

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday August 16, 2018
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, John Gaddy, John Cushing, Gena Lindyberg, Sandi Aldrich, Ann Marie Scheidegger, Kirk VanAuken, Alternate; Jessica Rubin, Zoning Administrator, Pamela Kenyon and Atty. Michael Muller.

Absent:

The meeting was called to order at 6:00pm.

Herb Koster asked if there were any changes or corrections to the July 19, 2018 minutes.

RESOLUTION:

Motion by Ann Marie Scheidegger to accept the July 19, 2018 minutes as presented. **Seconded by**, Gena Lindyberg. **All in Favor. Motion Carried.**

REGULAR MEETING

1. **V18-16 PASSARO, FRANK.** 1) Seeks use variance for a marina; and 2) to place a 12'x 20' canopy over existing ping pong table, seeks area variance for a deficient side yard setback. 20' is required, 7' is proposed. Section 200.06, Block 1, Lot 21, Zone RM1.3. Property Location: 4410 Lake Shore Drive known as Cool Ledge Resort. Subject to WCPS review. In accordance with Section 200-66, an advisory opinion is required from the Planning Board as it pertains to the use variance only. This item was tabled at the July meeting pending additional information.

Motion by John Gaddy to table this application to the end of the meeting as the applicant was not present. **Seconded by**, Gena Lindyberg. **All in Favor. Motion Carried.**

2. **SPR18-13 SMITH, DAVID.** Seeks Type II Site Plan Review to construct a single-family dwelling with attached breezeway and garage in the LC25 zone. Section 139.00, Block 1, Lot 20, Zone LC25. Property Location: 205 New Vermont Road. Subject to SEQR. To be heard only if a successful variance is approved (V18-20).

David Smith stated that all his variances were granted by the Zoning Board of Appeals and he explained what they were to the Board. He stated the main variance request was for setback relief due to the topography of the parcel and the fact that they did not want to do a lot of tree removal for the placement of the structure.

John Gaddy asked what the lot size was and if he owned it. Greg Smith stated he owned the piece of property for 18+ years and he had transferred it to his son Matthew. Matthew decided not to build there, and he has transferred the lot to his brother David who is now the sole owner.

Gena Lindyberg asked about the 2 lots on the drawings. Greg Smith explained that they were two separate lots. His house was on the parcel to the north located at 209 New Vermont Road. David's lot would be 205 New Vermont Road. He stated they were 2 separate lots which were both non-conforming .86 acres lots when he purchased them.

John Gaddy asked if a variance was needed for both lots. Greg Smith replied this was correct.

John Gaddy stated that any lighting was to be downward facing and shielded. David Smith agreed.

Gena Lindyberg asked whose property backed up to this parcel. Mr. Smith stated he was not sure, but it was a large piece of property.

John Gaddy asked if they would be working with the west side of his property to move the water around the parcel. Mr. Smith stated they would like to put in a french drain around the perimeter of the house to help prevent all of the runoff, especially in the spring.

Sandi Aldrich asked why there was not a map of the property showing adjacent parcels submitted with application. Mr. Smith replied that after speaking with the Zoning Administrator he was told that he submitted everything that was requested. Zoning Administrator, Pamela Kenyon replied this was correct, she does not require a map and never has. David Smith stated that he had to have a certified survey of the property as per conditions with the bank.

Gena Lindyberg asked if there were living quarters in the garage. David Smith stated it was just a 2 car garage.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR18-13.
Seconded by, Gena Lindyberg. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR18-13 as complete; 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; 1) All lighting must be downward facing and shielded. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by,** Kirk VanAuken. **All in Favor. Motion Carried.**

3. **V18-16 PASSARO, FRANK.** 1) Seeks use variance for a marina; and 2) to place a 12'x 20' canopy over existing ping pong table, seeks area variance for a deficient side yard setback. 20'

is required, 7' is proposed. Section 200.06, Block 1, Lot 21, Zone RM1.3. Property Location: 4410 Lake Shore Drive known as Cool Ledge Resort. Subject to WCPS review. In accordance with Section 200-66, an advisory opinion is required from the Planning Board as it pertains to the use variance only. This item was tabled at the July meeting pending additional information.

