

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday, August 18, 2005
6:00 p.m.**

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

Present: Chairman Herb Koster, Sandi Aldrich, Henry Caldwell, John Gaddy, Chauncey Mason, Don Roessler, Susan Wilson, Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

Absent: None

PUBLIC HEARING:

H. Koster opened the public hearing at 6:08 pm by apologizing to the PB and the public in attendance and said (1) he was wrongly informed that by this PB meeting everything would be in order and it is not—all of the information is not here, (2) the public is welcome to speak on the partial information that is here and (3) the public hearing will be extended to the next month's meeting pending when and if all of the information has been received.

1) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning. Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 24 lots that parcel designated as Section 139.00, Block 1, Lot 48 (48.1 & 48.2), Zone RL3. Access is proposed to be gained through Section 139.00, Block 1, Lot 46.1. Property Location: 83 High Meadow Farm Road. Major Subdivision. Preliminary plat. Subject to SEQR. This item was tabled last month pending review and approval of the plan by Town Engineer Tom Nace.

Rolf Ronning said he is not clear on if this public hearing will be extended to next month and H. Koster said yes, the public hearing will be extended to next month, but people are welcome to speak since it had been advertised.

Rolf Ronning gave an overview and said (1) he owns a piece of property surrounded by CR 11 and New Vermont Road containing 165 acres (old Mowery property), (2) he bought, through a corporation called Ronning Inc. the Abele property consisting of 96 acres, which connects the old Mowery property to CR 11, specifically to access the proposed development from CR 11, (3) he is keeping a 50' or larger right-of-way to incorporate stormwater design plans, catch basins, etc., (4) he has contracted to sell the rest of this property to somebody else, so he won't be developing this, (5) his development, called Saddlebrook, contains 23 vacant lots varying in size from 2 to 11 acres and one 10 acre lot that contains the former Mowery home, (6) he is proposing to build a road to Town of Bolton standards, approximately 2 miles in length from the beginning at CR 11 to the end at New Vermont Road at High Meadow Drive, (7) he is hoping the Town will take over the road when it is approved, but if it is not a Town road, it will be an association road, (8) the road does not exceed the 10% grade and it has a

major stream crossing at Indian Brook and another crossing of Indian Brook to access 5 more lots, (9) he thinks they have complied with every part of all new stormwater rules and regulations, (10) they are waiting for final approval from Town Engineer Tom Nace, which is why the public hearing is being extended and (11) they did finish their species identification for the wetlands.

From the public, Graham Cox, resident of Pioneer Village, said (1) he has lived here since 1978 and is registered to vote in the Town of Bolton, (2) he has a master's degree in economics and a Ph.D. in ecological economics, (3) he is employed by the state office of the National Audubon Society, (4) he is a post-doctoral researcher with the University of Vermont Rubenstein School of Natural Resources, (5) he has also worked with the Northern Forest Alliance on sustainable forestry issues, (6) he is here to raise some cautionary flags about projects such as this one, (7) Town Boards and Planning Boards take a very short-term view of their communities' futures and they let the short-term profit motives of developers drive the thinking that goes into these kinds of proposals, (8) the developer has every right to propose projects that would make money for them from their real estate, but Town Officials have an equal responsibility to protect the long-term interests of the community and say no to projects that will end up costing us all money long after the initial land sub-divider has taken his money and moved on, (9) the National Audubon Society's concern is to preserve birds and other wildlife by protecting their habitat from destruction, evasive species, development and from pollution threats, (10) the Northern Forest Alliance concern is for the future long-term health of the forest product industry, which is an industry compatible with bird and wildlife conservation, (11) in his last 12 months serving on the state committee of the DEC, the long-term needs of the forest industry includes coordinated regional four-state economic development strategy that will prepare the ground for a sustainable economy based on our natural resources including forest products, tourism, outdoor recreation and second-home development done at an appropriate scale and in suitable locations, (12) his UVM research has produced the following items that other Adirondack Park and Tug Hill communities envision for their towns 30 years from now; maintain role in scale with rural roads, encourage future development in hamlet areas with community services and health services, encourage recreational uses but discourage second-home subdivisions in the most sensitive and productive forest and farm landscapes, encourage a prosperous forest products industry, an economy built on a four-season tourism and recreation economy with a minimum impact on the land base, they want to limit land partialization and forest fragmentation to protect the forest base and protect sensitive natural resource areas, they want to keep property taxes down, they want to have affordable housing and housing for senior citizens and (13) the following are some of the downfalls; this proposed subdivision is far from the hamlet, it will introduce more traffic to the rural back roads of Town, there is no way the Town's sewer, water and other basic community services will reach this subdivision—certainly not at an affordable price, it consumes at least 150 acres of what otherwise would be productive forest lands, undermining the future of productive forest products, it introduces suburban problems to a rural landscape (long roads and driveways often demanding the use of salt, fertilizers, pesticides, dogs, cats, forest fragmentation brings parasitic cobwebs, more raccoons, etc.), it does nothing to help affordable housing or

senior citizen housing in this community, it will result in increased property taxes for all Bolton residents—no subdivision pays its own way in terms of revenue generated, but it does drive up all Town costs and it will add to the stormwater flow and flooding problems along New Vermont Road.

From the public, Lynn Gollhofer, full-time resident for 14 years and part-time summer resident for 40 years, said (1) the Town has grown, but the PB has been quite diligent in watching it grow, (2) as far as maintaining rural roads, it was the Town Board that insisted on having blacktop—not the developer, who would have like to maintain it as natural, (3) regarding economy stream and second homes, as a realtor, she has had several local people waiting for this development so they can purchase homes, (4) stressing local roads, she thinks there is no question the proposed road will increase the availability and add a viable access to the people on New Vermont, Federal Hill and North Bolton Roads, because it will offer them another access when we deal with storms, (5) regarding causing more taxes, if there are 23 or 24 homes that are going to be built in the neighborhood of \$400,000 to \$700,000, it will increase the tax base and help the Town, as will having affluent people here maintaining the Town's services, (6) this subdivision won't be second homes, but a community for local people looking for homes, (7) she hopes there is some understanding to work with the developer to get this project on the road, as there has been a lot of expense, time and interest in it and asked the PB to look at Rolf Ronning's prior projects, which she finds to be more diligent than most of the developers in the Town and (8) she would like the PB to try to quickly approve this so the project can get completed and they can begin selling property.

