them. Mark Bernstein stated that he installed what was on the previous cabins which he thought was okay. He stated that he would be willing to change the lighting on the cabins. John Gaddy stated that he could get him some samples and provide options for retro-fitting the current lighting.

Pam Kenyon stated that there was no WC impact.

## **RESOLUTION**

**Motion by** Donald Roessler to accept application SPR09-24 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 with the following condition: 1) that any exterior lighting on the proposed building and existing buildings, will be downward facing and shielded. **Seconded by** John Gaddy. All in Favor. **Motion Carried.**

Mark Bernstein stated that he wanted to announce that they have been working with Bolton Central School with regard to use of the playing fields at Camp Walden. He stated that he received a signed copy of the agreement from Ray Ciccorelli. He stated that he is looking forward to the school and students enjoying the Camp Walden property.

2) To discuss one of the conditions set forth by the Planning Board on July 31, 1986 when approving the Pettinelli subdivision (SD86-12) on Dula Place. Specifically, the condition reads as follows: "No building will be expanded". Section 171.19, Block 1, Lot 67, Zone RM1.3. Property Location: 7 Dula Place.

Nathan Blanchard stated that Ann Kelly is seeking a 12' x 13' addition on her property. He stated that it is already part of the footprint of the house in the form of a deck, which they are seeking to enclose.

Pam Kenyon stated that the original approval in July 1986 had 4 conditions. The one of importance for tonight is the condition that "No building will be expanded." Since that time 3 variances have been applied for 3 other cabins in the same area; in one case a variance was not required but other variances were required. She stated that she is most concerned with the minutes from the July 1986 meeting because other than what Mr. Desantis and Walter Law (ZBA Chairman) said, there was no mention of conditions. She stated that she almost thinks that what Walter Law was telling the ZBA and the applicants, was that although the ZBA was granting the variance they could not override the PB conditions and the applicant would need to go back to the PB to discuss the conditions with them. Pam Kenyon stated that it was never done and she feels that at this point they need to solve this issue.

Sue Wilson asked Pam Kenyon how she defines expansion. Pam Kenyon replied that it means any change in the footprint or height of the structure. Sue Wilson asked if she asked if it depended on the size. Pam Kenyon replied no, she would consider 10 sq. ft an expansion.

Nathan Blanchard stated that there is a pre-existing deck and they are seeking to make it a seasonal room. He stated that they would use it in the summer and it would be closed off in the winter and not be used. Pam Kenyon stated that she feels that this is an expansion but it is within the footprint. She stated that the Board has to decide what is considered an expansion. Henry Caldwell asked if Pam Kenyon had talked to Tom Donahue since he was the one that made the motion for the original variance. Pam Kenyon replied no. Henry Caldwell stated that he would be interested in the hearing what Tom Donahue's reasons were for the conditions added to the motion. Herb Koster stated that this condition appears in most converted cabin colonies. He stated that they have also seen a lot of expansions to such colonies including this one. Pam Kenyon stated that she would be more than happy to talk to Tom Donahue, but she is more interested in what this Board thinks.

Don Roessler asked if the applicant was seeking to just enclose the porch with screens. Nathan Blanchard replied no, they will be putting in walls and windows but there would still be a sliding glass door to enter the house which would make it seasonal. Don Roessler asked if it would be an insulated or heated area. Nathan Blanchard replied no. Herb Koster stated that they unfortunately cannot control that because it could be added later which they have seen done in the past.

Sue Wilson asked if the Board would be interested in doing site plan review for anything on this property. This would address the concerns that the 1986 Board had but not necessarily prevent someone from putting a small deck or wood heater on. Herb Koster stated that he does not believe that they could call in the entire subdivision for site plan review. Pam Kenyon stated that all of the cabins are on one lot. Sue Wilson asked if the

cottages were individually owned. Ann Kelly stated that she owns the cottage but not the land underneath.

Herb Koster asked the applicant if she has spoken to any of the neighbors. Ann Kelly replied yes. She also indicated that the HOA submitted a letter of approval. John Gaddy asked if all of the other HOA members expanded after the condition was put on. Ann Kelly stated that any expansions were done before she purchased her cottage. Pam Kenyon stated that to the best of her knowledge it was the 3 she previously mentioned and they were after the original approval.

