

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday, July 20, 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 = LGPC
DEC = Department of Environmental Conservation

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

Absent: None

PUBLIC HEARING:

H. Koster opened the public hearings on SD05-24 Westwood Forest West and SPR06-23 Westwood Forest West at 6:06 pm.

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. Preliminary Plat. Major subdivision. Subject to SEQR. *Note: A public hearing was scheduled at the June 2006 meeting for July 20, 2006. This application is in conjunction with SPR06-23.*

SPR06-23 WESTWOOD FOREST WEST. Rolf Ronning. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 8.7 acres is proposed. Section 139.00, Block 1, Lot 8.1, Zones LC25, RR10 & RIL3. Property Location: West side of Hendricks Road off County Route 11. Subject to WCPB REVIEW. Subject to SEQR. *Note: A public hearing was scheduled at the June 2006 meeting for July 20, 2006. This application is in conjunction with SD05-24.*

Rolf Ronning gave an overview and said that (1) they propose to divide the land into four industrial lots and seven residential lots, (2) they have septic, stormwater and test pit information available and (3) the wetlands are marked on the map and were staked-out and reviewed at the site by an APA representative on 07/05/06, however they are still waiting for the APA's official report.

Rolf Ronning handed out colored maps to the PB members and clarified the property location and make-up for the audience.

Rolf Ronning said the only change on the map is one line that was moved on the corner by the wetlands so there is just no question of whether any part of that wetland is on Lot 11. J. Gaddy asked if the property has already been timbered before and Rolf Ronning

replied by saying (1) he purchased the property three years ago and (2) the PB approved the timber harvesting plan that was completed one year ago.

J. Gaddy asked if the header would be on Lot 8 and Rolf Ronning responded by saying yes, the remains of the main header is on Lot 8.

J. Gaddy said that (1) most of the houses are proposed in fairly low gradient areas and (2) he is concerned with the house site on Lot 5 and the long driveway. Rolf Ronning said that the proposed location of the house site on Lot 5 seemed like a logical place because it is the flattest part of the lot.

From the public, Kathy Bozony of the LGA said (1) while the project is not in the Lake George watershed, it possibly is setting precedents for other cluster subdivisions in the future, (2) most communities or municipalities have a cluster subdivision or a conservation design development where you actually take the entire parcel of acreage subtract out all the non-buildable land and then you divide it for density, (3) this project is being called clustered or was when she reviewed the file and it is not really a cluster development—it is maximizing density, (4) the applicant does not have the proposed house sites on the highest elevations, but this is not what she considers a cluster or conservation design—it doesn't have all the features in it and (5) she hopes the Town of Bolton will look at this project in terms of the intent of cluster developing, which is to put your houses all together in a small area to reduce fragmentation of the environment and to reduce total impervious surfaces with driveways, etc.

No further comments or questions from the public.

Motion by J. Gaddy to close the public hearings on SD05-24 Westwood Forest West and SPR06-23 Westwood Forest West. Seconded by C. Mason. All in favor. Motion carried.

REGULAR MEETING:

H. Koster opened the regular meeting at 6:20 pm by asking for corrections to the June 22, 2006 minutes.

Motion by Susan Wilson to approve the June 22, 2006 minutes as presented. Seconded by John Gaddy. Six in favor. One abstained (H. Koster, as he wasn't present at that meeting). Motion carried.

Note: All PB members resolved to hear agenda items #1 and #2 together.

- 1) 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. Preliminary Plat. Major subdivision. Subject to SEQR. *Note: A public hearing*

was scheduled at the June 2006 meeting for July 20, 2006. This application is in conjunction with SPR06-23.

Rolf Ronning asked if there were any County results and S. Wilson said the County asked for clarification of the amount of land to be disturbed for each lot and the stormwater and erosion associated with it. Rolf Ronning said (1) they have requested the report from the APA and have not received it yet and (2) there is no question that the wetlands are all on Lot 11.

H. Koster asked what the rust-colored line on the map represents and Rolf Ronning replied by saying that the rust-color shows the stormwater basins, the green shows the level of clearing for the road and the red is the amount of disturbance.

J. Gaddy said that the ponds are now proposed with 4 ft. high security fences and asked why that changed. Rolf Ronning said that Town Engineer Tom Nace suggested the security fences be added so they added them. J. Gaddy said that these are constructed ponds where the applicant will be grading the area then re-seeding them and asked if the applicants will be getting a planting plan from the Warren County Soil and Water Conservation District to do this. Rolf Ronning said that if the PB wants a letter from the Warren County Soil and Water Conservation District he could get it, but he feels it is ok without it.

J. Gaddy said he understands Lot 5 is flat, but is concerned about the driveway. Rolf Ronning said that on Lot 5, even though it has a longer driveway the proposed house placement is on the flattest spot of the lot.

J. Gaddy asked the PB members thoughts on required re-planting of trees by the applicants in regards to roadway clearing width—especially on the road to the cul-de-sac for this project. S. Wilson asked if applicants are subject to a re-planting plan at site plan review and J. Gaddy said yes, it is the responsibility of the developer.

H. Caldwell asked if the applicant is planning on putting in the road and stormwater and Rolf Ronning said yes. H. Caldwell asked if the applicant would be willing to give some bonding as a guarantee that the road will be completed and Rolf Ronning said yes, if it is needed, but it won't be a difficult road since it will be all dirt and no blasting is needed.

H. Koster asked what the time frame is between the public hearing and making a decision, because he is concerned if the PB receives a negative report from the APA on this project and P. Kenyon said it is 45 days. Counsel asked about the status of the APA report and Rolf Ronning said that he and Dennis Dickinson have both requested letters from the APA regarding the wetlands re-flagged on 7-5-06; to date they have not received a response. Counsel said that the PB could, if the applicant agreed, to extend the time limit. Rolf Ronning said that he would do whatever he has to do to get approval. Counsel said that to extend the time limit, the applicant has to do that in writing –it is in the code. Rolf Ronning asked for clarification and said they could go to next month without the 45-day period lapsing. H. Koster said that is true, but if they receive a

negative report from the APA, then they can't go to the month after unless the applicant agrees. Rolf Ronning said that if there is a negative report he will agree—he is not going to throw away approvals because of a technicality. Counsel said he would write it up and it would be entirely acceptable. Rolf Ronning asked what can be done to get the letter from the APA and Counsel replied by saying that when APA representative Mary O'Dell doesn't come through with a letter in a timely manner then the applicant should call him (Counsel) and he will call the contact he has there.

