

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday December 21, 2017
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 = LGPC
DEC = Department of Environmental Conservation

Present: Gena Lindyberg, Sandi Aldrich, Herb Koster, John Gaddy, John Cushing, Zoning Administrator, Pamela Kenyon, and Atty. Michael Muller.

Absent: Ann Marie Somma, Kirk VanAuken & Alternate; Jessica Rubin,

The meeting was called to order at 6:03pm.

PUBLIC HEARING

SPR17-15 PARROTTA, ROBERT. Revised application. 1) Seeks to amend conditions of approval set forth by the Planning Board on November 20, 2008 when approving SPR08-25 for a marina/tourist accommodation on that parcel designated as Section 171.11, Block 2, Lot 12. The conditions read as follows: There shall be no pumping of gas on site. There shall be no more than 12 rental boats. The hours of operation, including maintenance, are to be between the hours of 8:00 am and 5:00 pm. 2) Seeks Type II Site Plan Review to create a marina on that parcel designated Section 171.11, Block 2, Lot 11. Currently two 550-gallon gas tanks exist and are in use. One is located on Lot 12 and the other is located on lot 11. 21 boats are proposed between the two parcels. The proposed hours of operation are between the hours of 8 am to 6 pm. Zone RCM1.3. Property Location: 5102 & 5104 Lake Shore Drive. Subject to WCPS review. Subject to SEQR. See V17-29 associated with this project.

Herb Koster explained to the public that since the time of the 2008 approval, the LGPC has gotten a court ruling stating that the towns on the lake have nothing to do with marina permits. He asked that if anyone was going to get up to speak, please do not speak to the marina permit. The Planning Board has nothing to do with it anymore. He also stated that DEC controls the permitting for gas tanks on properties, the Planning Board has no control over this item either. The Board only has control of the shielding of the pumps, stormwater management and parking. He asked that they not bring these two items up in front of this Board, as they have no control over them.

Elaine Bartley representing property located at 28 Hidden Hills Drive presented the following:

- This Planning Board issued approval for no more than 12 rental boats in 2008.
- This did not specify whether the boats were on the docks or the property.
- There are presently 22 boats.

- 16 of them are rented on weekends in violation of the 2008 approvals.
- In December 2008, Mr. Parrotta went to the LGPC requesting permission to rent up to 12 pontoon boats, and stated he already had a permit for 18 boats.

Herb Koster stated that he had just asked that they not get into the marina itself as the Planning Board no longer has any jurisdiction or control over the marina permit by court order. He asked that she go on to anything else she had a complaint about.

- Ms. Bartley said she was addressing the fact that Mr. Parrotta went to the LGPC telling them he had permission to rent 18 boats, meaning that he was untruthful.
- She stated that Mr. Parrotta chopped down a bunch of healthy trees on his property.
- He has taken at least 30% of the trees on the property down, several which were within 5 ft. of the lake.
- His boat storage area that he is looking for is on her property line.
- She is concerned with the inexperienced renters and the danger they pose to people that are swimming in the lake.
- She believes his renters have hit her neighbors' boat and docks.
- Gas tanks requests are not being complied with.

Herb Koster said he had to interrupt her again as she has spent the last 10 minutes talking about marinas and gas tanks and he had explained to her that both these items were out of this Board's control. He asked her to please move on. Ms. Bartley asked what the purpose of the application was then. Herb Koster stated they are here to address the parking for the boat rentals, screening of the gas tanks, any construction underneath the gas tanks to prevent any water or spillage from said tanks from going into the lake.

- She disagreed and stated any problems with regard to filling the boats are Mr. Parrotta's problem.
- In terms of the extension of hours to 6pm, he does whatever he wants anyway and does not comply with any conditions of approval.
- She believes that the SEQRA needs to be addressed too.

Peter Cossman 5078 Lakeshore Drive spoke on the following.

- He is confused for the purpose of the hearing.
- He thought it was about lifting the suspension/prohibition of the condition for no pumping of gas imposed in 2008.

Herb Koster stated that it was his understanding that DEC controls everything to do with the gas tanks on the property and the LGPC, through a court order, has prevented any town on the lake from reviewing any marina permits. This Board can no longer deal with marinas.

Mr. Cossman asked if they were deciding whether Mr. Parrotta could pump gas tonight or not. Herb Koster stated that he was saying that DEC decided that Mr. Parrotta could pump gas there. Atty. Muller stated that there are 2 preemptions here, in 2008 the Town of Bolton acted properly as they had full jurisdiction over the matter whether it was on the land or water. The Supreme Court stated that the LGPC has exclusive jurisdiction on the lake. Bulk Petroleum storage was preempted by DEC in 2015. Mr. Cossman's question is whether the Town of Bolton will allow Mr. Parrotta to provide gasoline at this site, not the bulk storage, location or size of the tanks, which is open to Bolton's judgement.

