

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday, February 16, 2006  
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, John Gaddy, Don Roessler, Susan Wilson, Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

**Absent:** Chauncey Mason

**PUBLIC HEARING:**

H. Koster opened the public hearing at 6:08 pm.

- 1) **RAY CICCARELLI.** To discuss the possibility of rescinding a condition of approval set forth by the Planning Board on 4/25/02, when approving a 2 lot subdivision (SD01-14 Ciccarelli). Specifically the condition reads as follows: "There will be no blasting." Section 186.06, Block 1, Lot 11.1. Zone RM1.3. Property Location: Belle Lodi Lane. *Tabled from the January meeting for a public hearing.*

Jeffrey Tennant, representing Ray Ciccarelli, gave an overview and said (1) they are requesting the prior restriction of no blasting be rescinded, (2) they provided a map of the area that they are expected to blast which is further from where blasting was just done at the Schweighart residence and (3) Steve Britton of Britton Drilling & Blasting Services Inc. is present to answer questions.

No public comment at this time.

Correspondence: (Read into the record by Town Counsel)

- Letter e-mailed to the Planning Board on 02/14/06 from Gerald Schweighart Sr.—opposed.

Steve Britton said (1) he would be happy to be responsible for any vibration damage, (2) they normally provide pre and post blast surveys to any structures they feel will be in jeopardy or in danger—he would be happy to do that for Mr. Schweighart at no cost to him, (3) he really has no control over the stormwater, (4) they have \$6 million blasting liability insurance and would be happy to work with Mr. Schweighart to make him happy, (5) the last time they worked for Mr. Ciccarelli, they had a seismograph machine right at Mr. Schweighart's house—Mr. Schweighart said he got shaken up, but the machine said Britton caused no structural damage, (7) they will have a seismograph on site to determine the effects, (8) they were much closer to Mr. Schweighart's property

when they worked with Mr. Ciccarelli before as opposed to where this property location is and (6) he doesn't think there will be any vibration or blasting issues—he will be happy to do a pre-blast survey inside, outside and set a seismograph machine on the property line to ensure they are not causing any structural damage.

H. Caldwell asked for an explanation of the seismograph process and Steve Britton replied by saying (1) anytime Britton has a pre-blast survey done, they have an outside firm, which they have no connection to, come in to read the seismograph, (2) with the homeowner's permission, the independent firm does the outside of the house and the inside by taking video cameras, Polaroid pictures and talk into a tape recorder to see or tell whatever damage might be pre-existing—after the blast the independent firm will come in and do the same thing, so if the homeowner has any issues they get addressed right away, (3) they start off with very small blasts and the seismograph machine tells them what they can and cannot do, (4) the last time they blasted for Mr. Ciccarelli, Mr. Schweighart was there, saw the seismograph readings and had no problem with it, and (5) they take the neighbors' considerations into account on each project.

**Motion by H. Caldwell to close the public hearing. Seconded by S. Aldrich. All in favor. Motion carried.**

#### **REGULAR MEETING:**

H. Koster opened the regular meeting at 6:17 pm by asking for corrections to the Thursday, January 19, 2006 minutes.

**Motion by D. Roessler to approve the January 19, 2006 minutes as presented. Seconded by S. Aldrich. All in favor. Motion carried.**

- 1) **RAY CICCARELLI.** To discuss the possibility of rescinding a condition of approval set forth by the Planning Board on 4/25/02, when approving a 2 lot subdivision (SD01-14 Ciccarelli). Specifically the condition reads as follows: "There will be no blasting." Section 186.06, Block 1, Lot 11.1. Zone RM1.3. Property Location: Belle Lodi Lane. *Tabled from the January meeting for a public hearing.*

H. Koster asked what the deepest shot on the backside would be and Jeffrey Tennant replied by saying (1) it would be no more than 10' or so, (2) this doesn't even come close to giving them a permit to build the house—this is really just rescinding this one issue and can they prove they can blast safely and (3) they would still need to have to do stormwater, design the house, etc.—there are quite a few other things they would need to do.

