

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday, December 15, 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
DEC = Department of Environmental Conservation

Present: Chairman Herb Koster, Sandi Aldrich, Henry Caldwell (arrived at 6:48 pm), John Gaddy, Chauncey Mason, Don Roessler, Susan Wilson, Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

Absent: None

PUBLIC HEARING: None

H. Koster opened the regular meeting at 6:06 pm. Note: the agenda items were heard in the following order: 2, 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 (tabled), 12 (tabled) and 13.

1) REAPPROVAL OF SD05-11. BAER, GEORGE & MARY. Represented by Dave Barnes of the LA Group. Seek re-approval of a 7 lot subdivision. Originally approved by the Planning Board on July 21, 2005. Section 186.14, Block 1, Lot 60, Zone RCH5000. Property Location: 4618 Lake Shore Drive, known as Mayfair Resort.

H. Koster asked if the applicants have received any Board of Health stamp of approval to date and Dave Barnes said no, they are still in the process of responding to DOH comments. H. Koster said the applicants are looking for a 180-day extension to file the mylars with the county. Dave Barnes said that is acceptable and it is reasonable to expect they will move as quickly as possible.

Motion by Donald Roessler to extend the approval for SD05-11, originally approved by the Planning Board on July 21, 2005 for six months to expire on June 15, 2006.
Seconded by Chauncey Mason. **All in favor. Motion Carried.** *All conditions placed on this subdivision continue to apply.*

2) SPR05-38 MacEWAN, ROBERT & DEBORAH. Represented by Mark Rehm, Esq. Seek Type II Site Plan Review for a 4-unit townhouse complex. Section 171.15, Block 1, Lot 74, Zone GB5000. Property location: 22 Goodman Avenue, formerly known as Wilson's Laundry. Approved by WCPB with the comment that the applicant follow the guidelines of the Town regarding stormwater management. Subject to SEQR. *Note: This item was tabled at the 11/17/05 meeting pending additional information.*

Mark Rehm, Esq., representing Robert and Deborah MacEwan, gave an overview and said that (1) the only possible change to the current plans is the color of the shingle on the roof-line which will probably be a chocolate brown, (2) in an effort to break up the monotony of the building, they tried to balance it by giving each individual townhome its own subtle unique look, (3) regarding Section 200-53 of the Zoning Code, they have

tried to put together a project that looks good—not offensive, as the applicant wants this project to look good and the townhouses are to be sold at a premium, (4) the applicant has addressed the PB’s concerns with aesthetics and (5) they would still like clarity and guidance on the sidewalks or at least a required width.

S. Aldrich asked if the applicants have addressed stormwater and Atty. Rehm said yes, the stormwater is addressed and shown on the upper left-hand corner of page 3 in the plans.

S. Wilson asked if the PB is setting a precedent for any future sidewalk by setting a sidewalk size for this project and H. Koster answered by saying no, not necessarily, different blocks have different width sidewalks. J. Gaddy asked if the sidewalk will be added to the final plat and Atty. Rehm said yes, they will update the plan to reflect that.

H. Koster asked if the PB has to require additional details to the basic outline for the HOA or does the PB leave it up to the applicants and Counsel replied by saying (1) the PB can exercise its discretion, but he thinks if the PB trusts this developer then the basic outline is more than satisfactory as the PB is not inclined to put the finishing touches on it, (2) the applicants have given the PB the assurances that their HOA rules and regulations will be coventented, part of the deed structure and so it will be ideally targeted goal-wise toward common responsibility for the façade and ground maintenance and (3) he thinks those essentials are satisfactory.

All PB members agreed they are happy with the architectural changes that have been made. H. Koster asked if what is built will be similar to the plan and not pinned down to the color picture presented. Robert MacEwan said yes, their intent is that what is built will be similar and not drastically different from the drawing.

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

Motion by Donald Roessler to accept the application as complete, waive a public hearing and grant approval as presented with the following conditions; 1) The walkway along Goodman Avenue is to be 4.5 ft. wide and shown on the plans. 2) Exterior lighting be downward facing and shielded, with low wattage bulbs used. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

3) SD05-33 GABRIELS, JANE. Represented by Don Russell. Seeks to divide into 2 lots that parcel designated as Section 171.20, Block 1, Lot 2, Zone RCH5000. Property Location: 18 Green Isle Lane. Minor Subdivision. Sketch plan review. Subject to SEQR. *Note: A variance is required for deficient lot size & side yard setbacks.*

H. Koster noted that due to this months meeting schedules, the PB is reviewing this item before the ZBA.

Don Russell, representing Jane Gabriels, gave an overview and said that (1) the applicant is proposing to take the existing cottage and make it livable for herself, (2) the code says it needs to be over 5,000 square feet of land for residential, so they are proposing 10,000+ square feet in an effort to not infringe on the lake rights anymore than necessary, (3) both lots are owned by the family and are in the Gabriels Trust (the estate) and (4) he guesses this is mainly for tax reasons, as she wants to buy it from the estate and in the event of her passing it will go back to the estate.