Atty. Muller stated that there is a proper question before the Board pertaining to the condition stating there shall be no pumping of gas on site. Mr. Parrotta is here to ask for permission on the site. This is a yes or no. This Board has the wide discretion to determine if this site is appropriate for the type of marina operation that includes the pumping of gas. Sandi Aldrich asked if this was ok even if DEC had allowed the storage of gas. Atty. Muller stated that he would be hard pressed to say DEC okayed it, DEC has found that it is within an exempt area of their regulation. It is too little for them to care about. Herb Koster stated the LGPC issued the marina permit, and now Atty. Muller is saying he wants this Board to determine whether or not Mr. Parrotta can pump gas or not on their marina permit. Atty. Muller stated he does not know what the LGPC ordered or permitted, but he can tell the Board that the LGPC has no business telling the Town of Bolton what Mr. Parrotta can do on his land. Herb Koster reiterated that the point being that, by court order, the state has said that the Town of Bolton no longer has anything to do with marina permits and now Atty. Muller wants the Board to make a decision on whether Mr. Parrotta can pump gas at that marina. Atty. Muller stated that the Board still has that jurisdiction. Herb Koster asked if he was sure about that. Atty. Muller said the LGPC does not have the jurisdiction to grant this. In fact, as the applicant proceeds, he must also provide assurance to the LGPC that he is in compliance with all respects with the local requirements. This is a local requirement, which they need to make a decision on. Herb Koster stated this is obviously not a cut and dry issue.

Mr. Cossman stated he and Atty. Muller have been exchanging notes and he can imagine how frustrating this is for the Board having all these other parties involved.

Gena Lindyberg stated the LGPC has now decided that anyone with four boats at their docks, will be declared a Class "A" Marina. Atty. Muller stated this has been in their regulations for a very long time, but they are now enforcing this. John Cushing said that they want the four boats to dock only at a Class "A" Marina.

Atty. Josh Silver, on behalf of the Bartley Family Trust, stated that Mr. Parrotta has a permit for a marina and the question is how much jurisdiction for this permit is given to the town, and how much is given to the LGPC.

Mr. Cossman handed out an email that he sent to Dave Wick of the LGPC to the Board. Herb Koster asked if this stated the allowable use in this zone. Mr. Cossman stated the no special use permit was given for a marina and the position he is taking is that a marina is not an allowable use in this zone. Herb Koster said that when this Board made the decision in 2008, they did have the ability to give marina permits. The applicant was given a marina permit, which is a special use permit. Atty. Muller said he fundamentally agreed, in the 2008 approval, Type II use was permitted by special use permit. Special use permit means something in Zoning. The criteria and procedure is not in the zoning code and that Zoning Administrator, Pamela Kenyon stated that it has been her practice that a special use permit is born out by what the Planning Board does, so the path followed is site plan review and follow the SEQRA. In a perfect world the ordinance would have a section of law that talks about the issuance of special use permits. He does

not know where to go to direct Mr. Parrotta to meet the requirements and criteria of a special use permit. However, he knows that everything that would be conducted for a special use permit is identically covered by site plan review. Bit by bit, item by item, it is the same SEQRA review process and the final analysis should come out the same. What happened in 2008 is over and done with and what they need to do tonight, and his recommendation is, is that they follow the site plan review process and if the final analysis is challenged and the court does not like it, they will kick it back. He recommends they follow this path. The ambiguity must be construed favorable to the applicant.

Mr. Cossman stated he disagreed with a good part of what Atty. Muller said. He would like the record to reflect that there has been substantial correspondence between himself, Atty. Muller and Zoning Administrator, Pamela Kenyon and that it will be a matter of record in this case to be used if necessary moving forward. Atty. Muller stated that the information between him and Mr. Cossman was discoverable and foible. He assured Mr. Cossman that he had copied the Board members with their emails.