H. Koster asked if it is correct that if the stipulation is rescinded and the applicant gets by all other hurdles that Britton will be the company used for the blasting and Jeffrey

Tennant said yes, Britton would definitely be the one doing the blasting—he's the only one he has ever had do blasting.

From the public, Kyle LaVoy, southerly neighbor, asked why the no blasting condition was put on and H. Koster said he believes it was a question asked during site plan review and at the time Mr. Ciccarelli said there would not be any blasting. Jeffrey Tennant said at the time, Mr. Ciccarelli didn't really understand what was involved with blasting and just made the whole process move forward.

H. Koster asked if the applicant will have to come back for site plan review and P. Kenyon said (1) no, it is not in a zone that requires site plan review, unless the PB makes it a condition and (2) she believes it is going to require variances. H. Koster said he doesn't think it is in the PB's scope to put a condition of site plan review and Counsel agreed. P. Kenyon said that she would like for Town Engineer Tom Nace to review any stormwater that gets done on this lot and Jeffrey Tennant said that P. Kenyon has the authority to do that when it is presented to her. S. Aldrich said that her concern was the stormwater—not necessarily the blasting.

H. Koster said he worked on a large job with Mr. Britton down at ACE Hardware and he never saw any problems with that job.

J. Gaddy read the last paragraph of the Schweighart e-mail into the record and asked if that is part of the coverage that Mr. Britton extends as the blaster and Steve Britton answered by saying if Mr. Schweighart wanted an engineer of his choosing he would expect the homeowner or the builder to pay for that, but of course if there was any structural damage, his (Mr. Britton's) insurance would cover that. J. Gaddy said items Mr. Schweighart referenced would be covered and Steve Britton said yes, absolutely. Jeffrey Tennant said that you would have three levels of insurance—the homeowner or property owner (Ray Ciccarelli), the contractor (Jeffrey Tennant) who has almost \$3 million of insurance and the blasting company (Mr. Britton)—so you have almost \$10 million of insurance which is a considerable amount for exactly that reason.

H. Koster asked if the engineering is a civil negotiation between Ray Ciccarelli and Gerald Schweighart and Counsel said yes. Jeffrey Tennant said (1) they would be responsible for what was caused, (2) it would be very well documented from the pre to the post and if the post showed up something, there is no way of denying that. J. Gaddy said if the PB moves forward in accepting this they are not tying Mr. Ciccarelli to any responsibility binding.

Counsel said (1) Jeffrey Tennant's representation is correct in that they are responsible should Mr. Schweighart have any damage, (2) there are so many insurance companies that he guesses it even starts with Mr. Schweighart's homeowner's policy—if he thought something was damaged, he puts in the claim, but then one company can sue the other company and (3) ultimately, if somebody is out there who is finally responsible—it is Mr. Britton—and he says he has \$6 million worth of coverage. Steve Britton said that even if Mr. Schweighart decides to get his own engineer and do his own pre-blast survey, he

(Mr. Britton) would still do that anyway just for their protection. Jeffrey Tennant said that they have no problem putting a condition in that any blasting would require pre and post inspections, seismograph and monitoring of the whole situation for anything and Counsel said, specifically that Mr. Britton would be doing the blasting. Jeffrey Tennant agreed.

H. Caldwell said a boiler plate is needed and asked what would happen if the applicant went with a different blasting company. Counsel said the PB must make a requirement that Jeffrey Tennant represents that it will be Britton Drilling & Blasting Services, Inc.— if Britton will not be used, then Jeffrey Tennant would need to come back and tell the PB he is not able to produce and fulfill the requirement. H. Koster said the condition that Britton Drilling & Blasting Services, Inc. is the company to be used for the blasting just needs to be part of the motion. H. Caldwell asked if it is accurate that if the applicant decides not to do this project for 20 years, then the applicant would have to come back before the PB if Britton is no longer in business and Counsel said that is correct.