H. Koster asked how the PB can come about bonding the road and stormwater and Counsel replied by saying that if the PB is looking at a performance bond then the PB and the subdivider have to come to reasonable terms with respect to the amount, (2) he would like the PB to be cautious about it because sometimes these bonds are prohibitively expensive in terms of premium, (3) if the PB specifically defines the purpose of the bond, which is performance, and release the bond upon road completion and stormwater completion and (4) asked who the final inspector is. H. Koster said that Town Engineer Tom Nace would be the final inspector and judge that the road has been built and the stormwater has been completed to specifications. Counsel said (1) the PB has those limits as to clear expectations of what the subdivider has to do and a clear expectation of when it is done and (2) the PB and subdivider need to agree on what is a reasonable amount of security sufficient to make sure it is done—it is not intended to penalize the subdivider, but to ensure that if the subdivider didn't get it done that there is a bond there sufficient in amount to get it done. Rolf Ronning asked if they could possibly hold a certain amount of land in escrow instead of bonding and Counsel said that he prefers a surety bond. Rolf Ronning offered to have his excavator Bruce Fifield supply estimates for the PB members review two weeks prior to the next meeting.

H. Koster asked if any PB members had any problems with the lot line change and all said no. D. Roessler asked if the applicant will be replacing the colored map and Rolf Ronning said yes. D. Roessler said he would like to see the color map labeled with a revised date. Rolf Ronning agreed to do that. P. Kenyon asked if Map 2 will change as well and Rolf Ronning said yes, in a small area. H. Koster said the applicant has to start putting revision dates on these maps.

H. Caldwell asked what the reason is for the security fence and H. Koster said he believes it is because of the depth of the retention ponds.

H. Koster asked what happens when there are bonding company failures and Counsel said (1) his recommendation is that it is not illegal for an insurance company that is not licensed in the State of New York to sell insurance, it is just that when that company folds you have to go to the state that did license them to make a complaint and (2) the PB needs to specify it is a surety that is acceptable to the PB which would probably, most likely, be any insurance company licensed to do business as an insurance company in New York State.

Motion by Donald Roessler to table the application pending additional information as follows; 1) A written estimate for the road and stormwater controls. 2) A written

agreement extending the time period for which the final plat must be acted upon by the Planning Board as per Section 150-8F1. 3) 10 complete sets of maps to be submitted with the correct numbers in order, dates and revision dates on all maps that are affected by the map submitted to the Planning Board on July 20, 2006, dated May 17, 2006, entitled “map of survey for Westwood Forest West.” Sheet 1 of 11. **Seconded by Sandi Aldrich. All in favor. Motion Carried.**

- 2) **SPR06-23 WESTWOOD FOREST WEST. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 8.7 acres is proposed. Section 139.00, Block 1, Lot 8.1, Zones LC25, RR10 & RIL3. Property Location: West side of Hendricks Road off County Route 11. Subject to WCPB REVIEW. Subject to SEQR. Note: A public hearing was scheduled at the June 2006 meeting for July 20, 2006. *This application is in conjunction with SD05-24.*

Motion by Donald Roessler to table the application pending additional information as follows; 1) A written estimate for the road and stormwater controls. 2) A written agreement extending the time period for which the final plat must be acted upon by the Planning Board as per Section 150-8F1. 3) 10 complete sets of maps to be submitted with the correct numbers in order, dates and revision dates on all maps that are affected by the map submitted to the Planning Board on July 20, 2006, dated May 17, 2006, entitled “map of survey for Westwood Forest West.” Sheet 1 of 11. **Seconded by Sandi Aldrich. All in favor. Motion Carried.**

Note: The following item (“Sommer, Warren & Dorothea,” originally referenced as Agenda Item #15) was scheduled for later in the meeting, but was heard at this time, then the remaining agenda items were heard in sequential order.

- 3) **SOMMER, WARREN & DOROTHEA.** Represented by Thomas Sargent Jr of Fountain Forestry. Seeks Type II Site Plan Review to timber harvest an area greater than one acre on one parcel in the RL3 zone. Section 140.00, Block 1, Lots 10 & 11. Zones RL3 & LC25. Property Location: South of intersection of Federal Hill Road and Sawmill Road. Subject to WCPB review. Subject to SEQR.

Thomas Sargent, Jr. of Fountain Forestry, representing Warren and Dorothea Sommer, gave an overview and said (1) it is 32 acres in the RL3 zone, (2) there are 38 acres to be harvested in the LC25 zone and (3) there will be no clear cutting—it is basically removing poor quality trees along with trees at risk.

H. Koster asked if Fountain Forestry will be doing the logging or inspecting the job and Thomas Sargent, Jr. said that he is the forester and he is in charge of enforcing that the logger does what he says he’s going to do—he would be there on a weekly basis.

J. Gaddy asked if the proposal is for a 15-year cut and Thomas Sargent, Jr. said yes and they also have already received the NYSDEC stream-crossing permit for the linear wetland.

H. Koster asked what time period the applicants have planned for timber harvesting and Thomas Sargent, Jr. replied by saying that (1) they were planning on the winter, but the logger asked if they could move it up sooner and (2) in a dry summer or the dry part of the fall he sees it would be possible, but he also knows this zone is heavily regulated, so if that threatens the purpose of his client's being here then he will honor the winter cut. J. Gaddy said that this particular watershed has been hit hard lately so he would prefer winter harvesting. Thomas Sargent, Jr. agreed.

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 John Gaddy to accept the application as complete, waive a public hearing and grant approval as presented with the following conditions: 1) Harvesting is to be done during the winter months to prevent erosion. 2) The "Special Conditions" circled on page 2 of 3 of DEC Stream Crossing Permit # TH5P2006 must be adhered to. 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.

4) **SPR06-36 SCANLON, RICHARD & LISA & RONNING, TERESA.** As a condition of approval set forth by the Planning Board on May 26, 1994, when approving the Bell Point Shores Subdivision. Seeks Site Plan Review for vegetative removal on lot 12. Section 156.16, Block 1 Lot 1.13, Zone RCM1.3. Property Location: Norwood Drive. Subject to WCPB REVIEW. Subject to SEQR.

From the public, Bob Weisenfeld asked if this item could be heard later in the meeting because he was told Dan (last name unclear) was on his way and wanted to be present to hear this item. H. Koster said no, he's sorry, but it is a long agenda tonight so the gentleman will have to read the minutes if he is not present and this item is not a public hearing, so he wouldn't be able to speak on it anyway.

Teresa Ronning gave an overview and said that (1) Richard and Lisa Scanlon are under contract to purchase Lot 12 and the money from that will go into an account for the Ronning children, (2) it was an 18-lot subdivision and Lot 12 was part of it, then there was a HOA drawn up by Dan Smith and (3) there were some concerns going back and forth between the APA, but she thinks they've been resolved with the Town of Bolton.

