

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday August 19, 2021
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: John Cushing, John Gaddy, Sandi Aldrich, Gena Lindyberg, David Smith, Chairman; Herb Koster, Director of Zoning & Planning; Richard Miller P.E & Town Counsel; Michael Muller

Absent: Kirk VanAuken,

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

REGULAR MEETING

Herb Koster asked if there were any changes or corrections to the July 22, 2021 minutes.

RESOLUTION:

Motion by Gena Lindyberg to approve the July 22, 2021 as presented. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

- 1. SD21-03 35 & 37 Horicon Lane.** Represented by John Harris. Subdivision of a nonconforming lot containing two houses into two undersized lots each containing one house. Section 157.05, Block 1, Lot 3, Zone RCL3. Property Location: 35 & 37 Horicon Lane. Subject to SEQR and LWRP review.

John Harris presented the following:

- The property is the former Norridge Village.
- This has been a shared property by two families.
- Their goal is to continue to have 2 homes on what is currently a single lot and turn it into two lots with a single home on each.
- The Board had asked for an iron clad shared services agreement between the owners of the two properties which they have provided.

Sandi Aldrich asked Atty. Muller if he was satisfied with the agreement. Atty. Muller said he was, and that it should be a condition if approved, that it is to be recorded and filed with the Warren County Clerk's Office.

John Cushing stated he is still not happy with the shared absorption field by the 2 homes, and he feels that the absorption field should be replaced. He discussed the life span of absorption fields and said he believes that it is at the end of its life span. He has no problem with the division of the property if the absorption field is upgraded and replaced. He also noticed a stormwater drain next to the concrete wall 1' away from the absorption field. He believes that if there is ever any problem with the absorption it will go to the storm drain and right to the lake. The system is only 1100 sq. ft., and he does not know how it can handle the effluent for 2 homes. He stated that had a problem voting for this.

Mr. Harris said after Mr. Cushing's visit, they asked Engineer Tom Hutchins to come back to the property to reinspect the septic system and his first assessment was that the current configuration was the best configuration given the land available and that splitting them into 2 separate absorption fields was not a good idea as there was not a good place on the other property to put a separate absorption field. When he came back the second time, he looked at the storm drain, the concrete wall and for any signs of failure or flaws in the current system. He stated that the concrete wall was completely intact, and the depth of the storm drain in front of the wall was 2' and the concrete wall clearly extended well beyond that depth. His assessment was that the depth of the wall must go below the frost line and would protect against any stormwater contamination. He also rechecked the field and saw no sign of any flaws or failure. Their plan is that when the absorption field is no longer functional, they will have a contractor dig it out and replace the materials in it so that it can be a refreshed, new absorption field, which was Engineer Hutchinson's recommendation.

John Cushing asked if Mr. Hutchinson had preformed any tests on it. Mr. Harris replied that he had not. He said that they had a BSIP inspection done prior. John Cushing asked if the concrete wall and footing had been waterproofed. Mr. Harris replied that he did not know. John Cushing again stated that his contention is that the field is at the end of its lifespan. Herb Koster stated that he was not sure that Mr. Cushing was qualified to make that assumption and that it was inspected twice by a licensed engineer. Mr. Cushing stated he was approved by the town to inspect absorption fields. He is curious as to how they tested it. He does not like the whole set up of the system. Mr. Harris stated that for many years this property has only been used 10% to 20%.

RESOLUTION:

Motion by David Smith to accept SD21-03 as complete, waive a public hearing, and having met the criteria set forth in the code, convert to final plat and grant final approval of the project as presented. This motion includes a SEQR & LWRP analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented with the following condition: 1) The approved maintenance agreements must be recorded in the Warren County Clerk's Office. **Seconded by** Sandi Aldrich. John Cushing **Opposed**. **All others in Favor. Motion Carried.**

2. **SPR21-18 Brookside Parkway.** Represented by Eric Schwenker & Hutchins Engineering. Site plan review of the stormwater and erosion control improvements for Brookside Parkway Road. Section 186.00, Block 1, Lot 42; Section 186.00, Block 1, Lot 40.111; Section 186.00, Block 1, Lot 41; Section 186.00, Block 1, Lot 40.2; Section 186.00, Block 1, Lot 40.131; Section 186.00, Block 1, Lot 40.132 and Section 186.00, Block 1, Lot 40.12. Zone RL3. Property Location: Brookside Parkway Subdivision. Subject to SEQR and LWRP review.