Herb Koster asked if they were only making a recommendation on the use variance. Atty. Muller stated this was correct.

Frank Passaro said he would like to rent his docks as the boating traveling public has changed and there are not as many boats being trailered. He pays commercial rates on his docks and has since day 1. He needs an income from them.

Herb Koster asked if he was looking to make all his docks marina docks. Mr. Passaro said that he basically wanted to be able to rent them. Boats are getting bigger, so he can't put as many on the docks. He is not looking to increase his dockage, he is just wanting to rent his available dock space.

Gena Lindyberg asked about the change in his application from 16 vessels to 20. Mr. Passaro said he had room for 20 vessels as he pays by the running foot. He also has 3 buoys. He stated they were all legally permitted and had been since day one.

John Gaddy asked if the LGPC had approved him for the number of boats or the number of feet in the docks. Mr. Passaro stated he was approved by the number of feet. He pays by the foot. The LGPC drew up his plans for his docks. When they were done the LGPC came and measured it.

Gena Lindyberg asked Mr. Passaro to explain the increase. Mr. Passaro stated that the water depth change allowed him to change the length of his docks a few years ago. Herb Koster stated that the LGPC allows 40' beyond the low water mark for the extension of docks. Herb Koster stated the LGPC goes by the length of the docks. Mr. Passaro stated his docks were all legal.

John Cushing asked if Mr. Passaro planned on doing quick launches from his ramp. Mr. Passaro stated he would like to be able to do that for a few of his seasonal customers. He did not want to do it off the road. He stated he had cottage customers that come back multiple times through the season and he puts them in and out when they come back and forth. John Cushing asked if he would have to register those boats with the LGPC. Mr. Passaro stated not to his knowledge, but they had to have the appropriate LGPC registrations and they had to be inspected and show him their inspection stickers before launching. John Cushing explained that any launch is a quick launch, and he suggests that Mr. Passaro check into it with the LGPC. Mr. Passaro stated that he had never heard that they require a fee for each launch, but he would check into it. Herb Koster asked if the Town of Bolton would be involved in that. Atty. Muller stated they would not.

Gena Lindyberg asked if any of the dock slips would be rented to public vessels. Mr. Passaro stated he already had one fisherman for 18 years who is considered a tour boat. Gena Lindyberg said that he would also need to consider the parking places for the people going out on that boat.

Mr. Passaro stated he had at least 7 on each side of the entrance road by the tennis court and this is where they park. He stated he had a field that he could park cars on too.

Gena Lindyberg said if you have a PV boat on your docks, you have to become a Class A marina according to the LGPC. Herb Koster asked if this was true if it was your own PV boat. Gena Lindyberg replied yes, they have their own and they were told they had to be a Class A marina even though they only took their motel customers out in it. Mr. Passaro stated there was a least one other marina permit granted in Basin Bay, so his request is not unique.

John Gaddy said that one of the things he was looking for if this moved forward to a more formal marina status, was a first floor bathroom for the marina customers. Mr. Passaro stated that it was a little late this year, but he can consider installing something for next year.

John Cushing asked how far the ramp was from the south property line. Mr. Passaro said the ramp itself was approximately 7' to 8'. He stated the existing road has been there for over 60 years.

John Gaddy asked what the maximum size boat that he would be launching. Mr. Passaro stated he does not recommend anything over 22'. He has had someone launch a 30' boat, but he does not recommend it.

