

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday February 21, 2019
6:00 p.m.**

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

Present: Herb Koster, Kirk VanAuken, John Cushing, Ann Marie Scheidegger & Gena Lindyberg, Alternate; Jessica Rubin, Zoning Administrator Pamela Kenyon and Atty. Michael Muller.

Absent: Sandi Aldrich & John Gaddy

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

PUBLIC HEARING

SPR18-17 TWIN BOLTON II, LLC. Represented by Studio A Landscape Architecture. To convert motel structures (east side Route 9N Twin Bay Village) into a single-family dwelling and multiple accessory structures, seeks Type II Site Plan Review for a major stormwater project to remove more than 15,000 square feet of vegetation. 1.65 acres is proposed. Section 186.07, Block 1, Lot 7 (east side Route 9N). A new waste water disposal system will be located on Section 186.07, Block 1, Lot 13 & 186.06-1-14.1 (west side Route 9N). Zones RCH5000 and RM1.3. Property Location: 4804 Lake Shore Drive. The WCPD determined no county impact. Subject to SEQR and LWRP review. See V18-23 associated with this project. This item was tabled at the January 2019 meeting pending a public hearing.

Atty. John Lapper said in general this is a unique development because most people on the lake with a site of this size would want to build a much bigger house. His client is removing many of the existing structures. They are taking the motel and renovating it into a single-family residence. They are removing many of the impervious surfaces and a number of the stormwater management practices are beyond what is required for this site. They have a stormwater sign-off from the town engineer and a permit from DEC.

Gena Lindyberg inquired about the survey map and asked for some clarification.

Mr. Anthony detailed the plans to the Board.

- 6 of the 8 cabins have been removed.
- He explained that they received additional variances to remove the two existing cabins and rebuild them in the exact same size and footprint.
- The same thing happened to the motel building, it was found structurally inadequate, so they demolished the building with permission from the Zoning Board and Warren County, and it will be rebuilt as had been proposed.
- They will be putting in a new driveway with impervious pavers and 6 parking spaces.
- They will be using Enkamat erosion controls under the parking area, which will look like lawn but be structurally reinforced.

- The house will have additions which include a garage and breezeway.
- There will be a patio on the lakeside of the house.
- They have lawn and a fire pit on the lake side.
- They will be keeping the lake front and the seawall the same with some repairs.
- Dock Doctors will be rebuilding the docks.
- They have rain gardens and will be buffering the south property line heavily.
- They will be putting buffered planting along Route 9N to create privacy.
- This is a single-family residence and there will be no public access through this property to the lake for anyone but the owners and their family.
- There will be no contractual access or public access to the waterfront.

Matt Huntington of Schoder River Associates presented the following:

- The stormwater for this project has gone through a thorough review by the Town Engineer.
- DEC has issued coverage under the general permit for stormwater discharges for the stormwater system that has been designed.
- They have reduced the impervious area by over 40% which means it meets all the water quality requirements set forth by DEC.
- Everything they are doing is above and beyond requirements by DEC.
- He detailed how the stormwater and waste water systems would work to the Board.
- They have reduced the volumes leaving the site and the flow rate.

Trevor Flynn of Balzer & Tuck presented the following:

- They are attempting to use the existing unique structures.
- He showed the Board the floor plans of the existing structures and the floor plans for the proposed additions.
- The additions do not trigger any setbacks.
- They plan on using natural colors and elements for the materials on all the structures.
- One of the demolished cabins will be rebuilt as a kitchenette.
- The second demolished cabin will be rebuilt for storage.
- They have reduced the footprint of the proposed guest residence.
- This will accommodate the owner's 5 siblings and in laws.

Chris Navitsky, Lake George Waterkeeper, read his letter with concerns as follows:

The above referenced application was personally reviewed in my capacity as a licensed professional engineer and the Lake George Waterkeeper. The Waterkeeper would like to recognize positive aspects of the proposed development including the reduction of impervious cover, which will decrease stormwater runoff, as well as infill redevelopment and concentrating development in the hamlet area reducing sprawl development. The Waterkeeper would also like to thank the Planning Board for the opportunity to provide public comment at a scheduled public hearing. Too many times there is not opportunity for the public to comment on site plan reviews, which can have negative impacts on the resources of the Town. Too often the Planning Board relies on the fact the Zoning Board of Appeals held a public hearing for the applicant, but the Zoning Board does not consider any of the important factors involved in a site plan review such as stormwater and wastewater.