Herb Koster stated that he does not have a problem with this expansion, but he is not sure if they should remove that condition or not. He stated that if they do not remove it then each applicant would have to go before them and if they do remove the condition, it removes it completely from any expansion. Pam Kenyon stated that it may not matter because all cabins are on one lot and has probably exceeded the allowed density which would trigger the need for a variance. Sue Wilson asked if anything would trigger a variance. Pam Kenyon replied possibly, if they went outside the footprint. This particular case is within the footprint so she is not sure whether it would trigger the need for a variance.

Sandi Aldrich asked if the cottages would be considered non-conforming structures; if so any change would automatically trigger a variance from the ZBA. Pam Kenyon replied she is not sure because of the way that the subdivision was formed.

Pam Kenyon read Counsel's response to some of her concerns. He first goes on to discuss the need for HOA approval. The next step would be to go before the PB. He states that it was the PB that set up the original conditions and it would be the current PB that would be able to adjust the conditions. He stated that the ZBA is not in the business of overriding the conditions set forth by the PB.

Herb Koster stated that he would like to grant approval without removing the original condition. Pam Kenyon stated that this would need a variance because it does not meet setbacks. Henry Caldwell asked why it was before them if they would need a variance. Herb Koster stated that they will have to overrule the original condition and the ZBA cannot do that. Pam Kenyon stated that she would also like to have a decision on what they consider an expansion.

Don Roessler stated that he does not have a problem with this expansion as long as the deck does not change in dimension.

Herb Koster asked if they could leave the condition in tact but allow just this expansion since it is within the footprint. Counsel replied yes, they are not going to change it but they will consider each on a case-by-case basis. He stated that they will need to discuss why this situation is different from a regular expansion and base it on facts. Herb Koster stated that it is within the existing deck area.

Sue Wilson asked if this would impact anything on the mylar. Counsel stated that the mylar would not need to be changed. However, it is possible to amend it based on what has been decided tonight.

There was further discussion on whether or not to keep the condition on the approval granted in 1986. There was also further discussion of amending the public record. Ann Kelly stated that she only owns the cottage but everything under and around the cottage is common property. Counsel asked if she receives a tax bill. Ann Kelly replied no. She stated that they all have shares in the Association. Counsel stated that they the only way that they could change the public record would be to adjust the mylar due to the way that the subdivision was set up. Henry Caldwell asked if they could amend the mylar to remove that condition and add the condition that SPR would be required for all cottages. Counsel replied that they could do that, but not tonight because they need to put all of the other shareholders on notice that they are doing that.

## **RESOLUTION**

**Motion by** Donald Roessler that although the PB is not in the position to override the condition that was imposed in 1986, the PB will consider each project favorably on a case-by-case basis. In this case it has been determined that this would be permitted given the fact that the proposal is to enclose the existing deck which would not necessarily increase the overall footprint of the structure. **Seconded by** Sandi Aldrich. All in Favor. **Motion Carried.**

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

Peter Loyola stated that they started this project back in September 2005 and have continued to work with the PB to come into compliance with what they feel is a good subdivision. They received sketch plan approval in October 2007 and since then they have been doing everything they can to make this the best project. They understand the sensitive nature of the project but they feel confident that they have addressed all of the issues.

Peter Loyola stated that in December 2008 they were seeking approval conditional upon stormwater and a filtered view creation/planting plan. He stated that he felt that they were making good headway at that time and decided to table the application to provide additional information and work further with the PB. He stated that they have done that. In August John Gaddy came up for a site visit and he felt that it was a very productive meeting. He feels that they made a lot of headway with regard to the driveway and location of the homes.

Peter Loyola stated that they have made revisions to the filtered view creation plan with regard to the non-view areas. He stated that they have made the plan as consistent as possible and they have given some teeth to the enforcement aspect of it as well. He stated that they also provided a basic planting plan and agreed that each site would require site plan review.

Peter Loyola stated that they are seeking approval of this plan since they feel that they have addressed all of the concerns and issues raised.

Herb Koster asked Pam Kenyon where they left off at the last meeting. Pam Kenyon read Don Roessler's motion of approval with conditions. She stated that it was not seconded. Herb Koster asked if a second motion was made. Counsel stated that there was a second motion which states: "Motion by Donald Roessler to allow SD06-05 to continue the application process. Seconded by John Gaddy. Sue Wilson and Henry Caldwell abstained. Sandi Aldrich opposed. All Others in Favor." Counsel stated that this allowed the applicants time to table the application because at the time there was discussion of having alternates for the Board. However, to date no alternates have applied.

