

**Town of Bolton**  
**PLANNING BOARD MINUTES**  
**Thursday, March 10, 2022**  
**6:00 p.m.**  
**Town of Bolton Town Hall**

SEQR = State Environmental Quality Review  
PB = (Town of Bolton) Planning Board  
WCPS = Warren County Planning Staff  
APA = Adirondack Park Agency  
LGPC = Lake George Park Commission  
DEC = Dept. of Environmental Conservation

**Present:** Chairman Herb Koster, Planning Board Members; David Smith, John Cushing, John Gaddy, Kirk VanAuken, Sandi Aldrich, Gena Lindyberg, Zoning & Planning Director - Richard Miller, P.E; Town Planner - Joshua Westfall, AICP & Town Counsel – Brian Reichenbach

The meeting was called to order at 6:00 PM

**Public Hearing**

1. **SPR 21-15 David Massaroni** (Capri). Represented by Studio A. Construction of three single family homes, two triplex townhouse units, and three single family residences 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 APA, WCPA, SEQR and LWRP review. *Last reviewed January 27, 2022*

Atty. John Lapper presented the following:

- The applicant has labeled buildings and added maximum square footage to the plans.
- The applicant has added and illustrated shoreline plantings.
- All buildings will be built in one phase; there will be no phasing.
- Stormwater improvements related to construction will be done immediately. Final stormwater improvements will be completed before requesting C.O.'s on each building.
- Likely blasting required will be for one single family home and one triplex structure.
- The applicant has changed the earth work notes on the site plan.
- All exterior light will be dark sky compliant.
- The applicant is working through stormwater and septic comments with Labella.

John Cushing asked for clarification of the number of dwelling units.

Atty. Lapper replied, a total of 15.

Matt Huntington stated that not a lot has changed from the last time they presented. They may require blasting in two areas. He detailed the updates on the plans to the Board stating a robust planting plan and stormwater management practices.

Chris Navitsky presented the following:

- He feels the application has failed to make substantial progress in mitigation measures and falsely validates the overdevelopment by comparing said development with prior noncompliant development, constructed well before zoning and environmental regulations.
- The project design incorrectly uses storage volumes of sediment forebays to reduce post-development stormwater volumes for the 10-year storm event.
- The project proposes to install infiltration practices within the required horizontal setback implemented for water quality protection from high traffic areas.
- The project proposes direct discharge of the overflow weirs from Basins 6P and Basin 10P to Lake George without any protection or treatment measures.

- No subsurface investigation was provided for Pond 10P, the infiltration basin closest to Lake George.
- The stone sumps for Basins 5P, 6P 8P and 9P providing stormwater treatment in cold weather conditions extend into groundwater or bedrock eliminating treatment.
- The stormwater calculations claim 0.9 acres of “Woods” on the east side of Rt 9N in post-development conditions, which misrepresents land cover and underestimates runoff.
- The project fails to meet the requirement of LWRP to restore natural resources such as soil restoration for the extensive pavement removal, which is also referenced in the NYS Stormwater Design Manual.
- The project should be required to follow the LWRP policy requirements to “restore natural protection features” by “using vegetative approaches for natural shoreline features.”
- The current design proposes not one planting along the shoreline.
- The existing subsurface disposal fields should be located, and the soils removed to prevent nutrient loading.
- According to the New York State Department of Environmental Conservation Wastewater Design standards for Lake George, pressure distribution is required for gravel-less geotextile sand filters.
- The HOA covenants must include that no spa tubs or garbage grinders are permitted in the development.

Rod Cornelius, adjacent homeowner on the west side, and with a financial interest in a motel to the north of the property, presented the following for consideration:

- He had his attorney John Caffrey submit a letter.
- The presentation submitted to the ZBA showed a reduction in site coverage by approximately 85 less than what was originally there which he believes is incorrect.
- He is alarmed by the elevations as all of the buildings are apparently 3 stories.
- He sees nothing in where the ZBA’s approves square footage for homes.
- From the planning perspective, this is far more than a reduction in intensity and density.
- It is his position that the Planning Board should determine what the square footage should be.
- Very large homes are proposed, and everything that was there before was only one-story.
- He was under the impression that there were supposed to be deed restrictions in the HOA agreement.
- The applicant should provide clarity on the building phases.