Although the referenced application does reduce stormwater, there is no infiltration proposed, which is the most effective stormwater management and treatment practice. As a Board member stated at the last meeting, the project is in a critical environmental area and there was a feeling that more could be done for water quality protection and compliance with the new Waterfront Revitalization requirements.

The proposed rain garden has an underdrain that will prevent infiltration resulting in direct discharge of the stormwater. The applicant should consider measures that will increase infiltration and improve water quality. For example, the underdrain pipe could be raised in the rain garden that would promote infiltration. Additionally, with the underdrain at a higher elevation, this could potentially set the pipe above seasonal high groundwater and a perforated pipe could be installed further promoting infiltration.

Proposed Bioretention Basin 1 should be converted to a rain garden that could increase infiltration. From the soil investigation, it appears the basin is located in soils similar to where the rain garden is located, which would provide improved water quality through reduction of stormwater through infiltration.

Bioretention does provide treatment but is not the best practice for water quality protection, especially with the phosphorus and soluble salts proposed in the soils. The soils will provide some filtration but there is also the potential of export of nutrients after a period of time from the facility. This is a concern with the direct piping discharge from the facility. In addition, the proposed soil includes phosphorus at 75#/acre and soluble salts, both will result in water quality impacts in an area with documented algae blooms.

Proposed Bioretention Basin 2 should be converted to a rain garden that could increase infiltration. Although clayey soils were noted, infiltration can be achieved in the upper depths of the soils through re-engineering.

Both of the bioretention basins show a reduction in stormwater (Basin 1 13% and Basin 2 19%) which cannot be achieved with the proposed design with an impermeable liner. Therefore, the actual discharges would be greater than indicated and the reports should be corrected.

§125-10.B.3.f of the stormwater management ordinance requires the infiltration of existing impervious coverage to the greatest extent practicable or at a minimum provide infiltration for 1/2" for each square foot of impervious cover. No information is provided in the stormwater management report regarding this requirement.

The stormwater plan proposes to place a stormwater discharge directly to Lake George. This direct stormwater discharge into Lake George is not consistent with Policy 5.1 of the Town-approved Local Waterfront Revitalization Plan that states "to prohibit direct discharge that will contribute to the contravention of water quality standards". Additionally, this is not consistent with water quality protection for Lake George, which is listed by the NYSDEC as a Harmful Algae Bloom water body and there are benthic algae blooms in the area of the proposed development.

The effectiveness of the proposed permeable pavement for stormwater reduction is questioned and actual conditions may result in increased stormwater discharge. There is no percolation rate provided for the soils and the actual infiltration rates may be significantly impacted from the extended compaction of the existing soils under pavement. There is always a concern about the guarantee of the annual maintenance of vacuuming required to ensure continued functioning of the permeable pavement. These factors along with the installation of the underdrains with a direct discharge to the existing stormwater pipe will result in increased stormwater discharge from the property.

The project should install a shoreline buffer, which would be the most effective placement of vegetation on the property. It is noted there is a large quantity of landscape vegetation proposed but none where it would be most effective for water quality protection as a shoreline buffer. This would be effective at preventing surface runoff from entering the lake, especially with the large lawn area with clayey soils.

Plantings should be installed in the grass swale which can reduce stormwater.

It appears the proposed subsurface disposal system is within 200 feet of a stream that is in violation of §3.030.C of the Town of Bolton Sanitary Sewage Disposal Ordinance. §3.030 states that no leaching facility will be permitted within 200 feet of the mean high-water mark of a lake, pond, river, permanent or intermittent stream, if the percolation rate is 0 to 3 minutes per inch. The design rate applied was 1 to 5 minutes and the average percolation rate is 3 minutes 11 seconds.

The Waterkeeper is not opposed to the proposed redevelopment plan and views this as an opportunity to improve compliance with Town Code and improve water quality in an area with documented algae blooms. To address these numerous issues that can impact water quality and the noncompliance with the approved Local Waterfront Revitalization Plan and Chapter 125 Stormwater Management, the Planning Board should table the application and request a resubmission to promote infiltration and reduce direct stormwater discharge to Lake George.

Mr. Huntington responded to the Waterkeepers' comments as follows:

The reason they did not reach for infiltration on the majority of the site is that the area between the house and the lake is a grey clay layer at 18" which is already an impervious surface at that point. There is also high seasonal groundwater in this area. They do not want to introduce the groundwater into their treatment devices, which is why they lined it. The only place they had decent soils without high groundwater at a higher elevation is where the permeable pavers are going.

