

Town of Bolton
PLANNING BOARD MINUTES
Thursday, July 14, 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; John Cushing, David Smith, John Gaddy, Kirk VanAuken, Sandi Aldrich, Gena Lindyberg, Acting Zoning & Planning Director - Joshua Westfall, AICP, & Town Counsel – Mary Kissane

Absent:

The meeting was called to order at 6:00 PM

Regular Meeting

Chairman Koster asked if there were any changes or corrections to the June 16, 2022, minutes.

RESOLUTION:

Motion by Sandi Aldrich to approve the June 16, 2022, minutes as presented with the correction; David Smith was not absent at the June 16, 2022 meeting. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

- 1. SD21-07 Beckley Subdivision.** Applicant seeks minor subdivision of a conforming lot into two conforming lots. Proposed Lot 1-A will total 5.13 +/- acres and proposed Lot 1-B will total 5.05 +/- Acres. Section 212.00, Block 1, Lot 6.3, Zone RR-5. Property Location: Dickinson Hill Road. Subject to WCPA, APA, SEQR and LWRP review.

Ken Beckley stated that they have a total of 52 acres, and he would like to break off a small 5-acre parcel for his cousin.

Gena Lindyberg asked which lot was to be for his cousin. Mr. Beckley stated that it was the first lot on Dickinson Hill Road.

John Gaddy asked if the other 50 acres were contiguous to the two lots. Mr. Beckley replied yes, there were 3 contiguous lots. Acting Zoning & Planning Director Joshua Westfield, AICP stated this parcel was merged in 2014.

Sandi Aldrich inquired if they would have a shared driveway for the 2 lots. Mr. Beckley stated yes.

Gena Lindyberg asked if they would have an easement for the driveway. Mr. Beckley said yes. Herb Koster stated they would need a metes and bounds description for the driveway in the deed if he sells one of the parcels.

RESOLUTION:

Motion by John Cushing to declare the Bolton Planning Board as lead agency for SD21-07. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SD21-07 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 with the following conditions:

- 1) Metes and bounds are required on the written easement in the deed for the shared driveway.
- 2) Site plan review is required for any development of the lots.
- 3) Tree removal is to be minimal, and they are to preserve as many large trees as possible in the 100” setback around each of the lots.

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. **SPR22-14 Prushua, Tim.** Applicant seeks Site Plan Review and Approval for the construction of a single-family dwelling on an existing lot. Section 200.14, Block 1, Lot 20.3. Property Location: 12 Basin Shore Lane. Zone: RM 1.3 District (roadside portion) and the LC-45 District (shoreline portion). The proposed single-family dwelling is wholly within the RM 1.3 District. Subject to WCPA, SEQR, LWRP review and a Stormwater Management Permit.

Jeff Anthony of Studio A presented the following:

- This is a 4 lot subdivision on the corner of Cotton Point Rd and 9N.
- This is lot 3 and the last proposed lot to be built on in this subdivision.
- He detailed the site plan to the Board.
- The wastewater and well are to be located in the same location as approved on the subdivision.
- The driveway is in the same location as approved on the subdivision.
- They have not encroached on 9N.
- They are proposing a buffer planting of white spruce for the north and south borders of the lot as well as landscaping in the front of the structure.

John Gaddy stated he still has concerns about the clearing of all 4 lots without approvals. This clearing is leaning toward the encouragement of lawns. He would like to see natural vegetation incorporated into the planting plans as opposed to large lawn expansions due to the proximity of the critical wetland area. Mr. Anthony stated there is no development proposed for these critical areas. Mr. Anthony stated they could add no mow plantings in these areas and the only place they would have lawn would be in front of the house. John Gaddy stated he would like to see more natural vegetation in these areas that did not encourage fertilizers. Herb Koster stated he likes that there will be no development on the east side of drive.

John Cushing stated that there is to be no trails to the lake through the wetlands. Mr. Anthony stated this was a condition of the subdivision.

Sandi Aldrich asked for the addition of trees and vegetation in the setback from 9N. Mr. Anthony stated this would be fine.

