

**Town of Bolton
PLANNING BOARD
RESOLUTIONS
Thursday September 18, 2014
6:00 p.m.**

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

Present- Herb Koster, Henry Caldwell, Sandi Aldrich, Kirk VanAuken, Gena Lindyberg, John Gaddy, Ann Marie Somma, and Counsel Michael Muller.

Absent: John Cushing and Zoning Administrator, Pamela Kenyon

The meeting was called to order at 6:04 pm.

Herb Koster asked if there were any changes or corrections to the August 21, 2014 minutes.

RESOLUTION:

Motion by Sandi Aldrich to accept the August 21, 2014 minutes as presented. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

REGULAR MEETING

1. **SD14-01 OBERER, ERNEST.** Represented by Peter Loyola. Seeks to merge those parcels designated as Section 171.00, Block 1, Lots 6 & 15.2 then subdivide into 3 lots. Zone LC25. Property Location: Edgecomb Pond Road. Minor Subdivision. Sketch Plan Review. Subject to SEQR. A major stormwater project will also be required but has not yet been applied for. This item was last heard August 2014. **The applicant is requesting that the public hearing be re-scheduled to the November meeting.**

John Gaddy asked if the additional information had been submitted. It was determined that it had not as of yet. Atty. Muller stated that the Board could make this part of the resolution.

RESOLUTION:

Motion by John Gaddy to reschedule the public hearing to be held at the November Planning Board meeting, as long as all the previously requested information is submitted on time to the Zoning Office. **Seconded by;** Gena Lindyberg. Henry Caldwell recused himself. **All others in Favor. Motion Carried.**

2. **SPR14-15 F.R. SMITH & SONS.** Represented by Chris Gabriels and Jarrett Engineers. Seek Type II Site Plan Review for 1) Commercial boat storage not visible from the public right-of-way; and 2) a major stormwater project involving more than 15,000 square feet of land disturbance. 70,851 square feet is proposed. Section 171.00, Block 1, Lot 10, Zones **RR5** and LC45. Property Location: 18 Edgecomb Pond Road. Subject to SEQR, LGPC, WCPS, DEC and APA review. *Notes: See SPR87-08 approved by the PB on*

4/30/87 for commercial boat storage. To be heard only if a successful variance is granted. See V14-26 associated with this project.

This item has been tabled at the applicant's request

3. **SPR12-03 ADORNATO, MICHAEL & CELESTE.** Represented by Hutchins Engineering. To demolish and rebuilt single family dwelling, seek Type II Site Plan Review for a major stormwater project to remove more than 15,000 square feet of vegetation. 24,800 square feet is proposed. Section 213.05, Block 1, Lot 10, Zone RM1.3. Property Location: 4108 Lake Shore Drive. Subject to WCPS review. Subject to SEQR. **At the Chairman's request, revisions to the stormwater controls approved by the Planning Board on March 22, 2012 are to be reviewed by the Planning Board.** *This item was tabled at the August meeting pending additional information.*

RESOLUTION:

Motion by Sandi Aldrich to delay SPR12-03 until the end of the meeting. Seconded by Kirk VanAuken. All in Favor. Motion Carried.

4. **SPR14-21 LARKIN, RICHARD.** Represented by Leonard Rosa. In accordance with Section 200.47G2, seeks Type II Site Plan Review to allow transient mobile homes to be occupied outside a licensed mobile home court for more than 48 hours. Type I Site Plan Review is required for a land use within ¼ mile of the Schroon River. Section 184.02, Block 2, Lot 6.1, Zone RR5. Property Location: 863 East Schroon River Road. Subject to WCPS and APA review. See V14-35 associated with this project allowing transient mobile homes to be occupied outside a licensed mobile home court for more than 10 days. The parcel is to be used intermittently thru the camping season. To be heard only if a successful variance is granted. Section: 184.04, Block

Richard Larkin and Leonard Rosa presented the following;

- Mr. Rosa, his tenant has 7 children and 8 grandchildren.
- Being a small home they would like to use the camper for his family to enjoy the property.
- It is a self-contained camper.
- They are members of a park down the road where they can empty the septic and fill the RV with water.
- He can recharge the batteries with his generator when needed.
- They are looking to utilize the camper not as an apartment but as a place to sleep for when family visits.
- There would be no impact to the property.
- They have been members of the campground up the road for many years. Unfortunately this campground has gone from seasonal to a membership campground which means the camper must be rotated out every 2 weeks.
- This is a hardship for Mr. Rosa as his work schedule is a 6 days a week swing shift.
- The second camper is intermittent.

