

Town of Bolton
PLANNING BOARD MINUTES
Thursday, September 15, 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 6:03 PM

Public Hearing

- 1. 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 186.06, 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.

Atty. Jon Lapper presented the following:

- They have been working with DEC and have received a conceptual approval letter.
- They are hoping to do a SEQR tonight so they can move forward with sewer and water.
- They understand that there will be a list of conditions for the preliminary approval.

Lake George Waterkeeper, Chris Navitsky handed out photos to the Board depicting the entire site and the potential view and presented the following:

- He would like to recommend the Planning Board not minimize the town designated engineers' comments as it is suggested by the applicant. It is claimed that they are "construction level details", "not necessary for subdivision". However, these technical comments are regarding the town stormwater code, which is more restrictive and protective of Lake George, a AA-special water body, than the DEC regulations which are for general water body protection. There are actually very important water quality protection measures the town designated engineer cites. Several of the basins have underdrains which will prevent infiltration and the reduction of stormwater volume.
- Most of the residences show French drains and underdrain outlet (lots 2,4,5,6, 7,13,14,15,16). This is a concern with the high groundwater evident and will result in the unaccounted stormwater that is not accommodated in the design calculations.
- Regarding the wetlands, there is concern about the proposed crossing which is stated in comment 6 that "it is assumed that the crossing will be non-jurisdictional" but this is not known, and the Planning Board should know this in order to make their environmental determination.

- It appears there will be grading into the wetland buffer within 10 feet of the stream.
- Has the APA provided a non-jurisdictional letter regarding the wetlands?
- Regarding septic systems, comment 27 the town engineer states that percolation and deep test pits have not been performed on the individual lots where septic systems will be located. This is required to determine if the proposed lots can support onsite treatment. It cannot be assumed that the lots will accommodate.
- The clearing is a concern which will impact the resources of the town and the community. This was demonstrated by the renderings that the waterkeeper provided in March which I will provide copies of as a reminder. It is reminded that this represented the entire subdivision disturbance, including the realistic loss of the outer layer of trees that will not survive due to grading, root structure impact, etc. These were performed before any revegetative plantings were proposed. It was claimed this made the project look like a cow pasture.
- He would like the board to look at the Studio A no buffer planting. This is similar to the waterkeeper rendering but seems to not include the upper lots.
- The Studio A rendering with the mitigation buffering seems to show the mitigation buffering at heights of 30'+, which will not occur for 15 years.
- Clearly there will be a visual impact from this project in one of the most visual and busy areas of the lake.
- In closing, he recommends the Planning Board follow the requests of the town engineer for compliance with the town code, which is more protective for the resources of the town and Lake George.
- There should be more protection of the wetlands and information regarding them.
- He recommends the level of disturbance, clearing and grading be reduced to limit the visual and water quality impacts.
- He recommends site plan review on all lots due to the continued claims by the applicant that detailed information is not necessary at this point.
- The Planning Board should not move the application forward until the majority of the outstanding comments are addressed and not rely on near approvals from agencies with less restrictive regulations.
- The town and the lake deserve the best possible project.

Atty. Lapper stated that they had met with the Town Engineer and were given a letter of conceptual approval.

Herb Koster stated that there is a precedence with large subdivisions, and they have to show all stormwater management for the entire subdivision. There seems to be a question of what is going across 9N and that also needs to be addressed.

Quinn Rush of Studio A stated they have considered stormwater management on all the single family residences on the upper portion of the site. They have also determined that all those lots will fit the septic systems. They have also shown the footprint of the treatment area for them.

Jeff Anthony stated that they have looked at the entire site for stormwater and wastewater and all the respective. They will be coming back for each of the single family lots for site plan review. When they come back for this, they will have specific building footprint and design. They can

tailor the landscape and plantings to these individual lots. There will be detailed plans submitted at that time for each lot. Jeff Anthony said they have submitted a landscape plan for the townhouse portion, the common area and roadways.

Jeff Anthony stated that they use the most advanced computer technology available for the visual simulations for this project. Their simulations are true to prospective, and color tinted to match the existing photography. They represent exactly what they expect to remove for vegetation exactly and simulate all proposed revegetation. Their simulation has been done correctly and cannot be done any better. These are correct visual simulations.