Gena Lindyberg stated she was confused about the number of bedrooms. Mr. Anthony stated there were four. Gena Lindyberg asked about the rooms in the basement. Mr. Anthony stated there were none proposed in the basement. Herb Koster asked if the septic system was designed for 4 bedrooms. Mr. Anthony stated yes. Herb Koster stated that they would like to make a condition that the wastewater system be engineered for 5 bedrooms.

Gena Lindyberg inquired about the LWRP. Mr. Anthony stated that the lake access was private.

Sandi Aldrich stated during the subdivision process they were told that access to the lake would be on foot via the road and not through the wetlands. Herb Koster stated that there was not even room for a golf cart down there. Mr. Anthony stated he was not sure what they were doing as it was part of the subdivision approval but agreed there was definitely no room for parking at the lake.

Mr. Westfall reported that upon County review, WCPS determined that there was “No County Impact”

RESOLUTION:

Motion by John Cushing to declare the Bolton Planning Board as lead agency for SPR22-14. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

Motion by John Cushing to accept SPR22-14 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 dark sky compliant and downward facing and shielded.
- 2) More planting and buffering are to be added on the 9N side.
- 3) No paths or trails through the wetland of any kind.
- 4) The wastewater system is to be redesigned for 5 bedrooms.
- 5) No clearing or lawn development around the east side of Basin Shore Lane is to be done.
- 6) The house is limited 5 bedrooms.
- 7) Natural vegetated swales are to be added to the north and south boundaries of the lot.

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.**

- 3. SPR21-22 Lands of Berberian.** The Zoning Administrator has issued a stop work order pursuant to §200 of the Town of Bolton Zoning Ordinance related to excessive clearing. The applicant has provided a proposed planting / remediation plan at the Planning and Zoning Office's Request.

Charlie Baker of Environmental Design presented the following:

- They are here to figure out a path to correct the situation they are facing here tonight.
- He detailed the original site plan and stated the area of disturbance was for 2.2 acres which included the driveway, septic, house and a couple of rain gardens.
- They had a logging permit for the project as well.
- He showed the area of clearing along with the 2.8 acre logging area.
- The logging area had been compounded by the high winds when they started the clearing.
- The clients are not happy with the current situation, and they were not looking for an open area like this. They only wanted a filtered view like approved.

Kurt Koskinen of Sustainable Forestry stated that most of the trees in the area filtered view area that they were cutting, had snapped and blown over and uprooted during the high windstorm. All this blow down was creating a fire hazard with all the tops laying around everywhere, so they cleaned them up and pulled them back and put them in a big pile. Even as recently as the other day, two more trees blew over. They are fighting mother nature and it was never the intention to have all these trees down. Herb Koster stated they could not blame all the trees down on the steep slope on the wind. There is not a single thing left alive on that slope. Mr. Koskinen stated there were some trees standing but they figured they were going to blow over anyways. Herb Koster stated that when they take that many out and leave little thin trees of course that will happen. Mr. Koskinen stated that from the very beginning they were leaving lots of trees down the hill for the filtered view, but Mother Nature went against them. John Cushing replied, "Mother Nature and that giant chainsaw". Mr. Koskinen stated it was never the intention to have an opening of that type. John Cushing stated he had measured it and it appeared to be 4 3/4 acres that were clear cut on that slope. Not 2.8 acres. Mr. Baker stated he does not think it was that much. He wanted to stress that they were upset with this too and it was not the intent.

John Gaddy asked why they did not discuss this with the Planning Office when they realized that this many trees were coming down. He is mystified how they got this far without communicating with this office. Mr. Krafian, the applicant, said he had regularly communicated with former Director of Zoning and Planning, Richard Miller and has been speaking with Acting Director Westfall. He said he had not been to the site in about 6 weeks and today was the first he has seen it. He definitely does not want to be looking at this cutting condition from his house and would definitely be remediating it. He said they were told at the meeting that a big concern of the Board was the filtered view in front of the proposed house and that was what he was focusing on, and it has now disappeared. He handed out photos and said he would like to push the house over away from where the trees were removed. Herb stated that they were talking about the slope that has been cut so that they can see all the way up to the Mother Bunch and beyond the Narrows. They can't tell him that was an accidental cutting and wind blow down. John Gaddy asked who was directing the logging. Mr. Krafian stated he did not know. John