H. Koster asked about the prior condition that the property would be staying in the family for eternity and Counsel asked where that requirement came from. H. Koster said that

was offered by Rolf Ronning at that time. Counsel asked if it is part of some condition or in the minutes and H. Koster replied by saying that he would imagine it is in the minutes—he personally doesn't care who lives there, he just wants to keep it above board. Counsel said that if it is not a restriction on a filed subdivision map or part of some covenant—and clearly it is not—and not in any minutes as something that was a requirement for the subdivision—it may have been mentioned, but unless it is accepted as a requirement, the town has no authority. H. Koster said that he believes the question was brought up by somebody on that board because at the time it was a burial ground—Rolf Ronning's mother was buried down there and he stated at the time that the property was going to be staying in the family forever. Rolf Ronning replied by saying that he did say that his mother was buried in Bell Point, but then circumstances changed so he had his mother removed from the Bell Point common area—not Lot 12—and buried in the Bolton Rural Cemetery and he doesn't recall saying he'd keep Lot 12 (which is not where his mother was buried) in the family as his understanding was that it was going to be the last lot sold and they would deed it over to the children—the money from that lot will be put into the children's escrow fund.

Counsel asked how the PB is going to deal with Bob Weisenfeld's letter raising the issue that this applicant's submission is incomplete or inaccurate in that what was provided as the submission from past history was not in fact the correct past history and said that the PB wants to act on applications that are accurate and complete. P. Kenyon asked why the application is being viewed as being incomplete and Counsel said (1) it has a wrong submission in terms of what was attached and (2) Bob Weisenfeld's point is that what is being seen as a package was incomplete or inaccurate documentation and that the actual or complete documentation in support of the application was not received. P. Kenyon said they did have it.

From the public, Bob Weisenfeld began explaining his submitted letter. H. Koster said he would have to cut Bob Weisenfeld off because this is not a public hearing. Teresa Ronning asked if the Weisenfeld letter is referencing inaccuracies in the application for site plan review or the application for the original subdivision and Counsel said (1) the letter says that what P. Kenyon received the day before yesterday was bringing to the attention of the Zoning Administrator a discrepancy in documentation submitted for the site plan application, specifically the pages excerpted from a document from Bell Point Shores and (2) his impression is that the suggestion by Bob Weisenfeld is that what the applicant submitted as a historical background on an earlier issue that was corrected in 1995, but now back here in 2006, Bob Weisenfeld is saying the applicant's first submission to the Zoning Administrator incorporated the old paperwork—not the correct paperwork. Teresa Ronning said that she believes she got those two pages from Dan Smith recently and Counsel replied by saying (1) Dan Smith would be the custodian of that and (2) he is just trying to make sure the Zoning Administrator has now submitted for the PB's review a complete and accurate set of paperwork. Additional conversation ensued between Bob Weisenfeld and P. Kenyon that was inaudible on the tape. Again, H. Koster said that this is the second time Bob Weisenfeld is repeating this. Counsel said he just wants to make sure the PB is satisfied that they have the correct set and representation and H. Koster said yes.

J. Gaddy said that Bob Weisenfeld regularly appears before the Town Board to find out whether or not the original stormwater maintenance reports have been filed for Bell Point Shores and it seems as though it is an outstanding issue. Counsel said that (1) it is true that the Bell Point Shores stormwater report was overdue, but as of today it has been received by the town and filed—even though it is late and (2) he is not sure if the Town of Bolton has reviewed the Bell Point Shores stormwater report yet.

D. Roessler asked what the Scanlons plan is and Richard Scanlon responded by saying (1) he plans to build this building on Lot 12 that will be occupied by his parents, (2) the location of the dwelling is in the same location that was on the map submitted in 1993-1994 with the same exact driveway location and septic field location, (3) the wetland limits are shown on the map and (4) the house location is well above and away from the wetlands—an additional 10-20 feet from the minimum required—the proposed house location keeps the wetlands least disturbed.

P. Kenyon said that (1) there was one condition on this subdivision that she thinks is important for the PB to know about, which is, “The total clearing for lots 12 and 18 may not exceed 30,000 square feet after clearing for the shared driveway of those two lots. The remaining square feet shall be subtracted from the allotted 30,000 square foot limit and be equally divided by lots 12 and 18...” and (2) the first plan had to be revised. J. Gaddy asked if Lot 18 has been built on already and P. Kenyon said no.

J. Gaddy asked what the residual amount that is left to disturb on Lot 18 would be. S. Aldrich said it would be 12, 775 allotment per lot. J. Gaddy said he doesn't want to have to approve this then have Rolf Ronning coming in for a variance saying they can't agree to the original conditions they agreed to so many years ago. Rolf Ronning said (1) the driveway to Lot 12 and the area that has been subtracted from that 30,000 square feet to the driveway he put in way back when to get to Lot 12 crosses Lot 18, so Lot 18 will have a shorter driveway to the house location and (2) they have taken away the common square footage from the existing road and divided the remainder between the two so Lot 18 will benefit from this. Richard Scanlon said that the whole subdivision has shared driveways.

H. Koster said there is a 30,000 square foot limit between the two lots and Richard Scanlon is proposing less than 15,000 square feet of disturbance and Richard Scanlon said yes—the part of the road on his lot is very minimal. H. Koster asked if that part plus the building is less than 15,000 square feet. S. Aldrich asked if it is less than the 12,000 square feet and Richard Scanlon replied by saying no, but the condition is less than 30,000 square feet between the two and that is total clearing for two lots.

S. Aldrich asked if the proposed septic location meets the setback from the neighbors wells and Rolf Ronning said yes, it met the setback of all the wells on the property in 1995 and there has been no new construction in that area of any homes that would have even come close to where the septic has been proposed and approved. H. Koster asked if

where the septic was proposed is where it is going and Rolf Ronning and Richard Scanlon both said yes.

S. Aldrich asked if the house would be visible from the lake and Richard Scanlon said no. S. Aldrich asked why the brook that goes in and out of the wetlands is not shown on the map and Richard Scanlon said that he doesn't have an answer to that—Dennis Dickinson prepared the maps for him.

J. Gaddy said that according to the map dated June 26th, the tile field is encroaching on the setback lines. H. Koster said that the map shows a 15-foot building setback line and the applicant is allowed 10-feet. Richard Scanlon said that there are very few trees in that area now.

D. Roessler asked if the plans were acceptable having handwritten heights on them and P. Kenyon said yes, because her office will be receiving construction drawings.

S. Aldrich asked if APA jurisdictional inquiry is necessary on this project because of the wetlands and Counsel said no, there is nothing subdivided or encroaching upon the wetlands, so he thinks that would just be an unnecessary slow down to require the applicant to inquire, wait six weeks and get a no response from the APA. P. Kenyon said that the APA gets a copy of the PB's meeting agenda each month, so if they had any concerns they should have responded. Counsel said that on the theory that his comment is absolutely wrong, the APA could appeal.