**Motion by Henry Caldwell to rescind condition of approval set forth by the Planning Board on 4/25/02 when approving (SD04-14) specifically the condition reads as follows, “There will be no blasting.” The following conditions were imposed: 1) Britton Drilling & Blasting Services, Inc. will do the blasting. 2) A pre and post blasting inspection will be done. 3) seismographs as discussed will be used. **Seconded by John Gaddy. All in favor. Motion Carried.****

2) **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 20,000 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. WCPB determined no county impact. Subject to SEQR. *This item was tabled from the January meeting pending additional information. WCPB determined no county impact.*

Dennis MacElroy, representing Marc Miller, gave an overview and said they made modifications to the plan based on the PB’s suggestions (specifically, they changed the driveway alignment resulting in a decrease in the disturbed area by approximately 8,800 square feet).

H. Caldwell asked if the retaining wall for the driveway would no longer be needed and Dennis MacElroy said that is correct, as the modification in the driveway alignment eliminates the need for the retaining wall.

S. Aldrich said that on the previous plans the septic tank was to the east of the house and asked why it is now shown so far north and west. Dennis MacElroy said (1) the difference in the septic location is because of the change in the driveway alignment and (2) he thinks it is a function of what may happen in the future with possible expansion of

the house. S. Aldrich said the cleared area is also expanding and asked if there was any other location between the house and the field for the septic tank location. Dennis MacElroy replied by saying yes, the septic tank probably could go in that location or to the southerly side of the driveway. H. Koster said (1) he's basically happy with a lot less square footage of disturbance and (2) he would rather leave the septic as shown on the current plans.

J. Gaddy asked if the southern limits for disturbance have to come so far to the south to get it graded to the driveway and Dennis MacElroy said yes, that slope is three on one.

J. Gaddy said he doesn't see any designation of which trees will stay or the number of trees coming down on the lakeside and Marc Miller replied by saying (1) they trees are spray painted and (2) he thinks there are four trees outside of the 20' footprint of the house coming out going down to the lake—that is it. J. Gaddy said he would like to see, as protection to the lake, the 20' limit staked out on the lakeside and on the east side of the house, with a silt fence or something. P. Kenyon asked if J. Gaddy wants the east side 20' disturbance limit staked out while it is under construction and J. Gaddy said yes. D. Roessler asked if silt fence would be enough. Marc Miller said there are no significant sized trees between the very front of the house and the 100' setback that are going to come out other than the four big ones that will be coming down. J. Gaddy said he understands that, but with prior applications, the Town Engineer has suggested that it would be to everyone's benefit to be clear about where the limits were for clearing. P. Kenyon said (1) yes, when it's coming before the board and (2) she is not telling the PB what to do, but suggested the PB make it a condition that it can't be cleared beyond the 20' around the perimeter of the foundation other than the well and (3) they can stake it out all they want, but it's going to change. H. Koster said he knows what J. Gaddy's concern is, but if someone is intent on cutting some trees down, it's not going to stop them. J. Gaddy said that is fine and added that it seems that there are a number of jobs around town where the 20' limit has not been adhered to and questioned why that limit is even on the books. H. Koster said that is the number the PB has to work with and it shouldn't be held as an absolute line—it's a safety issue. J. Gaddy said okay. P. Kenyon said the PB can make it a condition that the applicant can't clear 20' beyond the house foundation on the east side of that property. Again, Marc Miller said only four trees will be removed between the house and the lake.

S. Aldrich asked if it was correct that Mr. Miller said at one point he hoped to bring the well equipment in from the common area and Marc Miller responded by saying (1) at this point he is not sure which way they will be bringing the equipment in, (2) it is also the matter of the water supply line from the well to the house too and (3) he is doing everything he can to minimize the disturbance.

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) clearing between the

single-family dwelling and the east property line is limited to 20 ft. 2) clearing for the well is to be kept to a minimum allowing only enough room for the drilling rig. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded** Sandi Aldrich. **All in favor. Motion Carried.**

- 3) **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.