Ann Marie Scheidegger stated that the available parking seemed tight if not inadequate. He has 14 cabins and dock space for up to 20 boats. Mr. Passaro stated that a good number of the trailers are from seasonal cottage rental customers. He said he had 4 acres of land, with all of the buildings only on 2 of those acres. John Cushing stated he could park a bunch of vehicles in the area that he allows Blue Water Manor to use. Mr. Passaro stated that indeed that was his, but he allows Blue Water Manor to use it and it does not affect his field. He is glad to see all the improvements to Blue Water Manor and he tries to be cooperative with them. Sandi Aldrich stated this area was located in NYS right of way. Mr. Passaro stated this is correct, but it was originally his. Herb Koster stated that most every commercial property in Bolton utilizes the NYS right of way. Sandi Aldrich agreed, but stated this is exceedingly large compared to a lot of other ones. Gena Lindyberg said she does not see where they have allotted for enough parking for the 14 rental units and the 20 dock rentals. Mr. Passaro detailed all the available areas that he had for parking on his drawings and stated he has a lot of room up in his fields and along the fence once it is put back up by Blue Water Manor. John Cushing said that the tennis court was not being utilized, and suggested that could be used for parking. Mr. Passaro stated it was used as a basketball court.

John Gaddy asked how the LGPC allocated the number of slips if you have fishing charter and designated slips for cottage customers. Mr. Passaro stated he did not think that the LGPC had any rules pertaining to who he rented it to, it was by footage of the dock.

John Gaddy asked what this Board would be advising the ZBA on for this application. Atty. Muller stated that this was an advisory opinion that they should be considering the concepts and principals that are in the comprehensive plan. Perhaps give some consideration to the LWRP requirements. Whether they favored or did not favor Mr. Passaro with a recommendation, it

would not be controlling on the ZBA. It is advisory, the advice whatever it happens to be, the ZBA will be held to the task of a use variance which is very strict.

Sandi Aldrich asked if the ZBA finds in Mr. Passaro's favor, would the marina application come back to this Board for Site Plan Review. Atty. Muller stated it would not as this is a use variance, so the requirements that would ordinarily be imposed by Site Plan Review, will be built into the use variance. John Gaddy asked if this Board would need to advise them of this. Atty. Muller stated they would be well advised to set limitations. The Town does not have any jurisdiction over the water.

Herb Koster said their jurisdiction was basically for parking and the compatibility with the neighborhood. Atty. Muller said also on the shore front with respect to boat launching. Gena Lindyberg stated that she understood that sleeping on the boats was in their jurisdiction after speaking with the LGPC. Atty. Muller said that Bolton is not well prepared for that and he knows the LGPC is not thinking like that. Herb Koster stated that as a Board, they have the authority to make a stipulation that there is to be no sleeping on the boat. Atty. Muller stated that is true, this Board has some jurisdiction with an advisory opinion and the ZBA has clear statutory jurisdiction. This Board can set reasonable requirements, limitations and prohibitions. Herb Koster asked if this Board's recommendation to the ZBA was to approve this project could they recommend that the ZBA add the stipulations this board would want. Atty. Muller stated this was correct. If this meeting favors Mr. Passaro's application for a use variance, not approves it, just favors it, it comes with the following recommendations, limitations and specifications. They would ask the Zoning Board to seriously consider imposing such restrictions. The public will be heard on all the issues at the Zoning Board meeting which is a mandatory Public Hearing.

John Gaddy asked if they could make a recommendation on the number of boats that are being launched. Herb Koster said he didn't think so. Atty. Muller said as he understood it, quick launch was stored launch. Herb Koster said he has been doing this for the last 40 years, so it is not a change of operation. Atty. Muller said it was not, but the link is that he has tourist accommodations associated with the launch. There is no launch that is in the nature of a public launch unless the boat user is an actual occupant of his motel under the present business model. Herb Koster said that this Board could recommend that he can only launch and store the boats that he is renting cottages to. Atty. Muller replied to the extent that he has a preexisting use that may or may not be in harmony with the current zoning ordinance. If it preexists the zoning ordinance and has been in place for 40 years, they can certainly cap it to not increase the intensity. They can make that a recommendation. Ann Marie Scheidegger said in the past he launched boats for customers that stayed in his cottages, and they docked their boats in the slips that he had available for them where do they put these boats if he is renting out these dock spaces. Is he going to be pulling them in and out and launching them every day? This is her concern. Atty. Muller said this was possible. Kirk VanAuken asked Mr. Passaro how many rental units he had. Mr. Passaro replied 14 units.