Sandi Aldrich recused herself.

Atty. Eric Schwenker and Barry Kincaid presented the following:

- This is an application for site plan review of stormwater and erosion control improvements related to Brookside Parkway Road in the Town of Bolton.
- Mr. Kincaid, Co-Administrator of the Brookside Parkway Road Maintenance Agreement passed out a packet of photos and detailed them to the Board.
- For several years they have been having a water runoff issue which they have been trying to fix on this road and they keep getting stopped by a neighbor.
- He depicted all the damage and stormwater issues on the photos that they have been trying to address.
- He has created a stormwater catch basin on his own property which is working great.
- Every time he tries to fix these issues his neighbor (who does not own the property) tries to stop him and has had him arrested. (*He said all the charges were dropped as they had no merit*).
- The neighbor has ripped out silt fences among many other things.
- He had previously come to the Town to show them what he was doing to fix these stormwater issues and they had approved it in the Planning Office.
- The neighbor had the police show up and stopped him from doing the work.
- Mr. Kincaid then had Warren County Soil and Water, LGA and The Lake George Waterkeeper look at the site and had an engineer to draw up stormwater control plans.
- The neighbor again blocked the road and called the police.
- He wrote an email to Mr. Miller explaining that the plans had been approved by the previous administration and asked if this approval was still in place. Mr. Miller replied with a letter that it was, and Mr. Kincaid was good to go.
- He proceeded to start implementing the controls and the police were again called by the neighbor.
- He showed the police all the documentation from the town and the police told the neighbor to stop harassing him and stay out of the way of the work.
- After the police left, the neighbor parked a car in a way as to block any more ditching.
- Mr. Kincaid said he shut down the operation and stated that this whole thing has been nuts.
- Atty. Schwenker said that Mr. Kincaid has had a number of issues trying to effectuate what have been approved stormwater control measures.

- One of the underlying themes Mr. Kincaid has been presented with is lack of town authority to engage in these stormwater controls, which is why they are here.
- They are here to seek approvals to implement the engineered stormwater controls from the Planning Board.
- This is a minor project, and they are looking for the component of town approval to engage in the engineered stormwater controls.
- As the photos clearly show, these are real concerns as Huddle Brook runs right through this area.
- These designs by Hutchins Engineering, are designed to alleviate these stormwater runoff concerns along Brookside Parkway.
- Drainage and stormwater controls are specifically addressed in the road maintenance agreement that was originally developed as part of the subdivision approval in 2006.
- The Town's involvement at this point is the approval of the stormwater controls and the Town's Planning Board approval is specifically addressed in the road maintenance agreement that was filed and referenced a number of times.
- They are seeking the Planning Boards approval of the submitted stormwater control provisions so they can end this continuing situation.

David Smith asked Mr. Kincaid if he was funding and using his equipment and time to do the project. Mr. Kincaid stated at this time yes. David Smith asked what the plan was if everything was approved. Mr. Kincaid stated it was evolving and he would deal with that situation. Atty. Schwenker stated that there is road maintenance agreement which actually states that this will be a shared expense for all properties that utilize Brookside Parkway. The majority of the deeds that contain easements over Brookside Parkway have provisions regarding the sharing of costs in addition to the road maintenance agreement. Mr. Kincaid stated he would be fronting the costs right now to make sure the work was finished, and that he had substantially finished one side until he was blocked by his neighbor. He explained that the work that was being done was all within the 50' right-of-way for road maintenance.

John Cushing asked how many people shared the easement. Mr. Kincaid said there were 7 lots and 3 homes right now. John Cushing asked if he had spoken to them yet. Mr. Kincaid stated yes, and all but one was on board with the work being done.

John Gaddy asked if most of the issues that were contributing to the siltation were from the one lot that was holding out. Mr. Kincaid and Atty. Schwenker both said yes and detailed it on the plan and in the photos. Mr. Kincaid stated everything else was done or ready to go. He said that he is not asking the Board for permission to go on that property, he is only here tonight for approvals for the engineered stormwater plans. Atty. Schwenker said by looking at the engineered plans, you can see that the majority of the implementations are generally concentrated to one spot, which happens to be in the area that is in dispute. Mr. Kincaid said they have lost substantial amounts of the lower part of the road near the culvert due to the lack of stormwater implements. Atty. Schwenker said the property that objects to the stormwater control measures is adjacent to Huddle Brook.