D. Roessler asked if the cottage is already there and Don Russell said yes, there is an existing cottage that they propose to expand on. D. Roessler said that there are two separate lots that exist now—Lots 1 and 9—and asked if they are proposing to remove one of the lots. D. Russell answered by saying no, they are proposing to split Lot 1.

Don Russell approached the PB bench and had individual discussions with PB members while presenting the proposed cottage overlay.

J. Gaddy asked what exists on Lot 13 now and Don Russell said the main house.

H. Koster said that (1) he doesn't know the basis behind the theory as to why if a structure is livable that it needs to be twice as big as if it is commercial and (2) he doesn't have a problem with this—he feels it is less of a problem if it is residential as opposed to commercial. Counsel said that he can understand how that makes sense, but that is not what the Code permits.

S. Aldrich asked why the line isn't going to be extended down to make it a standard lot and Don Russell answered by saying that there is enough room there to do the 20,000 feet, but the family didn't want to break up the lakefront and all of the family felt this proposal would be for the best.

J. Gaddy said that (1) he would be more willing to look at this plan if the family would be interested in incorporating a greater amount of square footage with this application and (2) this application does seem to be simple and it will be staying in the family, but there are letters of opposition to this project and it is an exception to the 20,000 square feet required for the proposed use, (3) he doesn't know what available square footage is on the garage side and (4) asked if gifting of property to family members are exempt from minimum lot sizes. Counsel said yes, there are provisions for that. P. Kenyon said that it is 1 acre and she doesn't think this has been in the same title since 1973.

J. Gaddy said (1) it seems as though in the long run there won't be any change in the overall ownership since it will revert back to the trust and (2) he would be more comfortable seeing property on the north side of the driveway being added to this proposal. H. Koster said that (1) he doesn't know why the PB can't accommodate this request as it is going to stay in the family and (2) he doesn't believe it sets a precedent either. Don Russell said it is really a temporary situation. D. Roessler asked if the family

will be back asking for this to be one piece again in the future and Don Russell said he does not know—it was not discussed.

J. Gaddy asked if it is correct that if a variance is granted, then the variance goes with the property and would be existing forever and Counsel said yes, it would be pre-alienable so it can be sold, conveyed, transferred, mortgaged and under any circumstances it is a permanent distinct lot.

J. Gaddy asked if it is possible to put a sunset clause on a variance. Counsel said (1) yes, but it is not in good form and he is not in favor of it and (2) this may run contrary to what the applicant hopes to achieve, but it is worth exploring the suggestion about is there a feasible alternative that would alleviate this undersized lot in terms of encompassing the additional property that may include portions of the paved drive, the two garages and everything that goes right up to the common boundary, including for the present Lot 1 of Green Island Associates—that is definitely worthy of exploring, so that the then minimum relief necessary—not necessarily at the PB, but at the ZBA—and does the least harm to the Code while certainly achieving the result sought.

J. Gaddy said that (1) this will end up as a permanent lot if approved and (2) if it is staying in the trust as anticipated then it shouldn't be any big concern.

S. Wilson asked if it could be brought closer to the lake and Don Russell answered by saying they probably could, but he doesn't see where 20,000 square feet versus 23,000 square feet makes much of a difference in this situation.

H. Koster said that (1) it's basically a guest cottage that is only being subdivided for tax purposes, (2) he doesn't see the reason for messing up the remaining lot to satisfy square footage that would be allowed if it was a commercial enterprise, (3) if you were to put a store in there you would be allowed to do exactly what the plan is showing and (4) he doesn't have any great moral concern with this—he thinks it is a flaw in the Ordinance for this particular area.

H. Caldwell arrived at this point in the meeting.

H. Koster asked if the PB could rule contingent on the ZBA's decision and Counsel said yes, the PB's approval would be conditional.

H. Koster asked if Don Russell has discussed the sunset issue with the applicant. Counsel said (1) the grant of any relief by the PB or the ZBA is permanent, (2) it is true there are a number of oddball permissions granted, (3) it is not in harmony with the case law that interprets the Code, (4) when the boards do something and take action on it, it is fixed upon the land—it is in perpetuity and (5) he knows it is an attractive notion when an applicant comes forward saying they'd accept that because then one is lead down that path where the PB feels they can grant the relief because the family says it is only for them, (6) said there was a Bed and Breakfast case regarding sunset clause and (7) it doesn't fade away if the person passes—it is permanent.