The WCPB determined no County impact with the condition that that appropriate stormwater and erosion control measures are to be implemented for construction of the proposed drive, common drive, house and septic area.

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 following condition; 1) The Warren County Planning Board's recommendations are met. Specifically the appropriate stormwater and erosion control measures are to be implemented for construction of the proposed drive, common drive, house & septic area. 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.** *Note: Although not a condition of approval, the wells & septic systems on the adjoining lots must be located.*

- 5) **V06-30 CURRI, THETA J.** In accordance with Section 200.47G2 of the zoning ordinance, seeks use variance to occupy transient mobile home more than 10 days. Section 171.06, Block 1, Lot 18, Zone RL3. Property Location: 162 Valley Woods Rd. Subject to WCPB REVIEW. Subject to SEQR. *Note: Recommendation only.*

Theta Curri gave an overview and said (1) she was here in May, (2) they have a camper/trailer owned by her in-laws who reside in Florida, but is stored on their property, (3) they were granted approval to have her in-laws occupy the trailer for a short period of time and are here to get a recommendation of approval for her in-laws to occupy the trailer more than the ten days in the summer season and (4) as can be seen in the photos she handed out, the trailer location is not visible from the road, it does not attract attention and imposes no disturbance to others.

D. Roessler asked what the timeframe is for the mobile home to be occupied and Theta Curri said it would be occupied sporadically from June through Labor Day.

H. Koster asked if the PB recommends this, do they have to get involved with the very specific state of use variance language or if that is an item for the ZBA and Counsel responded by saying that (1) the ZBA is involved exclusively in those very strict tests, but he thinks the ZBA very much wants the PB's input, (2) his recommendation to the ZBA for the use variance would be that the applicant certainly has to meet all of the statutory standards and one of them which is very difficult would be that there are no other acceptable uses of that property that are permitted by the zone and (3) the PB is not strapped by those tests and doesn't hold that applicant to that standard. H. Koster said the area the mobile home would be put in doesn't offend him at all.

Theta Curri said they went to the County last week and the WCPB determined there was no impact.

S. Wilson asked if the ZBA is looking for a recommendation only and P. Kenyon said yes.

J. Gaddy asked if there was a resolution on the septic issue and Theta Curri said it is a self-contained holding tank. J. Gaddy asked if it would be hooked up to the house and Theta Curri said no. D. Roessler asked if the trailer would be taken in and out and Theta Curri said no, it is their storage and there all the time. D. Roessler asked if the tanks can come out at will to be emptied and Theta Curri said yes.

Counsel said the issue isn't storage of the mobile home, but occupation of or inhabiting it.

S. Wilson asked what the water supply would be and Theta Curri said that her in-laws will use bottled water for consumption, but for additional water and electric, they will be attached to her home.

J. Gaddy asked if the PB can put a sunset clause on this project. Counsel replied by saying (1) if hardship is established, the hardship remains and it goes with the land, which is good textbook zoning and (2) he has seen sunset provisions on variances that have been granted to a particular owner for a particular circumstance. J. Gaddy asked if Counsel would prefer sunset clauses be avoided and Counsel said (1) yes, he admits that in textbook classic cases if an applicant can prove a hardship that does relate to the land

in the fact that the land cannot be utilized as zoned and (2) you can make that argument, but it is only to this particular owner and that is really not satisfactory as far as the statutes and the cases are concerned—once it is granted, it is permanent.

Motion by Donald Roessler to send a favorable recommendation to the ZBA. Seconded by Sandi Aldrich. All in favor. Motion Carried.

- 6) **SPR06-33 NOWAKOWSKI, EDWARD.** For the placement of a proposed protection pond, seeks Type I Site Plan Review for a land use within ¼ mile of the Schroon River. Section 184.4, Block 1, Lot 20.2, Zones RR5 & LC45. Property Location: 611 East Schroon River Rd. Subject to WCPB Review. Subject to SEQR.

Edward Nowakowski gave an overview and said (1) they are proposing to put a pond on their 80-acre piece of property as a means of safety in case of fire and in order to water their gardens/flowers, (2) the proposed pond has been designed with an overflow and (3) no clearing is necessary in the proposed pond area.

D. Roessler asked if there is any plan for a dry hydrant hook-up for the Fire Dept. Edward Nowakowski said that he would like to have a hook-up there but he hasn't designed it yet. D. Roessler asked if the pond would be for the applicant's personal use for fires or if it would also be available to the Fire Dept. if necessary and Edward Nowakowski said it would be okay for the Fire Dept. to use if it was needed.

The WCPB determined no County impact with the condition that the proposal is acceptable to the Fire Dept. for use as a fire protection pond, i.e. drafting/dry hydrant.

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 applicant is to send a letter to the Bolton Fire Department advising them that a protection pond is available for their use. 2) The applicant is to seek a recommendation from the fire department for location of the proposed dry hydrant and area for hook-up. 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.

- 7) **SPR06-32 CHIRIBOGA, LENNY.** Represented by James Miller of Northfield Design. To convert first floor of existing villa into a restaurant, seeks Type II Site Plan Review for a new land use within 250 ft. of the Lake George shoreline and a restaurant seating people at tables. Section 213.13, Block 1, Lot 55, Zone RCM1.3. Property Location: 3908 Lakeshore Drive known as the Thunderbird Motel. Subject to WCPB Review. Subject to SEQR.

James Miller of Northfield Design, representing Lenny Chiriboga, gave an overview and said (1) the proposed restaurant is on the first level, (2) they propose to remove three units and to extend the existing porch on the south side, (3) the handicap access would be on the north side of the building, (4) they are proposing seven parking spaces, which would be the only disturbance on the property and (5) regarding the septic, they currently have a pump up-hill system that is 8' X 6' X 5.5' that they will have to dig up.

J. Gaddy asked about the location of the leach field to the existing pump station and James Miller replied by saying that they are hoping what's there meets the requirement or if not they would need to push up into the leach field area. J. Gaddy said there is always a concern when projects are this close to the lake. H. Koster asked if the applicants plan on installing a grease trap and James Miller responded by saying that they are planning a full vegetarian menu so animal fats wouldn't be a concern. H. Koster said that he thinks the PB should require a grease trap be installed.

J. Gaddy asked about the current condition of the land proposed for the parking area and James Miller said (1) it's green, (2) there is currently a playground and some storage in that area and (3) they looked at a couple of options for the parking area. J. Gaddy asked what the proposed operating season is for the restaurant and Lenny Chiriboga said they would probably be open from Memorial Day to Labor Day. J. Gaddy asked if there is any chance for some type of installation system in the parking area and James Miller said that they would have no problem with that and he thinks it would work in this area, but it would still be considered impervious on the plan.