RESOLUTION:

Motion by Gena Lindyberg to close the Public Hearing for SD21-02 Twin Bolton Residential Subdivision, Twin Bolton, LLC. **Seconded by** David Smith. Sandi Aldrich opposed. **All others in Favor. Motion Carried.**

Regular Meeting

Chairman Koster asked if there were any changes or corrections to the August 11, 2022 minutes.

RESOLUTION:

Motion by Sandi Aldrich to approve the August 11, 2022 minutes as presented. **Seconded by** John Cushing. **All in Favor. Motion Carried.**

2. **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 186.06, 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.

John Cushing inquired about the conflict between the engineers. Atty. Lapper explained the differences between the DEC requirements and the Town Engineer requirements. He stated that they had met with the Town Engineer, Town Atty. Reichenbach and Acting Director of Planning & Zoning Josh Westfall and have now received a new letter from the Town Engineer saying that they are comfortable now and they have settled the issues. John Cushing said they had requested a general overall view of the whole project to know that the stormwater and septic would work. Atty. Lapper stated that DEC could only give them conceptual approval until they get through SEQR. DEC is saying that they are conceptually satisfied. John Cushing stated he would like an answer from the Town Engineer saying this was going to work. Atty. Lapper referred to an August 31, 2022 letter from LaBella. He stated that they were only here to seek an approval conditioned on LaBella's sign off. Herb Koster stated that the Planning Board was lead agency, so the other agencies needed a conceptual approval from the Board. He explained that they were not asking for final approval they were asking for conceptual approval of what has been presented so far and then once they received approvals from the other agencies they would come back to the Board for final approval, which they do not have to

grant. Atty. Lapper agreed saying they are looking for SEQR approval and preliminary subdivision approvals with conditions which would still be subject to final approval and would allow them to go to state agencies. John Cushing asked what they could do on the site with only conceptual approval. Herb Koster stated even after preliminary approval they do not have to grant final approval.

Jeff Anthony stated they would need a permit from the Army Corp. of Engineers for the small wetland. John Cushing stated that the applicant had back filled a wetland 2 years ago. Keith Scott stated that the fill was stored in that area for use at a future date and subsequently removed. Jeff Anthony stated they had removed immediately and had a wetland biologist come in to remediate it back to its previous condition.

Atty. Lapper stated they could put this off for another month to get the SEQR form done correctly.

Sandi Aldrich asked about the 60 day time limit. Herb Koster asked that the applicant waive the 60 day time limit. Atty. Lapper stated that they would agree to that if needed.

RESOLUTION:

Motion by Gena Lindyberg to table SD21-02 with the understanding that the applicant has agreed to waive the 60 day time limit from the closure of the Public Hearing. **Seconded by** John Cushing. **All in Favor. Motion Carried.**

- 3. SPR22-16 FR Smith and Sons Marina.** Applicant seeks Site Plan Review and Approval for the removal and replacement of an existing waterfront structure to feature new store, office, and work area. Existing store and gas dock will be removed and replaced partially within existing structures footprint. New Stormwater measures (rain garden) are proposed in remaining area of existing structures footprint. Section 171.15, Block 3, Lot 56 and 57. Property Location: 36 Sagamore Rd. Zone: GB5000. Subject to WCPA, SEQR, LWRP review.

Tom Jarrett of Jarrett Engineers and Scott Olsen part owner of FR Smith and Sons Marina stated they have submitted the requested materials by the Board from the previous meeting addressing their concerns.

Sandi Aldrich stated she is concerned with proposed colors for the building. Mr. Jarrett stated these colors match the surrounding neighboring properties. Sandi Aldrich stated that she would like dark earth tone colors for any of the buildings that were to be painted. She feels white would be to glaring on this busy bay. Mr. Olsen stated their desire was to pick out colors that fit the surrounding buildings in the neighborhood and not stand out. Sandi Aldrich stated black and white was going to stand out much more. The Board discussed the matter of the colors amongst

themselves, and Sandi Aldrich asked why they would not keep the tan and green colors that are on the existing buildings. John Gaddy stated the color on the water line was not a big issue to him. He said there are tons of white houses at ground level. Mr. Olsen explained that the white and black trim was what the owners were looking for, but they would agree to change the color if the approval is dependent on it. Sandi Aldrich asked about the roofs. Mr. Olsen stated they were looking at a darker tone roof color. Mr. Jarrett asked if they would accept a medium grey with black siding. The Board agreed to this.