Removing the under drain in the bio retention area would introduce groundwater to the filtration practice. The idea is to keep them separated. It is also a town code requirement to have a 2' separation between an infiltration practice and seasonal high groundwater.

The stormwater will not be directly discharged into Lake George because it will be following a series of filtration and overland practices, which he detailed on the plans.

There is phosphorus in the engineered soil mix of 75 lbs. per acre which is a specified design mix by DEC and NYS DOT. The reason for this is to enhance plant growth within the bio retention. Herb Koster asked if the rain gardens were designed to absorb all the phosphorus. Mr. Huntington replied that he did not know if there was anything that absorbs all the phosphorus, but the idea here is to maximize it to the extent possible. He reiterated that it was an approved practice of DEC and NYS DOT.

The percentage of stormwater removal within the bio retention basins varies on the storm. The idea of having a reduced volume for post construction is for the peak storm event so that less volume is being released. Overall it is volume in equals volume out. Eventually that same volume will reach the lake, however the peak flows will be reduced.

The permeable pavers are an approved practice by DEC and have been implemented all through New York State with varying extent depending on the maintenance. It is up to the homeowner to maintain this and it is his understanding that they will.

As for the subsurface disposal system, there is documentation on file with the town that is part of a previous septic project, that shows that the APA, DEC and LGPC had studied the open channel drainage way and concluded that it did not warrant a classification as an intermittent or perennial stream. It is simply an open channel drainage way therefore the separation distances do not apply to that channel.

John Cushing asked about the structural lawn area as far as permeability was concerned. Mr. Huntington explained that it was an open grid system and got its support from the actual polymer grid. There is actual open lawn area within it. The grid would provide support for the tire tracks while allowing water to come through the openings of the grid. John Cushing asked what the soil makeup was in that area. Mr. Huntington replied it was a sandy loam without any seasonal high ground water until approximately 45”.

John Cushing asked if there was anything they could do to make it infiltrate better without the liners or raising pipes so the water would infiltrate to get rid of the contaminants in the water. Mr. Huntington stated that in their opinion the clay itself is an impermeable liner and the whole point of the additional liner is to keep ground water from coming up into their treatment devices and surcharging additional water other than where they are trying to treat. He does share the sentiment of infiltrating where you can infiltrate, but this site does not lend itself to infiltration practices in these areas.

Zandy Gabriels stated that Mr. Anthony has been emphatic that there is no public access to the lake, and he wants to know how this will be enforced. He also inquired if the wastewater disposal system would be sized only for the property on the east side or if it would aggregate whatever would come in the future on the west side. He questioned whether there would be an easement for the property on the east side. Atty. Lapper replied that it would be fine to make a condition of approval that there would be no contractual access and that there would be an easement that would benefit this property and if the property was to be sold in the future, it is only for the sewage on this property. It would not be a combined sewage disposal system.

Atty. Muller read an email from Joe Thouin from the LGPC encouraging the elimination of under drains and liners.

Mr. Huntington said he shares the infiltration sentiments presented by the LGPC and the Waterkeeper, however they are in a clay soil here and if they remove the under drain it will not infiltrate at all and the water will not be removed from the site. It will build up and there will be a concern from the backup of water. Also, part of the issue with the impermeable liner as part of the town code does not allow infiltration within 100' of the lake. The main reason is the clay because there would be no place for the water to go, you would be basically creating a pond.

Motion by Gena Lindyberg to close the Public Hearing for SPR18-17. **Seconded by**, Jessica Rubin. **All in Favor. Motion Carried.**

REGULAR MEETING

Herb Koster asked if there were any changes or corrections to the January 17, 2019 minutes.

RESOLUTION:

Motion by Gena Lindyberg to approve the January 17, 2019 minutes. **Seconded by**, Ann Marie Scheidegger. Kirk VanAuken abstained. **All others in Favor. Motion Carried.**

1. **SPR18-17 TWIN BOLTON II, LLC.** Represented by Studio A Landscape Architecture. To convert motel structures (east side Route 9N Twin Bay Village) into a single-family dwelling and multiple accessory structures, seeks Type II Site Plan Review for a major stormwater project to remove more than 15,000 square feet of vegetation. 1.65 acres is proposed. Section 186.07, Block 1, Lot 7 (east side Route 9N). A new waste water disposal system will be located on Section 186.07, Block 1, Lot 13 & 186.06-1-14.1 (west side Route 9N). Zones RCH5000 and RM1.3. Property Location: 4804 Lake Shore Drive. The WCPD determined no county impact. Subject to SEQR and LWRP review. See V18-23 associated with this project. This item was tabled at the January 2019 meeting pending a public hearing.