From the public, Chris Navitsky, Lake George Waterkeeper, said (1) he submitted a letter regarding this project, (2) the project as proposed will have a great impact to the Indian Brook Watershed and the natural resources of the Town of Bolton, (3) back in October, the Zoning Board said in their motion that the request will not have adverse physical or environmental effects if built under proper guidance and it will be reviewed by the DEC, APA and Bolton Planning Board—there has been no submission to the DEC yet, the APA did not make a jurisdictional determination and he hasn't heard of discussions with the PB on this, (4) the removal of the buffers along the creek are a concern and this project continually encroaches along and removes the buffer along the stream corridor, (5) the buffers are important to the stream bank because it filtrates the run-off going to the streams, protects the stream banks, stabilizes the stream banks, provides habitat, cools the streams down, provides habitats to fish and prevents erosion, (6) the impacts to the ecosystem is a concern (fisheries, etc.), (7) the impacts to the environment and the impacts to the community need to be weighed against the benefits to the applicant, (8) the excessive amount of clearing are a concern, as this project will clear approximately 25-27 acres—the clearing on lots 17, 18 and 19 alone equates to the size of a football field for single-family homes, which is just not acceptable, (9) stormwater management issues include lack of test pit information where the basins are and failure to collect and manage all run-off, (10) he feels the stormwater management report needs heavier review and scrutiny in inspection of the report and the Town needs to take a much more conservative approach regarding the assumptions of plant cover and the run-off that will be produced (ex. there are inconsistencies with run-off

coefficients for the roads, specifically using gravel run-off in the run-off calculation when the road is to be paved and using brush value when the brush is going to be removed and made into lawn, inconsistencies with the areas and the drawings, etc.), (11) the applicant claims there will be more woods post-construction and that cannot be, (12) not all areas of run-off are tributaries to the pond, (13) failure to meet the DEC water quality standards, because this needs a SPDES permit, (14) according to a report on a 25-year storm event, there will be 40 cubic feet per second discharged onto New Vermont Road, which is equal to about 300 gals. per second and he doesn't think that road can take it and (15) he again strongly encourages the Town to review the report more thoroughly, (16) he asks the PB to consider the protection of the natural and public resources (water, fisheries and wildlife) that will be impacted by the development and (17) Mr. Ronning has his right to develop his property, but he does not have that right at the expense of severely impacting our public and natural resources—the project, as proposed, will result in significant increases in run-off to the stream corridor, which was greatly and severely in the storm events in June, as the damage would have been much worse if this project was in place.

From the public, David Thomas, said (1) he submitted a letter in opposition, (2) he owns lakeshore property in Indian Brook community bordering on the south side of Indian Brook where the falls are between Route 9 and Lake George, (3) he has agreed with his neighbors to never to build on that property—it is a preserve, (4) his first concern is the protection of Indian Brook and Lake George, (5) his second concern is what he considers to be the dismal track record of the developer, (6) the Indian Brook Delta and watershed have been thoroughly studied by the LGA (he provided copies of these reports/studies and referenced them in greater detail), (7) the Indian Brook Delta grows every year and enlarged greatly with the June 13, 2005 storms and the damage can be seen at the mouth of the brook (he submitted photographs of the downstream and upstream damage/erosion), (8) about 1 mile of Indian Brook runs through or on the edge of this development, which is more than 20% of the course of Indian Brook from New Vermont Road to Lake George, (9) he suggests to preserve Indian Brook there should be the elimination of lots 4, 5, 7, 8, 10 & 11 that directly abut the brook and have building sites within 150' from the brook, (10) he hopes he can rely on the PB to protect the citizens, Indian Brook and Lake George.

From the public, Ann Thomas, Indian Brook community resident and co-owner of the aforementioned preserve, submitted photographs of Indian Brook after the June 13, 2005 storm (including some taken today) and said (1) she is asking and begging the PB to plan for Indian Brook before going forward with this subdivision, (2) the Indian Brook delta is huge and affects the property owners and Lake George, (3) the bridge over New Vermont Road was devastated and has still not been repaired, (4) Lake George is for the citizens to take care of forever and if we don't plan properly, it will be gone, (5) the delta in Indian Brook is one of the most dramatic examples she has ever seen—it is continuing to erode and the silt is continuing to build up at a very rapid rate, (6) if this development is permitted, and more up-land, the Town can expect more of this and (7) she is asking the PB to postpone any project movement until it is sure Indian Brook is protected.

From the public, Charles DeYoung, resident of 41 New Vermont Road, said (1) he lives upstream from the proposed development, (2) he respects Mr. Ronning's right to develop property and the PB's right to grant variances, but is asking the PB to look at the bigger picture—not individual properties, (3) he is asking the PB to look at one particular map—which is available to all—a geodetic survey map, which shows the Indian Brook drainage is the largest drainage in the Town of Bolton and is also shared by Finkle Brook behind the Town reservoir, (4) on June 13, 2005, the water came from the property that was logged for a period of four years, which now belongs to the LGLC, and the water came off the mountain on the corner and changed his property line, which is along Indian Brook—he now has a waterfall on his property line—that night the water was over the guardrail and to the door of Chic's storage, two feet over the guardrail, washing out CR 11, (5) it was not only the storm of June 13th (calculates to be a 500-year storm event) that has produced damage, but there was also a storm on June 10, 2004 (calculates to be a 100-year storm event), where the culvert by Owen Sherman's house came close to washing out, because again of 4" of rain in an hour, (6) it seems like the Town of Bolton is getting a lot of these storms and if the Town of Bolton is going to have these events, he would like the PB to look at and review a geodetic survey map (which is available from the Federal Soil and Water Conservation in Pack Forest) to look at entire drainage and the amount of volume that will come through, (7) the cure for erosion is disbursement and disbursement only happens when there are forest lands where the water can flow at a slow rate rather than be channeled, (8) he agrees with what the Town is doing, the Town Road Supervisor has ditched roads to channelize water—he is working within a right-of-way that he has to remove water from—but this water is being accelerated and accelerated to the only exit of drainage, which is Indian Brook and (9) he respects the right of people to build but he would also like people to look at the big picture.

Correspondence: The following correspondence was referenced earlier by those who submitted the letters, and those who submitted agreed to have their letters reflected in the minutes, but not read into the minutes.

- Letter from Chris Navitsky, Lake George Waterkeeper – concerns
- Letter from David Thomas – opposed

Correspondence: Counsel read the following correspondence into the record.

- Letter from Lake George Association – concerns
- Fax from Nace Engineering P.C. to Zoning Officer Pam Kenyon – concerns

H. Koster said the information here tonight is not complete and this public hearing will definitely go on next month, so anyone who would rather see a more complete project plan is welcome to come back next month.