Mr. Cossman stated that the pumping of gas was the primary issue to him, his property is to the immediate south of the Parrotta property. In 2008 he opposed the change of use on Mr. Parrotta's property. It was his understanding that the right to rent boats was due to the pre-existing non-conforming use of renting docks and the Board members did not see any substantial distinction between the two things. He was happy at the time that the Board had the foresight to condition the approval by not allowing the pumping of gas and limited it to 12 boats. Mr. Parrotta then came before the Planning Board again for permission to extend the number of boat rentals from 12 to 24. The Board approved this request, but again conditioned that no gas be pumped on the site. This approval did not go anywhere, and it was marked closed as it was not followed through. The Planning Board had two occasions to grant Mr. Parrotta boat rentals and on both occasions, they limited it to no pumping of gas. He believes the use of pumping gas was denied because it was so far beyond the grandfathered use and there were adjacent residential properties that they wanted to protect. This condition was a very critical condition. The impact of Mr. Parrotta's operation on their property has been immense. Mr. Parrotta ignored what he did not like in the restrictions and started pumping gas. It is important to consider what Mr. Parrotta will abide by and if you're willing to enforce this if you approve the pumping of gas with any conditions. He detailed some of the safety issues they encounter with the renters of Mr. Parrotta's boat that they have no control over such as inexperienced drivers using excessive speed, driving in his swimming area and bumping into his docks. He is glad that Mr. Parrotta was not given the right to pump gas even though he ignored this condition. Last summer Mr. Parrotta started pumping gas without permission from this Board, and he wrote a letter to the Zoning Administrator complaining about this in July and nothing was done until September. He is now here to tell the Board that the gassing up of boats at the end of the day made it impossible for them to swim off their docks due to all the gas that flowed into the water. He asked the Board how they would feel if they could not swim off their docks for an entire summer due to gasoline flowing in the water. Also, the jerry-rigged system does not allow the reclamation of gas fumes like a regular gas station pump has. The fumes coming out of the tank and pump are so powerful that you can't breathe sitting on their docks. He also has to close the windows of the house to

keep the fumes out. Having a 550 gallon tank of gasoline a foot from his property line with a jerry-rigged system that could explode at any moment with the 100' hose that was attached to it caused he and his wife a lot of angst. This has dropped the value of his property and he can't imagine why they would consider approving gasoline now and he is asking them not to lift this prohibition. Mr. Parrotta should be made to follow the conditions of approval previously granted.

Atty. Joshua Silver of the Murray Law Firm presented the following:

- Mr. Cossman hit on many of his points.
- His opinion of amending the position of the Board from 2008 should not be allowed. These questions have been asked before and stipulated that gas was not to be pumped. Nothing has changed since then.
- There have been many violations and willful disregard to this Board's determination.
- Based on his review of the Town Zoning Ordinance, he believes a special use permit still needs to be issued. The special use permit has to be issued by the Zoning Officer.
- The position Atty. Muller is taking that this is not the case.
- He believes the Planning Board is not the right body to issue this permit. It must be done by Zoning Officer and she has not issued one.
- It is his understanding that DEC preempts the safety not the jurisdiction of pumping the gas.

Atty. Muller stated that the LGPC did not approve fuel sales. Herb Koster stated if the LGPC is taking over marina permits on the lake, they are obviously taking over whether or not you can fuel from those marinas. He does not think that it is up to this Board to decide whether Mr. Parrotta can fuel. The LGPC permit says no fuel. Atty. Muller replied that if they feel comfortable with this constructed argument, that's fine, but he thought that the Board was of the opinion that the LGPC had indeed approved a marina and that he was given permission to have fuel sales is not true. The approval of the Class "A" marina says that the requirements for operating the marina are specified on Schedule A which has a choice for fuel sales and the answer says no. He takes the opinion that it is a jurisdictional thing. Herb Koster stated he did not want to supersede the LGPC in any way if they have it on their application. Atty. Muller said he couldn't. If the LGPC had approved fuels sales they would be superseding the Town of Bolton and he would take the position of protecting Bolton. This is Bolton's jurisdiction. They did not include fuel sales in their approvals. In many respects he would expect the LGPC to over reach on this issue and grant permission for fuel sales, but they did not. Sandi Aldrich asked since they did not, did it bounce back to the town. Atty. Muller stated it has always been with this Board. In 2008 the answer was no, he is now before the Board requesting this. Herb Koster asked if the LGPC was saying no to fueling boats or no they don't have the jurisdiction. Atty. Muller stated they were saying no to the activity of fuel sales. John Cushing stated there were 2 different qualifications on the LGPC letter, whether you sell gas to the public or just use it just for your facility. This is 2 different qualifications. Atty. Muller said Mr. Parrotta would have to explain this. Atty. Muller thought that if you rented the pontoon boat to a customer, you also sell them gas.

Peter Cossman stated, it is his opinion, that the Town of Bolton holds jurisdiction over the decision of pumping gas as the tanks are located on land not on the water or over the water. Atty. Muller stated he agreed with Mr. Cossman. Herb Koster said that he can't believe that the LGPC does not want this issue, especially if there is gas spilled in the lake and gas fumes. Mr. Cossman stated that he contacted the LGPC and they said they were only in control of the pumping of gas on the lake, not land. Atty. Muller said that the LGPC should be interested in this, but as Mr. Cossman has said, they are not. They do not enforce in all instances that they should. They have exclusive jurisdiction over the waters of Lake George. The LGPC did not overreach in this case and they did not say fuel sales were permitted. The filling of rental boats and rental tanks is fuel sales. The LGPC did not approve this, it is up to this Board to do this. Mr. Parrotta can explain why he feels entitled to the relief he seeks.