Gena Lindyberg asked for clarification on whether this project was Twin Bay I or II. Atty. Lapper replied that it was II.

Jessica Rubin inquired about the under drains and if they could be moved higher so that it would only drain in a major storm event. Mr. Huntington explained that moving it higher would actually reduce the effectiveness of the filter immediately above it and he detailed why on the plans and said the higher you bring the drain magnifies the increase of pollutants. The intention of these is to act as a filter, not an infiltration media.

Gena Lindyberg asked about the design for the wastewater disposal system across the road. Mr. Huntington detailed the plans and stated that they have a sign off from the Town Engineer.

Gena Lindyberg asked if they would consider adding more of a shore line buffer. Mr. Anthony stated that his client has concerns with planting a buffer at the upper end of the seawall as it would block the view from the house of the children swimming in the lake. He agrees that it is a good idea and if it is a condition of approval, they could design something. Ann Marie Scheidegger said that she believes that waterfront plantings would be a helpful buffer for one of the most critical areas on the property. Atty. Lapper said they could do a low planting on the lake side of the property as a condition of approval.

Herb Koster asked if there was a pipe going through the wall at this time on the property. Mr. Huntington said no. Atty. Lapper stated there were no stormwater devices at all at this time. He said the proposed pipe was treated stormwater. Herb asked if they could eliminate it. Mr. Huntington said he would have to look at it, but his initial response is no. He explained that the issue is grade and elevation. He detailed it on the plans. He did not believe it could be accomplished with the existing elevations. He said right now it flows over the wall. Herb Koster asked if there was a low garden along the edge of the wall if they could eliminate the pipe. Mr. Huntington said no.

Kurt VanAuken asked if it was a perforated pipe. Mr. Huntington said no. Kurt VanAuken asked if the intent was to take the volume from the basin and distribute it through that 8" pipe. Mr. Huntington said that was correct. Kurt VanAuken asked if there was any concern with that creating erosion at a flow stand point. Mr. Huntington said they had introduced some light stone filling at the outlet to alleviate that. Kurt VanAuken stated that would need to be maintained over time. He wanted to know if there was a way to spread that flow out through different filtrations through the mass of that. Mr. Huntington said that the reason for not perforating the pipe was number one the clay and number two, if you perforate the pipe you take the seasonal high ground water and introduce it to the pipe and drastically increase the flows to Lake George. It will add a considerable amount of water that it has not been designed for. Kurt VanAuken asked if they had done test pits to see how high the seasonal high-water marks were. Mr. Huntington replied they had done test pits.

Herb Koster asked if the pipe in the wall could be raised so that the water would be treated where it was supposed to be and only during storm occasions would it come up and flow through that wall. Mr. Huntington explained why they could not and said it would only be flowing during a heavy storm event. Raising the pipe would not allow for gravity feed to the pipe. Herb Koster said that you can not direct water off of your property that was not directed before. Mr. Huntington said that it is directed. It is the same water, it has just changed the conveyance, where it was overland it is now under ground and treating it. According to DEC regulations they don't even need this. This is additional in the interest of protecting the lake. Mr. Huntington said he would love to accommodate these requests, but the elevations do not allow for it. Kurt VanAuken asked what the depth of the clay was. Mr. Huntington said 18" all the way down to the lake, as evidence from the test pits. He said maintenance would be minimal on the rip rap. Possible weeding may be required.

Jessica Rubin said she was concerned with setting a precedent for clay. Ann Marie Scheidegger said not every site was developable. Herb Koster told her she had the option to leave what was there, but this was a major improvement. Ann Marie Scheidegger

replied that she recognized that. Atty. Lapper said they would be happy to add the planting along the wall as a condition of approval.

Ann Marie Scheidegger asked how enforcement was being done on the conditions of approval. Herb Koster said that an engineer certified it every 5 years under the Major Stormwater Management Agreements.

Kirk VanAuken asked if there was plans for the other side of the road. Atty. Lapper said not yet. Kirk VanAuken asked if there was it should be a condition that the same wastewater system can't be used for any development on the other side.