John Gaddy and Sandi Aldrich stated that neither would change their decision. Counsel asked if there was an alternate plan that could be suggested or discussion of what they find offensive about the current plan.

John Gaddy stated that even with all efforts that the applicants and their very professional representatives have made, he would still deny the application for the following reasons:

- 1) The tremendous amount of excavation that would be necessary for the driveway to reach the top of this.
- 2) This plan puts the Town in the position, in which a well thought-out and well intentioned plan will not be able to be enforced. He stated that they have had previous projects that have had some sort of enforcement to them and yet the Town lacks the ability to enforce them.
- 3) This is development of an important visual element in the Lake George basin. Although this is private property, he stated that he believes that it could be developed to the maximum density using different building sites. He stated that it would be less of an economic return on the property, but it is not the PB job to assure financial success of the project. He understands the incredible view but he does not feel that this is appropriate development for the overall good of the Town.

Herb Koster asked if John Gaddy believed the engineering that proved that this would not be seen from the lake. John Gaddy replied that he thinks that they might be able to do it. However, the balance between the placement of the homes and the amount of work that needs to be done to get those 2 individual houses up there isn't there. He would be happier seeing them placed lower. He feels that they could even cluster them more around lot 1 and obtain a view of the south basin.

Peter Loyola stated that the driveway and houses are set back from the pinnacle. He stated that he felt that was very well shown when John Gaddy came for the site visit. He stated that there is a great buffer that has grown and continues to grow. With regard to the homes they will be 50-60' lower than the ridge line and in some great locations. With regard to the enforcement activity, Peter Loyola stated it has really never been presented to the Board in the past. He stated that they have a lot of teeth in the plan. The enforcement action would be up the Town. John Gaddy agreed.

Peter Loyola stated that they have gone to every extent to try and address all issues raised by the public and by this Board. He stated that he was surprised to see that John Gaddy is still in disagreement over the plan since he felt that the site visit had gone so well.

John Gaddy stated that he has not made his decision lightly. He has been there several times and gone over the zoning ordinance time and time again. He stated that he goes back to the basic premise of the zoning ordinance for his job. His purpose is "to insure overall conservation, protection and development of unique, scenic, aesthetic and natural resource of the Adirondack Park and to preserve the beauty and character of the Adirondack Park setting to the benefit of the community and to retain the natural vistas of the Adirondacks and Lake George for the benefit of the residents and to the visitors of the community." John Gaddy stated that the applicant had explained that this would be a tremendous input in terms of tax revenue to the Town. However, he feels that when they balance all of these issues he would like to see those two houses lower on the mountain. Although they are well-sited for that area, he does not believe that they should be up there but rather lower by the first house as in a true cluster.

Peter Loyola stated that with the overall vegetation and the site development, they are really only a fraction of the development that would be allowed on a typical site. He stated that they have saved a lot of vegetation. John Gaddy stated that he does not want to be the one who says that he could allow those 2 houses to be there. He stated that it is not a question that the site could be developed. He just would like to see a cluster of the houses lower on the mountain.

Herb Koster stated that the applicant has given the Town enforcement capability. He stated that John Gaddy has been asking for that and the applicant has given them that. John Gaddy stated that unfortunately enforcement is a weak issue in Town. Herb Koster asked why then does he always strive for it. John Gaddy replied that they are giving them a document that could be enforced but he is not sure the Town will be strong to enforce it. Peter Loyola stated that he does not feel that enforcement has been lacking and that as long as it is made a priority it will be enforced.

Mike Hill stated that he wanted to clarify that the \$35,000, which was mentioned as part of the enforcement efforts, can apply to each and every tree or plant that is removed contrary to the plan. He stated that it is not an upper limit, it would be for each violation or item.