Correspondence:

RESOLUTION:

Motion by John Cushing to declare the Bolton Planning Board as lead agency for SPR22-16.
Seconded by Gena Lindyberg. **All in Favor. Motion Carried.**

Motion by John Cushing to accept SPR22-16 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) Routine maintenance is to be performed on all stormwater mitigations. 2) All lighting is to be dark sky compliant and downward facing and shielded. 3) The siding will be a medium grey with black trim on the building. 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** John Gaddy. **All in Favor. Motion Carried.**

4. **SD22-03 Abbott.** Represented by EDP. Applicant seeks Minor Subdivision Approval related to subdividing a 2.52 acre lot into two (2) lots. Lot 1 area is to total 1.51 acres. Lot 2 is to total 1.01 acres. A single-family home is currently sited on proposed Lot 1 an additional single-family home is proposed on proposed Lot 2, said single family home will be subject to site plan approval (SPR22-20). Section 213.17, Block 1, Lot 38. Property Location: 3793 Lake Shore Drive. Zone: RCM 1.3. Subject to WCPA, SEQR, LWRP review. (*Application is subject to ZBA approvals from V22-24*)

Nick Zeglen of Environmental Design Partners presented the following:

- They are here for a minor subdivision.
- The applicants would like to subdivide their existing 2.5 acre lot into 2 lots.
- Lot 1 would be 1.5 acres and lot 2 would be just over 1 acre.
- Both lots would be utilizing the existing driveway for access.
- Lot 1 would retain the existing house, garage and boathouse.
- They put a generic house footprint on the plan to show that lot 2 would be a buildable lot.
- The existing septic was installed and designed in the 1990's and is up to code with today's standards and it has not shown any signs of failure.
- The septic is located on lot 2 and they are proposing to use this septic for any new development on lot 2.

- They will be installing a new septic for the existing house and garage on lot 1.

John Cushing asked what year the septic was built. Mr. Zeglen stated 1992. John Cushing stated that would be the end of its lifespan. Mr. Zeglen replied that it is in good condition and has shown no signs of any failure. Mr. Abbott stated it is a seasonal house and is not used year round.

Herb Koster asked if the metes and bounds description would be included for the driveway easement. Mr. Zeglen replied yes. Mr. Abbott replied that they had submitted 99% of the easement in the packet they submitted. Mr. Zeglen stated the metes and bounds would be added to the final subdivision map.

John Gaddy asked if the current house would be getting a complete new septic system. Mr. Abbott replied yes, and the existing system would be used for new construction on lot 2.

John Gaddy said he would like the consideration of the large launch stone on lot 2 and an existing spring be addressed when they come back for site plan. Mr. Zeglen stated they have proposed mitigation for this when they come back for site plan review.

Sandi Aldrich asked when they planned on replacing the septic on lot 1. Mr. Abbott replied that they may replace it within the next couple of years, but certainly it would be done before lot 2 would be completed.

Kirk VanAuken asked if they had a well. Mr. Abbott replied that they use lake water. Herb Koster inquired if they would be using lake water for lot 2. Mr. Zeglen replied that was correct.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SD22-03. Seconded by John Cushing. All in Favor. Motion Carried.

Motion by John Gaddy to accept SD22-03 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 with the following conditions: 1) This approval is for the lot only and not for any applied approval of wells, septic, stormwater water review or structures. 2) The deed language related to the access easement over lot one to lot two is to be provided to the Planning Office prior to the stamping the final map. 3) An easement is to be provided for the septic system located on lot two to lot one if this deed shall cease at the time lot one is approved for a septic permit from the Planning Office. 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.

5. **SD22-02 Beale/Audette.** Represented by EDP. Applicant seeks Minor Subdivision Approval related to subdividing a 3.03-acre lot into two (2) conforming lots; proposed Lot 1 area is to total 1.52 acres; proposed Lot 2 area is to equal 1.51 acres. Proposed

access to both lots is to be shared. Section 213.13, Block 1, Lot 33. Property Location: Lake Shore Drive. Zone: RCM 1.3. Subject to WCPA, SEQR, LWRP review.