Kim Cornelius stated that they have a substantial financial investment in Treasure Cove Resort and a house across the street. She urged the Planning Board to consider specific building parameters limiting their size and to provide clear and definitive guidelines on what could be built. She asked for limitations on construction hours and prohibiting work on weekends in order to limit any harm to surrounding businesses.

Atty. Lapper stated the following in response:

- Square footage footprints were in the ZBA and Planning Board applications.
- None of the structures are three stories; they are all two-story homes and there may be walkouts on one or two of the homes.
- The triplexes have the largest square footage as they consist of three homes, not one.
- This will be a much quieter area when considering the former development versus the proposed 15 single family homes.
- The proposal will result in a compliant stormwater and an upgraded septic system.
- During the construction phase there will be construction impacts but development in at one time, in one phase will work to assuage negative impacts.

- The applicant will have to come back to the Board for site plan review for each of the buildings, but they can never be bigger than the footprints that are on the plans now.

Dave Massaroni – Applicant, stated the following:

- Demolition was completed within a weeks' time as he is very conscious of the effects of construction and the rights of nearby property owners' quiet enjoyment.
- Because of the grade of the elevation, they will have some walkout basements.
- The townhouses are roughly 1,100 sq. ft. per footprint which comes out to about 3,100 sq. ft. per unit.

Mr. Massaroni continued, saying that they can't really count the basement as a story.

Herb Koster stated that if it is a walkout basement, it is counted as living area.

Mr. Massaroni stated it was a basement.

Gena Lindyberg stated that APA regulations state that the basement is considered a story.

Atty. Lapper stated that to the extent that it is a walkout basement, part of it will be living space.

Gena Lindyberg asked if the building heights would be within the Bolton regulations.

Atty. Lapper replied yes.

Rod Cornelius detailed how he got the calculations of 75,000 sq. ft. He said he would like to know the square footage of all these buildings combined.

Herb Koster said that the town has a Zoning Administrator who reviews plans prior to the Board meeting.

Mr. Cornelius stated he had not seen anything on the square footage on the building other than the footprint. His attorney has requested this information and has not received anything as of yet. He further stated that at this point in time there is certainly not less density from what originally existed.

Atty. Lapper stated that he believes the confusion is that what the ZBA approved was the footprints, which is less. They did not need height variances. The footprints can't be any bigger than what the ZBA approved.

Kirk VanAuken asked if the footprint shown on the drawing is of one story or the combination all the livable space.

Herb Koster said that the full extremity of the footprint includes the overhangs of the roof. Atty. Lapper stated this is correct the footprint is not a combination of all the livable space. And that stormwater was calculated based on this.

Atty Lapper further stated that the applicant was in the final stages of the stormwater review with LaBella and are just waiting for a signoff letter from them.

John Cushing stated that according to the plans there is an increase in square footage.

Mr. Huntington said to clarify, the square footage areas he is looking at is buildings to total impervious area, not just building to building. Overall, there was a net reduction, there was 27,000 sq. ft. of buildings and now there is 37,000 sq. ft. of total impervious cover so there is a reduction of 32% on the site of total impervious area.

Sandi Aldrich inquired if the septic fields were removed during demolition.

Mr. Massaroni replied not at this time, but they will be during the development.

Mr. Huntington stated that all the tanks have been located on the plans and that the abandonment procedure is noted on the site plan materials.

Gena Lindyberg asked about shoreline planting they had requested.