Dennis Dickinson, survey engineer for this project, said (1) he would like to thank the PB for its diligence in reviewing this project which has been here for over a year, (2) we have

come a long way, done a lot of things and resolved a lot of issues, (3) he is not going to answer every statement that has been made in the public meeting, but will respond in a more general mode, (4) the Indian Brook crossing has been submitted to Nace Engineering in booklet form, which describes the basin, the characteristics of the basin and generates a hydrology of the area to determine the maximum flow, which has all been discussed with Tom Nace, (3) for the design of the culvert crossing Indian Brook, they used a 100-year storm, which is a significant storm and the culvert has the capacity to carry more than a 100-year storm, (4) there are only two minor stormwater issues outstanding as of today, (5) during the year they have been working on this project, stormwater review has changed drastically and he has retained the services of Dave Meyers to assist with the stormwater, (6) regarding the APA, they have an application in regarding a jurisdictional determination by the APA, they have discussed what the APA needs to resolve this situation and the APA has recently changed their procedures so they now require the developer to hire an independent specialist to make a determination, which they has been completed within the last 2 days and are anticipating an APA determination soon, (7) they have laid out an area significantly larger than the wetland to protect the wetland and to protect the buffer zone around the edge of the wetland, (8) they have also set up a buffer zone on both sides of Indian Brook for the entire length of Indian Brook that they own in this subdivision, where the land will be owned and maintained by the association, (9) the stormwater management plan is designed to curb the problems (over bank flooding, bank erosion, siltation and other pollutants entering existing water systems) we are presently having with these storms, (10) the discharge from this development after development is less than the discharge pre-development, (11) they have made every conceivable, possible effort to collect every bit of stormwater that has any potential for pollution and put it in a device, obviously there are some small areas where they can't physically do that, but they have made every attempt to do it, (12) they are in a 3-acre zone with 90 + acres with an approximate 32 lot potential, on the north parcel alone, they have asked the PB for 75% of their potential build up—only 24 out of 32, (13) they have made every effort to put the homes where they will be environmentally safe, (14) they have made every effort to keep the amount of development and clearing down, (15) Rolf Ronning has made a diligent effort to provide two points of access to this particular subdivision, a safety valve access and a more direct route to Town to move traffic around the Town of Bolton without requiring driving on the back roads and (16) they have done a tremendous amount of soil test pits and a lot of soil testing on this property, in addition to completing additional percolation tests requested by the Town Engineer, that are above and beyond what is required.

Rolf Ronning said (1) he appreciates the concerns about Indian Brook, (2) he has been doing development for a long time, (3) people build along the lake 75' from the lake and nobody has much problem with that, (4) he did developments with lake views and everyone's concerned about views and seeing houses from the lake and they suggest going back, (5) this development can't be seen from the lake, Indian Brook goes through it, it is zoned by the Town and APA as 3-acre zoning because of the soils and terrain and he bought it to develop, because he thinks the Town has to grow at some sort of pace, (6) for 2 years, the Town Engineer, his engineer and the PB have been concerned about Indian Brook—they have moved the road further and further from Indian Brook and the

setbacks from any house that is built near Indian Brook is going to be the same or greater than the shores of Lake George, (7) they have taken part of the common area and extended it so the common area owns the brook and the land around the brook, (8) after he gets done with his stormwater and the lots are up for sale and sold, every homeowner will have to come back for site plan review and a stormwater plan for their home, so the checks and balances keep going and going, (9) nobody wants anything to happen to Lake George or for anything to happen like what happened with these storms, but he is proud to say that when it is developed, the run-off will be less going off the property than it is now and (10) he thinks the environment will be better off when the project is done and (11) he encourages the public to come to the public hearing next month and to call him directly anytime.

P. Kenyon asked for the deadline for information from the applicant to be received and H. Koster answered by saying (1) two weeks before the meeting, (2) he wants it totally complete this time and (3) he is not going to get embarrassed again.

Motion by H. Caldwell to keep the public hearing open until the plans are approved and signed off by Town Engineer Tom Nace. Approved plans for SD04-16 & SPR05-11 are to be submitted to the Planning Office 2 weeks prior to the meeting in order for the applications to be placed on that month's agenda. ENCON is to consent and acknowledge approval of the culverts as proposed. Seconded by S. Aldrich. **All in favor. Motion carried.**

REGULAR MEETING

H. Koster opened the regular meeting at 7:19 pm by asking for corrections to the Thursday, July 21, 2005 minutes.

J. Gaddy asked that on page 2, the first sentence be changed to "Carl Schoder, representing Michel and Holly Dansbury, gave a detailed *synopsis*..."

S. Wilson asked that on page 8, paragraph two, in the first sentence the word "said" be deleted and the sentence be changed to "*J. Gaddy asked if the peak...*"

Motion by D. Roessler to approve the July 21, 2005 minutes as amended. Seconded by S. Aldrich. **Six in favor. One abstained (H. Caldwell, as he was not in attendance at the July meeting). Motion carried.**

1) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning. Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 24 lots that parcel designated as Section 139.00, Block 1, Lot 48 (48.1 & 48.2), Zone RL3. Access is proposed to be gained through Section 139.00, Block 1, Lot 46.1. Property Location: 83 High Meadow Farm Road. Major Subdivision. Preliminary plat. Subject to SEQR. This item was tabled last month pending review and approval of the plan by Town Engineer Tom Nace.

Rolf Ronning said he is waiting for the sign-off from Town Engineer Tom Nace and said he wants the opportunity to ask the PB for any comments or concerns with these new set of plans that were submitted.

H. Caldwell asked if the applicant has bought the piece of property from Steve Budner and Rolf Ronning said he is selling the property to Mr. Budner and everything is at Mr. Budner's attorney's office. The Budners said they are waiting to have it re-surveyed. H. Caldwell asked if whether or not this deal goes through affects the road and Rolf Ronning said no, it will not affect the road.

H. Caldwell said the PB asked the applicant about bonding and asked for clarification. Rolf Ronning said \$500K is the road finished with an anticipated 12" of item 4 and the additional \$200K-\$250K is for the paving he agreed to do for the entire road. H. Caldwell asked if all the stormwater is included in the \$500K and Rolf Ronning said yes. H. Caldwell asked what would happen if the Town of Bolton does not take the road over and Rolf Ronning answered by saying (1) he is still building it to Town standards and he will still pave the whole thing if the PB requires that and (2) he is anticipating going to the Town Board if the PB is agreeable to the \$750K, so the bond can be in place for next month. H. Caldwell said the subdivision still needs to be approved first. H. Koster said (1) the PB is not agreeing to a \$750K figure right here as a board and (2) there are still liable to be changes to that road depending of the outcome of some of these so-called "minor calculations." Rolf Ronning responded by saying he doesn't think so.

