

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday July 19, 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 and Atty. Michael Muller.

**Absent:** Zoning Administrator, Pamela Kenyon

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

Herb Koster asked if there were any changes or corrections to the June 21, 2018 minutes.

**RESOLUTION:**

**Motion by** Gena Lindyberg to accept the June 21, 2018 minutes as presented. **Seconded by, John Gaddy.** Kirk VanAuken abstained. **All others 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.

Frank Passaro presented the following:

- He is applying to rent his dock space to anyone.
- At this time, he is only allowed to rent dock space to his cottage customers.
- The cottage rental business has changed in the relationship to boating.
- Boats have gotten bigger and they tend to stay on the lake.
- They have been in business for 65 years.
- To be restricted to renting his docks strictly to cottage customers is no longer realistic.

John Cushing asked if he planned on pumping gas. Mr. Passaro stated he did not plan on pumping gas or pumping out sewage. He is perfectly fine in sending them to the regular marinas to do this. John Cushing asked if he planned on renting boats out. Mr. Passaro stated he only wanted to simply rent out his docks.

Herb Koster said that Mr. Passaro was disputing what the Zoning Administrator is saying in her letter on the application. Atty. Muller stated if Mr. Passaro takes issue with the Zoning Administrator's determination he can challenge it. It must be challenged before the ZBA. Herb Koster read a July 27, 1999 letter from Zoning Administrator, Pamela Kenyon. Atty.

Muller stated that this was the historical thing that was long ago controversial and resulted in litigation with a stipulation that they go no further. The Town had agreed to notice the nearby association if Mr. Passaro ever came back, which they did. In terms of Mr. Passaro objecting to something in 2018 that occurred many, many years ago that's done. If he has a present objection to anything the Zoning Administrator has required and feels it is an incorrect determination, he has an absolute right to appeal it at the Zoning Board of Appeals. There is a timer involved with that though. He can just go in and tell her what he wants to appeal, and it goes before the ZBA.

John Gaddy asked about the number of boats. Mr. Passaro said that on his application of his docks to the LGPC, it shows 18 to 19 boats. He has 3 moorings now, so he could actually fit 20, 20-foot boats. On a practical sense, many boats are larger than 20'. Herb Koster stated that the number of boats is not really significant. He has permits from the LGPC for the docks and moorings. He is here because he wants to make a commercial marina out of this now and this is a use variance, which is all he is here before them for tonight. Atty. Muller said that Mr. Passaro has a legitimate approved tourist accommodation and by reason of the nature in which he operates his tourist accommodation, a customer would be associated with a cabin and a dock slip which fits perfectly within the zoning code, either because it is grandfathered or because of the district the lot is in. He is changing something, he would like to disassociate the use of a slip, so it has nothing to do with the rental of a cabin. This would allow him to rent the slips seasonally for a renter for the whole summer and the rental of cabins separately. He would also like one of the slips to be used by someone that runs a charter service. He certainly needs permission from the LGPC and they have asked the town what their position was and what they required from him. They sat down with Mr. Passaro and the Zoning Administrator determined that he needed a use variance because that zone does not permit a marina. Herb Koster stated there were special requirements for a use variance. Atty. Muller agreed. He said they were very strict in terms of what is required, and he would need to show and convince the Zoning Board of Appeals that those uses that are permitted in the district by the zoning code are not available to him for reasonable return on the use of his property. He would have to be able to exclude those uses that are listed in his zone before he could then prove the next part which is that he has a significant hardship.

Herb Koster asked if they made a recommendation that the Zoning Board of Appeals suggesting they gave him a variance, they would have to say providing he meets the states requirements. Atty. Muller agreed.

Kirk VanAuken asked if you rent a dock slip, do you officially become a marina. Atty. Muller explained that the number of boats determines whether it needs permission to operate as a marina, which is exclusive to the LGPC. Herb Koster said he would need to do parking. Atty. Muller stated that there are impacts for the Town of Bolton.