**Motion by** Donald Roessler to table the application as no one was present to present the application. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

- 4) **SPR06-01 LEVY, HOWARD.** Seeks Type II Site Plan Review for an accessory structure greater than 1,500 sq. ft., specifically, a garage containing 1702 sq. ft. is proposed. Section 171.07, Block 1, Lot 54. Zone RL3. Property Location: 5191 Lakeshore Drive. Subject to WCPB REVIEW. Subject to SEQR. *Note a variance is sought to exceed the bays allowed. 3 are allowed 6 total proposed.*

Howard Levy said he would like to build the garage to store his collectible cars.

H. Koster asked if this item has been before the ZBA and P. Kenyon said no, it won't go before the ZBA until 02/27/06. H. Koster asked if the item has been before the County and P. Kenyon said yes, there was no County impact.

H. Koster asked what will be stored in the garage and Howard Levy said his collectible cars, jet skis and possibly snowmobiles. H. Koster said he has no problem with this application because the PB allows three bays for car storage and two bays for other storage.

P. Kenyon said that her concern is the proximity to the septic system, for which would require a variance from the Town Board acting as the Board of Health—it is a wet area up there. H. Koster said he didn't know applicants can get a variance for septic setback from the Town Board and Counsel said yes, the Town Board has to convene as a Local Board of Health, then Mr. Levy would have to substantiate his need. S. Aldrich asked if it is a possibility to move it farther to the west and Howard Levy said yes, there is a very good possibility he could move it over further to the south.

H. Caldwell asked if the architecture of the garage will reflect that of the house and Howard Levy said yes, the same color scheme is proposed and the window proposed for second floor of the garage will match the one of the house. H. Caldwell said it is hard to tell from the drawing and Howard Levy replied by saying he understands. H. Caldwell said it is a handsome house.

S. Aldrich asked if the proposed spot light will be facing Route 9N and Howard Levy said yes, it will only be on as needed—not on all the time or on a timer.

H. Koster said that part of the motion is just making it contingent on complying with setbacks of sewage disposal or a septic variance from the Town Board acting as the Local Board of Health.

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 for the garage with the following conditions. 1) An area variance is granted for 5 bays. 2) The garage be moved to the south whereby 20 ft. is maintained between the garage and the leach field, in lieu of this a variance must be granted by the local Board of Health for insufficient separation. 3) Exterior lighting is to 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.**

**5) SPR06-02 DAVIS, JAMES TODD.** Seeks Type II Site Plan Review for the placement of a mobile home in the RR5/RR10 Zone. Section 198.04, Block 1, Lot 16. Zones RR5, RR10 & LC25. Property Location: 236 Wall St. Subject to WCPB REVIEW. Subject to SEQR.

James Todd Davis gave an overview and said he is in the process of building a house and would like to put a mobile home up on the property while he is building, so it is more convenient for him to finish building the house instead of having to travel, (2) the property is over 100 acres and (3) the trailer would be about 800' off the road and would not be visible from the road at all.

H. Koster asked how long the mobile home would be there and James Todd Davis said possibly one year and added that he is not looking for a construction trailer, but a normal mobile home that will be removed or destroyed once the house is finished and livable.

There was no County impact with the following condition: the mobile home is to be removed or dismantled upon completion of the home as determined by the local and or county building and codes. The purpose of the condition is to ensure the mobile home is not used as a secondary residence on the property. Also, if the mobile home can be dismantled it will discourage re-use in inappropriate locations.

There was no further comment of discussion 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 complete, waive a public hearing and grant approval for the mobile home with the following conditions. 1) The mobile home is to be removed from the property within 1 year from the date of issuance of the certificate of compliance. 2) Should the mobile home not be removed 1 year from the date of the issuance of the certificate of compliance, the applicant must re-apply for an extension. 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.**

- 6) **SD06-01 FEDERAL HILL CORP.** Seeks to divide into 9 lots that parcel designated as Section 156.00, Block 1, Lot 70.1. Zones RL3 & LC25. Property Location: 433 Federal Hill Road. Sketch Plan Review. Major Subdivision. Subject to SEQR.

Matthew Defty said he is acting as the agent for Federal Hill Corp. in the presentation of their sketch plan.