Brandon Ferguson of Environmental Design Partners presented the following:

- They are seeking to develop an existing vacant 3 acre site on Lakeshore Drive.
- They are proposing to subdivide the lot into two 1.5 acre lots.
- They would like to subdivide it and construct 2 multifamily units, 1 on each site.
- There will be a shared access for both lots to allow for only one curb cut on NYS highway.
- They have developed detailed septic, grading and stormwater for each site.
- This is a major stormwater project and subject to NYS DEC SPEDES permits.

Sandi Aldrich asked if this subdivision was to allow for 2 multifamily dwellings. Josh Westfall stated that they would not be able to build both structures on the one lot.

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SD22-02. **Seconded by John Gaddy. All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SD22-02 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.**

- 6. SPR22-18 Beale/Audette.** Represented by EDP and Flynn Design Studio. Applicant seeks Type I Site Plan Approval and major stormwater review for the development of two multifamily dwellings (triplex units) on two lots (resulting from proposed SD22-02). The resulting structures will share one access point from NYS 9N and be served by well water and private septic systems. Section 213.13, Block 1, Lot 33. Property Location: Lake Shore Drive. Zone: RCM 1.3. Subject to APA, WCPA, SEQR, LWRP review.

Brandon Ferguson of Environmental Design Partners presented the following:

- These are 2 multifamily triplex units, with 1 on each lot.
- Access would be from a shared driveway coming off of Lakeshore Drive.
- Parking would be to the rear of the units.
- Wastewater would be in the front of the units.
- This is a major stormwater project and will be designed to meet all codes.
- They have designed the stormwater to infiltrate on the site and will also be handling some offsite stormwater that is coming onto this site from neighboring properties.
- They will need a permit from the Army Corp of Engineers to disturb the wetlands.
- The wetlands do not meet the APA definition for wetlands.

- They have made adjustments to their grading plan after discussion with ZBA which he detailed on the plans.

Trevor Flynn of Flynn Design presented the following:

- This is a steep site overall and they have actually been constricted to a specific location for the buildings, septic and wells on the site.
- They tried to minimally disturb the site as a whole and maintain as much of the existing vegetation as possible.
- This entire site has appeared to have been cleared at some point.
- The driveways are located where they are to get a properly sloped driveway under 12%.
- He detailed the view sheds and how it would not affect neighboring properties.
- They have tucked these buildings into the slopes to minimize any impact and views.
- They will be using earth tone medium grey color scheme on the buildings.
- Much of the siding is natural meant to gray in place.

John Cushing asked if each unit of the triplex was considered an individual dwelling unit, why would they be able to build a triplex on each lot. Josh Westfall stated they were multifamily rental units and not subject to multiple family dwellings as defined in §200-48 and the whole unit would have one owner. Atty. Kissane explained that these were like an apartment building and the entire building would only have one owner.

Gena Lindyberg inquired about the overall height from the lowest level. Mr. Flynn stated it was 34.8'. Gena Lindyberg inquired about the roofing. Mr. Flynn stated it would be a grey or black tone roof which may eventually have solar paneling.

Sandi Aldrich asked if they had looked at accessing both properties by only using the driveway to the south. Mr. Ferguson stated they had, and the issue is that if one of the lots sold, they would need an easement and push them into restrictions on the lots. It would also need more variances if they created an easement.

John Gaddy inquired about the wastewater absorption area on both units. Mr. Ferguson stated they were proposing Elgin systems which were enhanced treatment systems.

John Gaddy asked about plans for any attenuation of the wetland where it meets 9N. Mr. Ferguson detailed the plans and explained that that the wetland was a ground water wetland and not a surface water wetland.

Gena Lindyberg inquired about engineering review. Josh Westfall stated that he would be sending this to the engineer once they get through the Boards input on the project.

Sandi Aldrich inquired if any of the pines would survive along 9N. Mr. Ferguson detailed what they would be keeping which is roughly 50%. They will also be planting a decent number of trees to replace the ones removed.