Herb Koster stated that the drawings that the applicant has present show the maximum number of boats he can have on these docks, if anything it would be less boats that were bigger. Atty. Muller stated this was important things to know, but they certainly don't get to pass judgement on it because they are not involved in a Site Plan Review at this juncture, they are just talking

about a recommendation. The second reason is that the amount of boats and where they are situated is the LGPC jurisdiction.

Kirk VanAuken asked if they send it to the Zoning Board and they approve it, do they get it back as a Site Plan Review. Atty. Muller stated that he believes so. Kirk VanAuken said he did not know how they could make a recommendation if they don't have all the information. Atty. Muller stated that was an excellent question, they needed to get all the information they wanted from the applicant first.

Gena Lindyberg asked if there was a bathroom facility available. Mr. Passaro stated there was.

Ann Marie Scheidegger asked how many parking spots he currently had. Mr. Passaro stated he did not know, but he believes that he could fit at least 30. Ann Marie Scheidegger asked how many were currently paved. Mr. Passaro stated he did not have paved area. She asked how many cabins he had. Mr. Passaro stated 14.

Ann Marie Scheidegger asked if he planned on renting out his facility for people to store their boats on trailers and launch them at his site. Mr. Passaro said he does a little, for people that are coming back, because they bring their boat up and then they go home and come back at a later date in the summer to rent his units again.

John Cushing asked who was in charge of the seals for the boats when they pulled them out. Mr. Passaro stated the bigger boats are pulled out by bigger marinas. Mr. Passaro stated that he did not do the actual inspections, he sends them to the actual inspection sites. He just makes sure they have the stickers on their boats. Herb Koster asked if he is the person that actually checks each boat before it is launched. Mr. Passaro said he was and if they don't have a sticker he makes them go up for an inspection before he allows them to launch.

Gena Lindyberg said he needs up to date plans showing the maximum dock spaces, parking spaces and where the bathroom facility was located.

## **RESOLUTION:**

**Motion by Sandi Aldrich** to table this application for additional information. **Seconded by, Kirk VanAuken. All in Favor. Motion Carried.**

2. **SPR18-09 JONES, JEFFERY & DOMBROSKI, ALICIA.** Represented by Hutchins Engineering. For the construction of a proposed single-family dwelling and storage building, seek Type II Site Plan Review for a major stormwater project to remove more than 15,000 square feet of vegetation. 41,200 square feet is proposed. Section 156.00, Block 1, Lot 73, Zone RL3. Property Location: Church Hill Road. Subject to WCPS review. Subject to SEQR.

Tom Hutchins of Hutchins Engineering presented the following:

- They are the owners of Lot #1 in the subdivision that was approved in 2006.
- It is a 13-acre parcel off Church Hill Road.
- He detailed the site plan to the Board.
- It will be a two story home with a walk out basement to the east.
- The lot slopes generally from west to east.
- The driveway will come off Churchill Rd.
- It is a fairly steep area.
- It will be graded out to be 14% to 17 %.
- The driveway will be approximately 150' long.
- The site is relatively level.
- This has been to the town engineer.
- The stormwater is separate for the driveway and the house area.
- The waste water system is an enhanced Presby System.

Kirk VanAuken asked if they would be bringing in material for the driveway or taking it from the property. Mr. Hutchins stated they would be bringing in material in to do the culvert area and build the driveway base.

John Gaddy asked if there was a way to bring the lower stormwater installation in closer to the home. Herb Koster said it was very steep there and they would have to dissipate the water from the driveway all the way down to the bottom. John Gaddy asked if the driveway treatment would be on either side of the driveway. Mr. Hutchins detailed how the stormwater runoff would work on the plans. Herb Koster stated that he understood what John Gaddy was getting at, because the way the town stormwater ordinance reads, you can't divert stormwater from one property to another. Mr. Hutchins showed them how it would be working and where the water would be flowing. John Gaddy asked what kind of vegetation they would be using on the berm area. Mr. Hutchins replied it would be natural vegetation. He stated that the applicant was not big on having lawns in that area. He said the cut limit was fairly narrow.