H. Caldwell asked if Lot 8 would be accessed off of Federal Hill Road and Matthew Defty said yes.

S. Aldrich asked if there are any easements as there was a collection of water between Lots 1 and 2 when she walked the property. Matthew Defty said (1) he spoke with George VanDusen at the Warren County Department of Public Works who said at each of the four easements at the north edge is the discharge place for a culvert County Route 11 and (2) he (Mr. Defty) thinks that might explain why there is water just accumulating in those spots. H. Koster asked if that gives the County the right to go out there and clean them out or repair them and Matthew Defty said yes, the outcome of his grandfather's negotiations with the County was that the discharge area of those culverts would be the County's responsibility.

H. Caldwell said he thought the smallest lot size in a 25-acre zone was 5 acres and Matthew Defty replied by saying you can cross two zones. H. Caldwell said the applicant is trying to transfer density and Counsel answered by saying the applicant is not increasing the density, but shifting density. P. Kenyon said the applicant is not going over the density allowed.

H. Koster said the history of this PB is that it has taken what is allowed in a 25-acre zone plus what is allowed in a 3-acre zone and divided it and that would be the maximum lots. P. Kenyon agreed. J. Gaddy asked how the math works out and H. Koster said the math works out the same and gave further explanation. J. Gaddy said this is a situation like last month's application on Hendricks Road where there was a situation saying no further subdivision on Lot 9, then 10 years down the road someone comes in saying they have 34 acres and questions the decision of 3 lots in the 25-acre zone. D. Roessler said that the PB would have to be very specific in the motion. H. Koster said (1) it would be on record—the addition of all the square footage is on record with the subdivision, (2) this applicant may not be at the maximum density. P. Kenyon said (1) she doesn't think the

applicant is at the maximum and (2) referenced pages 200-31 and 200-32 and said all of the applicant's property is in the same APA zone, so it is not affected by anything like that. Counsel said (1) regarding J. Gaddy's concern that 10 years down the road someone forgets, page 200-33 has subsection E that infers the PB in making this balancing and allowing a sharing of densities and principal buildings—not an increase in densities or principal buildings—also allows the PB to implement and enforce those density requirements and cap it by deed covenant, so in other words, the PB is supposed to say everything is comprehensively involved here and must have this covenant that no other lot shall be further subdivided, which is what the PB must say to get the guarantee J. Gaddy is looking for—if the PB misses that point, it could be forgotten.

H. Caldwell asked if the applicant sees Lot 9 being further subdivided, as it is sacred ground and Matthew Defty said no, he cannot imagine there would be further subdivision. H. Koster asked if the applicant asked the APA if they have jurisdiction on this property and P. Kenyon said her office requires that the applicant submit a jurisdictional inquiry form on every subdivision now. Matthew Defty asked if it is accurate that as the sub-dividers, they need to submit the form to the APA and P. Kenyon said yes, she would provide the necessary form to Mr. Defty tonight.

H. Koster said Lot 1 has a very steep slope and he is concerned with the ability to put a house and septic area on there without great disturbance to that area—it looks like the applicant is going to have a problem there. Matthew Defty said he is aware that on Lot 1 in particular there is a very small area that might be buildable on, which certainly is not close to County Route 11. H. Koster said even getting to that area is a problem from the cul-de-sac. H. Koster said the applicant would have to show that there is a legitimate home site on the lot.

J. Gaddy said read Section 200-23A into the record and said he understands how this is being distributed and how there are deed restrictions, but asked if A falls to the wayside. Counsel said no, A does not fall to the wayside. H. Koster said the smallest they can do is a one-acre lot. Counsel said that is right the smallest lot size permitted is one acre. J. Gaddy asked if that jumps over to the LC25 Zone and Counsel said yes, it could—it depends on how the applicant moves it—but under no circumstances as the applicant moves things around, may he increase the overall number of lots or principal buildings—he is budgeted and capped—and he has met that test.