S. Aldrich asked if the restaurant is intended for on-site guests only and James Miller said the intention is for on-site guest and general public use and there will only be 24 seats available. D. Roessler asked if there are plans for tables on the outside porch area and James Miller replied by saying (1) no, not at this time and (2) if they did plan on having tables on the outside porch area in the future they'd still only have 24 seats due to Town of Bolton calculations.

D. Roessler asked what the applicant's plans are for a sign and Lenny Chiriboga answered by saying that (1) they are looking at re-doing the current sign and (2) if they do an additional sign it will be to Town of Bolton specifications. James Miller said he believes that any new signage would be more conservative than the existing signage.

J. Gaddy asked about proposed lighting as he would be looking for a modification to any external lighting to be shielded and downward facing and James Miller said that they are not proposing any new lighting on the front façade at this point in time, but they will be proposing some new lighting at the back and they will address any lighting requirements the PB has.

D. Roessler asked if the restaurant would be accessible from the lake and Lenny Chiriboga replied by saying no—he doesn't anticipate boat traffic for the restaurant. D. Roessler asked if the only access to the restaurant would be from driving in from the road and Lenny Chiriboga said yes.

The WCPB determined no County impact with the condition that the appropriate measures are taken for the septic system and the water supply for the proposed use.

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) Seating capacity is limited to 24. 2) Exterior lighting must be downward facing and shielded with low wattage bulbs used. 3) A grease trap is to be installed. 4) The septic system is to be reviewed and approved by the Department of Health. 5) The parking area for the restaurant is to be constructed out of permeable material for proper drainage. 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.**

8) **SPR06-31 KRANZ, RICHARD & ELIZABETH.** Represented by Jarrett, Martin Engineers, PLLC. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 1.9 acres is proposed. Section 140.00, Block 1, Lot 40.6, Zone RL3. Property Location: New Vermont Rd., formerly known as the Rugg Hill & Observatory Subdivisions. Subject to SEQR

Tom Jarrett of Jarrett, Martin Engineers, PLLC, representing Richard and Elizabeth Kranz, gave an overview and said (1) this parcel was part of a previously approved subdivision, (2) the parcel has been re-aggregated with an existing drive, (3) their sole purpose tonight is to get stormwater approval on that road, (4) in the last few years there has been significant wash-out of that driveway, (5) this past winter they prepared a contingency plan that was approved by the Zoning Office where they corrected the lower section of the road and (6) they are seeking to go further to further stabilize the road and put in stormwater management for the entire road surface.

J. Gaddy asked if it is a driveway and Tom Jarrett said yes. H. Koster asked if this was the driveway put in to give a right-of-way under Rolf Ronning's orders and Tom Jarrett said he is not privy to who actually did it, but he believes that is who constructed it.

Tom Jarrett said that they plan to come back to subdivide this parcel and they have told their clients that three lots is reasonable and probably what they will propose in the future.

J. Gaddy said that regarding the water bars, (1) he has serious concerns with this road being accessible by emergency vehicles and concerns with the limited ability to access this driveway off of New Vermont Road and (2) with the applicants now trying to put in access for three lots, it seems to present a difficult challenge to provide fire services. Tom Jarrett said it is an existing road and H. Koster disagreed and said this driveway was

put in without any knowledge of this board and this board rescinded the subdivision after the driveway was put in without any review, so it is non-existent as far as the Town of Bolton is concerned. Tom Jarrett asked if this is an illegal driveway as far as the PB is concerned and H. Koster said (1) yes, as far as this PB is concerned, the subdivision that was approved was rescinded by this board because of this road and (2) he thinks that the applicant has to link his subdivision and the access to it in one package otherwise the PB can't review it properly. Tom Jarrett said that is why he is linking it now officially on the record. H. Koster said all of the PB members have serious concerns about the road. P. Kenyon said that she wasn't aware this was being done for a subdivision—she thought it was just being done for the applicants' driveway. Tom Jarrett said he believes the Kranz's had spoken to P. Kenyon about coming back with some kind of limited subdivision in the future and P. Kenyon said yes, in the future. Tom Jarrett said that is why he is disclosing this now, so the PB is aware of their intentions. H. Koster said that the PB appreciates Tom Jarrett's honesty, but there has been a lot of controversy over this road.

Tom Jarrett asked if he should withdraw the application or ask that it be tabled and Counsel said that it is in the applicants' best interest to have the application tabled.

Motion by Donald Roessler to table the application pending additional information as follows: The proposed subdivision is to be presented at which time a determination will be made by the Planning Board as to whether the roadway is considered a road or a shared driveway. It is noted that stabilization can continue on the existing driveway. **Seconded by** Henry Caldwell. **All in favor. Motion Carried.**

9) **SD06-07 NEUMANN, FLORENCE.** Represented by Carl Schoder of Schoder River Associates. Seeks to divide into 4 lots that parcel designated as Section 155.00, Block 1, Lot 36, Zones RR5 & LC45. Property Location: 609 Edgecomb Pond Rd. Minor Subdivision. Sketch Plan Review. Subject to SEQ. *Note: This is an amendment to SD04-34 approved on 12/16/04 and never filed. This application is in conjunction with V06-27.*

Carl Schoder of Schoder River Associates, representing Florence Neumann, gave a history of the subdivision previously approved and an overview of the proposal and said (1) they are proposing a driveway easement, (2) the percolation tests and test pits show suitable soil and (3) the intent of the subdivision is to transfer lots to the applicant's children as bonafide gifts.

H. Koster asked if this proposal is the same as before except for the lot line adjustment and Carl Schoder said yes.

No additional PB questions or comments.

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

Motion by Sue Wilson to accept the application as a completed sketch plan, convert the sketch plan to final plat, waive a 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** John Gaddy. **All in favor. Motion Carried.**

10) SD06-08 BARLOW, GAIL. Seeks to merge those parcels designated as Section 186.00, Block 1, Lots 32 & 33 and Section 185.00, Block 2, Lot 8 into one parcel, then divide into 4 lots. Zone RL3. Minor Subdivision. (Family Transfer). Sketch Plan Review.

Matt Steves, representing Gail Barlow, gave an overview and said (1) three separate tax parcels exist, (2) they are proposing to make the back lot less non-conforming by increasing it to .82 acres and the remaining property would be subdivided into three parcels, (3) the APA flagged the wetlands and reported they are correct and (4) lots 2 and 3 have ample room for septic and housing without impacting the wetlands or going anywhere near the 100' setback.