John Cushing asked if this was the property with the trailer and other objects. Mr. Kincaid replied yes, they were put there to stop any of the stormwater controls being administered.

John Gaddy asked in the event he received favorable approvals for the stormwater, how this would change his status with the neighbor and him not getting arrested again. Mr. Kincaid said he was not concerned with being arrested, he was concerned with fixing the problem at hand and stop the erosion and runoff. Atty. Muller stated that if there was an approval of the plan and it was mandated by this Board, any impediments to the completion of the project as mandated by the Board will be up to the Town of Bolton to seek enforcement of the approved plan.

John Cushing asked Mr. Miller if he approved of the plans. Mr. Miller replied yes.

John Cushing asked if any of the stormwater comes within 100' of a well or absorption field. Mr. Kincaid replied, no.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR21-18. **Seconded by** David Smith. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR21-18 as complete; having waived 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 & LWRP analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

- 3. SD21-04 LaGoy.** Represented by Diane Burkhardt. Minor subdivision of a conforming lot into two conforming lots. Section 185.00, Block 2, Lot 3, Zone RL3. Property Location: 24 Potter Hill Road. Subject to SEQR and LWRP review.

Diane Burkhardt stated that they are trying to settle their mother's estate by dividing it into 2 pieces.

Gena Lindyberg inquired about a line on the plans and if it was a separation line for the two lots. Ms. Burkhardt replied yes.

Gena Lindyberg asked for the acreage of the second lot. Ms. Burkhardt replied one was 4.5 acres and the second was 20+ acres which would go to the estate.

Gena Lindyberg inquired about the buildings. Ms. Burkhardt replied that one lot would contain the buildings and the other would be vacant.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SD21-04. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SD21-04 as complete, waive a public hearing, and having met the criteria set forth in the code, convert to final plat and grant final approval of the project as

presented. This motion includes a SEQR & LWRP 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.**

4. **SD21-05 Moffit.** Represented by Steven Moffitt. Minor subdivision of a conforming lot into two nonconforming lots. Section 200.14, Block 1, Lot 25, Zone RM1.3. Property Location: 11 Cotton Court. Subject to SEQR and LWRP review.

Steve Moffitt presented the following:

- He is trying to subdivide his property into 2 lots.
- There is a shared driveway that goes down through the property.
- His main house is on the left hand side going east, and the pool house and pool are on the other side.
- His goal is to retire one day and have a smaller home.
- They would like to put something on the pool side lot and eventually sell the other home/lot to his daughter.
- He did get an area variance for this approved in March of 2021.

Gena Lindyberg asked if there were existing wells for the two houses. Mr. Moffit replied no and explained that the main house has the well which used to serve three other houses and the pool house. He has since changed this to only serve his main house and the pool. Gena Lindyberg inquired if he planned on adding a well to the new lot when subdivided. Mr. Moffit replied yes, he would have to.

Gena Lindyberg asked if there was a driveway going into the second property or wetlands. Mr. Moffit replied no to both questions. Herb Koster stated Cotton Court was within the lot.

John Gaddy inquired about an adjoining lot. Mr. Moffit replied that it was not his.

Sandi Aldrich asked where the well was located for the existing home. Mr. Moffit detailed it on the plan.

Gena Lindyberg asked if there was an easement in the deeds for the shared driveway. Mr. Moffit replied yes.

John Cushing said he does not believe they have enough acreage to subdivide. Mr. Moffit may have received a variance, but he does not have to vote yes for this project.

Sandi Aldrich asked if by doing this they would be creating a lot with an accessory structure without a primary structure. Atty. Muller replied no and cited Section 200-8(g). He said he was advised the structure met the square footage to be considered a principal structure.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SD21-05. Seconded by David Smith. All in Favor. Motion Carried.

Motion by John Gaddy to accept SD21-05 as complete, waive a public hearing, and having met the criteria set forth in the code, convert to final plat and grant final approval of the project as presented. This motion includes a SEQR & LWRP analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by Gena Lindyberg. John Cushing Opposed. All others in Favor. Motion Carried.