H. Koster said (1) it was inferred that the PB has been dragging its heels on this project, (2) the PB went through several bridge designs on Indian Brook over the past year, (3) they finally came up with two different culvert designs that they went over and (4) there are a lot of other things, for example, the road has been moved at least six or seven different times. Rolf Ronning said he agreed and he is not inferring this. H. Koster said the inference was made and he would like the public to know. Rolf Ronning said he doesn't agree with the inference, he believes the PB has worked well and the delays have been caused because he has been trying to improve it. H. Koster said they also had some serious property line questions and Rolf Ronning responded by saying a lot of things happened here, there were accusations, so he hired a surveyor and that independent surveyor proved he was right.

Rolf Ronning said he hopes to have everything done for the next meeting.

H. Koster asked if ENCON has to approve that culvert, as the applicant stated last month and asked if the applicant could supply the PB with a letter from ENCON saying they have no approval rights to the culvert, because he does not believe that is correct. Rolf Ronning said he doesn't think he said that last month and H. Koster said the applicant said being that he went from the bottomless culvert to the complete culvert that ENCON did not have to review this. Rolf Ronning said (1) if he said that he thinks that is not so, but what he does know is that ENCON prefers the bottomless culvert, (2) they did get ENCON approval for the bottomless culvert they put on Hendricks Road and (3) he will get a letter from ENCON approving this culvert in both locations for the next meeting.

Motion by J. Gaddy to table the application until such time that the plans approved by Town Engineer Tom Nace are submitted to the Planning Office. Seconded by S. Aldrich. **All in favor. Motion carried.**

2) SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq ft of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 48, Zone RL3. Property location: 83 High Meadow Farm Road. Subject to WCPB review. Subject to SEQR. This application is in conjunction with SD04-16 and was tabled last month pending review and approval by Town Engineer Tom Nace.

Motion by J. Gaddy to table the application until such time that the plans, approved by Town Engineer Tom Nace, are submitted to the Planning Office. The stormwater plans will not be forwarded to the Warren County Planning Board until fully approved by the Town Engineer. Seconded by S. Aldrich. **All in favor. Motion carried.**

3) SD05-18 COX, GRAHAM & JUDITH. Seek to amend a previously approved plat 70-1 known as Pioneer Log Cabin Village, specifically to merge Lots 27 & 28. Section 156.16, Block 1, Lots 26 & 27, Zone RCM1.3. Property location: 71 Pioneer Village Road. Sketch plan review. Subject to SEQR.

Graham Cox gave an overview and said (1) they own 2 adjacent properties in Pioneer Village approximately .75 acres each, (2) they are proposing to take out the lot line between the two parcels and join the parcels to produce one single property measuring 1.6 acres to remain forever wild – a preserve, (3) by doing this he is personally forfeiting any money that could be made on a parcel currently assessed at \$106K, and (4) he is lifting forever the possibility of another house in Pioneer Village at this particular site and doing the right thing for Lake George.

H. Koster said the applicant couldn't possibly come before the PB with anything easier than this proposal.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by D. Roessler to accept the application as complete, waive a public hearing, convert it to final plat and grant final approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by S. Wilson. **All in favor. Motion carried.**

4) SD05-19 FEIRMAN, HOWARD (MLN Holding Corp.). Represented by William Rourke of W.J. Rourke Associates & Jeff Anthony of The LA Group. Seeks to divide into 2 lots that parcel designated as Section 186.14, Block 1, Lot 20, Zone RL3. Property

location: 931 Trout Lake Road. Minor Subdivision. Sketch plan review. Subject to SEQR.

William Rourke of W.J. Rourke Associates, representing Howard Feirman (MLN Holding Corp.), gave an overview and said (1) this is about a total of 13 acres on the east side of Trout Lake Road, (2) Howard Feirman and James Palazzo own the property, (3) there is an existing house (log cabin) and a garage on the property, (4) they have shown the contours of the entire 13 acres, (5) the reason they are here is because they have a buyer for the existing residence and they would like to make the sale now, (6) they will have to go through APA and storm drainage and design the other three future lots, (7) there is an existing well on lot #1 and an existing septic system and (8) they are looking for approval for lot #1.

H. Koster said if the applicant just wants a two-lot subdivision, future plans shouldn't be introduced at this time, as they will need to be reviewed, because those plans will be a lot more involved subdivision.

H. Koster asked if the whole property is in an RL3 Zone and William Rourke said yes. H. Koster asked who plotted the wetland and William Rourke answered by saying the LA Group put the flags up and they located the flags. H. Koster asked if they are going along the wetlands on the south side of the property and William Rourke said they are following the wetlands. H. Koster said the APA lately requires that all the wetlands stay on one lot and he is wondering if the APA has approved the proposed layout. William Rourke said (1) they sent the plans and the application to the APA and (2) he believes the PB has copies of the APA jurisdictional letter.

S. Aldrich asked how much of a problem the PB is going to have if the plan is not accurate and H. Koster answered by saying (1) he doesn't see any problem really and (2) it is the LA Group and they are a recognized wetland engineering firm, but you never know.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by D. Roessler to accept the application as complete, waive a public hearing, convert it to final plat and grant final approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by C. Mason. **All in favor. Motion carried.**

5) SPR05-34 MOORE, EDWARD. Represented by Jeff Provost of the Dock Doctors. Seeks Type II Site Plan Review for a new land use within 250' of the shoreline, specifically to reconfigure existing U-shaped dock. Section 156.20, Block 1, Lot 29, Zone RCM1.3. Property location: 27 Bay Side Lane. Subject to WCPB review. Subject to SEQR.

Jeff Provost of the Dock Doctors, representing Edward Moore, gave an overview and said (1) they have gotten the LGPC's approval for this dock, (2) the dock that is presently there doesn't comply with LGPC regulations and (3) this proposal will bring this into LGPC compliance.

J. Gaddy asked if there will be lighting on the proposed dock and Jeff Provost said no, not that he is aware of.

H. Koster asked if everything that is cross-hatched will be removed and Jeff Provost answered by saying (1) that is correct and (2) the square footage of the proposed structure is within 3' of the existing structure, which is needed to bring it into compliance with the LGPC regulations. H. Koster asked if it is accurate that the cross-hatched area down the middle of the northern most dock will be removed and the remaining dock surrounding the cross-hatched area will be staying. Jeff Provost said (1) that is correct and (2) there is currently a 30' dock there presently that will be replaced by a, 8' x 30' dock, which will be the same on the opposite side too, making one U-shaped dock.