D. Roessler asked what the circle with two lines shown on lots 1, 2 & 4 is and Matt Steves said that it is a power pole—a feeder pole to the barn that currently exists on Lot 2 or 3. H. Caldwell asked if a variance is required from the house and Matt Steves replied by saying that the driveway is existing. P. Kenyon asked if deep test holes and percolation tests were done on the lots and Matt Steves said they did percolation tests, but no deep tests holes at this time. P. Kenyon asked if the applicant will be able to have a well on each lot and still meet all of the setbacks from septic and Matt Steves 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 amended to include a 3-lot subdivision (lots 1, 2 & 3) and a lot line adjustment (lot 4), convert the sketch plan to final plat, waive a 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** Sandi Aldrich. **All in favor. Motion Carried.**

11) SD06-09 RUFFOLO, SAVERIO. Represented by D.L. Dickinson & Assoc. & Peter Sisca. Seeks to divide into 7 lots that parcel designated as Section 185.00, Block 1, Lot 2, Zones RR5, RR10 & LC25. Property Location: South Trout Lake Rd. Sketch Plan Review. Major Subdivision. Subject to SEQR.

Dennis Dickinson of D.L. Dickinson & Assoc., representing Saverio Ruffolo, gave an overview and said that (1) they have a right-of-way over an old road and own half of it and what they have done to resolve the right-of-way issue is extended their property line into their property more so they have a sufficient amount of the land in the road right-of-way, (2) they put in a cul-de-sac to service all of the lower lots and a right-of-way to the

larger lot and (3) the stormwater is 90% done—they are waiting the outcome of this meeting to be able to complete it—they have three basins and the infiltrators he put in for the eave drains are above and beyond what he called for in his stormwater.

H. Koster asked how they are going to straddle the streams at the bottom of the hill because the roadway goes over the top of several of the courses of the stream and asked what they are going to do with the water because the plans show no culverts. Dennis Dickinson said (1) there is a culvert under there to get the water across the road and into a basin, (2) the drainage patterns come down and across the road and (3) there is no stream running along or coming across their road. S. Aldrich said there are several that come out of the wetland that cross the incoming road. P. Kenyon said (1) Dennis Dickinson is showing the right-of-way along the road now, which runs parallel with the stream in some places and (2) it is really wet in that area. Dennis Dickinson replied by saying that (1) he indicated when he started that there is a small wetland there and (2) he doesn't understand the question. H. Koster said that the right-of-way and road being put in appears to sit right on top of some of streams that are there now. Counsel said that the code seems to say on page 15022 Section 150-17C2A that if the subdivision is laid out to provide the street and roadway widths and the ones designated are the asterisk taking you down to a 40-foot right-of-way which may be used at the discretion of the PB, but he is reading it to say that a 20-foot right-of-way is expected. P. Kenyon said that there is an existing 10-foot right-of-way in that area and the minimum right-of-way that can be allowed is 40-feet. Dennis Dickinson said that they have offset the substandard right-of-way. Counsel said the final analysis is that they have a 40-foot right-of-way and Dennis Dickinson said that is correct. H. Koster asked if the applicant would be using 5' of road on the neighbors' property and Dennis Dickinson replied by saying no, but they are using the 5' of road that are on the neighbors' property because they have the right to it. H. Koster asked if the applicant has the right to cut a right-of-way that two people are using and change the grade on his half of the right-of-way and Dennis Dickinson replied by saying (1) he doesn't think they'll be changing the grade there and (2) all they want to do is widen that road—they aren't going to re-grade. H. Koster said that he has concerns regarding the water on this property.

J. Gaddy asked if the applicant will have wetland mapping done and Dennis Dickinson responded by saying that (1) he already requested the official APA report from Mary O'Dell on 07/05/06 and has yet to hear back, (2) the lower area is what he is concerned about and (3) he will have to revisit the site because he is not sure of H. Koster's concern.

Further individual discussions ensued between the PB members and Dennis Dickinson at the PB bench.

Dennis Dickinson said that all proposed development is on the flat area. H. Koster said that he would like to see the topography of the area and the APA letter and Dennis Dickinson agreed to provide the information requested.

S. Aldrich said there is a power line running the length of the road and asked if there is a National Grid easement. Dennis Dickinson said he doesn't think there is an easement, but he will check on it.

J. Gaddy said the road profile shown on map 3 of 8 shows a 12% grade between stations 1 and 2, then at station 13 there is an elevation of 1,115 feet that isn't shown on map 1 of 8. H. Koster said that the driveway is not shown on the profile. J. Gaddy asked if it is correct that the proposal is for a 12% grade going up to the cul-de-sac and Dennis Dickinson said yes. H. Koster said he would like a profile of the driveway because he is concerned with emergency vehicles on the road.

D. Roessler asked if the entrance of the proposed road could be re-configured so it is a little flatter and longer because it is currently at a 4% grade and the code requires a 3% grade. Dennis Dickinson said he'd try to make it a 3% grade at that location. D. Roessler said the reason for his request is so people will slow down before the second roadway.

P. Kenyon asked if the applicant submitted this application to the APA for jurisdictional review and Dennis Dickinson said yes, it has been submitted.

S. Aldrich asked if NYSDEC permission is needed for the stream and Counsel replied by saying that (1) the applicant should be contacting NYSDEC as soon as possible and (2) he (Counsel) would be interested to know NYSDEC's thoughts and the PB should be interested in this too.

Dennis Dickinson asked if it is not enough to move the sketch plan to preliminary plat and H. Koster replied by saying no, not until they find out what the road entrance is—he doesn't want to review this when he thinks there's a stream under the proposed road.

Motion by Donald Roessler to table the application pending additional information as follows:

- 1) Topography of the shared right-of-way.
- 2) APA to verify wetlands in writing.
- 3) All streams to be shown.
- 4) Stake out proposed right-of-way.
- 5) National Grid easement to be shown if it exists.
- 6) Profile for driveway on lot 7 to be shown for emergency purposes.
- 7) Reconfigure first 100 ft. entrance to show a 3% grade.
- 8) DEC is to be contacted for stream crossing.

Seconded by Sandi Aldrich. **All in favor. Motion Carried.**

12) WAYNE SMITH. To discuss raising livestock on his property as he has been doing for the last 14 years. Section 123.00, Block 2, Lot 59, Zone RL3. Property Location: See SPR95-13 for an agricultural use, specifically to maintain Scotch Highland Beef.

P. Kenyon said that Wayne Smith is not in attendance.

Counsel said (1) in fairness to Wayne Smith, he should be here to present his case and (2) it should be noted that Mrs. Jensen, the neighboring property owner is in attendance.