- His children visit occasionally throughout the summer.
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Herb Koster asked about the septic. Mr. Rosa explained that it is self-contained RV and the septic is emptied at the RV park down the road.

Herb Koster asked if the RV was on the property for a period of time. Mr. Rosa explained that the RV was stored on the property all year long. They would be using it during the warmer months of the year periodically.

Herb Koster inquired if this application would have to be renewed every year. Atty. Muller stated that according to the variance granted, it was renewable every year. He said the applicant has asked for the use of this camper for an extended period of time past the allowed 10 days. He explained that the applicant had been granted a variance from the ZBA allowing the extended amount of time to be revisited by the Planning Board after one year's time.

John Gaddy asked about the disposal of the septic from the RV given Mr. Rosa's difficulty in moving the camper with his busy schedule. Mr. Rosa again explained that it is a self-contained unit and none of the septic would be disposed on the property. He said it is very easy to move so he hooks up on a day off and takes it to the RV Park.

Atty. Muller explained the code to the Board for a transient mobile home and the fact that it is only allowed for 10 days and this is why they are here before the Board.

Gena Lindyberg asked if the family is using the facilities in the house and if so if it is sized to allow this. Mr. Larkin replied that it is a leach field and it is adequate. He stated that at some point he will have to change it over in the future. Gena Lindyberg asked what the highest amount of people that would be at the house at one time. He stated 5 plus 2 or 3 family members when they visit. She asked if the rest of the family was there all at one time. Mr. Rosa replied not generally unless they were having a birthday party.

John Gaddy asked where the cesspool was located in relation to where the 2 campers were parked. Mr. Larkin replied that it was up near the driveway. John asked if it served both RV's as well as the house. Mr. Larking again stated that the campers were both self-contained and did not use the septic on the property.

Kirk VanAuken asked if the intent was to use the campers throughout the season. Mr. Rosa stated yes, periodically throughout the season as an adequate place for them to stay. He stated the second camper was for a friend that brings it in and out throughout the season. Gena Lindyberg asked if the second camper would be coming and going. Mr. Rosa replied yes.

Henry Caldwell asked if they would be plowing it out to utilize it in the winter. Mr. Rosa replied that at the end of the season they winterized it.

Gena Lindyberg asked what months of the year they would be using the camper. Mr. Rosa replied between May and October. Gena Lindyberg asked if the second camper would be stored on the property during the winter. Mr. Rosa replied no.

Mr. Larkin stated he was under the impression that this was a long term grant after receiving the variance. He stated he understood why they had to come back after a year to review this but he did not believe he was supposed to keep coming back year after year. Atty. Muller stated the variance granted runs with the land, but it is up to the Planning Board to give consideration to the site plan proposal and the Board can either approve it as applied for, deny it or approve it with conditions. He stated that one of the conditions that he believes they are discussing is that having received the variance that runs with the land the Board may give consideration to an approval to allow this to happen for a year and revisit to see how it has worked out.

Kirk VanAuken asked if they have done this in the past and if they reviewed it on a yearly basis. Herb Koster replied yes.

Sandi Aldrich asked if it had been presented to the A.P.A. yet. Mr. Larkin stated he was advised that it had to go through this process first.

No County Impact

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton PB as lead agency for SPR14-21. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR14-21 as complete; waive a public hearing, and having met the criteria set forth in the code, grant final approval of the project as presented with the following condition: 1) The applicant must come back before the Board in one year's time for review. 2) The RV is to be used seasonally from May through October. 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.**

5. **SPR14-22 DRAKE, THOMAS.** Represented by D.L. Dickinson Associates. As a condition of approval set forth by the Planning Board on Thursday June 19, 2003 when approving SD02-25, seeks Type II Site Plan Review for the construction of a proposed single family dwelling with attached garage. The condition reads as follows: There will be no additional clearing, other than the common driveway for Lots 6, 7 & 8 without site plan review for each lot. Type II Site Plan Review is also sought for a major stormwater project involving more than 15,000 square feet of land disturbance. 41,400 square feet is proposed. Section 171.14, Block 1, Lot 5.5, Zone RL3. Property Location: Lake Ridge subdivision. Subject to SEQR.

Devin Dickinson presented the following;

- The lot is undeveloped at this time with the exception of the upper portion of the driveway which was installed by the subdivision developer.

- The Town Engineer has signed off on the plans.

John Gaddy asked about the clearing for the lots. Devin Dickinson stated that the clearing that had been done already was done selectively by the developer years ago prior to the purchase of the lot. Herb Koster stated that selective is subjective. John Gaddy stated this was obvious.

