

TB – Minutes May 17, 2006

STATE OF NEW YORK  
COUNTY OF WARREN  
TOWN OF BOLTON

Present: Supervisor Alexander G. Gabriels III, Councilmen Scott Andersen, Robert MacEwan, Owen Maranville, Jason Saris, Town Clerk Kathleen Simmes

Supervisor Gabriels called the meeting to order at 7:00 p.m. There were no reports or correspondence to be read.

Rosamund Butler septic variance

Councilman Saris moved seconded by Councilman Andersen to adjourn as the Town Board and convene as the Board of Health. All Favorable. Motion Carried.

Chris Gabriels is representing the Butler family. They have the center lot on Crown Island. There is no basement for the house. It was built on piers. The code says the septic tank needs to be 10' from the house. 8' is what is being requested. They were granted a variance for construction of a guesthouse with a single bedroom, with a pre existing septic tank and field system. They are requesting a variance for the tank itself, which will be two feet, closer to the residence than is allowed.

Supervisor Gabriels: The contractor is my brother. I don't feel I need to recuse myself since I have no financial affiliation with this project, unless the board sees a problem.

Councilman Andersen: Carl Schoder designed the system, has it been reviewed by our Engineer?

Pam Kenyon (Zoning Administrator): our Engineer reviews all septic variances. It does not come before your board unless he has okayed it.

Supervisor Gabriels: In previous variances, we have required periodic pump outs on a three to five year basis. Will your client have a problem with that?

Chris Gabriels: This is a seasonal residence and they will probably request a longer duration.

Supervisor Gabriels: Will they agree to a period of time that both Engineers can agree on?

Chris Gabriels: Yes, they can probably agree to that. I am asking you to be respectful of the additional costs that the homeowner will incur by being on an island.

RESOLUTION#104

Councilman Saris moved seconded by Councilman Andersen to grant a septic variance for Rosamund Butler property located on Crown Island, Tax Map. #171.12-1-4. 10' is required between the septic tank and the foundation. 8' is proposed.

This variance was approved upon condition that the applicant provide a signed deed covenant to the satisfaction of town legal counsel, and thereafter record same in the Warren County Clerk's office specifying that the current owner of the premises and all successors in interest "shall be required to pump out the septic system every \_\_\_ years.

(The time period to be determined by their Engineer and approved by our Engineer.)

All Favorable. Motion Carried.

Councilman Saris moved seconded by Councilman Maranville to adjourn as the Board of Health and reconvene as the Town Board. All Favorable. Motion Carried.

Supervisor Gabriels opened the public hearing for comments on the Temporary Banner Ordinance as modified at our May 2nd town board meeting. Additional comments have been received. Warren County Planning Board has approved the Ordinance. They suggest the length of time be expanded for seasonal periods to allow for yearly renewals, and to adjust the size limit as long as it meets Section 4A under the General Provisions and not to be an obstruction.

The question of why an ordinance and not a zoning code amendment was asked. In proceeding in this direction, it can be expedited and handled administratively. It does not have to go before the ZBA for site

plan review.

Supervisor Gabriels read other examples that pertain to this ordinance.

Can the girl scouts put up a banner? Yes they can. \$10 and an application. They are fund raising.

Can the school put up a home coming banner? Yes, no charge, no regulation.

Can a church put up a banner promoting a craft fair?

Yes, \$10. It is a not for profit fund raising event.

Welcome to Americade banner. \$10

God loves people who live in Bolton Landing. No charge

Green Mountain coffee served here. \$10

Personal banners on houses, flags, inflated pumpkins, Christmas trees, etc. Not regulated.

Why a 45-day waiting period between banners being put up. That is a Town Board recommendation.

Pam Kenyon: There are no guidelines on the application asking where the location, size and wording are on the banners. Concerning the 45-day lapse, if someone wants to put up a banner in June, they are looking at the middle of August before they put up another one.

Councilman Andersen: That was intentional.