John Gaddy stated he would like a condition for downward facing and shielded lighting.

Gena Lindyberg asked if there was a planting plan. Mr. Hutchins stated they have not presented a specific planting plan. He explained that they were trying to keep as much natural vegetation as possible and detailed it on the plan.

John Gaddy inquired about an infiltration rate of 74 inches per hour. Mr. Hutchins replied that this was a measured rate that was received when doing the infiltration test per the specification of the DEC stormwater design. They don't design to that rate. John Gaddy said that sounds like it is going down fast. John Gaddy asked if there would be any sedimentation impact to the pond on the neighboring property. Mr. Hutchins stated there would not. He detailed this on the plan.

Sandi Aldrich asked if the shed was for storage only. No water or sewer. Mr. Hutchins replied that was correct.

John Cushing asked if there was a specialized material used in the Presby system. Mr. Hutchins explained that the sand used was a specialized concrete sand which was readily available.

Sandi Aldrich asked about question 17 on the SEQRA form. Mr. Hutchins stated that the stormwater was going to flow to the town right of way in that small area he had detailed earlier.

Ann Marie Scheidegger asked if Indian Brook flowed on the neighbor's property. John Gaddy stated it did not.

## **RESOLUTION:**

**Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR18-09. Seconded by, Sandi Aldrich. All in Favor. Motion Carried.**

**Motion by John Gaddy to accept SPR18-10 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. 2) a planting plan is to be submitted to the Zoning Administrator on the disturbed areas. 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, Sandi Aldrich. All in Favor. Motion Carried.**

John Gaddy stated that based upon the materials submitted by Tom Center on the stormwater project and accepted as part of the record he would like to add the following:

1. The project meets the design requirements and performance standards set forth in the Code.
  2. The project will not have an undue adverse impact regarding the criteria set forth in the Code.
  3. That the stormwater control measures proposed will function as designed and constitute the best possible methods feasible and practicable for the project site.
  4. Adequate and sufficient provisions are presented, as part of the plan to assure future function or responsibility in the event of failure.
  5. The project will not contribute to flooding, siltation or streambank erosion and will not pollute Lake George, its tributaries or streams with stormwater runoff.
3. **SPR18-12 MIRADA LLC.** Represented by Bartlett, Pontiff, Stewart & Rhodes. Seeks Type II Site Plan Review for a Marina. Section 171.20, Block 1, Lot 3, Zone RCH5000. Property Location: 21 Green Isle Lane. Subject to WCPS review. Subject to SEQR.

Jonathan Lapper of Bartlett, Pontiff, Stewart & Rhodes and presented the following;

- This is located on Green Island.
- It is an existing home with existing docks.
- The applicant has a "Class B" marina permit for the 1 rented dock and 2 boats go with the seasonal rental of the bottom floor of the house.
- The 4<sup>th</sup> boat belongs to the owner.

- This issue came up due to the boat pump out that goes into the town sewer system.
- If you have a marina, you must have a way to pump out the septic.
- Most people use a marina to do this.
- He has town septic and it was easy to install an onsite pump.
- They have a permit from the LGPC.
- They were told they needed to come before the town to show they have parking and a bathroom.

Gena Lindyberg asked if they had a permit for the pump out station. Atty. Lapper stated that he does not know that a permit is required.

Gena Lindyberg asked if the placement of the pump has been approved. Devin Dickinson stated the Zoning Administrator was out and stated that if approvals are needed for the pump out it was a Town Board approval. She said they should come before this Board first for Site Plan approvals and then upon approval, they would go to the Town Board if necessary, for any additional permits.

Sandi Aldrich asked how many boats would be using the pump out station. Mr. Dickinson replied all 4.