Mr. Anthony stated they would have shrubs and bushes for stormwater management between the buildings and the lake. They have also added some trees as requested in front of and on the sides of the townhouse buildings in addition to the buffers on the north and south property lines all the way

down to the lake. On the shoreline they have a beach so they will not be proposing any changes along the beach area and everything there will stay.

Sandi Aldrich asked about the proposed tree sizes.

Mr. Anthony stated this was the planting size, not the mature height.

Josh Westfall reported that the Board had asked for verbiage for limitation on size of building and stipulations that it could not be revised at the last meeting. He noted that the applicant has submitted Drawing C1-10, indicating maximum footprint areas for the new buildings, and that the Planning Board should determine if that is acceptable.

Mr. Westfall also detailed that phasing was a concern of the Boards at the last meeting although tonight, the applicant stated that construction would occur in one phase. Mr. Westfall suggested that this needs to be determined correct.

John Gaddy stated he shares the concerns for the plantings, and that he is looking for more than just “some trees on the sides of the buildings”.

With development of this size, he would like to see the structures broken up with trees that did not obstruct the view.

He stated that his focus is that there is some way to soften the appearance of large buildings with a vegetation that can be maintained.

Kirk VanAuken said that looking at the single-family dwelling structure on the north side, closest to the water, it is much bigger than what used to be there, and the planting plan is only shrubs and not anything that will break up the façade and that the duplex will be even larger in length and only has a couple of trees. He further stated that the applicant should also need to look at a maintenance plan to maintain this vegetative screen.

John Gaddy agreed and stated that they can be planted so that the owner can enjoy the view.

Mr. Anthony explained the typical way they do planting for townhouses. Typically, they would put a major tree on the common wall in front of the building and trees on either end of the building with other landscaping below.

He presumes the single-family dwelling will be coming back to the Board so they will be able to add anything they are looking for during Site Plan Review.

Herb Koster asked how they were doing with the HOA the Board had requested.

Atty. Lapper said that it was a condominium plan that has to be submitted to the Attorney General [NYS] and they have not gotten into that as of yet.

Herb Koster asked if they would be including every building in this including the private homeowners. Atty. Lapper replied yes.

Gena Lindyberg asked about blasting.

John Gaddy said that the drilling is a huge issue too.

Herb Koster stated they could not be drilling all summer long with commercial properties on either side that make their money in two months of the year.

Atty. Lapper said they understood, and they would specify that it will happen over a short period of a couple of weeks. The developer will do all the earth work and put in all the foundations in one phase and then it is just putting up the buildings.

John Gaddy asked about perc tests that were performed.

Mr. Huntington stated that this was a requirement by DEC.

John Cushing asked how it affected perc tests if done in the winter.

Mr. Huntington said it did not.

Rod Cornelius said his attorney is requesting that his well be inspected before any drilling is started. They only have one well servicing the whole resort.

Atty. Lapper stated that they would be hiring professional blasters who would do a blasting study and they would be liable for anything that may go wrong. They will certainly inspect Mr. Cornelius's well as he requested.

The Board asked for:

1. More plantings to break up the structures, while still allowing a view.
2. A maintenance plan for a vegetative screen added to the plans.
3. A rendering of the townhouses with the vegetation.
4. Schedule of times of development and drilling and blasting.

**RESOLUTION:**

**Motion by** John Gaddy to extend the Public Hearing for SPR21-22 for additional information at the April 14, 2022, regularly scheduled meeting.

**Seconded by** Sandi Aldrich.

**All in Favor. Motion Carried.**

- 2. SD 21-02 Twin Bolton Residential Sub-division**, Twin Bolton, LLC. Represented by Studio A. Subdivision for six townhouses (two triplex units) and 15 single family lots. Section 186.06, Block 1, Lot 14.1 and Section 186.07, Block 1, Lot 13, Zone RM1.3 and RL3; Property Location: 4799 Lake Shore Drive. Subject to WCPA, SEQR and LWRP review. *Last reviewed January 27, 2022.*

Atty. Jon Lapper presented the following:

- They are working with DEC and LaBella for the stormwater and septic review.
- They have submitted a rendering of the town home buildings and the exact sizes on the subdivision lots.
- They are looking for comments from the public at this time.
- They disagree with the Lake George Waterkeeper- Mr. Navitsky about a stream on the property.