Councilman Saris: The ZBA determined that banners are signs and because you live in a seasonal community you could get around the sign ordinance by once a year putting a sign up for the whole year. That defeats the purpose of making other people go through the site plan review process because the only need for it is during the season. Essentially we would have no sign regulations again. Everything could become a banner and be seasonal and completely avoid site plan review.

Pam Kenyon: Banners larger than 24 square feet and want to be kept there longer than they are supposed to, would site plan review be requested as with advertising signs that are greater than four square feet.

Councilman Andersen: Yes.

Pam Kenyon: In speaking to Counsel and Zandy, I thought it was going to be a requirement that they could apply for an area variance.

Councilman Saris: I don't think so, because this isn't part of our zoning regulations. It is not an amendment to our zoning ordinance. I don't think you need a variance, you need site plan review.

Mr. Weisenfeld: It is my understanding that anything under the four square feet would be exempt from the regulation for a permit and fee system.

Councilman Saris: It is part of our sign ordinance, if less than 4 sq. feet it doesn't require site plan review.

Mr. Weisenfeld: Would it require a permit to put up a banner? It's not clear. It could be added as another permitted activity under subsection 4E, which describes the types of temporary permitted banners, allowed that would be pursuant to the permitted fee process and it could be clarified right in that subsection. So anything in excess of 24 sq. feet might be denied if someone were willing to pay a fee to apply for a permit. So you might want to say, "allowed subject to permit fee requirements and to exempt anything under 4 sq. feet specifically. Under excluded activities, events that are open to the public without an admission fee (like craft shows) could be considered commercial in that goods are offered for sale. There might be other activities that are open to the public without an admission fee that you may or may not want to include within the reach of this ordinance.

Anyone who puts up a banner within the purview of this ordinance without first applying or obtaining a permit is liable for a fine. You might want to make it a fine upon failure to remove the sign instead of an automatic fine.

Councilman Saris: We might have Lisa Nagle think about of these things when the ordinance is being redone.

Pam Kenyon: I understand this is all subject to change when we redo our sign ordinance.

Willie Bea McDonald: Perhaps if you put in up in the a.m. and take it down in the p.m. perhaps it won't need a permit. Americade is not advertising a business. It's for the good of the Town. You would think there could be a way to put those banners up for a week and take them down the day after the event. You said personal property doesn't matter so you could put a banner up for any size and any length of time, talking about anything.

Supervisor Gabriels: There is a fine line between everyone's constitutional right, freedom of expression

and commercial speech. That is what we are trying to do.

Ike Wolgin: How this got started, in absence of a specific sign regulation in the Town of Bolton, the Town referred us to the Lake George Park Commission sign ordinance, which seemed fairly comprehensive and engulfed all of the eventualities, including the ZBA determining that banners are signs. You have a regulation that covers what signs are or are not banners. You need to come in front of the Town and get approval for it. It's not that the Town doesn't want signs, just review of them. You can't get every eventuality into this, but you shouldn't try and craft it for everything. If you can live with the LGPC regulations, Pam has something she can enforce and look to now, until the ordinance is rewritten.

Supervisor Gabriels: I don't know how we can take anything out or put in the ordinance without Counsel here.

Councilman Maranville: I am pleased that we are addressing this issue. The Town needs this ordinance in order to preserve the visual environment and balance business and commercial signage in the Town of Bolton. I am not aware of any numerous concerns pertaining to banners in our community. That being said, this is an issue that must be addressed for the benefit of our community for the future. The ordinance we have here looking at allows us to set standards for our Community. I believe there are specific guidelines that are not in this proposal that could strengthen it and allow a certain balance between the needs of our Town and with our very important business community. I would like to propose the following amendments to Ordinance #45

1. Businesses should be allowed 1 banner per year that does not exceed 16 square feet and no need to apply for a permit or go through site plan review or pay any type of fee.

2. Any banner between 16 square feet and 32 square feet will be considered a special permit banner and needs to have a site plan review apply for a permit and pay a fee. This temporary banner/sign will be allowed for 2 weeks maximum.

3. Town wide and regional events sanctioned by the Town Board will be allowed to have their banner/sign up for a maximum of 2 weeks.