John Cushing stated he still did not understand how these buildings could be built under the code. Atty. Kissane explained that if they had not subdivided the property, they would not have

been able to build two buildings. She said these are multifamily dwellings, not multiple family dwellings. David Smith stated that § 200-40 is not applicable to this property based on ownership, but § 200-08A is based on one owner for all 3 units. John Gaddy stated they are essentially approving two separate apartment houses on two separate lots.

John Gaddy stated he would be interested in an improved planting plan to mitigate the site as it is developed. Mr. Ferguson explained that they had included this.

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR22-18. Seconded by Gena Lindyberg. All in Favor. Motion Carried.

Motion by Kirk VanAuken to table SPR22-18 for more information on the septic and stormwater mitigations from the Town Engineer. Seconded by John Gaddy. All in Favor. Motion Carried.

- 7. SPR22-17 Belvedere Lake George LLC.** Represented by Anthony Volpe. Applicant seeks Type I Site Plan Approval to renovate existing four-unit apartment building for reuse as four-unit condominium use. The new use will have four separated private yard areas, reconfigured parking, and a common area. No external structural changes are proposed. Site will be served by public water and sewer. Section 171.15, Block 2, Lot 3. Property Location: 66 Horicon Ave. Zone: RM 1.3. Subject to WCPA, SEQ, LWRP review.

Anthony Volpe presented the following:

- The property is the old Bolton School house on Horicon Avenue.
- It currently consists of 4 dilapidated rental apartments with approximately 4,800 sq. ft of floor area.
- It is a 2 story brick building with a basement and attic.
- It is situated on slightly less than 1 acre of land.
- They would like to convert the building into 4 unit condo.
- They will not be adding square footage to the building or changing the building density.
- They want to keep and enhance the integrity of the building.
- The exterior will remain essentially the same with some repairs.
- The interior will be fully renovated and brought up to code.
- This building is serviced by town water and wastewater.
- Each unit will have its own storage space.
- They would like to provide each unit with a small outside tree lined private area.
- A larger common area will be provided and exterior parking for each unit.
- With the conversion from rental to condos it will go from transient rental ownership to homeownership.
- This will also increase town tax revenue.

John Gaddy stated that he had a concern with adequate parking, which is a requirement for town homes. Mr. Volpe stated they should have 1 to 2 spaces for parking per unit. Gena Lindyberg said that there should be a minimum of 2 parking spaces per unit and guest parking. Gena Lindyberg stated that it would need to be drawn on the plans.

Gena Lindyberg asked about the basement and attic being for storage. Mr. Volpe stated right now the attic was to be used for storage. It was not in the plans for the basement to be developed right now.

John Gaddy stated that all exterior lighting should be dark sky compliant. Mr. Volpe agreed.

Gena Lindyberg asked if there would be a HOA. Mr. Volpe replied yes.

John Cushing asked if they would have any planting plans. Mr. Volpe stated he would like to make the exterior areas for each of the units' tree lined.

John Cushing asked if this property was grandfathered in. Josh Westfall explained that this was a change of use, and this is why this was coming to the Planning Board. They are here because it is a pre-existing non-conforming structure, and they are only making interior changes.

Sandi Aldrich suggested adding plantings to the property lines to the north and east to shield the neighbors.

Sandi Aldrich asked if they had addressed handicap accessibility. Mr. Volpe stated they would research it.

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR22-17. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR22-17 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 exterior lighting is to be downward facing and dark sky compliant. 2) Plantings are to be added to the north and east side of the property. 3) 2 parking spaces per unit are required with a minimum of 4 more spaces for visitor parking. 4) A planting buffer is to be established between the parking area and Horicon Avenue. 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** John Gaddy. **All in Favor. Motion Carried.**

8. **SPR22-19 Laurie.** Represented by Studio A. Applicant seeks Type II Site Plan Approval and major stormwater review for a single-family dwelling and associated improvements. The site will be served by well water and a private septic system. Section 212.04, Block 2, Lot 13. Property Location: Ridge Lane. Zone: LC25. Subject to APA, WCPA, SEQR, LWRP review.