S. Wilson asked if the applicant is capped, because P. Kenyon said she thought it could be 12 lots. Counsel said that P. Kenyon came up with a precise calculation of 15.7 lots, so 15 real lots. S. Aldrich asked if that is taking into consideration the lots on the east side of County Route 11 and P. Kenyon said the 15 lots are just for this side of the road. D. Roessler asked if wetlands are calculated into that figure, as they are quite sizable and P. Kenyon said the PB can take that into consideration. Counsel said (1) presently the Ordinance does not require that it (the wetlands) be deleted and (2) there was some discussion between P. Kenyon, Counsel and APA representatives about moving in that direction—which would be a big move—but right now the PB is not doing that and it is not required by the Code.

H. Koster said he still has a problem with Lots 1 and 7 regarding disturbance. P. Kenyon said the limit on County Route 11 is still 75', just no cutting within that 75'.

D. Roessler asked if the PB can put a condition for no further subdivision of Lot 9 and Counsel said yes, the PB's authority to do so is 200-23E.

Counsel asked about access to Lot 8 as it is not bounded by Federal Hill Road. Matthew Defty said (1) he imagines there would be a diagonal road and pointed to the area on the map and (2) there is an easement along Federal Hill Road as well, which is not Federal Hill Corp. property. H. Koster said you can see the survey line set way back from Federal Hill Road. Counsel said it still doesn't border the highway and even if the boundary line of Lot 8 was contiguous with the boundary of Federal Hill Road, it too would be subject to the setback—that easement—in other words, it could touch that road. H. Koster said (1) the property line as shown doesn't hit the road, but that can be taken care of as an easement and (2) Lot 7 and Lot 1 boundary lines go into County Route 11 property. Matthew Defty said they will respect property boundaries. H. Koster said (1) the applicants are going to have to show this board that there will be no great disturbance on Lots 1, 2, and 7 and (2) there will be no cutting allowed whatsoever within 75' of County Route 11. Matthew Defty said it is a scenic corridor and he understands. J. Gaddy said on LC25, the scenic corridor setback is 100'.

H. Koster the applicant has about a 20% grade coming off the cul-de-sac road to get up onto Lot 1. J. Gaddy asked if the access area for the cul-de-sac is already there and Matthew Defty said yes. J. Gaddy said it is tough access to Lots 1 and 7 and asked if there are proposed house sites. Matthew Defty answered by showing possible locations on the map. D. Roessler said (1) if the applicant changed the lot lines to follow Lots 1, 5, and 6, it would make the entrance less steep.

Counsel said he thinks the line the applicant drew that runs along Federal Hill Road that goes from monument to monument is the boundary line and Matthew Defty said yes, it is—it is the property line. H. Koster said still off of it. Counsel said yes, he is off of it on Lot 8 and over it on Lots 1 and 7.

H. Koster said that the applicant is allowed to do as small as one-acre lots in the LC25 Zone, but the PB is also bound by its Ordinance to be a lot more particular in the LC25 Zone as far as disturbance goes. P. Kenyon said the applicant has to do stormwater on this too.

Matthew Defty asked for clarification on the nature of the recreation fee and H. Koster said the applicant can choose a fee or setting aside land for the Town which is not just for the subdivision—it would be Town property. Counsel said (1) there is a provision in Town Law that talks about dedicated space for parks and playgrounds, (2) in subdivisions where it may be inappropriate or not necessarily feasible the alternative available is that the Town can in-act what is called a recreation fee and this Town has chosen to \$400 per lot in a major subdivision as a recreation fee if the sub-divider and the subdivision—as it

is presented—see fit to ask for that alternative and (3) ultimately so that the applicant feels good about the \$400, it is not to be expected to be paid by the sub-divider up-front, that is as these lots develop and a person presents what constitutes their plan to build something, they seek a Certificate of Compliance from the Zoning Office and at that time they get charged \$400. J. Gaddy said the area going from County Route 11 north to Federal Hill Road has become the major recreational walking path in Town and maybe there could be provisions for there.

Matthew Defty said they are hoping to go off Federal Hill Road for the electrical supply to the lots and H. Koster said that's exactly what the PB would like the applicant to do—keep it off County Route 11. Matthew Defty asked if it would be allowable to have poles to a certain point shown on the map then go underground. H. Koster said that would have to be discussed with National Grid—there are things the PB would prefer that National Grid just won't do. Matthew Defty said he has spoken with National Grid and has been given pricing on trenching it and on putting in poles. H. Caldwell said the PB would prefer underground. Counsel said the applicant should show a utility easement depicted on the drawing, which would alert those parties who are buying lots where that utility easement lies and their lots would be subject to that.