Correspondence with concerns about the project were submitted by:

- Dr. Lawrence Grodin, DDS
- John & Martha Kiessling
- Peter Cossman
- Ken Shirkey
- Catherine Crumb
- Edward Bartley
- Chris Navitsky, Lake George Waterkeeper
- Attorney Elaine Bartley

Correspondence in favor of the project were submitted by:

- Bryan Goewey
- Wayne Smith

Additional Correspondence from the following:

- Dave Wick of the LGPC
- Thomas McKinney of Warren County Fire Prevention and Building Code Enforcement
- Atty. Muller

Robin Smith sent correspondence urging that any approvals given were required to have the same requirements imposed on F.R. Smith. Sandi Aldrich stated that F.R. Smith pumps gas on the docks which would put them under LGPC jurisdiction.

Mr. Parrotta stated he had permission from Zoning Administrator, Pamela Kenyon for all the trees he had cut down. The big pine tree and the 2 oaks were taken down in 2016. He stated that the LGPC says he can't have sales of gas to the general public. He can put gas in his boats which is a DEC law. Mr. Wick states that "there are two scenarios by which fuel is utilized at a Class "A" Marina 1) fuel is sold directly to the boating public. By contrast, in the second scenario, whereby fuel is stored and dispensed onsite for purposes of facilitating marina operations such as boat rentals, the use of fuel is not directly sold to the general boating public. Also the existence of fuel storage and dispensing equipment utilized

solely for the purpose of sustaining marina activities, such as boat rentals, does not result in any substantive increase to local boating patterns. On the contrary, the availability of refueling equipment at a boat rental facility reduces typical boat traffic associated with such operations by eliminating the need for the marina operator to conduct extra boat trips to public fueling facilities for purposes of refueling between rentals". Mr. Parrotta said that there are 5 other places on the lake that pump gas on the lake, they all stop pumping gas at 5:00-6:00pm, with the exception of Norowal and they prefer that his boats don't come to them for gas. He guides his boaters in and gives them assistance. Mr. Cossman's accusation that his grandchildren can't swim because there is gas in the water is simply not true. They are in the water every day. He agrees that they hung the gas nozzle incorrectly in the beginning, but they learned and changed the way they did this. There are 2 reasons there is not gas in the lake, Lake George naturally flows north, not south, and the prevailing summer winds are out of the south. Everything is flowing north. He has the same nozzles that are used at every other gas station and they are not gravity fed, they are pumped. It is ridiculous to believe that the fumes can be smelled 400 ft. away.

Elaine Bartley stated she had been cut off initially with regard to whether they had jurisdiction or could discuss the gas tanks. She would like to say she has seen gas in the water and she will be calling DEC each and every time she sees gas in the water if this Board grants Mr. Parrotta permission to pump gas. Since Mr. Parrotta's operation started the quality of the water has declined substantially in that area and so has their experience on the lake. They have milfoil and algae that never existed before his operation started. Buffer trees have been cut down.

Atty. Muller told the Board if they wanted more information on this, they must be careful as the clock would start ticking. Herb Koster also told the applicants that they had the right to table their applications as the Board was short tonight. He told the Board they could extend the public hearing if they would like.

Mr. Parrotta stated he would like to give his speech in the regular meeting and if he had to come back, he would send his attorney. Herb Koster asked how many days they had after the public hearing was closed to make a decision. Atty. Muller stated they had 62 days from the required public hearing being closed to render a decision. He stated it takes a majority to vote on some sort of action.

Motion by John Gaddy to close the Public Hearing for SPR17-15. Seconded by, Gena Lindyberg. All in Favor. Motion Carried.

REGULAR MEETING

Herb Koster asked if there were any changes or corrections to the October 19, 2017 minutes.

RESOLUTION:

Motion by Sandi Aldrich to accept the October 19, 2017 minutes as presented with the correction to the motion on the bottom of page 7. It should read “**Motion By**, John Gaddy” only. **Seconded by**, Gena Lindyberg. **All in Favor. Motion Carried.**

SPR17-15 PARROTTA, ROBERT. Revised application. 1) Seeks to amend conditions of approval set forth by the Planning Board on November 20, 2008 when approving SPR08-25 for a marina/tourist accommodation on that parcel designated as Section 171.11, Block 2, Lot 12. The conditions read as follows: There shall be no pumping of gas on site. There shall be no more than 12 rental boats. The hours of operation, including maintenance, are to be between the hours of 8:00 am and 5:00 pm. 2) Seeks Type II Site Plan Review to create a marina on that parcel designated Section 171.11, Block 2, Lot 11. Currently two 550-gallon gas tanks exist and are is in use. One is located on Lot 12 and the other is located on lot 11. 21, boats are proposed between the two parcels. The proposed hours of operation are between the hours of 8 am to 6 pm. Zone RCM1.3. Property Location: 5102 & 5104 Lake Shore Drive. Subject to WCPS review. Subject to SEQ. See V17-29 associated with this project.