J. Gaddy said that he would like to see it go, but he would like more square footage added to it to bring it up to Code. H. Koster asked if J. Gaddy feels the Code is flawed and J. Gaddy said no. D. Roessler said (1) he would agree in increasing the square footage if the original was bigger and (2) making the proposed lot bigger would take away from the original lot, so he agrees with H. Koster in that it should be approved.

H. Koster asked if there are any official lake rights that go with the deed and P. Kenyon said that she spoke with the applicant who told her no.

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

Motion by Donald Roessler to accept the application as a completed sketch plan, convert the sketch plan to final plat, waive the public hearing and grant final approval as presented. **Seconded by** Sue Wilson. Herb Koster in favor. John Gaddy, Chauncey Mason and Sandi Aldrich opposed. Henry Caldwell abstained. No Action Taken.

Counsel said that (1) there is other action that can be taken by resolution, for example; somebody makes a motion to table the item for the applicant to somehow re-configure it then it would go to the ZBA for substandard lot, another example is that the PB doesn't like it at all then somebody makes a motion to not favorably act upon it and deny it and (2) the PB has to take some action.

H. Koster asked if the PB could put it off on the ZBA and ask for their input and Counsel said yes, absolutely, the PB has to act on it so this can move along.

Motion by John Gaddy to table the application pending a revised map showing the reconfiguration of the lots so that lot 2 has more sq. footage, bringing it more into compliance with the density required for a single-family dwelling in the RCH5000 Zone. **Seconded by** Sandi Aldrich. Sue Wilson and Chauncey Mason were in favor. Don Roessler and Herb Koster were opposed. Henry Caldwell abstained. **Motion Carried.**

Counsel said that (1) the PB took action, (2) basically, this applicant has to reconfigure this lot and present another plan and (3) explained what the ZBA will be looking for in that the closer the applicant gets to the 20,000 square feet, the closer the applicant is to seeking minimal relief.

4) SPR05-51 RUSSELL, LESLIE, SPRAGUE, MARY, MCNULTY, CHARLES. Represented by Don Russell. Seeks Type II Site Plan Review for a marina in the RCH5000 Zone. Section 186.07, Block 1, Lot 9, Zone RCH5000. Property Location: 4802 Lake Shore Drive, known as "The Point". SUBJECT TO WCPB REVIEW. Subject to SEQR.

Don Russell, representing Leslie Russell, Mary Sprague and Charles McNulty, gave an overview and said that the proposal is for a Class A marina which would to increase the existing two Class A slips to a total of five slips and put in two E-shaped docks.

D. Roessler asked how many cabins exist on the Point and Don Russell said nine. S. Aldrich said her understanding is that some of the docking will be for individual cabin renters and asked how much will be for rental slips and Don Russell said there would be a total of five and showed it on the map. S. Aldrich asked if a cabin-designated slip would be rented out to anyone else if a cabin renter didn't have a boat and Don Russell said no.

J. Gaddy asked what the 20' X 93' rectangle represents. Don Russell said it is something he put in there to define where the property line is drawn down straight in the bay and he seems to question if a variance is even necessary here.

H. Koster said that there is a legal issue raised regarding the right-of-way to get to this property and there is correspondence claiming that the right-of-way does not include commercial dock renting.

Correspondence: Counsel read the following correspondence into the record.

- Letter received by the Zoning Office at 4:00 pm on December 15, 2005 from Matthew F. Fuller of FitzGerald, Morris, Baker Firth, P.C., representing Twin Bay – opposed

Counsel said (1) taking the representation of Matthew Fuller as correct and true in every way is not the PB's job, (2) the right-of-way is clearly a civil issue—not a PB issue and (3) what is really being said in this correspondence is that this is an overuse of a right-of-way, which is only a question of fact—it is never a matter of law—never.

H. Koster said the last time a Class A marina was applied for in Bolton, the PB went through a full environmental impact and Counsel said that each of these applications stand on their own merits and can be decided on a case-by-case basis.

H. Koster said he feels the PB needs additional information on the drawing; location of the cabins, the relation of the staircase to the cabins, the elevation, etc. Don Russell said the only reason he is here is for the Class A aspect of the permits granted. H. Koster asked if the PB has the right to review over the two E-shaped docks proposed and Counsel said (1) he feels the PB has the right to review it all and (2) in looking at the district, RCA5000 and where the applicant wishes to propose a marina, the PB would comprehensively look at the whole project as site plan review.

Don Russell said that (1) the intention is for the proposed E-shaped docks to be for the cabin renters, (2) they have six slips currently and he seeks a variance to connect the docks to make it one dock in the eyes of the LGPC which would actually make him lose one slip—going from six to five—to comply that he can have the shorefront footage, (3)

if he didn't do a Class A for the rental slips he wouldn't need to be before the PB for this and (4) they are just looking to improve the property in any way they can. D. Roessler asked if there are future plans to subdivide the property and Don Russell said no, they plan to keep it in the family.