Gena Lindyberg asked how many dock slips he planned to keep for his cottages. Mr. Passaro stated approximately 7 for his cottages. Herb Koster asked if his plan was to launch the cottage rental boats in and out daily. Mr. Passaro stated this occurs occasionally, but it was not common.

Ann Marie Scheidegger asked if it was possible to make a recommendation that they are ok with the rental of the 20 dock slips, but there was to be no launching of boats from his property. Atty. Muller stated that was a limitation and asked what the rationale behind it was. Ann Marie Scheidegger to limit the intensity of use, so people that are renting a cottage are not launching a boat in and out every day. This will ensure that the boats are being inspected properly for invasive species which is not available on his site. Atty. Muller said a rational concern was if Mr. Passaro was up at 6:00am for the early launches and there after 8:00pm for the late ones spending 14 hours a day standing at the boat launch inspecting these boats while running a tourist accommodation. That is hard to believe.

Herb Koster said they are starting to question things that are not in their purvey to question. One of them is his honesty in that he checks that the boats have been inspected. Ann Marie Scheidegger stated she was not questioning that, its just that it is a lot more boats and lot more launching the boats in and out. It was one thing when he had a customer that was renting the place for an entire week and put the boat in, checked it, and pulled it out. He is now saying he will be pulling them in and out every single day because he has rented the 20 spots for the seasonal renters. John Cushing stated that Mr. Passaro stated he would leave 7 spots open for the cottages. If he had those docks, he would want them all rented. Ann Marie Scheidegger said she had no problem with that, she just thinks that now there would be a significant increase of use there with them putting boats in and out every single day as opposed to once a week. Herb Koster asked Mr. Passaro if he would consider eliminating the ramp. Mr. Passaro stated he did not want to eliminate the ramp. It is also used by the emergency squad when they need it. He does not want to open it up to the general public, he never has. He still wants to maintain a reasonable amount of usage. It has been there prior to his father buying the property in 1953. Ann Marie Scheidegger said she had no problem with the launch being there, she just did not want boats being launched on a daily basis for his customers that were staying there if he rents out all his dock spaces. If he had dock spaces available for customers that were renting his cottage for the week she would have no problem with it. Her concern would be that he was launching those boats every single day while they were staying there. Mr. Passaro stated that usually does not happen.

Gena Lindyberg stated she would like a recommendation that at least 7 dock slips were committed to his units and the rest can be rented out. She would also like more information on parking places for the trailers and cars. Herb Koster stated he had plenty of area for parking. Gena Lindyberg stated she understood this, but it is not designated as parking, which can cause confusion and accidents. She would like a parking plan for both vehicles and trailers with a sense of orientation in a safe way.

John Gaddy asked if they are in the advisory capacity, do they need to make a positive or negative advisement, or can they just say here are the conditions they would like to see if the ZBA is considering favoring the use variance. Atty. Muller stated that the section does not require them to say yes with these restrictions or no and under no certain terms. It just asks for an advisory opinion and it characterizes it as recommendations, so they can. There is the option to say if the ZBA were to find that Mr. Passaro has satisfied the criteria, then the Planning Board in its advisory capacity suggests the following requirements. Section 200-66 indicates this. He read Section 200-66 to the Board.

Herb Koster asked if he planned to rent seasonal dock space to outsiders and launch their boats in and out daily. Mr. Passaro replied he did not, they would stay in the lake. Mr. Passaro stated that he did not want to launch any of them that were above 23'. Ann Marie Scheidegger said she would like to see the seasonal dock renters launch at a public launch. Mr. Passaro stated that most of them do.