Quinn Rush of Studio A presented the following:

- This is 9.35 acre lot at the end of Diamond Ridge Road.
- This project will include a 4 bedroom house, detached garage, an access driveway and onsite septic and well.
- This will be a major stormwater project.
- The existing site is undeveloped.
- It currently drains to a large swale that goes from south to north through the center of the site and discharges to a small stream on the north side of the site.
- All of the proposed development is on the eastern side of the site close to the road.
- The proposed stormwater practices include three infiltration basins to capture and treat all the runoff from the house and garage.
- They are proposing a permeable paver patio at the rear of the house.
- They will have a swale along the driveway to catch any runoff.
- The septic will be an enhanced Presby bed system.

Gena Lindyberg asked for the surrounding neighbors to be placed on the plans. Ms. Rush stated that they could provide them.

John Cushing said he could not find the lot. He did not see the pink placard identifying the lot. The Board all agreed that they were not clear on where the lot was. They do not believe that they were at the correct site. John Cushing stated that this is an issue when applicants do not put the identifying placard out. The Board would like the applicant to identify the lot correctly.

RESOLUTION:

Motion by Sandi Aldrich to table SPR22-19 for site clarification. Seconded by Gena Lindyberg. All in Favor. Motion Carried.

- 9. SPR22-21 Belle Lodi LLC.** Applicant seeks Type II Site Plan Approval for the construction of an accessory structure containing more than 1,500 sq. ft. of floor space. The applicant proposes an additional 3,035 +/- sq. ft. to be used as a Guest Cottage and storage/ laundry area. Section 186.06, Block 1, Lot 10.1. Property Location: 14 Belle Lodi Lane. Zone: RM 1.3. Subject to WCPA, SEQR, LWRP review.

Kristen DePace presented the following:

- They have approvals from the ZBA to add a second story to an existing structure.
- The first floor will remain the same and the second floor will be a guest house and storage.

Josh Westfall explained that the lower structure (garage) is currently a pre-existing, nonconforming. A variance was granted to modify this structure into the uses proposed in May 2022 (V22-08). Site Plan approval is required per §200-15 (accessory floor space exceeding 1,500 sq./ ft.).

John Cushing asked if this would be rented out. Ms. DePace stated that it would not be a rental unit and would only be used for guests such as family and employees and the other area was for storage. This is only a guest house, and the other section is for storage only.

Gena Lindyberg inquired about septic and water. Ms. DePace said that they would be adding septic which they have plenty of room for and will not need a variance. They would not be hooking into the system for the existing house.

John Gaddy stated he would like some attention to stormwater. Ms. DePace said this was already a condition of the Zoning Board. Josh Westfall explained that the Zoning Board of appeals had made a condition of approval that an approved minor stormwater maintenance plan be implemented before they received any signoffs.

Gena Lindyberg stated that there should have 2 designated parking spaces for this guesthouse. Ms. DePace stated that would be fine.

John Gaddy stated he would like downward facing and shielded dark sky compliant lighting.

The Board stated they would be stipulating that this guest house was not to be rented out at any time. Ms. DePace agreed.

Gena Lindyberg inquired about the neighbor's driveway easement. Ms. DePace stated that the Dawsons had an easement on the driveway, and it would not be blocked.

John Gaddy stated that a number of years ago this property had been reaggregated. In the beginning, there were more approved lots than what currently exist.

Correspondence:

RESOLUTION:

Motion by David Smith to declare the Bolton Planning Board as lead agency for SPR22-21. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

Motion by David Smith to accept SPR22-21 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) 2 designated parking spaces are to be provided for this building. 3) An approved septic system must be designed and approved by the Planning Office before any sign offs are given. 4) This will not be used as a rental unit at any time. 5) The stormwater improvements are to be filed and approved by the Planning Office. 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. John Cushing opposed. **All others in Favor. Motion Carried.**

10. SPR21-22 Lands of Berberian. Revision to Site Plan. 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 an updated proposed planting/remediation plan at the Planning and Zoning Office's Request. Additionally, the applicant has proposed minor modifications to the siting of the approved structure. Section 186.00, Block 1, Lot 1, Zone LC 25 and RL3. Property Location: 4409 Lake Shore Drive. Subject to SEQR and LWRP review.