## **RESOLUTION**

**Motion by Donald Roessler** to accept SD06-05 application as complete and having met the criteria set forth in the code, grant a conditional approval for construction of the single family dwellings with the following conditions: 1) The applicant will apply for and obtain approval pursuant to Chapter 125 for the overall minor subdivision stormwater compliance. 2) Site Plan Review will be required for each individual lot. 3) The applicant shall provide a written planting program in an effort to maintain a perpetual vegetative screening allowing filtered views to the satisfaction of the PB with John Gaddy as the designee to review it. **Seconded by** Chauncey Mason. Sue Wilson and Henry Caldwell **abstained**. Sandi Aldrich and John Gaddy **opposed**. **No Board Action**.

Don Roessler asked if Sandi Aldrich and John Gaddy would approve the application if the houses were lower. John Gaddy stated that he would consider it. Don Roessler stated that they would still be building the driveway. Sandi Aldrich stated that all of that destruction does not justify 2 houses and she does not feel that it complies with the comprehensive plan. Counsel stated that they need to let that motion rest and move forward.

**4) SPR09-23 BIVONA, GARY & CHARLEEN.** Represented by Jarrett Engineers. 1) As part of subdivision approval set forth by the Planning Board on January 23, 2003 and in accordance with Section 125.13C1 of the stormwater regulations, seek Type II site plan review for 1) a major project to remove more than 15,000 sq. ft. of vegetation on lot 7, 32, 826 sq. ft is proposed; and 2) To relocate driveway on lot 8 approved by the PB on May 19, 2005. Section 171.07, Block 1, Lots 65 & 64 (to be merged), Zone RM1.3. Property Location: 43 Cobblestone Court and being lots 7 & 8 of the Cobblestone Subdivision. Default approval from the WCPB. Subject to SEQ. R.

Tom Jarrett stated that the applicants reside in a house on lot 8 of the subdivision. The impetus of this project is to remove most of the driveway serving that house. The steep section of 20% grade would be removed and put in a new driveway on lot 7. He provided plans for the new driveway. As part of this project the applicants have been thinking about a new a garage with an apartment above so they have combined the projects into one. The new garage would be at the top of the new driveway adjacent to the old driveway just north of the house. The apartment will have 2 bedrooms with the garage below it.

Tom Jarrett stated that the new driveway will be approximately 12% grade and will incorporate stormwater management. The old driveway will be removed and the area will be re-vegetated. That stormwater will be routed via water bars into the existing stormwater basin that are along the existing driveway. As part of this project a new septic system will be installed in an area on lot 7.

Sue Wilson asked if the garage/apt. would be considered a primary residence. Pam Kenyon replied yes. Tom Jarrett replied that they will be merging the 2 lots, that way

they will not need a variance. Pam Kenyon stated her interpretation is that with the merging of the lots they would have the density for the 2 houses.

Herb Koster stated that he does not have any problems with the application and feels that is very well engineered.

John Gaddy asked what the overall height of the structure would be. Tom Jarrett replied that it would be 35' max. Henry Caldwell stated that he likes the stormwater and sediment control plans and would like to see them followed especially given the issues in this area. John Gaddy stated that he likes the design style of the existing house and lighting and asked if the applicants intended on using the same style with this new structure. Tom Jarrett replied yes.

### **RESOLUTION**

**Motion by** John Gaddy to accept application SPR09-23 as complete, and met the criteria set forth in the code, grant final approval for the construction of the residence /garage, major stormwater project, relocation of the driveway on lot 8, and the merger of the parcels. 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.

**5) SPR09-11 DJMD BOLTON NY LLC.** Daniel R. Lewis, Managing Partner. Represented by Peter L. Gluck and Partners, Architects and Jarrett Engineers. Seeks Type II Site Plan Review for 1) a garage greater than 1,500 square feet of floor space, approximately 5,500 is proposed; and 2) a major project to remove more than 15,000 sq. ft. of vegetation, approximately 1 acre of new land disturbance is proposed. Section 156.20, Block 1, Lot 39, Zone RCM1.3. Property Location: 5274 Lake Shore Drive. The WCPB determined no county impact. Subject to SEQR.

Peter Gluck explained that the main project is almost finished. The owner has become more familiar with the property since the project began. He stated that they wish to change the location and the amount of work that had been approved before. Previously a garage building with 3 attached houses was approved. The owner now feels that it would be better to have those guest houses closer to the main house. The garage will remain the same size but the guest houses would be moved to a different location. Therefore the 15,000 sq. ft. to be disturbed is not new space, but rather already approved but just in a different location.