The Board discussed the conditions and restrictions that they were looking for.

John Gaddy asked if he had any plans to upgrade the launch area. Mr. Passaro stated yes, when he gets some money, to stop the erosion.

Gena Lindyberg asked if he was going to do any short-term dock rentals. Mr. Passaro said he did rent a couple of docks to Blue Water Manor. John Gaddy asked if the Blue Water Manor rentals were on a weekly basis. Mr. Passaro replied that it varies, they are generally short term, but they did not launch on his property. They get inspected and launched at a public launch. Herb Koster said anything that Mr. Passaro is renting to Blue Water Manor, does not require parking or launching. Gena Lindyberg asked if the Blue Water Manor renters walk over or drive over. Mr. Passaro stated that they walked over. He does not provide them any parking.

John Cushing said they would like the stormwater by the launch to be mitigated before it enters the lake. Mr. Passaro stated he could consider doing that at some point when he gets some money. He has to watch his expenses. He does not make a lot. John Cushing said he understands that, but this is what the Board likes to see. Mr. Passaro stated he can consider this, but building retaining walls is expensive.

John Cushing stated that the 3 or 4 existing stanchions that have 4 flood lights in 4 different directions. They would like to see them downward shielded lighting. Mr. Passaro stated he can try to look into some shades for these and see what is available.

John Gaddy asked if any Board Member had any strong feelings in making either a positive or negative connotation to this. Herb Koster stated he had a strong feeling that the applicant should be able to make a living, and whatever recommendations they make, he can't see putting him out of business by making a negative declaration.

Ann Marie Scheidegger stated they had a very long list of recommendations and asked if they should ask Mr. Passaro to come back with a different application that takes into consideration some of the things they are looking for. Atty. Muller said he would recommend that they propose that this is an advisory opinion. They have given consideration to his application as well as his answers, and those responses now manifest themselves into a long list of recommendations. Please be specific.

John Cushing stated he did not want boat rentals. Mr. Passaro stated he did not plan on renting or selling boats. Sandi Aldrich said she her biggest concern was that there are so many moving pieces to this and enforcement is almost impossible. Ann Marie Scheidegger agreed. Herb Koster stated that was up to ZBA to consider, this was just an advisory opinion.

Atty. Muller stated that if the LGPC grant a Class A marina, they may want to consider a condition of prohibiting of selling or dispensing of any fuel on the property. Mr. Passaro stated he had no intention of selling or dispensing gas.

The Board discussed ways to mitigate and limit the launching of boats from the property.

RESOLUTION:

Motion by John Gaddy to make a recommendation of the following conditions for V18-16 in regard to the application and advice for the use variance for a marina:

1. No boat repairs are to be done on premises.
2. No food or beverage sales.
3. No bar.
4. No sale or dispensing of fuel.
5. No pump out facilities on the premises.
6. Boat launch ramp is not to be open to the general public.
7. No overnight sleeping on the boats.
8. No boat rentals.
9. All exterior lighting is to be downward facing and shielded.
10. No boat washing facility on the premises.
11. There is a first floor, ADA compliant bathroom facility.
12. Hours of boat launching operations are to be from 8:00am to 5:00pm.
13. Boat launching on the property can only be utilized by the cottage customers.
14. 7 boat slips are to be reserved and marked out for cottage rentals.
15. A parking plan for the vehicles and trailers must be provided.
16. A plan to improve the launch area to mitigate stormwater and erosion control must be submitted.
17. The Lead Agency for the project must be provided a SEQR Analysis.

Seconded by, Gena Lindyberg. Sandi Aldrich opposed. **All others in Favor. Motion Carried.**

The meeting was adjourned at 7:34

Minutes respectfully submitted by Kate Persons.