J. Gaddy asked if Twin Bay Village gets to utilize the south side of the southern most dock and Don Russell said yes, they do.

S. Wilson asked if the applicant is correct that if he chooses to not do a Class A marina then he could by-pass the PB entirely and Counsel answered by saying (1) yes, he agrees with Don Russell's rendition in that the definition in the code does make a distinction between boats that are registered to owners of the facility and boats that are unassociated with the water or the land and (2) the applicant would be correct in that if he sticks to two docks with two boats and two slips that are not owner-oriented, then he is right. H. Koster said the only thing the applicant would need in this scenario would be a building permit from the Zoning Office and a permit from the LGPC. Counsel said that the applicant is not a marina by the Code's definition and what triggers it being a marina are the boats that are unassociated with the landowner.

H. Caldwell asked if it is correct that if the docks are being used for the cabins then it wouldn't constitute a Class A marina and Don Russell said yes that is correct and he wants to get three additional rental slips and do it on the up and up by the letter of the Ordinance.

P. Kenyon asked what additional information H. Koster is looking for and H. Koster said he would like the staircase shown. Don Russell approached the PB bench to clarify the staircase and other item locations on the map.

P. Kenyon said the County approved the project with the condition that the applicant receive all necessary permits.

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

Motion by Donald Roessler to accept the application as complete, waive a public hearing and grant approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sue Wilson. Herb Koster and Henry Caldwell were in favor. John Gaddy and Sandi Aldrich were opposed. Chauncey Mason abstained. **Motion Carried.**

5) SPR05-50 MILLER, MARC. Represented by Dennis MacElroy of Environmental Design. Seeks Type II Site Plan Review for a major project, in accordance with Section 125.13C1 of the stormwater regulations. Specifically to remove more than 15,000 square ft. of vegetation. Approximately 28,240 square ft. is proposed. Section 185.00, Block 3, Lot 40, Zone RCL3. Property Location: Rainbow Drive off of Trout Lake Rd. and being

lot 4 of the Trout Lake Shores subdivision. SUBJECT TO WCPB REVIEW. Subject to SEQR.

Dennis MacElroy of Environmental Design, representing Marc Miller, gave an overview and said (1) this is a 1.2 acre pre-existing lot within the approved subdivision of Trout Lake Shores, (2) the applicant proposes to build a single-family residence on the property, (3) due to disturbance, the project will require a major stormwater permit and (4) they submitted a stormwater control report with their application for which he gave design details.

J. Gaddy asked if the well could be put on the southeast side of the house away from Trout Lake, as his concern is with the shore of Trout Lake being pretty heavily cleared on the opposite side and he doesn't want to see that happen in this area. Dennis MacElroy answered by saying that there is an area of access along the proposed well area, which would be an ideal place to put a well without causing further disturbance. J. Gaddy asked if the well could be put on the north side of the house and Dennis MacElroy said the well will be placed where it would cause the least amount of disturbance and they need to have a 100' separation from the stormwater to the well, which is why the north side of the house isn't an option. H. Koster asked if they need a 100' separation from the stormwater and the well and P. Kenyon said yes, for a driving surface.

H. Caldwell asked if the dash line represents the level of disturbance and if it is right up against the neighbors' property. Dennis MacElroy said the level of disturbance is relatively minor in terms of disturbance and if it is a slight changing of grade it is technically disturbance. S. Aldrich asked if all the trees would be going and Dennis MacElroy said no, not in areas that are minimally graded.

C. Mason asked where the pipe from the overflow dry well goes and Dennis MacElroy said that it is an extreme event emergency overflow and certainly the dry well capacity that is provided meets all the standards for the design of the system.

H. Caldwell asked what percentage of the lot is going to be disturbed and P. Kenyon said roughly 60%. H. Caldwell asked how you can build on this lot if you have to disturb the whole lot, because while you can comply with the stormwater you then are basically having to take down every bit of vegetation on over 60% of the lot. Dennis MacElroy said there is a difference between disturbance and removing all the vegetation and said they have added in any type of gradual grading changes into the limits of disturbance because it is technically considered disturbance. H. Caldwell asked how many trees will remain within the disturbance area and Dennis MacElroy answered by saying that he can't give precise numbers, but there will be a certain amount of that existing vegetation that will stay when it can.

H. Koster said the applicants are proposing to slope the north side of the lot and are directing the water over the property line from the new contours being put in. Dennis MacElroy said that (1) that is where the water currently flows, (2) new impervious areas required by the regulations are provided for by the proposed driveway by a paved swale

down to a catch basin that directs the stormwater to the catch basin and from the roof leaders from the impervious area of the house to those same dry wells, so any of the new impervious area is provided from that design—pre-existing run-off will continue to flow the way it always has. H. Koster said that removing vegetation will give additional flow off the property. Dennis MacElroy said that is correct, but it is provided for within the design of the stormwater system.