Herb Koster asked if the variance referenced above was still required. Zoning Administrator, Pamela Kenyon replied that it was not. Herb Koster said Atty. Muller wants this Board to make a decision on pumping the gas from these tanks that the Zoning Board has no jurisdiction over. Atty. Muller stated he did, there was a determination that there is not going to be a setback imposed on these tanks. Where and how they were sited is up to DEC, they preempted the town. John Cushing said he thought there was a setback to the gas tanks because they were a structure. Atty. Muller stated they did, they had a ZBA interpretation stating if it was 250-gallon tank, it was a structure.

Mr. Parrotta asked if he could go through the application and still adjourn it in the end. Atty. Muller stated he could, but he wanted Mr. Parrotta to consent to the extension of the 62 days. Mr. Parrotta stated he did not have a problem with that.

Atty. Muller stated they started this with the clear understanding that a tank could be a structure. The Zoning Administrator recalls a ZBA interpretation that a 250-gallon tank constitutes a structure. The bulk petroleum storage regulations appear to preempt all the efforts of Bolton to regulate. DEC has chosen to preempt us in every way, and when they find that there are undersized tanks that are exempt from their regulations, it is not up to the town to impose regulations on them. He believes this is overreaching on DEC's part.

Mr. Parrotta detailed the proposed parking on his plans stating he had plenty of parking. He is asking to put boats on the other property and extend his hours of operations to 6pm. This is more user friendly to the tourists. He offered to join the two parcels together if that is what the Board would prefer.

He read the following letter to the Board:

Good Evening, to remember all the points I want to make I am going to read directly from my paper work. To the best of my knowledge, everything I have written is accurate. My parents purchased the land known as Tallwoods, in 1958, changing the name in the early 1960's to Contessa. The ridge that Contessa Resort and Marina is located on, was at that time almost all commercially run. Starting at Lake George Camping, Honda Loop, formally Macdonald's Cottages, Rays Turnabout a fast food and ice cream store, RPI formally Sunny Shores, Colonial Village, Northbrook Village, Highpoint Lodge, Hidden Hills Development formally Brockwell's Cottages, Sagamore Housing formally Grandview motel, Scenic View Camp Ground, Juniper Hills formally Kellem Acres, Candlelight Resort, Pioneer Village, Timberlane, The Martins Rental Units on the southwest corner of county route 11 and 9N, BTW County route 11 did not exist at that point, Rock Cove, Port Jerry, and Lagoon Manor and Restaurant. The entire ridge was almost all commercial rental properties, even though today, much of this land has been sold off to become residential, the ridge remains commercially zoned past County Route 11 to this day. One would think anyone who is purchasing property on this ridge would be aware of the possibility of an existing commercial enterprise or one being developed there, before they buy it. I would like to mention that the Kissling's rent three cabins on the lake and Mr. Cossman who admits on page two, in a letter to the zoning board received October 13, 2017 by the Town of Bolton that he rents portions of their property too. These two properties are located directly south of mine, one would think renting their properties would denote commercial use.

My parents ran Contessa as a resort, restaurant, and marina. They had a Class "A Marina permit, even though they chose to only use the dock rental portion of the permit, there are many other permitted marina uses. Such as storing and pumping fuel, renting boats, repairs, shrink wrapping and storing boats, to name some of them. I became the owner of Contessa in the year 2000, when my parents retired, and I also own the property directly to the north, known as 24 hidden hills dr., which was once part of Brockwell's Cottages. Together, the two properties have 5¼ acres with 300 feet of lake front. In 2008, I came before this board to expand the permitted uses of my existing Class A Marina permit. I asked to add pontoon rental boats and was asked, by the board, if I planned to sell gasoline at the site. At that time, I had only three pontoon boats to rent, so it didn't make sense to go to the expense of adding fuel tanks and pumps, thus I said no. Since that time the business has done well, and it has expanded with the permission of the LGPC, if I remember correctly Mr. Cossman attended those meetings, so he is aware of the expansion. After nine years of renting boats I have learned many things about this business. The biggest concerns novice boaters have been docking a boat, and navigation, ie finding their destinations, and gas stations. It's amazing to sit on my dock at days end and watch a good number of my renter's cruise down the bay and not be able to find Norowal or Lake George Camping, even though before they leave our docks we give them a map, point out Gage's white boat house on the point next to Norowal, and explain where to go from there. That combined with the fact that its tight quarters docking with very little help offered at other marinas.