Gena Lindyberg asked where the septic system for the house across the road (west side) was located on the plans.

Mr. Huntington depicted it on the plans.

Kirk VanAuken stated they do not have that in their plans.

Sandi Aldrich asked for clarification on the septic fields on the plans.

Mr. Huntington stated in the RL3 zone the septic systems will be onsite specific to the house and everything in the RL1.3 zone will be using a common system.

John Gaddy asked at what point in time will the site look like the plan they are depicting. Atty. Lapper stated the townhouses at the road will be put in immediately.

Chris Navitsky provided renderings to the planning Board, professional staff, and Town Attorney, and discussed the following:

- He recommends the Planning Board require a natural resources protection plan to be included with the submission that would address the requirements of Local Waterfront Revitalization Program (LWRP) policies.
- The project proposes significant clearing of a hillside to accommodate several single-family lots, which was noted as a main Town concern in the LWRP.
- There are existing streams and wetlands that appear to be impacted on the site, which may require United States Army Corp of Engineers/ New York State Department of Environmental Conservation permits, and the protective measures of the Town should be respected.
- The extensive grading will exceed the allowable limits of the Town Zoning Code and a variance should be required.
- The stormwater management plan falls short of permitting requirements as evident by the outstanding technical review letters.

- The Lake George Waterkeeper recommends the Planning Board apply the policies of the LWRP and apply Town Code §200-46.10, §200-37(B)(6) and Chapter 125 during deliberation of the subdivision application.
- The proposed subdivision proposes significant disturbance and grading on the hillside resulting in significant clearing that will impact the Town’s environmental and aesthetic qualities and cause water quality impacts.
- He has concern regarding the future compliance with the clearing and grading plan, especially considering recent subdivision developments where clearing exceeded the tight limits that the plans indicated.
- There are two streams on the property that should be incorporated into the site design and improve protection measures.
- It appears a variance is required for cut and fill exceeding the allowable limit as per Town Code §200-46.10.
- There are significant outstanding technical review comments and concerns regarding the proposed stormwater management plan including:
  1. Failure to demonstrate compliance with post-development 10-year storm volume reduction requirement (only flow quantities are shown)
  2. Failure to provide subsurface soil investigations to demonstrate separation requirements (site has high groundwater and bedrock in areas of proposed infiltration basins); and,
  3. Concern about complying with volume reduction requirements when using practices that will not infiltrate, i.e., pocket pond and pocket wetland.
- The proposed development scheme should incorporate an ecological, watershed-based approach to stormwater management that reflects actual hydrologic conditions instead of the proposed end-of-pipe, bottom-of-the-hill solution. This can be accomplished by implementing Low Impact Development, placing stormwater controls close to the source, spreading infiltration and recharge throughout the site mimicking natural forest conditions.
- He recommends the Planning Board to table the application and request project changes to reduce the extensive disturbance and clearing, implement stormwater management measures to better reflect natural hydrology and comply with the Town of Bolton LWRP.

John Gaddy asked if the rendering had further hillsides behind the rendering provided.

Mr. Navitsky stated the rendering was from an actual photo from the lake.

Atty. Lapper stated the proposed development would not look like a “cow pasture” and that one would not even see the homes up on top (of the hill’s crest). Mr. Navitsky’s rendering was absolutely not what they are proposing or what this project is. Their project had an extensive planting plan, and they are staying away from the streams.

Herb Koster asked about the pocket wetland having absorption.

Mr. Huntington stated it would be a wetland that they were creating, and it would have soils that can absorb. It is an extension to an existing wetland. He stated that these are approved stormwater practices, not every stormwater practice has to infiltrate, there are many other approved stormwater practices than infiltration systems.