S. Aldrich asked if the existing dock is a steel frame and post on the trim and Jeff Provost replied by saying (1) it is a steel frame structure underneath and the outside structure has a wood skirting around it and a wood deck on top of it, so it will look like a wooden dock. S. Aldrich asked if that is what will be put in with the new dock or if it will be a wooden crib dock and Jeff Provost said (1) it is not a crib dock and (2) it is a piled supported dock like is there now, except you won't see all the open trussing and steel that is on the existing dock, as it will basically be a narrower frame.

J. Gaddy asked if the dock will be removed in wintertime and Jeff Provost said no, it is a permanent structure.

No County impact.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by D. Roessler to accept the application as complete, waive a public hearing and grant final approval as presented with the condition that all lighting be downward-facing and shielded. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by J. Gaddy. All in favor. Motion carried.

6) SPR05-35 THE MICHAELS GROUP. Represented by Matt Steves of Van Dusen & Steves Land Surveyors. As part of subdivision (SD03-23) and stormwater (SPR04-03) approval granted for the Bluebird Cottages Subdivision (Philip and Cynthia Farbaniec) on March 18, 2004, seek Type II Site Plan Review for a major stormwater project on Lot 5. Section 186.14, Block 1, Lot 87, Zone RCH5000. Property Location: 4632 Lake Shore Drive, Lot 5 of the Bluebird Cottages Subdivision. Subject to SEQR. Subject to WCPB review.

Matt Steves of Van Dusen & Steves Land Surveyors, representing The Michaels Group, gave an overview and said (1) this is lot #5 in the Bluebird Cottages subdivision that was approved by the PB, (2) each lot, before construction, is required to come back to the PB for compliance with the stormwater management plan that was in place and approved during the subdivision, (3) they have been in front of the PB on two other buildings The Michaels Group have already built – lots #1 & #6 – and this is for the third lot to be constructed on lot #5, (4) they will use trenches around the building and driveway to accommodate the stormwater run-off, (5) they have calculations with the roof included in the impervious area, adds about 3,600 gallons of stormwater and 3,776 gallons of stormwater control with the stone trenches around the building and driveway and (6) this is just like the applications the PB has had in front of it on prior occasion for lot #1 and lot #6.

J. Gaddy asked what the hours of construction will be and said (1) he knows the neighbors are trying to run a business, (2) with construction being done during the time of the resort season, he would like to look at putting construction time limits on any other work on this project (as was done on Victorian Village). Counsel said it is reasonable for the PB to impose construction time limits now.

H. Koster asked if it was correct that covered porches were not included and Counsel said yes, they are not included. P. Kenyon said she believes this proposal meets all the conditions the PB approved. H. Koster asked if P. Kenyon thinks Town Engineer Tom Nace needs to look at stormwater for this proposal and P. Kenyon said no.

S. Wilson asked if the porch on A2 toward the bottom of the page is a covered porch and Matt Steves said yes. S. Wilson asked that the porch be labeled accordingly and Matt Steves said he would label it as requested.

No County impact.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

J. Gaddy said (1) there is a consensus to approve this major stormwater project and (2) based upon the materials submitted and accepted as part of the record, the findings are as follows;

1. The project meets the design requirements and performance standards set forth in the code
2. The project will not have an undue adverse impact regarding the criteria set forth in the code
3. That the stormwater control measures proposed will function as designed and constitute the best possible methods feasible and practicable for the project site.
4. Adequate and sufficient provisions are presented as part of the plan to assure future function or responsibility in the event of failure.

5. The project will not contribute to flooding, siltation, or streambank erosion and will not pollute Lake George, its tributaries or streams with run-off.

Motion by J. Gaddy to accept the application as complete, waive a public hearing and grant final approval as presented with the condition that construction times are from 8:00 a.m. to dusk Monday - Saturday and 9:00 a.m. to dusk on Sundays from July 4th to Labor Day. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by D. Roessler. **All in favor. Motion carried.**

7) SPR04-37 GLENN A. WARREN FAMILY TRUST. Represented by Glenn Warren. Seeks Type II Site Plan Review to 1) Timber-harvest an area greater than one acre on one parcel in the RL3 zone; and 2) Timber-harvesting involving the clear-cutting of an area greater than one acre on one parcel in the LC25/45 zones. Section 140.00, Block 1 Lots 44, 47 & 49, Zones RL3, LC25 & LC45. Property location: 34 Padanarum Road. Subject to SEQR. This item was tabled last month pending additional information.

Glenn Warren gave an overview and said (1) since the last meeting he met with J. Gaddy and C. Mason, (2) he provided information regarding noise levels of construction equipment and (3) as requested at the last meeting, he has provided a logging road segment layout out of the forest management plan that includes a table that shows the first approximately 5 years of construction to give the PB a sense of how much is proposed to be done, and (4) the intention is to slowly build out and improve the logging roads on this property.

C. Mason gave a synopsis and said (1) he and J. Gaddy met with the applicant to look over the long-term plan to make sure it was understood, (2) that the applicant reduced the scope of the proposal in terms of a 2-3 year plan as requested, (3) he is essentially going for a sustaining logging operation and improvement of the forest yield and a more healthy forest and income it, (4) the applicant is going to be shredding tires to be used as a base for the fill for his roads, which is an approved process that works out quite well, (5) the applicant intends on building the roads by degrees and (6) sometime in the future the applicant is looking for cell towers and other items that are not included in this evening's proposal.

Glenn Warren said (1) the logging road improvement will require several stream crossings and he will be back before the PB for approval on those in the year he would propose the crossings and (2) add-on projects, such as a cell tower and a building to house a band-saw mill, are conceptual in the long-range plan and he would approach the PB, DEC, APA and any appropriate boards in the year he would intend to do that construction.

C. Mason asked if the applicant is using as much of the existing roads as possible and Glenn Warren answered by saying (1) he is using existing roads and improving alignments to reduce erosion, the forest management plan includes lengthy specification

on drainage that basically meets and exceeds the Town of Bolton storm drainage regulations, so the intention is to infiltrate stormwater to reduce the permeability of the road surfaces to remediate logging road and slope areas that have been degraded because of past logging practices and (2) the concept in terms of the forest management is to thin and tend the forest to promote above-average growth, then take a sustainable percentage of timber off of the land which is less than the growth rates over time so the overall impact on the overall forest would be to increase the size and diversity of the timber that is there for the ultimate goal of having something that looks like an old growth forest, but that is still being productively harvested in an environmentally sensitive manner. C. Mason said this type of tree harvesting is in harmony with the latest forestry trends, where they find that by doing this type of tree harvesting, you can get a greater and more uniform yield.