J. Gaddy said (1) correspondence from Lake George Waterkeeper Chris Navitsky refers to the stormwater management application showing 28,240 square feet of disturbance versus 30,700 square feet of disturbance proposed on the plan, therefore there are no stormwater management controls for the increased run-off from the cleared area below the driveway and (2) correspondence from the LGA's concerns about maintaining the filtering action of the wetlands to the east of the property toward Lake George. Dennis MacElroy said that (1) they computed the level of disturbance by computer in their office and (2) regarding the stormwater report, he is not sure where those figures come from, as another engineer in his office generated that report.

H. Koster asked if a variance is needed for the edge of the wetland shown as being only 55' off the edge of the proposed deck and P. Kenyon said that she believes that was a condition of subdivision approval with the APA.

H. Koster said that (1) he thinks the applicant needs to show some form of recharging in the soil at the bottom of the new slope being made on the north side of the property, (2) the applicant is reshaping the land and not doing anything about the stormwater management running off the slope into the open-space beach lot and (3) the slope being created is steeper than what's currently there and the applicant is not dealing with the water that is running down there. Dennis MacElroy said it is not new impervious area and he is not sure how that qualifies as area that will create new run-off. H. Koster said the applicant is taking all growth out of there, so there is additional run-off and asked if Dennis MacElroy disagrees. Dennis MacElroy answered by saying he disagrees to some extent. H. Koster said when the applicant is doing the retaining wall they are dealing with the problem by putting crushed stone underneath it, but at the end of the retaining wall, the applicant stops dealing with the additional run-off. Dennis MacElroy asked if they are talking about the additional run-off from the change of vegetation and H. Koster said yes.

P. Kenyon said she suggests this go to Town Engineer Tom Nace for review at the applicant's expense, but it is the PB's decision. Dennis MacElroy said he would also like Tom Nace's review.

D. Roessler said regarding stormwater, (1) there is grading but there is no re-vegetation shown and (2) he would like to see new trees put back in place. S. Aldrich said she would like to see the trees that will be remaining indicated on the map.

H. Caldwell asked about the well placement and S. Aldrich said the well could be put in the extreme northwest corner. Dennis MacElroy said 100' is the standard from the

NYSDOH. H. Koster said it should be 200' if it is downgrade. Dennis MacElroy said the well will be placed in the area for least disturbance. H. Caldwell said he doesn't want the well on the edge of the wetlands either and Dennis MacElroy he welcomes the PB members to walk the site to understand the implications of the wetlands being wetlands, as it is not something the equipment couldn't get around to.

S. Aldrich said if the well is put in the northwest corner, could the sewer system and well site be swapped in order to not be down gradient from the sewer system and Dennis MacElroy said there are requirements in the Town Ordinance that are best satisfied by the proposed sewer system location.

Motion by Henry Caldwell to table the application until Town Engineer Tom Nace reviews and approves the plan at the applicant's expense. A proposed tree planting plan is to be provided and the septic system located to the south (Lyon) is to be shown on the map. **Seconded by Donald Roessler. All in favor. Motion Carried.**

6) SD05-34 FLYNN, JOHN & KING, DONALD. Seek lot line adjustment between those parcels designated as Section 171.07, Block 2, Lots 50 & 43.2, Zone RM1.3. Property Location: 3 Braley Lane & 42 Braley Hill. Sketch plan review. Subject to SEQR.

Donald King said that (1) he is the owner of the parcel in question, (2) the PB reviewed this project over two years ago, (3) Dr. Flynn wanted to retain a portion of the lot that he was selling Donald King to control his view from the hillside overlooking the lake, (4) when Dr. Flynn's Counsel filed this, subsequent to receiving the subdivision approval, they neglected to remember they got the subdivision for the entire lot and transferred the entire lot to Donald King and (5) he is proposing to convey the parcel back to Dr. John Flynn as originally proposed.

There was no PB discussion or questions on this item.

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

Motion by Donald Roessler to accept the application as a completed sketch plan, convert the sketch plan to final plat, waive the public hearing and grant final approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by Chauncey Mason. All in favor. Motion Carried.**

7) SPR05-49 SALMON, RICHARD & JOHANNAH. Represented by Carl Schoder. Seeks Type II Site Plan Review for a major project, in accordance with Section 125-13C1 of the stormwater regulations. Specifically to remove more than 15,000 square ft. of vegetation. 31,200 square ft is proposed. Section 156.00, Block 1, Lot 45.32, Zone RL3 & LC25. Property Location: Valley Woods Rd and being lot 3 of Valley Ridge

Subdivison. SUBJECT TO WCPB REVIEW. Subject to SEQR. *Note: After the fact. See notice of violation dated 8/31/05.*

Richard Salmon, property owner, said that (1) they cleared the property in question in anticipation of building a house, (2) they received a notice of violation and (3) they then hired Schoder River Associates to remedy the situation.