Mr. Anthony stated he disagreed with Mr. Navitsky, and he has not taken into consideration replanting, regeneration of vegetation, or maintenance programs that have been proposed for the project. Secondly in regard to the streams, StudioA has documentation from DEC, LGPC, WCSW & the APA that neither is considered a stream.

John Gaddy asked that they be cognizant and the LWRP requirements addressing pedestrian safety.

Sandi Aldrich asked for a correction on C-1.1 drawing 1 of 1 pertaining to a note for a driveway easement to lot 13.

John Gaddy asked what a living wall was.

Mr. Huntington stated it was a mechanically stabilized earth wall that uses geo grid to hold the soil back.

Mr. Navitsky responded that he looks forward to an ecological discussion on this project and as there was no replanting plan presented so they could not use it on the rendering they presented.

Kirk VanAuken inquired about receiving a planting plan.

Mr. Anthony stated that the homes would have planting plans at site plan review.

Herb Koster stated they would want them right away for the road, townhouses, and the stormwater basins.

John Gaddy stated they had a concern about keeping the hill sides vegetated.

Atty. Lapper said they could do a planting plan now for the basins and the roadway with a note on the subdivision plan that everyone would need to come in for site plan review. Sandi Aldrich said they need a planting plan for the townhouses down front.

John Gaddy said he would like to see information about enhanced pedestrian safety.

**RESOLUTION:**

**Motion by** Kirk VanAuken to extend the Public Hearing for SPR21-22 for additional information to the April 14, 2022 regularly scheduled meeting.

**Seconded by** Sandi Aldrich.

**All in Favor. Motion Carried.**

**Regular Meeting**

Chairman Koster asked if there were any changes or corrections to the February 10, 2022 minutes.

**RESOLUTION:**

**Motion by** Sandi Aldrich to approve the February 10, 2022 minutes as presented.

**Seconded by** Gena Lindyberg.

John Gaddy & John Cushing abstained.

**All others in Favor. Motion Carried.**

**Site Plan Review**

- 1. SPR 22-01 Lake George Club.** Represented by Hutchins Engineering. Applicant seeks Site Plan Approval for the construction of a 60' x 80' maintenance building across NY 9N from the Lake George Club. Stormwater management practices are proposed. Section 213.09, Block 1, Lot 6. Zone RM 1.3. Property Location: 4000 Lake Shore Drive. Subject to WCPA, APA, SEQR and LWRP review.

Tom Hutchins of Hutchins Engineering presented the following:

- The applicant would like to add a larger more functional maintenance building.
- This will only be used as a maintenance and storage building for equipment.
- The applicant will store five to six boats in this building too.
- The building would be on the west side of NY-9N.
- Ingress and egress to the site will be over an old road which has already been cut in.
- This is a year-round building to be used only by the maintenance group.
- The applicant has looked at options on the east side of the property, but it is not suitable for their needs.
- This building will have an office and a bathroom for maintenance personnel.
- There will be a well and a septic holding tank.

- The applicant has taken every effort to minimize clearing for this project.
- The property is 57 acres total; 44 acres are located on the west side of NY-9N.
- The building will be located about 180' from the road.
- There is a small intermittent stream coming from a man-made pond.
- The stream crosses NY-9N to the property on the east side.
- He detailed the proposed stormwater mitigation on the plans.
- There has been a landscape plan prepared with numerous plantings.
- The applicant has received variances from the ZBA earlier in the week.
- This will have just over a 6' cut to create a safe driveway and a 6' fill in front of the building for access.
- This will be a wood frame metal building which will be dark brown or black with overhead doors on one end.
- They have met with DOT engineers, and they concur that the existing drive is in the appropriate location.
  - They will have to provide DOT with a detailed plan.

Gena Lindyberg asked if this building and site would be used by anybody other than maintenance personnel or for parking.