Cushing said that is what you get for letting a logger loose with a skidder and chainsaw on their property with no oversight, a wrecked lot. They have some of the best forest and trees in this whole town and now they have destroyed it. It did not just conveniently blow down in front of their house where they wanted to build. Mr. Krafian stated the way he understood it, this occurred when they were logging, and a storm came through. John Cushing asked why they would log on this steep slope when they had a lot with over 200 acres with areas that they could log with much less elevation. Mr. Koskinen stated that Rich Miller had given them the approval and told them to go down the hill and open it up. Mr. Krafian said that Mr. Miller had walked the site with them. Herb Koster stated you can't walk down that slope, it is a 45 degree angle slope. Herb Koster asked how they planned to revegetate the slope. Mr. Koskinen stated they could vegetate with strips like white spruce and Mother Nature is putting in natural seeds. Herb Koster stated he has never seen anything like this in the 35+ years on the Board. He said they have had 100 and 500 year storms and he has never seen anything like this. It is just not right.

Kirk VanAuken stated that he is a neighbor above this property, and he did not have any of blowdown like they described on his property. Mr. Krafian asked if they had noticed any of the blown down trees up and down the driveway when they were there. The Board replied that they had not. John Gaddy stated when you see vegetation stripped away like this it is mind blowing. John Gaddy stated that he does not know how this end result would comply in any way shape or form with the best management practices outlined in the Town regulations, NY State or Warren County Soil and Water. Mr. Koskinen stated that Rich Miller told them to clear down the hill and leave a filtered view on the hill. John Gaddy replied that the town has specific regulations that explain how this is done and if he is the professional forester who is responsible for this, they would expect to see something that reflects the town regulations. Herb Koster stated that as a professional forester he should know that when you take down all the largest trees on a 45 degree angle slope and drag them back up the slope, it will rip up everything else.

David Smith stated the level of frustration the Board is expressing is that when this storm came through and the project became this out of control, they did not come back to the Planning Office and the Board to say hey, this is what happened. This is a big part of the frustration. He would like to know how they plan to remediate this. Mr. Baker stated they would like to shift the location of the house to where there is a filtered view and potentially add new vegetation to the cleared open area and down the slope. David Smith stated they have very real concerns that if there is a major storm there will be massive erosion. He would like to see trees and erosion control netting on the slope so vegetation can come back much quicker to remediate erosion controls. Herb Koster stated that if they used the mats, they would need to be placed on bare ground which would create more of an erosion issue. He would like this area to have a professionally engineered plan to rectify the situation correctly. Mr. Krafian stated that they are addressing the top and filtered view in the plans they presented tonight but did not address the slope itself. He understands the frustration and that was never their intent. They do not want to look down the hill and see what is there right now either.

John Gaddy stated that what they seem to misunderstand is that they have created a clearing that can be seen from 5 miles up the lake. This goes against at least 3 sets of the Town's regulations. There are sections of the code that have never had to be utilized, because this is so out of scale of anything that has ever been done in this town. He is looking at this subdivision as a

misrepresentation and wonders if it is still legitimate. He read the code for timber harvest for a subdivision. This is a question that needs to be researched. John Cushing cited §251-9 stating he wants a stop work order on this property for 5 years. He would like to see the LGPC, APA and Warren County Soil & Water involved.

Sandi Aldrich suggested that they hire an independent forester, or someone versed in the reforestation and have the owner pay for it and have them come back to the Board with a plan. Herb Koster stated the applicant is responsible to hire someone to rehab the property and if the Board can hire someone to check this design at their cost. Mary Kissane stated that if this has been their process it is fine, but she suggested they get a court order. This would make sure the town is reimbursed.