H. Koster said that he thinks Wayne Smith should be here to present what he wants to do—the PB doesn't know exactly what he wants to do.

From the public, Mrs. Jensen said that it is already being done—he has chickens and he doesn't even have Scottish Highlands there. H. Koster said there are a ton of questions that it is just not fair to review his project if Wayne Smith is not here. Mrs. Jensen asked if they would have the opportunity to write a letter explaining what they have been going through with the animals being in their yard and the farmland now being used as a business as well. H. Koster said that (1) he understands what the Jensens are going through, but the PB cannot legislate without Wayne Smith being present as an applicant and (2) if there is a violation of the ordinance, he would recommend the Jensens write a letter to the Enforcement Officer, who can check what is allowed on Wayne Smith's property and possibly enforce any violation.

Counsel said (1) in fairness to Wayne Smith, he needs to be present, (2) he thinks it is incumbent upon the Zoning Administrator to tell Wayne Smith that he must be present at the next meeting and must be on the agenda, because there is an important developing issue which is that the allegation is that he seems to be doing what he has no permission to do, but he seeks permission to do what he is already doing and (3) both Wayne Smith and Mrs. Jensen have a right to be heard and Wayne Smith must be put on notice that he must be here.

S. Wilson asked if it is correct that Wayne Smith has made no application at this point and Counsel said that is correct and asked if there needs to be some enforcement. P. Kenyon said the Code Enforcement Officer agreed not to do any enforcement until the matter was discussed with the PB. Counsel said that he told the Code Enforcement Officer that he feels Wayne Smith had a right to be heard, but Wayne Smith isn't here, so in a sense it is kind of being drawn out at his benefit and to the detriment of Mrs. Jensen and her family.

Mrs. Jensen said that there are chickens literally in her yard—she just wants someone to acknowledge that this is happening. H. Koster said he understands, but regrettably the PB is not an enforcement body. Counsel said (1) he and the Code Enforcement Officer will enforce it to the extent that they can, (2) in the meantime P. Kenyon has to urge Wayne Smith that he has to be on the next agenda and (3) he knows that Wayne Smith is being represented by Atty. Sue Millington—while they have returned each others' calls, they have yet to have a conversation.

Motion by Donald Roessler to table the matter until August 24, 2006 and direct Pam Kenyon to send a letter to Wayne Smith advising him that he must appear before the

Planning Board on that date. **Seconded by Sandi Aldrich. All in favor. Motion Carried.**

13) LOIS & CARMINE D’UVA. Represented by Mark Rehm. To address concerns voiced in Zoning Administrator, Pam Kenyon’s letter of May 9, 2006. Section 213.05, Block 1, Lot 7.1, Zone RM1.3. Property Location: 4124 Lakeshore Drive –Formerly Widewaters Motel.

Note: This item was for discussion only, so no resolution was needed or made.

Atty. Mark Rehm, representing Carmine and Lois D’Uva, gave an overview and said (1) the applicants seek to have use and enjoyment of their property, (2) there is no clear intent or understanding of the individual issues of the letter dated May 9, 2006 and (3) asked if he could address each item individually. The PB members agreed to address each item individually.

Atty. Rehm said (1) regarding Item #1, his understanding is that when the subdivision was approved as a three-lot subdivision it was approved for three residential lots—**not commercial**—so when the D’Uvas purchased the property they paid a mansion tax to New York State which is based on purchasing a residential lot, (2) in his mind the purpose of section 200-57 is to provide for site plan review and there had to be some level of review with this project—the intent was to carve out residential lots and he thinks that is a reasonable understanding of it and (3) he wants to clarify that this is residential not commercial use. S. Wilson asked why there is a question about commercial use and Atty. Rehm replied by saying (1) his clients have been told in approaching the Town of Bolton in certain instances that the cabin and cottage have to be converted from commercial to residential and his position is that when the D’Uvas purchased this lot within the three-lot subdivision, what they were buying was a residential lot and there is not necessarily a need to convert this lot now from commercial to residential and (2) he though that would have happened in the approval of the subdivision.

P. Kenyon said (1) she doesn’t have an issue with if the PB is okay with it and (2) it was a tourist accommodation that they wanted to convert into three single-family and it the PB did approve it as a single-family lot. Atty. Rehm said (1) his clients understand that it is not going to stay like this forever—they have plans to improve this sooner rather than later and (2) when his clients do proceed, they completely understand they will need to go through site plan review again. S. Wilson asked if it is correct that the applicant is looking to see if it was converted to residential when the PB granted approval of the subdivision and Atty. Rehm said (1) yes, because if it is determined that it is commercial he would want to be able to get the D’Uvas’ money back from the mansion tax they paid to New York State and (2) he really thinks the intent of it is a residential lot, which is why they proceeded in the purchase as they did. Counsel said that (1) he was at all the meetings—he left with the impression that it was three residential lots and (2) he sits here now confused as to what the applicant is looking for, because his (Counsel’s) understanding was that it was approved as three residential lots. P. Kenyon said that (1) she doesn’t think anyone is really uncomfortable with it, (2) she was asked to literally go

right through the ordinance and determine what was required and (3) she acknowledged it as a residential lot, but the ordinance says to convert a tourist accommodation—which this was—it requires site plan review. H. Koster said that in essence the subdivision was encompassing site plan review also and Counsel said that is correct—there are three residential lots.

Atty. Rehm (1) said that regarding Item #2 on the septic system, the existing septic system for the log cabin/cottage, when the applicant goes to the next phase of the project in proposing their single-family dwelling, they certainly are going to comply and (2) asked if the use of the existing septic system for the cabin is acceptable until the new plan is provided. P. Kenyon (1) said that her question is that the applicants were required to get a variance from the Board of Health on each parcel and (2) asked if it was the PB's intention that new septic systems be put in now. J. Gaddy replied by saying that when the new building is proposed with the number of bedrooms that are going to be presented to the PB, then the applicants would be able to design the septic system. Counsel agreed and said he thought that is what the resolutions and approval were and (2) you are left with the question of if the applicants can use the existing septic while they use the existing building—he (Counsel) thinks that is fine as long as the existing septic system has not failed—he feels the applicants have a vested right to that.

Atty. Rehm said that regarding the well, (1) the question was that his clients understand there is a separation requirement and (2) he proposed that when his clients find and locate to the Zoning Administrator's satisfaction where the existing location of the septic is and the know proposed location of the septic, as long as they can meet the separation requirements he doesn't see a need to come before the PB for any reason and Counsel replied by saying that if they can meet the separation requirements then it is as a matter of right and if they can't then it is not a matter for the PB, but a matter for the Town Board sitting as the Local Board of Health.