Herb Koster stated that he would believe that the Town Board would want to know if they were pumping 1 boat or all 4+ into their sewer system. Atty. Lapper said they had not been told that they needed to go to the Town Board yet by the Zoning Administrator, but of course if that was needed they would. Atty. Muller said they have discussed this quite a bit. The situation seems to be that the applicant was given permission to install this by Tom French II and they are not sure whether or not he had the authority to grant permission for this. The Town Board is clearly involved with the introduction of effluent into the municipal sewer system. Supervisor Conover and he had discussed what this is...it is a pump, not a septic system, so there is no clear answer as to whether a permit required. Clearly the Town Board is involved when it comes to the sewer system. They have met with the applicant and his attorney and Molly Gallagher of the LGPC. Ms. Gallagher stated that the LGPC encourages this. Herb Koster said this goes along with the marina permit usually. Atty. Muller stated that this Board should make a requirement of the applicant to find out what the Town Board requires from them and get permission from them. The issues that seem to be a concern of the neighbors and precipitated the need in the first place, is when the pumping occurs, there are odors and what the cleaning process is for the hose and how it is treated.

Herb Koster asked if they say the marina was only for 1 boat, but there are several there. Atty. Lapper stated that there were 4. Herb Koster asked if they were sleeping on the boats. Atty. Lapper stated that he was not sure if the people that rented the house were sleeping on the boat or in the house. Gena Lindyberg said she had called the LGPC and was told it was this Board's decision and they could put a stipulation in as to whether or not they could sleep on the boats. Herb Koster stated that they have a stipulation on another marina in town stating that there is to be no sleeping on the boats. Atty. Lapper stated this was a pretty big piece of property with a pretty good size dock structure. Sandi Aldrich stated it had nothing to do with the size. Atty. Lapper stated he did not think there was anyone around that it effects. Herb Koster stated that it effects Mrs. Gabriels who lives right next door and it effects the hotel. Sandi Aldrich said it also

effects anyone directly across that bay as sound carries. Herb Koster stated that it sounds like they are trying to verify someone living on the boats. Atty. Lapper said they can find out and come back.

Sandi Aldrich asked who would be operating the pump out system. Atty. Lapper stated probably the renters, he believes they are all pretty sophisticated and would have no problem with it. Sandi Aldrich stated that she had a problem with it.

John Cushing asked how many years the pump station has been there. Atty. Lapper stated a couple of years which is how long they have been using it. He said pumping out a boat is a good thing and it needs to happen. Gena Lindyberg said as long as it is done through a legitimate and registered site. There is nothing wrong with it as long as they have the approvals. Atty. Lapper said that the applicant will do whatever is required. Herb Koster said that it had to be run by someone that knew what they were doing. He said there were complaints from the neighbors about the smell. If you just disconnect the hose, the smell stays in the hose. Atty. Lapper said he was told that there was one a problem with one of the boats which had nothing to do with the sewage pump out and it has been fixed. He said it would probably be best to table this and come back with some answers. Atty. Muller suggested that the Board get all of its questions out, so the applicant knows what information to come back with.

Sandi Aldrich stated that seeing that its only 4 boats she does not see any hardship in going to a marina with pump out systems to pump out the boats.

Herb Koster stated he would like them to know that from previous applications, he does not think that this Board will not be happy with sleeping on the boats.

John Gaddy asked about the setup with the house and the boat renters. Atty. Lapper explained that the whole downstairs of the house is rented by 2 of the boat owners, which has a bathroom and kitchen facilities. Sandi Aldrich asked if this was part of the marina. Atty. Lapper said the marina was for the technically for the 1 boat that uses this for a bathroom only. Gena Lindyberg said they said they had 2 boats. Atty. Lapper explained that 1 boat went with the marina, 2 boats went along with the rental of the home and the 4<sup>th</sup> boat was the owners, who has the upstairs. John Gaddy asked if you needed a marina permit if you were renting out the place. Atty. Lapper said you did not.

John Gaddy asked if there had been any parking issues. Atty. Lapper said there had not, there was plenty of room.