Peter Gluck provided the details of the new plan. He stated that they plan to move the guest houses closer to the main house in the center of the property. They still intend to park the cars up by the garage and use electric vehicles around the site. They also have reduced the amount of guest houses from three to two. The houses would be built in the wooded area on the smallest foundation to minimize the project. He stated that Tom Jarrett can further explain the stormwater or septic concerns for these guest houses.

Peter Gluck stated that although the project is a large project, he is pleased to see how quiet the project is. Sue Wilson and Sandi Aldrich agreed that it is nicer than they thought it was going to be.

Tom Jarrett gave the overview of the stormwater changes for the garage and guest houses. He also explained the waste water systems for the garage and guest houses. Henry Caldwell stated that he is not sure how they are going to build these structures without having a major road. Tom Jarrett stated that the current area is wide enough to allow construction. When construction is complete they will shrink it back down to a pathway.

Peter Gluck stated that the construction of the structures will be simple. They plan to use wood for the exterior. He stated that they will be heavily screened and will not be seen by any neighboring properties.

Chauncey Mason asked how much light would be visible from the garage. Peter Gluck replied that they would probably see a light glow. Chauncey Mason asked if it would be visible from the lake. Peter Gluck replied no because it is a long way from the lake. Sandi Aldrich stated that it might be visible from the road when the leaves are off. Peter Gluck agreed, but when the leaves are off the garage won't be used. He stated that only part that might be used would be the lower section of the garage which has storage and a little maintenance shop, but that area faces downhill.

Sandi Aldrich stated that she appreciates that the applicants have stayed true to the plan of preserving the vegetation. Henry Caldwell asked if the driveway will be paved. Peter Gluck replied no. The conceptual idea is to have a modern Adirondack camp. They are trying to eliminate the big paved area. He stated that this site now has more water retention than before because all of the roofs have 8" of soil and sod.

## **RESOLUTION**

**Motion by** John Gaddy to accept application SPR09-11 as complete, and met the criteria set forth in the code, grant final approval for the site plan and land use for the garage and 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.**

**6) SD05-24 WESTWOOD FOREST WEST.** Rolf Ronning. To discuss additional clearing for a driveway and house on lot 9. Section 139.00, Block 1, Lot 92. Zones RR10 & LC25. Property Location: Westwood Forest Lane.

Rolf Ronning stated that someone told the Planning Office that he had built a driveway and cleared lot 11. He stated that he visited the site with Pam Kenyon and Mitzi Nittmann. When this was originally approved a road was built and there was another 12' driveway that was going to access lot 11 through lot 10 with a T for a turnaround. He had permission to build the beginnings of these driveways which he did. They had a little

bit of trouble with the T intersection. However, there was an old road that continued. He stated that they wanted to sell lot 11 so they walked it and the excavator came in with some fill and replaced some existing culverts. He stated that they got to a certain point and found that the road continues. The road is about 12' wide and has not been used since before he bought it with Keith VanBuskirk when they had it logged. He stated that there is clear evidence of a 10-12' wide road, some of which has not been used in a long time. He stated that since he was not building a new road he excavated the top off, brought in fill and replaced culverts so that he could drive customers to certain points to show a nice building site. He stated that he never gave it any thought because it was basically improving an existing driveway.

Rolf Ronning stated that once they address this issue he would like to discuss the idea of a proposed use for this area. He stated that this area would make a great ski area. He invited all of the PB members to come for a site visit. He stated that there is much less run-off than before since improving the road. He stated that there were 2 places that had been washed out considerably. This road was used to log which they had permits to do approximately 7 years ago. He stated that they provided a cleared area to turn around which triggered someone to think that he was clearing a house site. He stated that since improving this site he was able to drive customers up to the site. One of which is interested in putting in a ski area.

Rolf Ronning stated that Pam Kenyon's position is that he disturbed more than 15,000 sq. ft of surface. However, it was an existing road so he asked permission to come before the PB to address it. He stated that he contacted a lot of people that logged the area when he bought it, who remember the road. Part of the road has not been driven on in 15-20 years but he improved the dirt driveway. Rolf Ronning stated that it may be more than 15,000 sq. ft but feels that it is not an issue because it was already there.