Herb Koster said he would like to see some planting plans with physical numbers. Atty. Lapper said they would submit this.

John Cushing said he personally would like to see something else done with the stormwater to capture nutrients and salt coming in off the road. He is not happy with everything he has heard. He is more confused than anything. Mr. Huntington said there would not be any salt introduced from Route 9N to this because of the grates. John Cushing said he thinks there is going to be, and they think there isn't going to be, so there is an issue here.

Kirk VanAuken asked about clarification on the phosphorus. Mr. Huntington answered that it was for the enhancement of plant growth. These plants are for the removal and the infiltration system. Kirk VanAuken asked if it would be absorbed and dissipate over time. Mr. Huntington said yes, some went to the plants and some goes out. He said this was the DEC recommended soil mix.

No County Impact

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR18-17. **Seconded by,** Gena Lindyberg. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR18-17 as complete; having held a Public Hearing, having met the criteria set forth in the code, grant final approval of the project as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented with the following conditions:

1. Written maintenance easements be executed and submitted to the Planning Office for the stormwater pipe on the west side of the property and the Sembrich property.
2. Written maintenance easements be executed and submitted to the Planning Office for the septic disposal across the road.
3. Submission for planting plans for a shoreline buffer designed to effectively prevent surface runoff from entering the lake.
4. There will be no contractional lake access from the property.
5. Permeable pavers be maintained to function as intended.

6. The stone at the drainage pipe on the shore line is to be maintained as designed and is to function as intended.
7. Septic system as drawn on these drawings is intended only for this project.

It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by**, Gena Lindyberg. John Cushing opposed. Jessica Rubin abstained. **All others in Favor. Motion Carried.**

2. **SPR19-01 GABRIELS, CHRIS.** To add a 12' x 24' wood shed roof addition on existing storage building, seeks Type II Site Plan Review for an accessory structure greater than 1,500 square feet of floor space. 2,016 square feet is proposed. Section 124.00, Block 1, Lot 2, Zone LC45. Property Location: 786 New Vermont Road. Subject to SEQR and LWRP review.

Chris Gabriels stated that this is just a shed roof on an existing building.

Gena Lindyberg asked how far back it was from the property lines. Mr. Gabriels replied in excess of 100' from all property lines.

Kirk VanAuken asked if there would be any lighting. Mr. Gabriels replied that there would not.

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR19-01. **Seconded by**, Jessica Rubin. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR19-01 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 analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by, Jessica Rubin. All in Favor. Motion Carried.**

3. **SPR19-02 CALDWELL, SAM.** Seeks Type II Site Plan Review to construct a single-family dwelling in the LC25 zone. Section 171.00, Block 1, Lot 1.2, Zone LC25. Property Location: 236 Edgecomb Pond Road. Subject to SEQR and LWRP review.

Jessica Rubin abstained.

Sam Caldwell presented the following:

- He detailed the site plan and the reason they are here is because they are in a LC25 zone which requires site plan review.
- He has a 150' of road frontage on Edgecomb Pond Road, but it is super steep.
- This is in the scenic corridor and would also need a variance to build by the road.
- Building on the road was not an option.
- He would like to use the existing driveway and a previously cleared area where his camp is.
- This area is flat and there would be minimal cutting and disturbance.

- There would be zero impact to the community as a whole.
- There will not be a need to put in a road.
- The neighbors were contacted, and they do not have any problems with this project.
- There would not be a need for another driveway.
- His disturbance is almost to the limit because it is a single-story home.
- The stormwater design is to handle all the runoff from the roof, driveway and parking area.
- He has also added a rain garden under the eave line to catch the runoff from the roof.
- Lighting will be downward facing and shielded.
- The house will not be seen from anywhere.
- There is an existing small hunting camp which will be converted to a guest cottage or artist studio.

Herb Koster said the Board would want a metes and bounds of the driveway in the easement so it stays that way forever. Mr. Caldwell said that they would do that. He said this property could not be divided again.

Mr. Caldwell said they meet all the setbacks.

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR19-02. **Seconded by**, Gena Lindyberg. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR19-02 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 analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented with the following condition: 1) All lighting is to be downward facing and shielded. 2) Metes and Bounds easements are to be established for the driveway over lot #1. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by, Ann Marie Scheidegger. All in Favor. Motion Carried.**

The meeting was adjourned at 7:44

Minutes respectfully submitted by Kate Persons.