John Gaddy read section §200-51 A (9) *No lumbered land which has been clear-cut shall be considered for residential development for at least five years after completion of lumbering activities on that section of land.* He does not know how long the previous logging operation permit is open for on the entire property, but if feels as though the town is left here holding the bag. There has been an awareness that there was a plan, but no one seems to be following it. Herb Koster asked if this should be a motion this Board makes or should they be recommending it to the Town Board for enforcement. Atty. Kissane said this is a decision that this Board could make if they choose to.

Mr. Baker stated that he understands how upset the Board is, but they were working under permits and approvals. Richard Miller did come to the site and told them they could clear up to 10% of the land which they did not do. Herb Koster stated they could not clear cut 100% of it all in one area. They can clear 10% of the whole property. John Cushing said the building lot is 27 acres, which allows for 2.7 acres. The clear cut alone is over 4 acres and that does not account for what is cleared on the top. Kirk VanAuken asked if the logging permit was for Berberian and not this applicant. Sandi Aldrich said she believes this logging permit was for the owner of the entire parcel and she believes it was to be a phased approach over an 8 to 10 year period starting from Coolidge Hill side of the property and working their way down 9N. Mr. Westfall stated it was 2015 and prior to the subdivision. Sandi Aldrich asked if since this piece of property has been subdivided off would this logging plan stay with the Berberian property and not this parcel. Mr. Westfall stated that the subdivision had not been filed at this time. It has been approved but has not been filed so it is still one piece of property. John Gaddy questioned whether this was a misrepresentation. He feels as though they were not given a clear picture of what was being presented. If the owner and professional representation are saying the loggers, did it, who is responsible for the loggers. Mr. Krafian stated they are saying they want to fix it and remedy it; this is not what they wanted and they to are unhappy with it. John Gaddy stated that local contractors are questioning how loggers can come in and do this when we have all these laws.

Gena Lindyberg asked if this was still all one piece of property and where they stand in this regard. Mary Kissane stated that they had options such as civil penalties in the code, and they do not need to make a decision tonight, they can put it on hold to gather more information. In terms of the subdivision there is information that needs to be gathered, we need to know who the permit for the logging was assigned to, the property or the property owner, because that is where the responsibility lies. They also need to decide whether that supersedes the subdivision permit. They do not need to make a decision tonight.

John Gaddy asked if they put a hold on making the motion, would that put a hold on them filing the subdivision because he does not want to see this subdivision filed while they have questions about this particular piece of property. Atty. Kissane stated that they could file whenever they wanted to, but the Board does not have to hear the application and can table it. Mr. Kafian stated that they were in the process of filing the deed as it was not legally filed, and he hired an attorney to file it. He wondered if he should wait. Mr. Baker stated that the subdivision was filed, but the deed had not transferred yet. Atty. Kissane stated if they don't legally own the property, she is not even sure this application is valid. She would recommend they table any decision for more information. Mr. Kafian wanted to clarify that he had thought it had been filed correctly.

Herb Koster stated that he saw logging trucks fully loaded leaving the property after the Stop Work Order was posted. He wants to make sure the Stop Work Order encompasses the entire property. Mr. Kafian said that the day he received it, he sent the message out to everyone.

Gena Lindyberg asked who hired the logging firm. Mr. Kafian stated he did, and they have left the property.

John Gaddy asked for any Warren County Soil and Water and DEC permits.

Mr. Kafian asked if there was anything they can do now to remediate the condition. Herb Koster replied, no. They need an engineer to come in and see what remediation is appropriate for this parcel. David Smith stated they would technically be working on property that they did not own yet.

Mrs. Kafian apologized to the Board and stated that she understands their frustration and they are also dismayed. This is not how they expected this project to go by any means and they are not here to be confrontational. They are here to be understanding and get direction on how to remedy this situation. They are not looking to do anything outside of the scope of what is allowed and they want to find proper and appropriate solutions to make this project right, not to destroy everything, they did not want to see all the trees removed. They want to be good neighbors and citizens of this community.

RESOLUTION:

Motion by Sandi Aldrich to table application for SPR21-22 *Lands for Berberian* for more information and continue the stop work order that shall encompass the entire property. **Seconded** by John Gaddy. **All in Favor. Motion Carried.**

The meeting was adjourned at 7:27 PM

Minutes respectfully submitted by Kate Persons.