Herb Koster stated that he cleared the top layer, put in new soil and replaced culverts without any stormwater management. Rolf Ronning stated that he thought he was replacing it since there was erosion. He stated that he did this so that the road was passable. He stated that he is not trying to avoid anything and asked if there was something the PB wanted him to do. He stated that there is no question that he brought soil up and put new culverts in. Herb Koster stated that he knows that they need stormwater plans when he does that. Rolf Ronning stated that he thought that if someone's driveway washes out that they would not be required to come before the Board to fix it. Herb Koster stated that he does not need to come before the Board but he does have to bring in a stormwater plan to Pam Kenyon.

Rolf Ronning stated that he thought that the 15,000 sq. ft applied to new surfaces created and not on roads that already existed. Herb Koster stated that they should ask Pam what her interpretation is. Rolf Ronning stated that she has already provided it. He stated that this was not a recent project, it was done in 2006 or 2007. He stated that he has seen people add crushed stone to the driveways and asked if they need a permit to do that. Sue Wilson stated that she thought they would require a permit if they are affecting more than

1,000 sq. ft. Pam Kenyon replied not with repair work. Rolf Ronning stated that he thought he was only doing repair work.

Herb Koster stated that he only needed to go to Pam Kenyon in the first place to ask her what he needed to do to establish this road that hasn't been used in 20 years. Rolf Ronning stated that he has been doing this same thing on other properties for years and years without asking for permission. Herb Koster stated that he knows that. Rolf Ronning stated that this is the first time anyone has ever called him on it.

Herb Koster stated that he is not sure what this Board can do. Pam Kenyon stated that the PB needs to decide if this is a violation before they proceed. Counsel stated that if the PB is in agreement than it will go to the TB. Pam Kenyon stated that she believes this is a violation. When Rolf Ronning took her to the end and he showed her the logging road, it certainly could not be driven on.

Rolf Ronning stated that he admits to doing what he did. However he did not do it intentionally. He stated that he did want to propose the idea of a ski slope, but if they consider this a violation then he cannot even bring up the idea. Rolf Ronning stated that he is willing to remediate the current situation and to be sure to ask permission for similar projects in the future on this or any other site.

Rolf Ronning stated that he would cooperate. He stated that if there are public in attendance that would like to dispute his case, than he would like to schedule a public hearing. He has many individuals that will testify that they have driven up there in the 50's, 60's and 70's. Sue Wilson asked what about the 80's and 90's. Rolf Ronning replied that probably not but the logging trucks have. He stated that he is willing to meet with the engineer and do whatever is within reason to fix the road.

Sue Wilson asked if more than 15,000 sq. ft was disturbed. Pam Kenyon replied that she did not measure exactly to determine whether it was a minor or major, but regardless it needs to be decided whether or not this is considered a violation.

Herb Koster stated that the 15,000 sq. ft should be established. Counsel stated that even if it is less than 15,000 sq. ft. Pam can still make this a major based on the circumstances. Herb Koster stated that based on the pictures provided he finds that there is a violation; however, he feels that it is minor. He feels that it is a procedural thing and should not go before the TB. Counsel stated that they will need to come up with a method for remedy. Herb Koster stated that he would need to get an engineer and provide a stormwater plan for review. Rolf Ronning asked if they would rather have him use Tom Nace since he has to pay for his own as well as Tom Nace's services. Herb Koster replied no because there is a conflict of interest. Counsel agreed.

Rolf Ronning asked if his engineer could come in and address the issue of stormwater with the assumption that it is a driveway and will continue to be a driveway. Counsel stated that the engineer would need to get them a stormwater plan for review before they can proceed with that assumption.

Rolf Ronning asked if he could proceed with proposing his idea for the ski area. Pam Kenyon stated that she objected to hearing anything further about this proposed use given the possible violation. Pam Kenyon read the following regarding pre-existing violations: "In the case of any existing or remaining violation(s) relative to zoning, construction, sanitation or subdivision regulations, no permits or additional reviews will be granted to any applicant until all violations by the applicant are corrected or purged."

Rolf Ronning stated that he has not been cited with a letter of violation and he asked Pam not to issue one so that he could explain this situation to the PB. He feels that this issue could be interpreted in many ways. He has not been formally notified of violation and has openly agreed that he is willing to cooperate. Herb Koster stated that he is also not on the agenda to discuss an application for a ski slope.