Gavin Vuillaume, R.L.A. of Environmental Design Partners presented the following:

- They are here to answer any questions from the Board.
- They would like to address the excessive clearing.
- They have exceeded the clearing for the building envelope.
- This occurred when they cleared for stormwater mitigation.
- They are focused on the timber harvesting tonight.
- After the last meeting Mr. Westfall and the Town Attorney forwarded the plans to the LA Group to look at.
- The LA Group has looked at these plans and made comments.
- The first thing they would do to start the remediation process, is to rake and clean all the debris on the area that has been timber harvested.
- They will need to remove much of this to properly seed and plant trees and shrubs in this area.
- They would be using a conservation mix agreed upon by them and the LA Group.
- They have 180 lbs. of seed for the 3 acres of land ready to go.
- This will be done partly with a hydro seeder near the top and the lower area will be done by hand.
- It was recommended to add additional netting towards the bottom of the slope.
- They will do the hand seeding in the fall and the hydro seeding in the spring.
- They will be using approximately 400 plants, including trees and shrubs.
- They figured 400 trees per acre for the one acre that they believe needs to be replanted and rather than plant just the one acre they will plant them on the entire 3 acres.
- They did a survey of all the trees that were taken down and there was a total of 428 trees taken down on the site.
- They will be replanting 420 plants as part of their remediation plan.
- They usually plant smaller vegetation as it is more likely to survive.
- He detailed the plans showing their remediation plan.
- They would be doing inspections on these plantings to make sure they survive over the winter.

John Cushing read the following sections of the code to the applicant:

§200-51 A

(3) No clear-cutting shall be permitted on slopes greater than 25%.

(4) Clear-cutting on slopes between 15% and 25% shall be limited to one-hundred-foot swaths perpendicular to the slope of the land. A fifty-foot undisturbed buffer shall be left between clear-cutting areas.

(7) In no case shall clear-cutting exceed 200 feet perpendicular to the slope without a fifty-foot undisturbed buffer.

(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 stated he went to the site and did some measurements with a laser range finder. His findings were that this clear cut was 5 acres on the slope and about 1.6 acres on the top. He believes their measurements are way off. Mr. Vuillaume stated that he did not understand how Mr. Cushing could be so far off on the slope, as they had surveyed this with a drone. John Cushing stated they were 2 and 3 times over what they should have done. The regulations say you can cut the trees 20' from the house and 10' from the septic, not clear cut the whole thing. They needed to have done selective cutting, not mow down the entire thing. Most loggers do selective cutting not cut every single tree and bush and shrub down to the ground. Mr. Vuillaume said they do not dispute the fact that the logger took down all the trees. That should not have been done.

John Gaddy stated that he finds this plan totally unacceptable to him. This situation is something that they have not seen. He has a number of issues that he would like to see cleared up:

- **§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.* A logger came in to do this project and it has no indication at all of any best management practices. He would like this item moved to the Town Board level for discussion.
- **§200-51 B(1)** *During construction, clearing shall be limited to the extent of grading only as approved by the Planning Board.* This is a proper subdivision, and he does not remember giving approval for this.
- **§200-51 C(2)** *Clearing for residential building(s) shall be limited to 20 feet outside the area occupied by the foundation of that building(s).* Who hired and directed the logging contractor? He is dealing with contractors in town that follow the rules and they want to know how this happened.

John Gaddy stated he wanted an analysis of the issue of how we got to this point before he looks at this any further. He also wants reforestation of life size trees, review of the viability of the new plantings, and after the review a minimum of 5 years before there is any development of this lot. He can see this all the way from Black Mountain. This is a scar that will be looked at for 30 to 40 years. This is unquestionably the best view on the hillside of Lake George. Bolton is being taken by someone going against every community encouragement. We have 40 years' worth of commitment by people doing work on master plans and doing work on hillside regulations and how they are a detriment to our town and water quality. This is a full on assault like he has never seen before. He wants a review of this at the Town Board level before they can ever move forward on this. There is no way he will agree to any kind of proposal that is trying to substitute the kind of damage they have here, by throwing money towards substandard trees on an area that did not need to be cut. He asked if there was an approved clearing plan and timber plan from Soil & Water. Josh Westfall stated there was an approved plan by the Planning Board in 2015. John Gaddy asked how these cutting compares to what was approved. The rest of the property is beautiful and has been timbered at least 2 or 3 times in his lifetime and have seemed

to work out well. This is inconceivable to him that something like this would happen. John Cushing stated the permit was for a general logging permit, not for clear cutting. John Gaddy stated this damage will take a lifetime to repair.