4. No business can have more than 2 banners up at one time.

5. Businesses will be allowed a maximum of 3 special permit banners per calendar year pending site plan review.

6. Any banner displayed in town may only be one sided.

I went to local businesses in Town and got feed back from them. They didn't feel that this ordinance would treat them fairly. I have to speak up for them. The above is the outcome of my discussions with business owners.

Councilman Saris: How does the ordinance treat them unfairly?

Councilman Maranville: There are people in Town who hang up banners every day.

Councilman Saris: I don't think that changes will address that. The problem here is that the ZBA already determined they are signs and what we do here doesn't change our zoning ordinance that is already in effect.

Mr. Wolgin: In the Bolton code there is very little reference. All signs should be covered under the supplemental sign ordinance and there isn't one. Absence of that there are only two references to banners in the Bolton code. The code says that any sign less than 4 square feet does not require SPR. Any other sign requires a permit and is subject to the LGPC law. The LGPC defines signs, banners and all such things. They all need some sort of review or permit. The issue on the table was a banner incorporated into that whole regulation and the determination of the ZBA was yes, a banner is a sign. The only thing you can do here is give some temporary relief from those and when you give some temporary relief saying you can put up a sign for a period of time, for any period of time, you haven't undone your ability to regulate signs as a whole. The minute you put some sort of exemption in here for a whole year, you've essentially allowed somebody to use this exemption to get around the sign law, to get around any kind of review and any kind of permit. You will undo the sign regulations that the Zoning Administrator and Counsel try to get people to live by.

Councilman Saris: I would suggest we table this again. I have questions in my mind that if we pass this, how is it going to change anything.

Pam Kenyon: I need something for two weeks from now.

Supervisor Gabriels: I don't think we are contravening the sign ordinance, the ZBA's ordinance or the

Park Commission's ordinance. We are looking at a specific, very narrow issue of banners being signs and what kind of banners do we want to see.

Councilman Maranville: I don't think we are at a place we need to be with this. There are a lot of unanswered questions.

Councilman Andersen: Before we can move forward we need to meet with Counsel.

Councilman Saris: I came prepared to act on this. If we are to consider Owen's amendments we need to keep the public hearing open.

#### RESOLUTION#105

Councilman Andersen moved seconded by Supervisor Gabriels to close the public hearing on proposed Ordinance #45 Regulation and Provision for Temporary Banners. All Favorable. Motion Carried.

#### RESOLUTION#106

Councilman Maranville moved seconded by Councilman MacEwan to table the issue of Ordinance #45 entitled " Regulation and Provision for Temporary Banners". Councilman Anderson opposed. Supervisor Gabriels opposed. Motion Carried.

Councilman MacEwan: It is a tourist Town and banners have been allowed in the past.

Supervisor Gabriels: They have been declared signs. How are you going regulate signs pursuant to the Zoning Code?

Councilman Saris: My suggestion is, when everyone puts them up, they could be told it hasn't been determined yet but that it may be a violation, but like so many other things when we go to act on it, if it's been remediated we don't have to act on it.

Supervisor Gabriels: What does remediated mean?

Councilman Saris: Taken down.

Supervisor Gabriels: When?

Councilman Saris: Like everything else, we usually give people a reasonable amount of time to correct their violation before we act on it. I wouldn't have any problem with the ZBA determining a reasonable amount of time for those banners that are in violation to be taken down.

Pam Kenyon: I will site them for a violation and they have one week to take them down.

Emily Bailey Sound Permit request

She is requesting to have music until 12:30 a.m. on June 17th. All the neighbors have responded that they do not have a problem with that.

#### RESOLUTION#107

Councilman Maranville moved seconded by Councilman MacEwan to grant permission for Emily Bailey to have music until 12:30 a.m. on June 17th. Councilman Andersen opposed. Motion Carried.

#### RESOLUTION#108

Councilman Saris moved seconded by Councilman Andersen that pursuant to a request from our Insurance carrier the board adopted a codification to our hiring policy. All Favorable. Motion Carried.