Informal Discussion and Review requested by applicants:

- 5. SPR 21-15 David Massaroni**, Represented by Studio A. Construction of two triplex townhouse units, two duplex townhouses, and three single family residences and from conversion of existing motel buildings. The pool and patio area are to remain. On-site wastewater treatment system and stormwater management practices are proposed. Section 213.13, Block 1, Lot 51/52/35, Zone RCM1.3. Property Location: 3926 Lake Shore Drive. Subject to WCPA, SEQR and LWRP review.

Atty. Lapper along with Jeff Anthony and Matt Huntington of Studio A presented the following:

- They have received the required variances from the Zoning Board based on the impact comparison.
- They are only keeping the two homes and pool area.
- They have submitted preliminary engineering to The Chazen Group, and they responded that they had only submitted preliminary engineering, which was their goal as they wanted to hear comments from the Planning Board before they finalized it.
- The project site is the existing Capri Village, which is essentially motel units that they plan to demolish for the most part.
- One portion of the existing owner's office/residence will be retained and converted into a free standing, single-family home.
- The second building to remain is currently the care takers home, but the motel portion will be demolished.
- All other buildings on the site will be demolished.
- He detailed all the proposed townhouses and single-family homes on the plans.
- The existing access will remain as will the access near the care takers residence.
- The main entrance to the property will be the one near the existing swimming pool and service all the properties with the exception of the caretaker's residence.
- The caretaker's home will have its own access.
- The dock and shoreline facilities will remain as is.
- All the lakeshore development will remain the same with no new construction.
- These will all be sold and will not be rental properties.
- There will be heavy plantings and buffers between the properties to the north and south.
- The ultimate plan is for 10 town houses 5 single family residences of which 2 exist, for a total of 15 units.
- Matt Huntington stated that the property does not have any stormwater at this time.

- They will be upgrading the stormwater with infiltration and retention basins which will be a significant upgrade.
- He detailed this on the plans.
- The existing wastewater is as series of scattered seepage pits and wastewater infiltrations that are not up to modern code.
- He detailed the proposed wastewater plan stating it would be an enhanced system and pumped across the road away from the lake.
- There are some existing wells which will be redrilled to keep the separations needed.

John Gaddy inquired about a drain located on the plans that he could not find. Mr. Huntington replied that it would be removed. The majority of stormwater would be addressed with overland flows.

John Gaddy asked about an existing rock cropping and how they would be dealing with it. Mr. Huntington stated it would be left as is.

Gena Lindyberg asked if the homeowners would own the land beneath their buildings. Atty. Lapper replied that they would own their footprint and there would be common property owned by the Association.

Herb Koster asked if they would be building all the structures or if the homeowners would be contracting for their own builders. Mr. Masseroni stated that it would be a combination of both.

Herb Koster asked if the buildings depicted on the final drawings were going to be built in the exact footprint depicted on the plans. He wants to make sure they will not be coming back looking for bigger footprints. Mr. Massaroni said yes, pretty close. They will be staying within the square footage of buildable space. It could be smaller, but not bigger.

John Gaddy stated he would be looking for lighting conditions.

Gena Lindyberg asked about the stormwater runoff. Atty. Lapper stated the plans would be much more detailed when they send them back to Chazen for a sign off.

Herb Koster asked if there would be architectural restrictions on the structures. Atty. Lapper replied yes.

John Gaddy asked if there would be rentals at the beach front. Atty. Lapper replied no, it would only be for the people that reside there. Herb Koster asked if this included the property across the road. Atty. Lapper replied yes.

Herb Koster asked what the shoreline footage was. Mrs. Famosi stated about 397 feet of shoreline.

Gena Lindyberg said that it was important that they follow through with what The Chazen Group has recommended.

Herb Koster asked if they would be submitting a planting plan for the buffer between the north and south properties. Mr. Anthony said yes, they would be submitting a detailed planting plan.

Herb Koster asked if they planned on adding any plantings on the lakefront. Mr. Anthony replied that they could. Sandi Aldrich said she would like to see this to soften the proposed buildings' view from the lake. Mr. Anthony said they would submit a detailed planting plan which would address this. Herb Koster asked if they planned on foundation plantings. Mr. Massaroni replied yes.