H. Caldwell said (1) he looked at the long-term plan, (2) his only concern would be the difference between a logging road, which is temporary, and it sounds like the applicant wants to have these be more permanent roads. Glenn Warren said (1) in terms of the field of sustainable forestry management (actively tending the forest as a garden) each year you are participating in the growth and the cultivating of the ecosystem and you are constantly taking small amounts of timber out with the idea being to make the roads year-round in terms of their structural capability, (2) his design proposes to use what is called a “green road” or using a geo-grid (ex. Lake George Club) to stabilize a soil mix that supports vegetation growth on the road surface itself so you can drive on it and plow it gently if needed, but it percolates water through the road bed and remains green all year and (3) a potential add-on to the project at some point in the future, some aspect of recreational or educational use of this logging road network would be his preference.

Glenn Warren said gave an overview of this evening’s proposal and said (1) he is specifically looking to clear-cut a corridor in which to build out the improved forest access roads, (2) to make some clear-cuts for the purposes of opening some wildlife enhancement areas to provide some grazing and diversity within the forest for birds and animals, (3) to clear-cut an approximate 2-acre area that was historically a landfill used by the Sagamore Hotel, that he wants to use as a construction staging area, so that his activities a year or two down the road will be 900’ off the road – less visible and noticeable in terms of noise – then that area would become the log staging area for the forestry activity.

S. Wilson asked for the applicant to show the clearing areas on the drawings and asked if the applicant will be clearing the corridor around the entire parcel. Glenn Warren showed the areas on the drawings and said based on scheduling the clearing will be done in sections progressively.

J. Gaddy said (1) he is not clear on the goal of the applicant’s wildlife enhancement areas and (2) he especially doesn’t want to see any of the wildlife enhancement areas on the east side (on the peaks of the mountains) to be done at this time and asked where phase 1 is being restricted to. Glenn Warren said (1) the purpose of the wildlife enhancement areas is to promote a better ecosystem by cutting down some trees and providing

alternative vegetation and growth, (2) he put together a logging road plan which shows the first calendar year going forward to do six segments consisting of 1A-C (road segments from Padanarum Road to the construction staging area and to the buffer zone of the stream) and 2A-C (beginning a second entrance off Padanarum Road toward the north part of the road frontage and coming down the hill partway outside the buffer zone) and (3) in the second year, he is looking at sections 2D, 2E and 3A-D as shown on the drawings, which also includes a stream crossing, which he'd be back before the PB.

J. Gaddy asked if it is correct that the applicant is restricting this application to the area west of that easterly most wetland area and Glenn Warren answered by saying he is a little bit resistant to restricting his request to the west of the stream, because if he was just doing west of the stream, he wouldn't even be here because he would not hit the clear-cutting requirements. H. Koster asked if the applicant would be coming back to the PB for the area west of the stream for a review of the stream crossing and Glenn Warren said (1) yes, he would be back to cross the stream and (2) his concern is the difficulty of moving targets and (3) it is hard for him to make the investment in the property with the uncertainty that the board changes, the whims change, etc.

J. Gaddy said he would like to restrict any of the present application not to include any of the large-scale clearing. Glenn Warren said he'd like to make an alternative suggestion that if the PB wants to put a general criteria restriction it be something to the effect of that the PB prefer the applicant not do wildlife enhancement areas on steep slopes or on tops of ridges with parameters in that fashion. J. Gaddy said if they are working in the two wetland areas and not moving any further to the east then they don't have to discuss the ridge top, but if they are looking at any general spot in this project, he would like to throw the condition on that there be no large-scale clearing in the proposed spots where the 150' flagpoles are shown. Glenn Warren suggested the PB define the condition as no clearing in excess of so many square feet within so many feet of a ridgeline. J. Gaddy said he thought the purpose of their meeting was to get the master plan down to a 2-year plan that the PB could approve.

S. Wilson asked if it is accurate that the applicant is looking at 2400 feet of road and 2 acres in the first calendar year of work and Glenn Warren said yes, 2100-2400 feet, but the application is still talking about the 10-year plan. H. Koster said (1) he doesn't believe the PB is going to give approval on a 10-year plan and (2) the applicant is giving the PB a 2-year plan, but wants the PB to approve everything on the maps presented this evening. Glenn Warren said (1) one way to look at the overall project, is that in order to make accessible the 250 acres of timber resource and to cultivate it, he is looking to make improvements to about 4 miles of logging roads (most existing, but some new alignments) and in order to do that work he needs to clear trees along that alignment to facilitate the construction and the drainage work and the number of trees cleared over the course of that project triggers more clear-cutting regulations that put him before the PB again, (2) he thinks it seems fair from his perspective to find out if the overall plan is okay in taking trees down associated with improving these logging roads. H. Koster said yes, that is okay.

H. Koster asked if the PB gave wording in the area of if the applicant wanted to do any clear-cutting above 900' in elevation then the applicant would have to come back before the PB. Glenn Warren said (1) from an economic point of view, the wildlife enhancement areas don't seem to do him a lot of good since it takes extra labor, (2) suggested the PB take the wildlife enhancement areas off altogether and (3) he is more concerned with the forest access road issue, because if the PB is saying he can build part of it and have access to part of his forest resource, then some future or different board decides it doesn't want any more roads put in, then he has put a large investment in and has not made the lot accessible, therefore it will not be as economically productive. H. Koster said he has no problem with the applicant's logging road and Glenn Warren asked that logging roads, wildlife enhancement areas and the staging area be looked at separately. H. Koster said he does not mind three of the wildlife enhancement areas and will probably not mind the other two, but thinks they are something the PB would like to review further when the time comes.

J. Gaddy asked for an explanation on the % of loam and clay soils he is looking up for the logging roads, because the proposal shows main roads having a limited clearing of 75', secondary roads 60' and asked if it is due to the materials he is using. Glenn Warren said (1) the clearing has a lot to do with what the existing soils are, (2) if you have really soft silty soils in a low wet area, you clear a little bit more to allow more sunlight and to allow that road corridor to dry better and remain more stable, (3) the less trees he clears, the less money it costs for him to clear them and the more timber remains standing for him to harvest sometime later at something of a value, (4) the narrower he can keep it to get a good well-constructed road with appropriate drainage in place, the better for him, (5) ultimately his intention is for areas that do get cleared out that do not require remaining open in order to keep the sides dry, he will replant them with preferred species and allow a cultivated corridor, (6) the whole area he is working on, when the segment gets done, gets vegetated first with grass then allowing brush and trees to grow up in the side areas. J. Gaddy said the blanket approach the PB has with logging roads is to be 16' wide and they can't be any closer than so many feet so there is not a big network going through here, but on this proposal, main roads with 75' clearing, he is not sure of the materials being used there. H. Koster said he thinks 75' is an extreme and Glenn Warren said (1) that is an extreme and (2) that is not the road width, in general he is looking at 18'. J. Gaddy said 18' to 75' is a lot of clearing.