Chris Navitsky stated that he sent a letter to Pam and he had a couple of points he wanted to make. First the proposed septic system did not meet the Town's separation. He showed the Board what he thought was an approved plan for the lot next to it. He stated that there were numerous areas where it does not meet the Town Code and the plans depict a 25' setback when the code calls for a 100' setback.

John Gaddy asked if the neighbor's placement of the well affects the Drake's. Chris Navitsky stated the Board had approved the neighbor's plans 5 years ago.

Herb Koster asked Mr. Dickinson if he had located the neighboring lots well. He replied that it was not in at this time. He stated that a portion of the driveways were put in with stormwater by the developer. He stated that the DEC code for stormwater separation is 25'.

Herb Koster said that this was under the jurisdiction of the Zoning Administrator and Code Enforcement. Atty. Muller stated that it must require compliance with the only deviation coming from the Town Board acting as the Local Board of Health.

Gena Lindyberg asked if the other lot was approved for the placement of the well. Chris Navitsky replied that it had.

Herb Koster said that the well has to be 100' from any septic system, and a septic system has to be 100' from a well when they are put in. He stated that there is adequate room on both lots to move things around but a well is not an emphatic located object, but the septic usually is. John Gaddy asked if the Board would cause civil altercation if they approve this plan and the neighbor has a pre-approved plan for his non-existent well. He asked if it was a case of whoever went in the ground first. Herb Koster stated the lots were big enough to move them. Atty. Muller replied that the applicant had to understand that the septic system must have a 100' separation from the well without relief from the town code.

Chris Navitsky stated that the problem is that all the devices have setbacks and there is limited width and they would be pushing the development further up or down the hill. He did not understand why this had not been looked at by the Town Engineer. Herb Koster asked if the lots were big enough to get 100' separation. Chris Navitsky replied that they were but then they would have to clear another 100' to get the well and the whole hillside would be gone. He stated that lot 4 is under construction and now they would have to change their well after receiving approvals and he does not believe that is proper. He stated lot 5 has not received approvals and they should change. He thinks that this should not have been missed by the Town's consultants and the clearing just keeps expanding and expanding.

John Gaddy stated that he was amazed by the extent of the clearing that had been done. Devin Dickinson stated that he agreed with him. John Gaddy stated that this was done prior to the project that is before them now.

Devin Dickinson stated that he did not want to cause any hardship with lot 4, but he was a little hesitant in moving the septic all over the property. John Gaddy stated that he understands there is plenty of room on lot 4 to move there well and he did not want to compromise Mr. Dickinson's design but he was concerned.

Herb Koster stated that it was the Zoning Administrators job to make sure that the septic is 100' from the well, and it was not fair to put the burden on the Board. Chris Navitsky stated that they should not approve something that does not meet the setbacks from an approved plan. He stated that the Board also had conditions regarding the clearing requiring the submission of photos in the granted approval for filtered clearing in 2010. Herb Koster stated that again, this is up to the Zoning Office and enforcement to check on.

Ann Marie Somma asked if the Planning Board had approved the site plan for lot 4 with a specific location for the well. Mitzi Nittmann replied yes. Ann Marie Somma stated that if the proposed septic system for lot 5 does not meet the 100' setback from the previously approved well on lot 4, she does not understand how the Board could approve it. Herb Koster stated that she had a valid point.

Herb Koster asked if it was the Board's job to ask the applicant to move the septic. Atty. Muller stated that the Board's job was to make sure that if approved the plan conforms in all respects to all code requirements, and it appears that the separation is lacking from the adjacent well. He stated it was the job of the Zoning Administrator to make sure they had the separation.

Gena Lindyberg stated that the owners of lot 4 already had approvals and lot 5 should be the ones that need to comply.

Herb Koster stated his concern was if Lot 5 moves his septic and makes it compliant and then lot 4 comes in and moves their well to some other spot. He stated the Town does not give approvals for wells and the property owner can put it anywhere they would like as long as it meets the setbacks and he is concerns with civil litigation between neighbors. Atty. Muller stated that it is up to the Board to let the applicant know that they must comply with the septic well separation. He stated that the Board could not give them any relief and should not let the applicant think that they have approval to put it where it was drawn.

John Gaddy stated he had concerns with all the clearing. Atty. Muller stated that was a Code Enforcement issue. The Code Enforcement Officer stated that the lot in question was cleared before the lot was ever sold.

John Gaddy asked about the different opinions the Board receives from all the different engineers. Atty. Muller stated the Board must rely on the Town Engineer and it is adequate and

must withstand criticism. He stated that if somehow the system failed or they went to litigation they would be relying on Mr. Nace's opinion.