John Cushing asked if they would be removing any surprises they come across while digging up the existing septic systems. Mr. Massaroni replied yes. Atty. Lapper stated they had received a phase one environmental which was completely clean.

Gena Lindyberg said she would be interested in the HOA covenants.

John Gaddy said he liked the plan and it looked like it was well thought out. Placing the wastewater across the road is a positive move.

Herb Koster asked about the minimum frontage needed for primary structure and additional ones. Atty. Muller stated that this was up to the ZA to calculate. Mr. Miller stated he had not done that yet. Atty. Lapper said that this was a little bit different because it was an HOA situation where everyone owned part of the percentage of the common property. Atty. Muller said he agreed with this, and he would talk to the ZA and see how they will calculate this.

John Cushing said his personal view would be to make them all duplexes as opposed to triplexes. Atty. Lapper stated the Zoning Board approved this already. Mr. Massaroni stated they did this so they would not need to add more buildings, which will maximize the views without compacting the property and leaving more green space. Atty. Lapper stated compared to what is there now, this is much less development than what exists now.

- 6. SD21-02 Twin Bolton Residential Subdivision, Twin Bolton, LLC.** Represented by Studio A. Subdivision for six townhouses (two triplex units) and 15 single family lots. Section 186.6, Block 1, Lot 14 and Section 186.7, Block 1, Lot 13, Zone RM1.3 and RL3; Property Location: 4799 Lake Shore Drive. Subject to WCPS, SEQR and LWRP review.

Atty John Lapper and Matt Huntington of Studio A presented the following:

- This was originally a bigger project looking for a PUD to increase the density and the Board was not excited about that application.
- They instead went with the permitted density and went with 2 town house units by the road which they received the needed variances.

Jeff Anthony detailed the new plans to the Board.

- He detailed the old plan and new plan to the Board.
- The access driveway stays in the same location as on the old plan.

- This is a logical place to put the road due to the topography.
- The traffic study they had done before for 36 units was approved and this is less at 21 units.
- They are proposing 5 lots up on top with the same access road configuration as previously proposed.
- Down below they are proposing 6 townhouse units in two buildings.
- The Sembrich building will stay.
- The new single family home lots will be configured along the roadway.
- The previous reports that were done for the PUD will be resubmitted with this project.

Mr Huntington detailed the utilities as follows:

- The road will be in the same spot as in the original submittal.
- He detailed the stormwater, water, and wastewater for the project on the new plans.

John Cushing asked if they would be putting fire hydrants in and if they would be tested. Mr. Huntington replied yes, it was a requirement.

John Gaddy asked about the road by house #15 and the vegetation that will be removed in this area. Mr. Huntington replied that it would be replanted, and they would be providing a planting plan for any disturbed areas.

John Gaddy inquired about the clearing envelope and the need for plantings to soften the view from the lake.

John Gaddy said he would like to see a pedestrian access along the road with a sidewalk on the west side of 9N. Keith Scott asked if they would be liable if anyone was injured on it. Atty. Muller said he couldn't say that they could not be sued. Keith Scott said they were amiable to the state or town to taking 5' or 6' for a public sidewalk there, but they do not want to maintain a private sidewalk and be open for litigation. Atty Lapper said they were amiable to dedicating an easement to the town for a sidewalk. Atty. Muller stated that was possible, they question would be if the town was in the position to accept this. Atty. Muller stated that Mr. Miller would need to ask the Town Board if they were willing to consider this.

Mr. Scott said as far as the visual aspect, once it was all cleared it would make visibility for pulling in and out of the property much better.

Gena Lindyberg asked if it would be a HOA and if they would own the property. Atty. Lapper said the townhouses would be footprints.

Gena Lindyberg inquired if there would be restrictions on the size of the individual homes being built. Mr. Scott stated it would be based on the size of the lots. Mr. Anthony said there will be a set of architectural guidelines for all of them. They could set a minimum and maximum footprint and guidelines.

Herb Koster asked if they planned on building the townhouses. Mr. Keith stated they had not gotten that far. Atty. Lapper stated that the architectural guidelines would be locked in so that they would have to be built to what was approved.

Sandi Aldrich inquired about emergency vehicle access. Mr. Huntington replied they will have a pull off along with a hammerhead at the top and the road will meet the width of the town standards.

The meeting was adjourned at 8:02PM

Minutes respectfully submitted by Kate Persons.