Carl Schoder of Schoder River Associates gave an overview and said (1) there was clearing of approximately 31,000 square feet, (2) the L-shaped lot sits on top of a knob of land and the site lends itself to development the way it was laid out, (3) the available area for the septic system is somewhat limited because it is on the down-slope area, (4) they looked at several locations for septic systems on the lot and realized that this project would be somewhat driven by available septic system locations, (5) the proposed septic system is a shallow-trench type system which will have a maximum of under 2' of fill that is going to be placed and it will allow for socketing in of the shallow-trench system 6" into the existing grade while maintaining the required separation distances to the groundwater, (6) regarding stormwater, they have relatively shallow soils and have addressed stormwater with basins and (7) it is a fairly straightforward type of approach.

D. Roessler asked what the plans are for the site and Richard Salmon said he plans to build on the site in the spring. Carl Schoder said that (1) they are in receipt of a December 10, 2005 letter from Lake George Waterkeeper Chris Navitsky and (2) they will address the questions raised regarding a stormwater management agreement on the project and they have addressed the stormwater report.

S. Aldrich asked if a re-vegetation plans exist and Carl Schoder said yes, all areas not covered with pavement or structures will be top soiled and seeded and in addition to that some natural shrubs will be planted as shown on the map and the applicants plan on planting gardens. S. Aldrich asked if the house will be visible from the lake and Carl Schoder said no, it is not visible from the lake or any other house in the immediate vicinity.

P. Kenyon said that she is concerned with the large amount of ledge rock on the site and (2) she would be more comfortable if this went to Town Engineer Tom Nace for review, but it is the PB's call. Carl Schoder noted that that (1) they didn't count any ex-filtration from the basins at the time the storm event occurs, (2) they are providing for ex-filtration of the ponds and the soil by way of crushed stone over time after the storm event and (3) none of the soil is anticipated to infiltrate.

H. Koster asked if there is anything close (septic, wells) to the property line on the Irwin property and Carl Schoder answered by saying no, nothing at all is built there currently—it is open forest on all adjoining properties.

H. Koster said he doesn't feel this needs to go to Tom Nace for review and asked if the PB has to address the violation. P. Kenyon said no, the applicant is here to get approval for the project.

J. Gaddy said that (1) re-vegetation outside the blueprint could be started before construction, (2) he thinks the re-vegetation should begin as soon as possible and (3) the PB has had issues where they have had clearing where every stick of vegetation is gone. Richard Salmon said they plan on putting the swales for stormwater and plan on planting in that area. Carl Schoder showed specific areas on the map and stated what the planned re-vegetation for those areas.

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 John Gaddy to accept the application as complete, waive a public hearing and grant approval as presented with the following condition; implementation of the stormwater controls are to be initiated in the spring and in place by June 1, 2006. The Planning office is to be contacted for an inspection upon completion. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

8) SPR05-48 CURRI, THETA. Seeks Type II Site Plan Review for an agricultural use, specifically to house 3 horses. Section 171.06, Block 1, Lot 18, Zone RL3. Property Location: 162 Valley Woods Rd. SUBJECT TO WCPB REVIEW. Subject to SEQR. *Note: After-the-fact application. See notice for violation dated 10/19/05.*

Theta Curri gave an overview and said that (1) she purchased the home and property at 162 Valley Woods Road last summer, (2) the property is currently listed as residential low density and (3) she is seeking a Type II Site Plan Review for an agricultural use to house 3 horses.

J. Gaddy asked if the applicant read Section 200-42 on animal husbandry and if she meets the requirements for 3 horses and Theta Curri said yes. P. Kenyon said there was one question with the small barn.

S. Aldrich asked if the applicant is going to have three stalls and Theta Curri said they presently have two, the second of which is not completed at this time. S. Aldrich asked if the applicant only has shelter for two horses and Theta Curri said that (1) they have shelter for essentially three horses, (2) they presently have two stalls—one of which is slightly larger—which are running stalls, so there is shelter for three horses and (3) at some point in time, ideally they would like to possibly sell one horse.