H. Caldwell said if this is being called a permanent road, then they are getting into a major stormwater issue. Glenn Warren said the issue of stormwater management and structures are part of the plan that will be installed along the way. H. Caldwell said this proposal is being looked at as a selective timber harvest basically, but it is not being looked at as a major stormwater issue. Glenn Warren said part of the reason it is not being looked at as a major stormwater issue is because he prepared it with Warren County Soil and Water Conservation specifically looking at stormwater issues, which is part of the plan that they signed-off on it--that he is planning the right thing in terms of stormwater management and therefore his understanding is that the plan is exempt from the Town of Bolton's stormwater regulations because it is being reviewed by Warren County Soil and Water Conservation. H. Koster said nothing is exempt from the Town

of Bolton stormwater regulations. P. Kenyon said the stormwater regulations do talk about logging as being exempt and H. Koster said as H. Caldwell brought up the applicant is talking about putting in a permanent structure for a road. Glenn Warren said he is planning on putting in a road with drainage rather than cutting a 16' corridor through a forest and dragging skidding trucks through it. H. Koster said (1) he understands that and (2) the regulations, dictated to the PB by the LGPC, call for the PB to review that at that point, not just to take the applicant's word that he is not just cutting through the forest. P. Kenyon said she didn't initially treat it as a requiring a major stormwater because of the application for logging, but she sees the PB's point that this is actually a permanent road and H. Koster said the applicant's presentation tonight, in the applicant's own words, is that this is not a temporary logging road, but a permanent road. Counsel said H. Caldwell's point is well taken. Glenn Warren said he his sense is that the WCSWC are very aware of that and in fact it was at their encouragement that he prepared a plan that is building logging roads to 21st century standards rather than 20th century practices.

S. Wilson asked if the applicant has a written stormwater management plan that could be submitted and Glenn Warren answered by saying (1) he has the forest management plan, which has a large section that describes stormwater management design and structure that will go in as the building progresses and (2) he does have a sedimentation and erosion control plan and a SPDES permit from DEC. P. Kenyon said she thinks another application needs to be submitted for a major stormwater plan because of the major stormwater guidelines. Glenn Warren said he disagrees because the Zoning Regulations say there is an exemption for logging. Counsel said when the applicant is all done logging, what is left is not a logging road. Glenn Warren said (1) it's not an issue of when he's done logging and (2) the idea is to make a road where he can tend and log every year instead of coming in every 20 years and the idea will be to use these logs for logging every year indefinitely. H. Koster said then it is a permanent road. Counsel said (1) indefinitely means permanently and that road indefinitely is a permanent road and (2) he thinks P. Kenyon's rendition is correct.

H. Koster said (1) the PB can approve some of what the applicant is looking for tonight as far as going ahead with logging, (2) he believes the applicant has to apply to the Zoning Office for a stormwater management plan, (3) the PB is not looking for trouble, but trying to be thorough, and a permanent road sets off alarms to a lot of people and (4) the PB just has to follow through with what it is commanded to do. Glenn Warren said in the logging exemption, it does not talk about permanent or temporary roads. H. Koster said in the stormwater regulations, any permanent road has to be reviewed for its stormwater capacity. Further discussion ensued on this issue.

Glenn Warren asked for the meaning of "exemption" and if conditions apply. Counsel said (1) Section 125-8 Subdivision H specifically provides that logging is an exempt activity from stormwater erosion control regulations and read subparagraph 3 into the record and (2) the applicant is exempt from the stormwater regulations.

H. Koster said the PB does not want any wildlife enhancement areas above 900'. Glenn Warren agreed that anything above 900' will require him to be back before the PB.

J. Gaddy said (1) there was discussion on whether or not the proposed tire shredding was a manufacturing or commercial process and (2) he considers this a manufacturing process and asked what the running time of the equipment for this process would be. Glenn Warren said the running time would be about 10-15 hours per week for the equivalent of 5 tractor trailer loads. H. Caldwell asked where the tires are coming from and Glenn Warren said from various outside tire suppliers. H. Caldwell said it seems like an industrial process to him and Glenn Warren said this is a construction activity. J. Gaddy asked about the decibel levels and Glenn Warren answered by saying (1) it would be about 80 decibels, (2) all of his neighbors are aware of what he is doing and don't have a problem with it, and (3) he is planning to work around his neighbors' schedules so he is not a bother to them.

J. Gaddy asked what anticipated volume of rubble being brought in would be for the sub-base and Glenn Warren answered by saying (1) it would be about 100-150 truckloads annually, (2) the intention would be to accumulate a pile, then rent a crusher and crush for a week once or twice a year, (3) that process won't happen until the staging area is way off the road and (4) he anticipates using a lot more quarried rock from off-site than using his own. H. Koster said a rock crusher is much noisier than a tire crusher and Glenn Warren agreed and said (1) that process will be for relatively short periods of time and at a location approximately 900' off of Padanarum Road and (2) he will schedule around his neighbors. H. Koster said he was on a construction site where it was required to protect your ears around that rock crusher, so it is extremely noisy. C. Mason said the applicant will be in the woods and asked if the applicant can hold the decibel level to 57 decibels from 7am-10pm then at 47 decibels after that and Glenn Warren said he would do that.

Counsel said regarding tire crushing he concurs that the applicant is exempt from certain DEC requirements because the tires are beneficially used and asked how much a truckload of tires is. Glenn Warren said (1) an average truckload is a trailer dump or 1,000 tires which becomes 10 cubic yards of shredded tires, (2) the shredder has the capacity of chewing up about 500 tires an hour, the truck backs up to the shredder, the shredder turns on, the truck unloads into the shredder, the shredder takes 1,000 tires and over two hours turns it into 10 cubic yards of shredded tires, which goes into a dump truck that takes it to the segment of road being constructed and the material gets added to the base there and (3) if somebody came with three truckloads in one day, it would mean running the shredder for six hours that day and putting 30 cubic yards down on the roads that day and then maybe sitting with the shredder off for the rest of the week. Counsel referenced page 31 of the applicant's booklet submitted to the PB where it says "this plan serves as a written request for an exemption for permit requirements under 6NYCRR Part 360" and asked whom the exemption referred to is from. Glenn Warren said (1) there was a specific request for exemption submitted to DEC regarding the beneficial use of tires that was approved in May 2003 and (2) the approval letter is also included in the book.