At the end of the 2016 season I learned of a DEC rule that was implemented in 2015 which states, if you have an above ground tank that holds 1,100 gallons of fuel or less on any property, you can store and use fuel without a permit, for your own equipment, as long as you meet a few strict criteria requirements. You must have a spill kit, a fire extinguisher, a

catch basin, and a double walled tank to meet code. I spoke with Lt. Joe Johns of the LGPC who referred me to Joe Thouwin of the LGPC. Joe explained the law to me and what the requirements are. In fact, he concluded with, and I quote, "sometimes the law works in your favor". On June 15 of this year Ray Energy installed two above ground 550-gallon tanks, one on each property, even though I was allowed to have two 1,100-gallon tanks by NYS, as there are two property's. In early November, Pam Kenyon and I met with the Warren County fire marshal at my site, he inspected the tanks, and found them to meet NYS code with a few minor adjustments. He noted the fuel is being pumped from each tank, not gravity feed, each tank has a meter on it, and we did indeed have the proper spill kits, fire extinguishers, catch basins, and doubled walled tanks. He did request hoses that retract, a barrier blocking the south tank from a possible motor vehicle accident, some no smoking signs on the dock, and suggested not moving them from their present locations, all of which will be implemented prior to the 2018 season. We will also install a 6-foot fence around the tanks to hide them from view. In fact, on October 11, 2015 the DEC implemented a new regulation 6 NYCRR Part 613 PETROLEUM BULK STORAGE, which exclusively governs and in Subpart 613-1.6 Pre-Emption. Reads except where the department has approved a local law or ordinance, any local law or ordinance that is aimed at establishing or implementing a petroleum bulk storage program is preempted. Any bulk storage of less than 1100 gallons in capacity are exempt. On page 9 of 106 pages, 613-1.3(ar) defines WHAT IS AND WHAT IS NOT PETROLEUM and specifically states, in Part (2) number (iii) under what is not petroleum READS substances that are gases at standard temperatures and pressure, therefore propane is not considered petroleum by the State of NY.

There are five other marinas pumping fuel in Bolton, three of which are in our bay. Waters Edge, which closes at 5pm and they are busy with their rental fleet prior to that. Norowal the only marina in Bolton without a rental fleet, pumps fuel until 7:45pm. However, it is a difficult place for a novice to dock for fuel, as it's located in a small corner of Sawmill Bay and can be problematic and unsafe for multiple boats with inexperienced drivers waiting for gas, in addition to people launching and hauling boats, causing minor collisions and creating stress for inexperienced drivers, a problem for me and for Norowal. There is also Lake George Camping, which is preoccupied with their own rentals fleet at that time. The other two marinas are FR Smith which deals with their own rental fleet and pumps fuel until 5pm, on occasion until 6pm, and Chic's who is busy with their rental boats from 4:15pm and close the marina at 5pm. It is much easier and safer for my boaters to wait in front of my docks with adequate space, room to maneuver, and a staff there to help them dock.

People renting boats from us are amazed how crystal clear the water is at our docks and throughout the lake. They do not have milfoil or algae growing there, it looks like a swimming pool right down to the sand. I am very concerned about gasoline being spilled into the lake and we take precautions when pumping fuel, having employees place a rag under the nozzle to catch any back flow when a boats tank nears capacity. It is true we made a few mistakes with the nozzles in the beginning, hanging them from hooks or placing them in posts. We have since corrected this and use 5-gallon buckets to place them in, which the fire marshal approved. The new retractable hose system will also help with this. My family has been here 60 years, and no one is more concerned about the water quality then we are. I am happy to say the water in front of our docks is pristine and we want it to remain that way for future generations to enjoy as my

family has. We completed the 2017 season without any issues, except for the two screaming matches initiated by Mr. Cossman with one of my employees; however, there were no fuel spills. Having read some of the letters sent to the Board, there seems to be a question about fuel odors and spills to the south of my docks. It is a fact that the lake naturally flows north emptying into Lake Champlain, and the prevailing summer winds are out of the south, which would certainly make these claims seem unreasonable. The claim that you can smell gasoline 300 feet away is ridiculous. If there had been a fuel spill there this past summer, I am certain those photos would be in front of you now. Brian Goewey, my neighbor directly to the north has commented in a letter addressed to this board that he has seen none of these issues and he is there throughout the spring, summer, and fall months.