Mr. Hutchins replied, no.

John Gaddy asked about the extensive clearing on the west side of the building.

Mr. Hutchins replied, it would be to maneuver vehicles, and it would be resurfaced and relandscaped.

John Gaddy asked how they would be pitching the stormwater away from the stream.

Mr. Hutchins detailed the stormwater mitigation on the plans.

John Gaddy asked if there would be tank storage of fuel.

Mr. Hutchins stated that there were no provisions for fuel storage tanks in the building and that they would have gas cans.

Herb Koster asked if the septic was a pump out system.

Mr. Hutchins replied yes, it would be a holding tank.

Sandi Aldrich asked if the building would be visible from 9N.

Mr. Hutchins stated he doubted it would be seen at all during full foliage and very little when there was no foliage.

John Gaddy said he believed it was well positioned. He said he will be requiring dark sky compliant exterior lighting.

Sandi Aldrich asked if they planned on having lighting on the drive.

Mr. Hutchins replied that they do not.

Herb Koster asked about site distances on the entrance.

Mr. Hutchins stated they had not done this yet. He said DOT would require them.

John Cushing asked if there would be boat maintenance at the building.

Mr. Hutchins replied no this is for winter storage of the Club's boats. There would not be oil changes or acid washing of the boats.

John Cushing asked if there was an area for a firetruck turnaround.

Mr. Hutchins stated it was close and he would verify it.

John Cushing asked if Mr. Hutchins had any concerns of melt off and runoff from the building to the stream.

Mr. Hutchins replied, no.

**RESOLUTION:**

**Motion by** John Gaddy to declare the Bolton Planning Board as lead agency for SPR22-01. **Seconded by** Sandi Aldrich.

**All in Favor. Motion Carried.**

**Motion by** John Gaddy to accept SPR22-01 as complete; waive the Public Hearing, having met the criteria set forth in the code, grant final approval of the project as presented with the following conditions:

- 1) All lighting is to be downward facing and shielded.
- 2) No boat maintenance is to be done on site.
- 3) Any bulk storage of gasoline must come back to this board for approvals, portable cans of gasoline are allowed.
- 4) The building must be dark brown or black.

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.**

2. **SPR 22-02 Tekmitchov (Lily's)**. Applicant site plan approval for the reuse of former office space totaling 366 sq./ft., to be incorporated into existing bar/ restaurant. Section 171.15, Block 3, Lot 74.1. Zone RB 5000. Property Location: 4960 Lake Shore Drive. Subject to WCPA, SEQR and LWRP review.

Bart Tekmitchov presented the following:

- He would like to knock down a non-load bearing wall and open the empty space next to the hair salon to the bar.
- They would be matching the walls and floors of the two buildings.

John Gaddy inquired about the visibility. Mr. Tekmitchov replied that it would be more visible for safety.

Sandi Aldrich asked if these were strictly interior changes. Mr. Tekmitchov replied yes.

Town Planner Josh Westfall stated that this property has had many variances and this use would be in compliance with the previously granted parking variances.

Mr. Tekmitchov stated that this would be just adding a couple of tables and allow some breathing room away from the bar.

John Gaddy inquired about indoor smoking facilities.

David Smith stated it required a very significant venting system.

John Gaddy said one of the concerns is looking to respect the neighborhood from the spill out that happens late at night.

Mr. Tekmitchov stated this was to detour this from happening.

**RESOLUTION:**

**Motion by** John Gaddy to declare the Bolton Planning Board as lead agency for SPR22-02.

**Seconded by** Gena Lindyberg.

**All in Favor. Motion Carried.**

**Motion by** John Gaddy to accept SPR22-02 as complete; waive the 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 Sandi Aldrich.  
All in Favor. Motion Carried.**

**The meeting was adjourned at 8:09 PM**

Minutes respectfully submitted by Kate Persons. 3/21/2022  
*Reviewed by Joshua Westfall, AICP 3/22/2022*