Matthew Defty asked if perc. tests and test pits are required on each lot and the number that have to be conducted. H. Koster asked how many lots the Board of Health comes in on. From the public, Rolf Ronning said you are exempt for four lots on five acres, but 5-acre lots and greater are subject to the Board of Health. H. Koster advised the applicant speak with the New York State Board of Health on this matter. H. Caldwell said the Board of Health will require wells too.

Matthew Defty said they are going to do major stormwater on this project and asked if they need to do stormwater for all the lots and H. Koster answered by saying (1) the PB requires a stormwater design for the road, (2) stormwater is a design ordinance by the Lake George Park Commission, which the PB is supposed to institute, that says the applicant has to do every house and every driveway along with the major subdivision, but the PB has not been requiring that unless it's been on small lots—the reason being is that stormwater is designed for any size house and any size of driveway, which 100% of the time is going to be different and (3) what the applicant can do is make a rough guesstimate of impervious area and each homeowner will have to come in for major stormwater design for their house when they do it. Matthew Defty asked if it is then correct that they need to estimate it at this point and take into consideration that there will be houses there with the understanding that somewhere down the road that will change and will be restudied by the person putting up a house and Counsel said yes, that is correct. H. Koster said yes and at that point if the stormwater management doesn't fit their lot they just have to make it smaller—but it is their problem.

Matthew Defty asked for clarification of the timeframe between this application and the testing needed to be done. P. Kenyon said once the PB approves it as sketch plan. Counsel said (1) there is no clock running—it is really up to the applicant, (2) the applicant has gotten some advice and some questions answered tonight regarding gray

areas being better defined and (3) the applicant's concept should now be better defined and then the applicant will then be moving along—once he has a better and precise picture of what is happening and what he will be looking for in a sketch plan approval in order to move to preliminary. H. Koster said once the applicant has sketch plan approval, that is when the six month time frame applies.

**Motion by** Donald Roessler to table the application pending additional information to be shown on your maps as follows: 1) Access to lot 8 off of Federal Hill Rd. 2) Right-of-way for underground power lines. 3) Minimal land disturbance for access to lot 1 and any other lot in the LC25 Zone. 4) Deep test holes and perc test as required by the Department of Health. 5) Subdivision map prepared by licensed surveyor. 6) Roadway right-of-way to be 50 ft. and the cul-de-sac to be 140 ft. in diameter. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

7) **SD04-08 BRANDOW, EDWARD. Trout Lake West.** Represented by Rolf Ronning. To merge those parcels designated as Section 185.00. Block 1, Lots 30 & 31 and Section 185.00, Block 3, Lots 25, 26, 27, 28, 29, 30 & 31.1. Zone RCL3. Property Location: Trout Lake Road. Sketch Plan Review. Major Subdivision. Subject to SEQR. *This item was tabled at the January 6, 2006 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.*

Rolf Ronning, representing Edward Brandow, said that he understands all they are doing tonight is a technical matter of merging all those lots back into one lot.

H. Koster asked if “all lots” means merging all lots on both sides of the road into one lot and P. Kenyon said yes, all of the highlighted lots into one lot as shown on the tax map. D. Roessler asked if it is accurate that nine lots are to be merged into one lot and P. Kenyon said yes. Counsel said (1) it goes to one tax parcel and (2) Assessor Dave Rosebrook is ready to do it.