Devin Dickinson asked if the Board could just make it a condition of approval for him to reconfigure the site plan to meet the 100' separation, with the approval of the Zoning Administrator. John Gaddy stated that he would normally be concerned with additional clearing, but since there was nothing left up there he would not have a problem with it. Herb Koster asked if they put this condition on the approval, would this make it ok. Atty. Muller replied yes.

Ann Marie Somma asked about the stormwater runoff for the driveway. Herb Koster explained that there are swales along the driveway. Mr. Dickinson explained that the driveway had already been installed from a previous approval. He stated that there had been no indication of erosion at this time.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR14-22. **Seconded by** Gena Lindyberg. Henry Caldwell recused himself. **All others in Favor. Motion Carried.**

Ruebin Caldwell stated that they were planning on using a cedar shake shingle to camouflage it with color and tone into the surrounding area. John Gaddy stated that he would like it to be the darker colors.

Motion by John Gaddy to accept SPR14-22 as complete, waive a public hearing, and having met the criteria set forth in the code, grant final approval of the project as presented for the house construction with the following conditions: 1) They are to use downward shielded dark sky compliant lighting. 2) The housing is to be dark colored earth tones. 3) The applicant agrees to reconfigure the septic system to meet the required separations between the neighboring well on lot 4 and the proposed septic. 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. Henry Caldwell recused himself. **All others in Favor. Motion Carried.**

Atty. Muller read the SEQRA short form Part I questions 1-20 and Part II questions 1-11 into the record.

Motion by John Gaddy to accept SPR14-22 as complete; waive a public hearing, and having met the criteria set forth in the code, grant final approval of the project as presented for the stormwater application. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Kirk VanAuken. Henry Caldwell recused himself. **All others in Favor. Motion Carried.**

John Gaddy asked if they could have a review on lot 4 and if the subdivision developer was supposed to supply photos and what the conditions are up there. Mitzi Nittmann replied that it was cleared some time ago. John Gaddy agreed but said if they are going through this right now

with another applicant and if the developers were not made to comply in the past how would they expect to have compliance going forth.

6. **JUMBO REALTY LLC. (CAMP WALDEN).** Represented by Peter Loyola of CLA Site. As a condition of approval set forth by the Planning Board on December 20, 2012 when approving SPR12-28 for a staff housing building and boys cabin B2 ½, seeks to discuss a master planting plan. The condition reads as follows: A master planting plan will be provided by September 2014. Section 185.00, Block 1, Lot 32, Zones RCL3, LC25 and LC45. Property Location: 429 Trout Lake Road known as Camp Walden.

Scott Miller of CLA site presented the following:

- He detailed the overall planting plan to the Board.
- He submitted photos of the areas that had already been planted.
- He stated the master plan as requested had been put together for the Board.

Kirk VanAuken asked if the water front plantings had been previously approved for size and caliper. Herb Koster replied no, they had asked for a planting plan. Mr. Miller stated it had been completed just before the summer session. He stated that it had been sodded and planted. He stated they had brought in boulders for sitting.

Kirk VanAuken asked if at the water front it was smaller shrub type plants, because the front of lake was wide open. Mr. Miller stated this was true, and they had not removed any of the larger vegetation. He stated they had issues of visibility from the camp. Kirk VanAuken asked what the height of the shrubs. Mr. Miller replied that they would go up to 6' to 10'

John Gaddy asked about the 1 tree in front of each of the cabins and suggested a more aggressive planting schedule in front of the cabins. He stated that he was sure the campers were not that concerned with the lake view, but the neighbors were concerned with the view of the camps from the lake. The Board agreed. Mr. Miller stated they could definitely discuss this with Mr. Bernstein.

John Gaddy asked if the total plantings for the year were the 4 Spruce, 2 Cyprus, 2 Vybertim and 1 Dogwood. Mr. Miller replied that they were done this spring to screen the water tanks and the rest would be done this coming planting season.

Sandi Aldrich asked about the seeding area near the road and if it would be screened by the plantings. Mr. Miller stated that it would with large trees.

John Gaddy stated his concern with the lighting plan also. He stated that he has not seen any change at the water front.

Gena Lindyberg asked if the current director housing was to become staff housing, where the director would be residing. Mr. Miller replied he would be located in the new lodge building.

Herb Koster inquired about completion of the planting plan. Mr. Miller detailed it to the Board.