S. Aldrich said that one of the requirements is a 12' x 12' stall for each horse and asked if the applicant has that at this point and Theta Curri said no, not at this point. S. Aldrich asked how much fenced in exercise area the applicant has and Theta Curri answered by saying they have two areas totaling approximately 7,000 square feet. S. Aldrich said (1) she and P. Kenyon have had the discussion regarding the regulations that require a minimum of 1 acre of pasture/exercise area per animal if there are more than two horses, (2) she called Cornell Cooperative Extension who suggest 1,000 square feet per horse for exercise area and a minimum of 1.5 acres of pasture per horse and (3) if the applicant is feeding hay year-round, then the applicant has an exercise area. Theta Curri said they do feed hay year-round. S. Aldrich asked if they are then looking at an exercise area and not a pasture and Theta Curri said yes.

S. Aldrich asked if the manure pile is 50' from the property line and Theta Curri said (1) yes, she believes it is, (2) what they initially measured was 75' from the nearest property line and (3) they have a few methods of disposal (dragging method within the exercise area, transporting manure to family gardens, etc.), so there is no excess problem.

No County impact.

J. Gaddy asked if there are other horses being kept in the area and Theta Curri said yes, her nearest neighbor has horses.

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

S. Aldrich asked if the motion could include a third stall for the third horse. Counsel said (1) this is perfect for two horses and you'd get into a variance if go to three stalls, (2) in 200-42 requirements, the applicant doesn't have the requirement for 200-42-C-1B and (3) if the applicants propose they just need some time to find a home for the third horse, he thinks it still is a perfect application that doesn't require any variances and the PB can give the applicant some reasonable time within which to take care of the third animal so there are only two horses and the site plan review is perfect. Theta Curri said that it is not their long-term intention to keep the third horse.

Motion by Donald Roessler to accept the application as complete, waive a public hearing and grant approval as presented with the following conditions; 1) No more than 2 horses are allowed. 2) Presently 3 horses are kept on this parcel, one of which is to be removed on or before June 1, 2006. **Seconded by** John Gaddy **All in favor. Motion Carried.**

9) SPR05-52 NASTASI, WILLIAM. Represented by Bill Oehler. Seeks Type II Site Plan Review to construct a single-family dwelling in the LC25 zone. Section 186.00, Block 1, Lot 6.3. Zones LC25 & RL3. Property Location: Long View Lane. Subject to SEQR. *Note: See SPR05-06 for previous approvals granted on 2/17/05.*

Bill Oehler, representing William Natasi, gave an overview and said that they are requesting to change the original house designed for the property.

S. Aldrich asked if this proposal is a great deal different than what was approved before and P. Kenyon answered by saying (1) it now has an exposed basement in the front, (2) it has gone from a two-car garage to a three-car garage and (3) on one side it now juts in.

D. Roessler asked if it is a vacant lot now and Bill Oehler said yes. P. Kenyon said that Veder applied for this in February and S. Wilson said that it was conditional upon ZBA approval. P. Kenyon said they are on Monday night's agenda.

H. Caldwell said this house is going to be highly visible from the lake and asked about the proposed colors. Bill Oehler said they will use natural colors of wood and greens. H. Caldwell asked what color the shingles will be and Bill Oehler said green. H. Koster asked what type of stone will be used on the foundation facing and Bill Oehler said probably something like river rock.

J. Gaddy there are no exterior lights on the elevations of the house and said that he wants any exterior lighting to be downward facing, shielded and low-wattage and Bill Oehler agreed.

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

Motion by Donald Roessler to accept the application as complete, waive the public hearing and grant approval as presented with the condition that exterior lighting be downward facing and shielded, with low wattage bulbs used. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** John Gaddy. **All in favor.**
Motion Carried.

10) SD05-32 OBERER, ERNIE. Represented by Joseph Fuerst PLS. Seeks lot line adjustment between those parcels designated as Section 171.00, Block 1, Lots 6 & 15, Zones RR5 & LC25. Property Location: Edgcomb Pond Rd, approximately 3200 ft. from Potter Hill Rd. intersection. Sketch Plan Review. Subject to SEQR

Joseph Fuerst PLS, representing Ernie Oberer, gave an overview and said that he is seeking a lot line adjustment.

H. Caldwell asked if the lot line would be at the top of the hill at the pinnacle and Joseph Fuerst said yes. H. Caldwell asked if the piece Ernie Oberer would get goes over the top of the hill and Joseph Fuerst said yes, so it will go over the top and downhill about 863'.

S. Wilson asked if it is necessary for her to recuse herself, because her son owns the property that you drive over to access the lot in question. Joseph Fuerst said that Ernie Oberer re-routed the road so it doesn't cross the section owned by her son. Counsel asked if that would bear on the issue in terms of how S. Wilson would vote and S. Wilson said it would if she thought there were intentions to try to use her son's property. Counsel asked if there are intentions to use the other property and Joseph Fuerst said no, not to his knowledge—the road has been re-routed. Counsel said the answer is no, her son's property won't be used and S. Wilson said then she doesn't need to recuse herself.