Rolf Ronning stated that he is only asking for a few minutes. He stated that he does not want to spend any money on this project without getting a feel for what the PB thinks if this project were to be done correctly. Herb Koster stated that he has no idea at this point. Rolf Ronning asked how they would suggest he proceed with this type of project. Herb Koster stated that he would need to submit an application. Rolf Ronning stated that in order to properly design something like this would cost \$50,000. Herb Koster stated that he would not have to fully design it right now. He stated that the PB has been willing to work applicants on stormwater.

Rolf Ronning asked if he is working to remedy the driveway situation would he be permitted to submit an application for sketch plan review for the ski area. Herb Koster stated that they have to determine if there is a violation. If so, then no he will not be able to submit an application. Counsel encouraged Rolf Ronning to not make this any more complex. He suggested that he follow the protocol that they are taking with regard to the violation. He stated that once the violation has been cleared up then he will be able to submit an application to discuss this proposal.

The PB determined that the additional clearing for SD05-24 was considered a violation.

#### **7) John Gaddy-discussion of the condition of downward facing shielded lighting.**

John Gaddy stated that he wanted to clarify his concerns with the PB about the compliance that they have with the condition of downward facing shielded lights. He stated that the first time they added this condition was in 2001 with the Lake Winds house. He stated that 1-2 years ago he asked if everyone understood the condition of the downward facing shielded lights and everyone agreed that they had.

John Gaddy stated that he provided a sheet that could be provided to applicants that were given this condition. As time has gone on, in order not to promote one particular brand over another, he created a packet which included the industry standard of this IDA seal of approval and then listed a number of different manufacturers and the types of lights that would meet these standards.

John Gaddy stated that he is trying to get some compliance with this condition. He stated that he has had some emails from Mr. Peterson going back and forth about how he has retro-fitted lights that has taken him 2 years to get.

John Gaddy stated that he feels protection of the night sky is a natural asset that Bolton has. He feels that they should try to protect it. He stated that there are a number of communities that are trying to push the quality of the night sky as being a tourist asset. There is also something from the AMA discussing light and human health.

John Gaddy stated that this concept is a simple enough thing but he is not sure why there are some differences on this. He stated that Pam Kenyon provided some fixtures which are very nice but do not meet the standard of downward facing and shielded. He stated that Bluebird Cottages and the Michaels Group finally got the lighting right and he feels that it has really changed the quality of the area. He stated that the Town of Bolton has also taken the initiative to look at the lights along Sagamore Road. He stated that there really is not much of a difference in expense for fixtures that are pretty commonly available especially when established from the beginning.

John Gaddy stated that Mr. Peterson has finally gotten around to coming into compliance. However, it is 2 years after approval and he wonders if this was too much of a burden on the applicants.

Herb Koster stated that the first light seemed to be shielded from the sky. John Gaddy stated that it is not shielded from the neighbors. Herb Koster stated that he feels that they are getting a little too personal and they are getting involved in people's personal preferences and choices. He stated that he feels that it is downward shielded lighting which he is all for. However, he feels that John Gaddy is taking this a little too far.

John Gaddy stated that if they look at the fact that they have 2,500 more houses able to be built in Bolton and neighbors that come up who have been dealing with a lot of light he feels that it is a reasonable condition. He asked if the condition is clear or unclear. Herb Koster stated that if he were to use the lighting that John Gaddy is proposing, he would need at least three lights just to see the front steps to his house. He stated that he is concerned that this could be a safety issue. John Gaddy stated that if it is done right it would be fine. Herb Koster stated that he is getting too personal and it needs to stop at some point.

Don Roessler stated that in certain cases he can see what John Gaddy is trying to do. However they have a safety factor that they have to be worried about especially when it comes to steps or parking areas. He stated even with private residences they have to be thinking about that. He stated that if someone gets hurt and it could come back to them as a liability issue as well. Henry Caldwell stated that Northward Ho sets a great example of low light output. Don Roessler agreed but stated that he gets a lot of complaints about the lack of light especially down by the lake. John Gaddy stated that

there are designs available that make it safe and illuminate the areas but don't throw light all over the place.

John Gaddy requested that the PB look at the materials that he has provided and discuss what might be objectionable. Herb Koster stated that he does not want it to get to this point. He feels that they put the condition of downward facing and shielded and that is all that it should be, otherwise they are getting too personal.

The meeting was adjourned at 8:52 pm.