Herb Koster asked that Mr. Miller relay to the applicant the Board's wish for more screening. He stated they understand the safety issues but they need more screening. Kirk VanAuken stated it looks like one big piece of green property all the way up to the road from the lake right now.

RESOLUTION:

Motion by Kirk VanAuken to accept the plan as presented with the following condition: 1) The applicant must implement the plan as presented with the addition of more screening and come back before the Board in one year's time for review. 2) The downward shielded lighting is to be revisited and implemented. Ann Marie Somma recused herself. **Seconded by**, Sandi Aldrich. **All others in Favor. Motion Carried.**

7. **SPR12-03 ADORNATO, MICHAEL & CELESTE.** Represented by Hutchins Engineering. To demolish and rebuilt single family dwelling, seek Type II Site Plan Review for a major stormwater project to remove more than 15,000 square feet of vegetation. 24,800 square feet is proposed. Section 213.05, Block 1, Lot 10, Zone RM1.3. Property Location: 4108 Lake Shore Drive. Subject to WCPS review. Subject to SEQ. **At the Chairman's request, revisions to the stormwater controls approved by the Planning Board on March 22, 2012 are to be reviewed by the Planning Board.** *This item was tabled at the August meeting pending additional information.*

Herb Koster asked if they Mr. Adornato had met with his neighbor and come to an agreement. Mr. Adornato replied that they had met with the Daniels twice to review how to blend in the landscape and the northern slope with Mr. Daniels property. He stated that Mr. Daniels main concern was that it would look natural and not prefabricated. He explained that had been their intention all along as well. He stated one of Mr. Daniels concerns was the crushed stone on the lower slope and he said they were proposing to use a grassy matting to cover it. He hopes that would satisfy the Daniels and the Board.

Herb Koster stated that the main concern was with the stormwater management and that Mr. Daniels rain garden did not get filled in again.

Mr. Adornato stated his frustration with the way the builder had dealt with the stormwater. He stated that unbeknownst to them, the builder had put his garage elevation in at 5' higher than it was depicted on the plans. He explained that the temporary stormwater controls were not followed and a trench was not filled in as it should have been. He stated that he was under the impression that now the main concern was Mr. Daniels, as the new stormwater was approved by the Town Engineer. He stated they feel they were victims due to the cavalier attitude of his builder and they wanted it to be corrected.

Henry Caldwell stated that it appeared that the house is higher than it should be too. Mr. Adornato stated that Mitzi Nittmann was going to double check it but he believes the house is at the correct elevation. Mr. Adornato stated that Mitzi Nittmann was going to double check it but he believes the house is at the correct elevation. Mr. Adornato stated that Mitzi Nittmann was going to double check it but he believes the height of the house is at the correct elevation. The

garage floor is correct but the footer is not at the depth it should be. Henry Caldwell stated it has changed the grading on the lake side by 4'. He asked how they would be getting the fill in there. Mr. Adornato stated the excavator said a lot of it had to be done by hand. Henry asked when the excavator could start work on this. Mr. Adornato stated he had been told the last week of September or first week of October and it would take him one week to do the site work and another week to do the septic. He stated they would like to do it as soon as possible. He stated that the gutters on the house have made a big difference. He explained the open trench ran right into Mr. Daniels rain garden. He stated that the footer should have been caught by the Town, but the builder never called the Zoning Office for a sign off.

Henry Caldwell asked if he had talked to the other neighbors.

Jack Daniels stated he agreed with Mr. Adornato and stated he is confident that they will make it right. He stated his main concern is that the contractors fulfill their obligation to him and hopes the town enforces this and requires them do the job properly.

Mitzi Nittmann asked if the Town needed a plan. Herb Koster stated they would need one for the Town Engineer to look at and approve. Mr. Adornato agreed. Henry Caldwell stated that it was critical that this was done in a timely fashion.

Ann Marie Somma asked if the damage to the neighbor had been remediated yet. Mr. Adornato replied that he did not believe it had and he would make sure the contractor was aware of his obligation to fix this.

Motion by John Gaddy to approve amendments to SPR12-03 with the following conditions; 1) T
The proposed stormwater remedies must be submitted to the Town Engineer for approval and then be submitted to the Planning Board Chairman for approval. 2) All remediation to Mr. Daniels rain gardens must be done at no cost to him and meet his approval. **Seconded by, Ann Marie Somma. All in Favor. Motion Carried.**

Mr. Daniels asked that his landscaper who designed and constructed his rain gardens be the one to restore it back to its previous condition. Mr. Adornato agreed.

The meeting was adjourned at 8:00pm.

Minutes respectfully submitted by Kate Persons.