John Cushing stated that there have been a couple of bad issues on the island dealing with sewage and he is not sure they would want to be involved in additional sewage being pumped into the system. John Gaddy said that he thinks they would need assurances from whomever is running the sewer plant that we have the capacity for this additional pumping. Atty. Muller stated this was a Town Board issue and that he needed to pin down the Town Board to find out what their expectation was.

John Gaddy asked Sandi Aldrich what the differences were with a septic pump out facility in a marina that has been doing it on a commercial basis versus what the applicant has. Sandi Aldrich said she does not know. John Cushing said that Norowal pumps right into the town system, but it was a public facility. What is to stop every private entity with new marina permits from installing pump stations to pump out their boats. Atty. Muller said this was correct and the LGPC encourages this. The question is whether or not the Town of Bolton does.

Ann Marie Scheidegger asked if there was any way to find out the total capacity for Norowal and if they could accommodate all the boats out there that needed pump outs and also if the present resources could handle more. Atty. Lapper said he could look into this.

Gena Lindyberg said the following were concerns that they would like addressed at the next meeting.

1. Find out from the town whether approvals for the pump out system were needed.
2. If they are sleeping on the boats.
3. Experience of the people pumping out the boats and guidelines for pumping.
4. Containment solutions and boundaries.
5. Specifications as to how this system is designed to work.
6. Odor control.
7. The number of gallons pumped out each time and the holding tank capacity.
8. Who is restricted to use the pump out stations.
9. The pump out capacity at the marinas that already offer this service. *Atty. Muller stated he does not believe capacity is the issue, it is more of the amount of people trying to use the pump out stations.*

#### **RESOLUTION:**

**Motion by** Gena Lindyberg to table SPR18-12 for additional information. **Seconded by,** John Gaddy. **All in Favor. Motion Carried.**

4. **SPR18-11 HIPPELE, RAYMOND & CLAIRE.** Seek Type II Site Plan Review for an accessory structure greater than 1,500 square feet of floor space. Approximately 1,900 square feet is proposed. Section 185.19, Block 1, Lot 57.2, Zone RCL3. Property Location: 50 Acorn Dr. Subject to WCPS. Subject to SEQR. To be heard only if a successful variance is granted V18-18.

Raymond and Claire Hippele presented the following:

- This is a garage addition with a second floor to their existing home.

John Gaddy asked if this was connected to the house. Mr. Hippele stated it was. John Gaddy asked how long the whole building was with this addition. Atty. Muller said that the ordinance allows 125 linear feet. John Gaddy stated he scaled it out and it appears just under 125'

John Gaddy stated he would like the condition added that all outdoor lighting be downward facing and shielded. Mr. Hippele said they had one light on the back porch, and some solar lights. All the garage lighting would be blocked by the house from the lake.

Sandi Aldrich asked if they had any idea what the capacity of the septic system was. Mr. Hippele stated that the Zoning Administrator had a letter on file stating it was adequate.

Sandi Aldrich asked if there would be any cooking facilities above the garage. Mr. Hippele replied that there would not.

Kirk VanAuken asked if they knew how many trees that they would be losing. Mr. Hippele said that they would need to remove the one near the garage foundation.

Kirk VanAuken asked about the cabin and if it was a residence. Mr. Hippele stated it was a seasonal residence.

Kirk VanAuken asked if it would block the neighbors view of the lake. Mr. Hippele said that it would not.

#### **RESOLUTION:**

**Motion by** Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR18-11. **Seconded by,** Gena Lindyberg. **All in Favor. Motion Carried.**

**Motion by** Kirk VanAuken to accept SPR18-11 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 conditions; 1) All lighting is to be downward facing and shielded. 2) There are to be no cooking facilities in or above the garage. 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,** Gena Lindyberg **All in Favor. Motion Carried.**

Motion by Ann Marie Scheidegger to go into executive session to discuss pending litigation. **Seconded by,** Sandi Aldrich. **All in Favor. Motion Carried.**

No Action Taken

The meeting was adjourned at 7:30

Minutes respectfully submitted by Kate Persons.