John Gaddy cited the following code:

§150-25(5) *Implications of extensive timber harvesting: When areas have been extensively harvested, other than the proposed subdivision road and housing sites, or when sensitive areas have been harvested exposing the site to erosion, siltation or scenic degradation, the reforestation of those areas shall be considered the first phase of the subdivision plan. Phase 2 shall be approved only after reforestation measures are established as vigorous and healthy, two years after installation of the plants.*

He does not expect them to make any new regulations here, but he expects that in a situation like this, the Town of Bolton should stand up for what they have.

§150-31 Alternative or additional remedy. *In the case of any violation or threatened violation of any provisions hereof, or the terms and conditions imposed by any permit, approval, variance or order issued pursuant to the provisions hereof, in addition to other penalties and remedies herein provided, the Town may institute any appropriate action or proceedings against the owner of the premises and/or any other responsible person to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent or restrain the occupancy of such building, structure or land, to compel compliance with the provisions hereof and any permit, approval, variance, order or directive issued pursuant to it, and to prevent, restrain, correct or abate any illegal act, conduct, business or use in or about such premises. The alternative or additional remedy specified herein may be taken in addition to a proceeding for criminal sanctions or civil penalties. The Town Board may negotiate appropriate remediation and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner, which may include payment by the violator and/or owner of a monetary penalty which may include exemplary or punitive damages, plus recovery of actual costs incurred by the Town in connection with the enforcement proceeding, including actual attorneys' fees, disbursements and, in appropriate cases, reimbursements for the actual costs to be incurred in rectifying any circumstance or condition necessary to restore the premises into compliance, all and any of which may, if not voluntarily paid by the violator and/or owner, constitute the basis of a lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.*

He wants to know what responsibility the logger has for this cut. Did the logger just run amok or did someone say, "I would like to see these trees down". This is a question that they do not have answers for at this time and he would like these questions to be answered.

§150-34 Misrepresentation. *Any permit, variance or approval granted under the provisions hereof which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be*

void. This section shall not be construed to diminish the penalties and remedies available to the Town under any enforcement provisions hereof.

§200-51 (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.*

§ 200-78 Building permits.

D. Revocation of building permit. The Zoning Administrator may revoke a building permit theretofore issued in the following instances:

(1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.

E. Preexisting violations. In the case of any existing or remaining violation(s) relative to zoning, construction, sanitation, or subdivision regulations, no permits or additional reviews will be granted to any applicant until all violations by the applicant are corrected or purged.

John Gaddy stated that he wants all these questions answered and this issue addressed at the Town Board level before they move forward with this project. It is inconceivable that they have gotten to this point.

Sandi Aldrich stated she would like to see this clearcut area surveyed on the slopes and the level area. She believes that if there is to be no development for a minimum of 5 years the 400 plants per acre should have a survival rate of 5 years and be replaced if they do not survive. John Cushing recommended a deer fence. Sandi Aldrich suggested a sufficient bond in case the property was not remediated by the owner. John Gaddy stated he wants this at a Town Board level for a discussion first. The Town Board assesses the fines.

Sandi Aldrich inquired about the slash piles. Mr. Krafian stated that he had wanted to remove and remediate but was told by this Board not to touch anything on the site. What happened is wrong. This obviously went off the rails. They were shocked when they came back to this. They had talked about the project and walked the site with Mr. Miller and discussed the entire project. John Gaddy asked who directed the logger to do that cut. Mr. Krafian replied that they did not direct the logger to do *that* cut. He went a lot further than he was directed. John Gaddy said the logger stayed on the property and kept doing what he was doing. Mr. Krafian explained that they were unaware of what had been done until they came to the property, which was 2 months after they started. He wants to remediate this as soon as possible. Sandi Aldrich stated she did not want to make one more bad decision and she would like to thoroughly look at this project before they granted any approvals to go any further. The Board discussed this and decided to move the project to the Town Board for discussion and evaluation. John Cushing stated he thought they should start remediation right away.

RESOLUTION:

Motion by John Gaddy to refer SPR21-22 to the Town Board for discussion of town regulations and how they would like to proceed. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

The meeting was adjourned at 9:31 PM

Minutes respectfully submitted by Kate Persons.