H. Caldwell asked if the applicant is planning on building a house on top of the pinnacle and Joseph Fuerst said no, not to his knowledge. H. Koster said the applicant would have to come in for site plan review if that was his intention.

D. Roessler said that there is a stream there too and Joseph Fuerst said that is correct and it will become Ernie Oberer's property. H. Koster asked if they would be leaving approximately 85 acres on the parcel they are taking the 15 acres off of and Joseph Fuerst said yes.

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

Motion by Donald Roessler to accept the application as complete, waive a public hearing, convert the sketch plan 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** Sandi Aldrich. **All in favor. Motion Carried.**

11) SD05-29 DOLLAR, MICHAEL & KRANTZ, HEATHER. Seeks to divide into 2 lots that parcel designated as Section 140.00, Block 1, Lot 13, Zones LC25 and RL3. Property location: Intersection of new Vermont, Sawmill & Federal Hill Roads. Sketch Plan Review. Minor subdivision. Subject to SEQR.

This item was tabled.

12) SD05-08 BRANDOW, EDWARD. Trout Lake West. Represented by Rolf Ronning. Seeks to amend a previously approved plat (SD04-17), specifically to divide into 4 lots those parcels designated as Section 185.00, Block 3, Lots 25, 26, 27, 28, 29 & 30. Zone RCL3. Property Location: Trout Lake Road. Sketch Plan Review. Minor Subdivision. Subject to SEQR. This item was tabled at the August 22, 2004 meeting pending additional information *Note: This is a modification to a previously approved plat known as Trout Lake Shores II that was rescinded by the APA.*

This item was tabled.

13) SD05-24 WESTWOOD FOREST WEST. Rolf Ronning. Seeks to divide into 11 lots that parcel designated as 139.00, Block 1, Lot 8.1, Zones LC25, RR10 and RIL3. Property location: west side of Hendricks Road off County Route 11. Sketch Plan Review. Major subdivision. Subject to SEQ. *Note: This item was tabled at the November 2005 meeting, pending additional information.*

Rolf Ronning gave an overview and said they have addressed the PB's previous concerns regarding road width and stormwater.

H. Koster said he doesn't think the PB can give a preliminary approval because it puts them on a timetable and Counsel said that is correct in that it will put them on a timetable.

D. Roessler asked if the small road crossing Lots 8, 9, and 10 and ending on Lot 11 will have a right-of-way and Rolf Ronning said yes, a right-of-way goes through Lots 9 and 10 to get to Lot 11.

Rolf Ronning asked what the procedure is at this point and H. Koster answered by saying that (1) the applicant can't get final approval until he has the stormwater and (2) until the applicant provides all the information, there can't be a public hearing.

J. Gaddy asked if the applicant has any provisions for recreational facilities and Rolf Ronning said no.

S. Wilson asked if a sketch plan approval locks one into a timeframe and H. Koster said they could do sketch plan review. P. Kenyon said they are still at sketch plan review for this project.

S. Aldrich asked if the APA had been on-site and Rolf Ronning said that they have been notified and sent maps with the wetland, but he cannot say they have been there—he doesn't think they were there. S. Aldrich said they are still questioning possibly moving the lot line between Lots 10 and 11. Rolf Ronning said he is confident they are right on that, because they had a wetlands biologist look at it.

S. Aldrich asked for clarification on condition #3 of H. Caldwell's motion for **SD05-24 WESTWOOD FOREST WEST. Rolf Ronning** stated as, "...3) *It is noted that the lot shall not be further subdivided...*" from the November 17, 2005 PB meeting, in that if he meant all lots were not to be further subdivided or only Lot 11, in which case the lot it should be numbered. Rolf Ronning said he is happy with all lots not being further subdivided.

Motion by Sue Wilson to accept the application as a completed sketch plan and convert it to a preliminary plat, with the condition that parcels will not be further subdivided as

consented to by the applicant. **Seconded by Sandi Aldrich. All in favor. Motion Carried.** *It is noted that a major stormwater project must be applied for.*

Other Business:

H. Koster asked for corrections to the Thursday, November 17, 2005 minutes.

Motion by S. Aldrich to approve the November 17, 2005 minutes as presented. Seconded by J. Gaddy. Six in favor. One abstained – D. Roessler was not in attendance at that meeting. Motion carried.

J. Gaddy said he feels the lights at Bluebird seem excessive and he doesn't feel the project is what it was supposed to be. P. Kenyon said she spoke with Mr. Chandler today regarding the lighting. Counsel suggested the PB give Bluebird a couple of weeks to remedy the situation before taking any action and J. Gaddy agreed with the recommendation.

Meeting adjourned at 9:35 pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
12/26/05