Atty. Rehm asked about the condition of approval the requirement to move the power line so they come onto each lot individually and no additional tree cutting is allowed, what happens if National Grid needs to cut trees for health or safety reasons? D. Roessler asked if the lines could be buried and Atty. Rehm said they looked into that, but in this type of situation it is a very difficult lot to bury the lines and would require a berm to put in, so it wouldn't be practical. H. Koster asked why a berm is needed and Atty. Rehm said because of the ledge. J. Gaddy asked if it would pose a problem if the power was run from Route 9N and Counsel said he would suggest that if National Grid requires tree cutting and Atty. Rehm knows his client is under an obligation to have no tree cutting then Atty. Rehm does need to come back to the PB to get that permission and to substantiate why it is needed and how it could be minimized.

P. Kenyon asked if the applicants have located the existing septic yet and Atty. Rehm replied by saying that his clients were working on it, but he doesn't know if they have yet. P. Kenyon said the issue she had with the septic is that Atty. Rehm was looking for approval for location of a proposed well and she told him she couldn't approve anything without determining where the existing septic system is. Atty. Rehm agreed and said as

long as they meet the separation the applicants do need to determine where the existing septic is and they need to meet the standards for the proposed. Counsel said that if they applicants have a problem meeting those then they need a variance from the Town Board.

S. Wilson asked if the applicants would be relocating the house. Atty. Rehm replied by saying that his clients' intent is to use the existing structures at this point in time. P. Kenyon said on Lot 1 with the big white house and the cottage behind it, there is a kitchen in the cottage and the lot doesn't have the density for it. S. Aldrich said that her recollection is that the PB was told the kitchen would be removed and that would be a guest cottage. H. Koster asked if the discussion of the kitchen is in the minutes at all and P. Kenyon said that she doesn't know that it is. H. Koster said that the PB approved the thing with the old white house and the cabin being on there—now there are two kitchens according to P. Kenyon. P. Kenyon said that is correct. H. Koster asked if a variance would be needed at that point and Counsel responded by saying (1) no, it is a pretty unusual circumstance there because if it was a vacant piece of property the PB would have allowed a primary dwelling and a guest cottage and (2) in this particular instance it was not vacant land, but pre-existing and his (Counsel) recollection is that the guest cottage would stay and he never heard anybody say the guest cottage will stay and the kitchen will be removed.

S. Aldrich said she remembers the discussion that the kitchen would come out of the guest cottage, but she doesn't remember if it was with Mr. VanBuskirk or the first time it was presented. Counsel said if it was discussed it would be in the minutes then, so either the minutes speak directly to the issue or it is clearly absent and never mentioned which would mean that there would be Lot 1 with two kitchens. Additional discussion ensued and P. Kenyon said she'd research the Donohue minutes to see if this item was discussed.

14) TOWN OF BOLTON. To inform the Planning Board of the installation of a new 8 ft. x 10 ft. storage shed on the western-most end of the northern dock at Rogers Memorial Beach. Section 171.19, Block 2, Lot 12, Zone GB. Property Location: 4928 Lakeshore Drive.

Note: This item was for discussion only, so no resolution was needed or made.

H. Koster asked if the money to build the shed will be coming from the money collected for recreation and P. Kenyon said that (1) she is not sure and (2) the new storage shed to be installed by the Recreation Commission is less than 100 square feet. H. Koster said due to the size, it doesn't require any permits. P. Kenyon said she hasn't seen any plan for it yet.

15) JOHN GADDY & HENRY CALDWELL. To discuss the Alfredo parcel, specifically the size of the roadway and tree clearing. Section 213.09, Block 1, Lot 4, Zone RL3 & LC25. Property Location: 157 Southview Drive.

H. Koster said that Mr. Alfredo is not in attendance and he feels the PB should put this item off until Mr. Alfredo is able to be present and Counsel said yes, that is absolutely

correct. J. Gaddy asked if he has a chance to talk to the PB at all as a board member and H. Koster said that he doesn't think it is proper without Mr. Alfredo here. Counsel said he thinks Mr. Alfredo should be given notice of the alleged violation. J. Gaddy said it is a question about intent and Counsel said he feels Mr. Alfredo should be present.

Motion by Donald Roessler to table the matter until August 24, 2006 allowing Mr. Alfredo the opportunity to be present to address concerns. **Seconded by** John Gaddy. **All in favor. Motion Carried.**

16) SD06-10 Sandy Lane Estates Section 3. Represented by Joe Pfau. Seeks to amend previously approved plat SD87-13, approved by the Planning Board on June 22, 1989, specifically to create multi lot line adjustments between those parcels designated as Section 200.13, Block 1, Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 (road) & 16. Zones RM1.3 & LC25. Property Location: West side Route 9N across from Birch and Kajen Drives. Sketch Plan Review. Subject to SEQR.

Note: H. Koster recused himself from the PB for this item since he is the applicant and H. Caldwell assumed his responsibility as Acting Chairman for this item.

Herb Koster gave an overview and said (1) this is an ongoing application that has been before the APA for 17 years, (2) while his proposal for a reduced plan from 14 lots to 12 lots satisfied the APA staff, it was knocked down by the commissioners, (3) he further reduced the proposal from 12 lots to 10 lots and it was approved last week by the APA staff and the commission and (4) he is asking for the PB's approval for multiple lot line adjustments.

S. Aldrich asked if the proposal is for a 10-lot subdivision because the map only shows 9 lots numbered. P. Kenyon said that the subdivision doesn't affect one of the lots. S. Aldrich asked if that lot still needs to be numbered anyway and Herb Koster said that (1) these are not the actual numbers of the lots (they are actually numbers 21-30 in the subdivision) but the lots are numbered in this way to show where the lot line adjustments are and (2) this map wouldn't be filed—it's just to show the existing lot lines and the proposed lot line adjustments. P. Kenyon asked if Lot 10 should have been listed on the agenda and Herb Koster said that (1) this lot line map is not going to be filed and (2) the same plans that the APA approved would be filed with the county. J. Gaddy asked if this is approved how do new maps evolve and Herb Koster replied by saying (1) the APA has approved the maps and the whole project already down to these 10 lots and (2) what he is asking the PB to do is to convert his 14-lot subdivision down to 10 lots—all his is asking for is a simple lot line adjustment.

D. Roessler requested that the proposed hammerhead be changed to a cul-de-sac when H. Koster gets there if it can be done, but if it can't be done, then this is fine. Herb Koster said that he will try to get it back to a cul-de-sac, but he doesn't want that as a condition of approval because he doesn't want to have to go back to the APA.

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 a 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** Sandi Aldrich. **All in favor. Motion Carried. Herb Koster recused himself as he was the applicant.**

Meeting adjourned at 9:53 pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
07/31/06