We would also like to expand our hours of operation to 6pm, and increase our fleet to 25 boats, which would allow for 21 boats in the water and four spares. One of which is used as a chase boat when people run out of gas or if they have a mechanical issue to attend to. These four boats remain on trailers, stored just north of our playground area until needed. We don't have a launch, so we launch at Norowal. Originally, I had two more dock spaces, but due to the narrow space between boats I voluntarily removed one of Contessa's original eight dock fingers and spread the five interior fingers out to give novice boaters more room to dock, this was approved by the LGPC. The combination of talking to the LGPC, using Ray Energy to install the tanks, being inspected by Warren County Weights and Measures, following The DEC's rules, and now being inspected and approved by the Warren County fire marshal, all demonstrate that I have made every effort to be a good steward of the pristine quality of the lake and truly believe that I am in complete compliance with all existing rules and regulations.

John Cushing asked how many boats he could fit on his docks. Mr. Parrotta stated 21 with the 3 mooring spaces. He stated they went out of their way to prevent people backing in front of Mr. Cossman's dock.

Gena Lindyberg asked for approvals from the LGPC. Mr. Parrotta stated that the Zoning Administrator had it.

They discussed the parking at greater length using the site plan.

John Gaddy asked how it changed that Mr. Parrotta put gas in without coming into the town after they stated that pumping gas was not allowed in 2008. Mr. Parrotta in 2015 the NYSDEC said he could by changing the regulations. He was told this by the LGPC and that is why he did it. He never thought it would be an issue with the town.

John Cushing asked how long the docks were and if there was anything preventing him from making them longer. Mr. Parrotta replied they were 30' long and the LGPC will not allow him to make them any longer. There is a mean low water mark that he could only go so far from. John Cushing said he was wondering why Mr. Parrotta, as a business man, would not want to make them longer. Mr. Parrotta stated he would love too, but the LGPC would not allow it. He stated they were very strict about it.

John Gaddy said it seems that there are a lot of boats in the summer time in the pink area depicted on the plans. Mr. Parrotta stated that he did not have boats in that area in the summer time. The only ones that went up were the empty trailers and boats that needed repairs.

John Gaddy asked about 21 boats in the water and how he put one in to chase them down. Mr. Parrotta stated there were only 18 rentals this year, if they had to put one in to help a distressed boat the LGPC had no problems with this.

Gena Lindyberg stated that there were only 28 parking spaces on the LGPC permit. Mr. Parrotta depicted all the parking on the plans and stated he did not know where they got that number, they might not have the up to date parking plan. She asked why he did not correct it with them. He stated he did not even know it was incorrect.

Sandi Aldrich asked how many of the 21 boats were 15 passengers. Mr. Parrotta stated 2.

Herb Koster inquired about the fire marshal's recommendation for protection on the south tank. Mr. Parrotta stated it was because it was near the parking lot. He explained what kinds of barriers they were looking for to protect the tanks. He is planning on using a cement barrier that was recommended.

Sandi Aldrich asked Atty. Muller about the proposed parking on the map in the state right of way. Atty. Muller stated that he can get permission from DOT. Mr. Parrotta stated they park up against the building and the concrete wall. They are not parking in the state right of way. John Gaddy asked if he meant the one on 9N. Mr. Parrotta stated yes. He told John Gaddy he would measure it with him. The scale is 1" = 50'.

John Gaddy asked about the amendments to the application and how the LGPC looked at the marina application. Zoning Administrator, Pamela Kenyon stated they used both lots, but the Town of Bolton only gave approvals on the one lot. Herb Koster stated the Planning Board gave the original 2008 marina permit on the south lot. Now that Mr. Parrotta is in front of them again, they are no longer allowed to review the marina permit. He is here for pumping gasoline. Atty. Muller stated that the Town of Bolton can concern itself with marinas on land. It is not the docking of boats, the size of boats or the amount of boats. It is the pertaining to the amenities that relate to the operation of the marina on the land. It could be tanks, the function of pumping gas, parking, lighting, hours of operation or stormwater.

Sandi Aldrich asked again about her concern with the parking. Atty. Muller stated that Mr. Parrotta can seek relief from DOT, but this Board could not grant relief for this. Mr. Parrotta said he would tape it out with her if she would like to come out.

Gena Lindyberg asked about the LGPC's no to fuel sales. Mr. Parrotta stated this is no fuel sales to the general public.

Herb Koster asked if there were any problems filling the northern tank. Mr. Parrotta stated none what so ever.

RESOLUTION:

Motion by John Gaddy to postpone SPR17-15 with the following condition; the 62-day voting limit on this application will be started from the date of the January meeting.

Seconded by, Sandi Aldrich. **All in Favor. Motion Carried.**

SPR17-16 DALY, MARTIN. Represented by Kenneth Baker. Seeks Type II Site Plan Review to timber harvest an area greater than 1 acre. 33 acres is proposed. Section 124.00, Block 1, Lot 7, Zone RL3. Property Location: 64 New Vermont Road. Subject to SEQR.