Rolf Ronning asked for clarification on a letter he received from P. Kenyon and Counsel regarding Ellen George correctly pointing out that the Brandow/Ronning presentation that does not comport with the settlement specifications. Counsel asked if the applicant wants to re-aggregate the lots first and Rolf Ronning said yes, he guesses, but he doesn't know what this has to do with that. Counsel said that the re-aggregation has nothing to do with it and asked if the applicant is subdividing thereafter at some point of time and Rolf Ronning said yes. Counsel said that Ellen George says in her letter that plans she believes are in the Town of Bolton are different from the settlement agreement. Rolf Ronning asked how so and Counsel said (1) it is all in Ellen George's three-page letter, (2) He'd be happy to point out the parts he feels Ellen George is correct on and (3) one example, from his personal recollection, is that at the last meeting Rolf Ronning said this could be a 4-lot subdivision or it could be a 5-lot subdivision, and the mandate signed by Brandow says it must be a 5-lot subdivision as a major—it must be a major and (4) there is nothing in Ellen George's letter nor is it his intent to say please table the petition to re-aggregate—he sure wants that done and Dave Rosebrook is ready to do that.

Rolf Ronning asked if once the lots are re-aggregated, if that means they are ready to go forward with the subdivision application and Counsel answered by saying (1) no, he doesn't think so, because in Ellen George's letter dated 02/10/06 she indicates that "...Trout Lake West Shores subdivision plat was to encompass all five proposed new building lots i.e. four shoreline building lots and the nine-acre lot on the opposite side of the road to be consistent with the plat already submitted for agency review..." and (2) Ellen George takes the position that what Rolf Ronning submitted for their agency review and what he has submitted here differ. Rolf Ronning said he doesn't think it does. Counsel said that is Ellen George's position—not his—he is only reading from her letter and he continued reading from Ellen George's letter which said "...our intent was to assure that the same plats would be submitted to and reviewed by the Planning Board and the agency concurrently, avoiding segmented reviews of the subdivision of his property, which is the land remaining after agency and Planning Board approvals of the Trout Lake Shores subdivision in 1976..." and "...the settlement agreement also requires that the boundary line between Dennison and Brandow properties be accurately and consistently depicted on the revised two-lot subdivision map and the plat showing Mr. Brandow's proposed new subdivision of his remaining property; the boundary line on the 26<sup>th</sup> of March 2004 Dickinson plat submitted to the agency is not consistent with the boundary line shown on a different map which depicts the 1.02 lot and the immediately adjacent lands of Brandow..." and (3) Ellen George is picking points and saying Rolf Ronning has to make the same presentation before the PB that he got the same approvals or settlement on at the agency. Rolf Ronning said he would make sure it is straightened out.

**Motion by** Donald Roessler to re-aggregate those parcels designated as Section 185.00, Block 1, Lots 30 & 31 and Section 185.00, Block 3, Lots 25, 26, 27, 28, 29, 30 & 31.1. Zone RCL3. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

P. Kenyon said the PB passed the resolution based on a tax map—normally something needs to get filed with the County. Counsel said it's okay, as he worked it out through Dave Rosebrook that he (Rosebrook) will, based upon the action the PB takes, will make it one, so the undoing is a lot different procedure than the doing. H. Koster said he wants to make sure it is known that the PB is still the primary agency on any future subdivision on this and Counsel said that is right—the PB has the say on this thing, it just has a lot of oversight and review—it just has to run with the settlement agreement and now the PB has a copy of it.

**Other Business:**

P. Kenyon said the Town Board requests that a Mandatory Workshop Meeting be held. H. Koster asked what the meeting would be for and Counsel said the TB Members said the PB members may benefit from some instruction. The PB asked for specifics and Counsel said (1) he has a suggestion or two, (2) he wasn't interested in making the meeting longer than an hour unless the discussion stretched it longer than an hour, (3) he thinks it would be useful to go over the latest requirements in SEQR as there are case law interpretations that make it a little more difficult to get it right and (4) recent case law

says that they would like for Planning Boards to articulate their findings, specifically to give verbiage as to the reasoning behind the SEQR findings.

The PB members asked if they could conduct their first meeting now and Counsel said yes. The PB and Counsel discussed SEQR findings/analysis procedures for their first official Mandatory Workshop Meeting (as requested by the Town Board), which lasted for 30 minutes.

Meeting adjourned at 8:33 pm.

Respectfully submitted by  
Jennifer Torebka  
Recording Secretary  
02/27/06