Counsel referenced page 32 of the book and asked the applicant for more information regarding construction and demolition materials brought to the site. Glenn Warren said (1) the DEC has given him approval to stockpile a limited amount of construction and demolition material and (2) the intent would be that when he created a stockpile in his construction staging area, he would then rent a crusher and turn it into pressure run to be able to address the road with. H. Koster asked what the demolition material would consist of and Counsel said the book says concrete, masonry, roofing, gravel, asphalt, tires. Glenn Warren said specifically what is being approved by the DEC is recognizable uncontaminated concrete, asphalt, pavement or rock. H. Koster asked if the roofing material was excluded and Counsel said (1) the materials are limited to what the DEC has stated, (2) he understands the applicant's position of that it is all part of the construction process, but it also sounds like it is the activity in and of itself conducted which needs to be consistent with the zone, (3) for example and as an anecdote, he would feel uncomfortable if a person in a residential zone regularly had a little folding saw mill and proceeded to continue to make dimensional lumber each weekend for 20 years as he needed it and to give it to friends and relatives and to use it on site, and (4) he thinks a harder look needs to be taken on it otherwise it is a blank check. H. Koster said he is not comfortable with a blank check.

P. Kenyon said she originally thought the applicant needed a use variance to have a recycling center because it is not something that is allowed there. Counsel said he thinks the Zoning Office and P. Kenyon needs to make a decision, one which is an interpretation. Glenn Warren said (1) he has some concern with the comment P. Kenyon made, (2) he received a letter from P. Kenyon after his request of doing a jurisdictional determination, (3) they have had lengthy conversations over the last year on this and it had not previously been her decision that it had been a recycling facility and (4) specifically, P. Kenyon is saying that is the guiding activity, but the guiding activity is building the logging roads and the materials are going into the logging roads, not being processed for sale off-site. Counsel said (1) that is construed in the applicant's favor and (2) he thinks that P. Kenyon, procedurally, and he is certainly not going to instruct her how to make the decision one way or another, but she needs to make that decision and then where that decision sits is the next step goes to the ZBA on to whether or not they concur. P. Kenyon said (1) the items that were addressed in her letter to the applicant were the camp storage, forest equipment garage, shop building, the group camp site, the residences, the observation transmission tower, the studio lab office educational building, the on-site power generation and the forest product drying and storage building, which were on page 65 and were the items the applicant wanted her to address in this letter, (2) the applicant's recycling was not part of that list and (3) she knows they discussed the applicant's recycling last month as to what the recycling was really all about. H. Koster asked why the PB can't make a motion that it would like it to go to the ZBA for an interpretation and Counsel said (1) they can, (2) procedurally, squarely, and right on the money, this applicant has the right to appeal any determination or interpretation that P. Kenyon does, (3) he does not know if P. Kenyon has had the time to make that interpretation and is not putting her on the spot to do so now. P. Kenyon said (1) she really feels that it was going to be a recycling center that needed a use variance and (2)

when it was discussed with the PB last month, the applicant made the PB totally aware that it was just for his own personal use, and it is not really recycling. Glenn Warren said he didn't say it wasn't recycling. H. Koster said tonight is the first he is hearing of the rock crushing, the brick crushing, the concrete crushing and the asphalt crushing. Counsel said (1) it has construction and demolition aspects to it, (2) it has got certainly the recycling and stockpiling of tires aspects to it, (3) these are certainly activities that are favorable to the applicant, (4) it is not an activity that the applicant is utilizing for off-premises purposes of sale or manufacture—it is on site, (5) having said that, it is still an activity and it doesn't necessarily in any way constitute a distinct activity consistent with what is permitted in the zone, just because he uses it on premises and (6) P. Kenyon needs to make a decision. Glenn Warren referenced mineral extraction as an analogy and said (1) he thinks there is a difference whether you are doing it for your own use or creating material for off-site and (2) as he understands it, there is a similar analogy to be drawn, where he looks at it as this is a construction activity where he is being creative in design and utilizing recyclable materials and be somewhat innovative in the engineering.

Counsel said he does not fault the applicant for using the recyclable materials, but he is concerned about the processing of what would be a waste material into a recyclable material, that activity on-site and unlike mining, they don't certainly bring the mining constituents to the site then mine them from the site. Glenn Warren said in his engineering experience there is generally a differentiation in permitted activities when materials are being processed for on-site use versus materials that are being processed for sale or off-site use. S. Wilson read the Town Code definition of industrial use into the record. Counsel said a very important issue has been raised here that needs to be defined in the Zoning Office as to what approach the applicant is required to take. P. Kenyon said she has always thought it was a recycling center that needed a use variance and that has always been her answer.

D. Roessler said (1) the North Bolton Road is not a highway, it is a narrow road meant for private use basically, (2) the applicant has a tractor trailer each day driving in and out of that road, (3) there are people who live in that area because of the quietness and serenity of that area and now all the sudden there will be a tractor trailer there every day and (4) he is concerned with the roads being soft in the spring time and the kind of damage that can be caused by the two tractor trailers going up there each day, five days a week, 52 weeks per year. Glenn Warren said (1) generally they put a weight limit on the road, so there will be a period of time when he can't run a truck up and down and (2) in his time being there lots of trucks have gone up that road—town trucks and dump trucks disposing of debris up there. D. Roessler said the applicant is adding a lot of use to that road and he has a problem with that. H. Koster said Town trucks are about half the size of a trailer dump and Glenn Warren said yes, in size, but his understanding is in wheel loading when loaded they tend to be pretty similar.

H. Koster said P. Kenyon made a decision and he doesn't think the PB should act on anything. P. Kenyon said (1) she really recommends each PB Member take the book submitted by the applicant home and look at it because it is a lot and (2) she will send a letter to the applicant that she does believe it requires a use variance and the applicant can

certainly appeal her position to the ZBA and they will discuss it or the applicant can apply for re-approval. Counsel said (1) several aspects of what the applicant would persuade the Town's construction processes under the normal course of what the applicant is permitted to do for timber harvesting, which is the same timber harvesting that has been construed by the Zoning Office to be more particularly an activity that in and of itself is a regulated activity and (2) P. Kenyon would have to be a little more specific about and those would be the construction demolition aspect of what the applicant proposes—the tire part and whatever else it is, (3) the applicant has the absolute right, if P. Kenyon's decision is contrary to his position, to appeal that to the ZBA, which in turn the applicant will argue his position to the ZBA and the ZBA is free to overrule or abide by P. Kenyon's interpretation and (4) the PB needs to table this so the applicant has his rights preserved here and should the applicant get an interpretation that is favorable to his explanation, he will be back before the PB and the PB is obliged to deal with it as presented.

Motion by D. Roessler to table this application as presented for ZBA determination. Seconded by S. Aldrich. **All in favor. Motion carried.**

Meeting adjourned at 9:10 pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
09/02/05