Herb Koster asked what the time period would be for this. Mr. Baker stated he would like to start now and be finished by March.

Mr. Baker stated that he had a forester checking the project all the time and Warren County Soil & Water have been there.

Sandi Aldrich asked if there were any stream crossings. Mr. Baker replied there were not.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR17-16. **Seconded by**, Sandi Aldrich. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR17-16 as complete; waive a Public Hearing, having met the criteria set forth in the code, grant final approval of the project as presented. 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; All conditions by Soil & Water and Mr. Cipperly are to be followed as stipulated. **Seconded by**, Gena Lindyberg. **All in Favor. Motion Carried.**

SPR17-17 CURREN, JEFFREY, SUE AND FLORIENE. Represented by John O'Donnell. Seek Type II Site Plan Review to timber harvest an area greater than 1 acre. 19 acres is proposed. Section 185.00, Block 2, Lots 23 & 24.1, Zones RL3 & LC25. Property Location: 800 Coolidge Hill Road. Subject to WCPS review. Subject to SEQR.

John O'Donnell of Benchmark Forestry presented the following:

- This is a 19-acre timber harvest on the two parcels.
- There are 169 sawtimber trees and 330 pulp trees marked.
- Pre-harvest basal area is 120 sq. ft.
- Post-harvest basal area is 77 sq. ft.
- There are no regulated wetlands on the property according to NYS DEC.
- There are two proposed log landing/access areas. 1 is a previously used log landing. 2 will be placed adjacent to Coolidge Hill Road.

- There will be a 1 to 2 man crew with a small cable skidder.
- It should not take more than 4 to 6 weeks.
- They are not sure when the job will be done.

Herb Koster asked if they would be doing the operation during winter months. Mr. O'Donnell stated he did not know, it would be when the operators were available, and the markets permit.

Sandi Aldrich asked if there was a stream crossing. Mr. O'Donnell stated there was a small one in the back that they would be using portable timber bridges on.

Sandi Aldrich asked if he would be staying away from the non-regulated wetlands. Mr. O'Donnell stated he would be working around them.

John Cushing asked about the wetland buffers. Mr. O'Donnell explained that he could not clear cut around the wetlands. If he was driving through the wetlands he would need a permit from DEC. He will be using the existing skid trails on the property.

No County Impact

RESOLUTION:

Motion by John Cushing to declare the Bolton Planning Board as lead agency for SPR17-17. **Seconded by**, Sandi Aldrich. **All in Favor. Motion Carried.**

Motion by John Cushing to accept SPR17-17 as complete; waive a Public Hearing, having met the criteria set forth in the code, grant final approval of the project as presented. 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; They must follow all the practices given by Warren County. **Seconded by**, John Gaddy. **All in Favor. Motion Carried.**

SPR17-18. KUPSCH, GLENN & LAURA. Represented by C. Raymond Davis. Seek Type II Site Plan Review, specifically to amend condition of approval when approving SD05-11 (Mayfair Subdivision). The condition reads as follows. House locations are restricted to the proposed 30'x 50' building envelope for each lot. The applicant is seeking approval to build in a different location on Lot 3. Section 186.14, Block 1, Lot 60.3, Zone RCH5000. Property Location: 6 Mayfair Drive. Subject to WCPS review. Subject to SEQR.

John Isaacs of C. Raymond Davis presented the following:

- He depicted the proposed change on the plans to the Board.
- They would like to move the entire building envelope.
- They are trying to have a larger yard area as a play area for the children.

- They are staying within the property line setbacks.
- They are moving the home further away from the lake.

John Gaddy asked if they would be moving the garage too. Mr. Isaacs replied yes it would be moving with the envelope.

John Gaddy asked if they would be meeting the setbacks. Zoning Administrator, Pamela Kenyon said yes.

Mr. Isaacs stated they would be adding additional stormwater mitigations.

John Cushing asked about additional fill in the back. Mr. Isaacs replied that it was a walk out basement there would be a little bit of fill in the back corner.

Gena Lindyberg asked about the original building footprint. Mr. Isaacs explained it to her detailing the permitted allowed. He stated they had complied with the 30' x 50' envelope, they are just moving the building envelope. they were allowed 3,100 sq. ft. and they are still under this even with the overhangs.

Gena Lindyberg asked about HOA approvals. Herb Koster and Atty. Muller stated that the Planning Board does not get involved with HOA's.

No County Impact

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR17-18. **Seconded by, Sandi Aldrich. All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR17-18 as complete; waive a Public Hearing, having met the criteria set forth in the code, grant final approval of the project as presented. 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.**

The meeting was adjourned at 6:33 pm

Minutes respectfully submitted by Kate Persons