The board discussed the proposed highway road agreement. The Highway Superintendent is proposing to do one mile on Wall Street at a cost of \$138,750, ½ mile on Homer Pt. Rd at a cost of \$29,000 and one mile on New Vermont Rd. at a cost of \$139,250.

Supervisor Gabriels: We have only budgeted \$150,000 for improvements.

#### RESOLUTION#109

Councilman Saris moved seconded by Councilman MacEwan to authorize and sign the 2006 highway road agreement. The following roads will be completed: One mile of Wall St. from Coolidge Hill Road west. The cost is \$138,750, ½ mile of Home Pt. Road. The cost is \$29,000. Councilman Maranville opposed.

Motion Carried.

Supervisor Gabriels: The Town went to bid for flower maintenance. The only bid received was from Mark Perry. He has since declined. Discussion followed.

Councilman Andersen: Since the Town Clerk has somewhat volunteered, we should give her the authority to purchase flowers. Our Parks Dept. has asked for a man three days a week. A condition for hiring that person is that with some direction from the Town Clerk he assist in getting the flowers planted as well as maintaining them.

#### RESOLUTION#110

Councilman Andersen moved seconded by Councilman Saris to hire Don Pratt to work with the Parks Dept. a minimum of three days and a maximum of five days at \$9.95 per hour. Taking care of flowers are the priority. Flower purchase is not to exceed \$1500. All Favorable. Motion Carried.

Councilman Andersen: If the Parks Dept. is busy and they need him that's fine. He can work through Labor Day. They can give a list of projects they need help on and we can decide if that person is warranted from then on.

Councilman Saris: If there are three days of rain, then someone goes home.

Supervisor Gabriels: At five 40 hr weeks, we have enough budgeted for 14 weeks of work.

Supervisor Gabriels: Chas Barrie, Warren County DPW, has been working on putting a new phone system in at the Highway garage.

Supervisor Gabriels: There has been talk of no overnight trailer parking along Sagamore Rd. In discussions with Warren County DPW, he is requesting a resolution authorizing that.

Discussion followed concerning no overnight parking of cars also. No decision at this time.

Town Clerk noted that we do have Ordinance #37 in place, which addresses this request.

#### RESOLUTION #111

Councilman Saris moved seconded by Councilman Andersen to adopt a resolution authorizing the County to place signs on Sagamore Rd. (County Road), which would prohibit the parking of trailers at anytime from Sagamore Bridge to the Grand Union Family Market. All Favorable. Motion Carried.

#### RESOLUTION#112

Councilman Saris moved seconded by Councilman Maranville to officially hire Mitzi Nittmann as the Code Enforcement Officer. She finished second on the civil service test. All Favorable. Motion Carried.

Counsel has proposed Ordinance #38 Alcoholic Beverages, which specifically says it shall not apply to Rogers Park, Veterans Park, Bixby Beach, Huddle Beach and the Conservation Park on any day between the hours of 7:00 a.m. and 11:00 p.m.

Town Clerk Simmes: We already have Ordinance #8 "Open Container" in place. It would just need an amendment.

Councilman Saris: We close the parks at 11 p.m., but we don't close Conservation Park.

People who are renting it for a wedding might still be using it after 11:00. This ordinance should not apply for any day at that location.

Sue Wilson: Maybe it should say for those people who are renting the building.

Supervisor Gabriels: I will suggest to Counsel to carve out the Conservation Park, but only for those renting the Conservation Park.

#### RESOLUTION#113

Councilman Andersen moved seconded by Councilman Maranville to schedule a public hearing for Tuesday, June 6th at 7:00 p.m. on a redraft of Ordinance #8 entitled "Open Container". All Favorable. Motion Carried.

The board discussed the need for a workshop to make changes to the water district regulations. They will set up a meeting in June.

Mr. Weisenfeld: Have you received a spring storm water report for Bell Pt. Shores yet.

Supervisor Gabriels: Not yet, but it is coming and I will let you know.

Councilman Andersen moved seconded by Councilman Saris to adjourn at 9:25 p.m.  
All Favorable. Motion Carried

Respectfully submitted by:

Kathleen Simmes  
Town Clerk  
5/31/2006