

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday, May 17, 2007  
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,  
Chauncey Mason, Donald Roessler, Sue Wilson,  
Town Counsel Michael Muller, Zoning Administrator Pam Kenyon

Absent: Tom McGurl, Jr.

H. Koster opened all public hearings at 6:06 pm.

**PUBLIC HEARING:**

- 1) SD04-08 BRANDOW, EDWARD. Trout Lake West.** Represented by Rolf Ronning. Seeks to divide into 5 lots that parcel designated as Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. Major Subdivision. Preliminary Plat. Subject to SEQR. *Note: The public hearing was kept open from the April 2007 meeting pending additional information.*

H. Koster asked if P. Kenyon has received any agreement on this and P. Kenyon responded by saying that the only agreement she has received is the one on the map itself, which is part of the PB members packets. Rolf Ronning said that (1) there is nothing in writing other than the signed map, which is filed and (2) Julie Denison and Dr. Brandow signed a consent form to consolidate two tax parcels into one that Town Assessor Dave Rosebrook has and was in the process of converting that into one tax map parcel. P. Kenyon and Counsel agreed that the signed map and the consent were sufficient to meet the needed requirements. Dennis Dickinson, surveyor/engineer, said that the map was signed because there were some infringements on their property that was in Julie Denison's easement and he wanted to make sure she was aware to them and consented to them.

Dennis Dickinson gave an overview of the project and said that (1) the Denison issue has been addressed, (2) regarding the dock facility easement, they have a small proposed dock with an easement (as shown on drawing 1 of 16) and there is an inset and metes and bounds description of that easement, which they have changed to say "proposed three by twenty foot dock", (3) the setbacks from the property lines are shown—one of which is perpendicular to the shoreline and the other which is askew to the shoreline and the perpendicular bisector is what they use to set the setbacks to the dock and (4) they provided a small parking area where the easement comes up on the driveway sufficient to park one vehicle.

H. Koster REFERRED TO Section 200-38D; setbacks for docks and Boathouses and asked if setbacks can be met, to which Dennis Dickinson responded by saying he incorporated a 2 ft. leg perpendicular to the shoreline, therefore setbacks will be met.

No correspondence.

No comments of public in attendance.

**Motion by Henry Caldwell to close the public hearing. Seconded by Chauncey Mason All in favor. Motion Carried.**

**2) SPR06-21 BRANDOW, EDWARD. Trout Lake West.** Represented by 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. 35,750 sq. ft. is proposed. Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. *Note: The public hearing was kept open from the April 2007 meeting pending additional information.*

No comments from PB members.

No comments of public in attendance.

**Motion by Donald Roessler to close the public hearing. Seconded by Sandi Aldrich. All in favor. Motion Carried.**

**3) SPR06-43 SIMONSON, RICHARD & VIVIAN.** Represented by Atty. Melissa Lescault of McPhillips, Fitzgerald & Cullum LLP & D.L. Dickinson Associates. For the construction of a proposed single-family dwelling, seek 1) Type II Site Plan Review for a) a single-family dwelling in the LC45 zone; and b) a major stormwater project to remove more than 15,000 sq. ft. of vegetation; Approximately 15,000 is proposed. 2) Type I Site Plan Review is also sought for development within 100' of a wetland. Section 186.18, Block 1, Lot 31, Zones RCH5000 & LC45. Property Location: Off Shallow Beach Road. Subject to SEQR. The WCPB determined no county impact with the stipulation that all paperwork be filed. NOTE: This application is in conjunction with V06-50. *The public hearing was kept open from the April 2007 meeting pending additional information. This item remains tabled at the Applicants' request.*

**Motion by Donald Roessler to extend the public hearing on SPR06-43 Vivian & Richard Simonson, until the June 2007 Planning Board meeting pending additional information. Seconded by John Gaddy. All in favor. Motion Carried.**

***Note: Applicant agreed to have PH items SD04-16 and SPR05-11 heard together.***

***Note: John Gaddy recused himself from the PB for PH items SD04-16 and SPR05-11.***

- 4) **SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning.** Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 23 lots that parcel designated as Section 139.00, Block 1, Lot 48.1, Zone RL3. Access to be gained through Section 139.00, Block 1, Lot 28.1(Reed) see SD07-04. Property Location: High Meadow Farm Road. Major Subdivision. Preliminary plat. Subject to SEQR. *Note: This application is in conjunction with SPR05-11 and was tabled at the April 2007 meeting pending additional information.*
- 5) **SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq. ft. of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 28.1, 36.1 & 48.1, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot be reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to SEQR. *Note: This application is in conjunction with SD04-16 and was tabled at the April 2007 meeting pending additional information.*

Rolf Ronning said that (1) they addressed the neighbors concerns from the last meeting, (2) they have moved the detention basin near New Vermont Road back 25 ft. and have screened it with a tree planting plan on two sides, (3) based on PB concerns, they made the driveways shorter and relocated the houses closer to the road on Lots 16 and 17 and (4) they have altered the property line between Lots 16 and 17.

From the public, Robert Somma, neighboring property owner, said that (1) they met with the applicant regarding their concerns and (2) they no longer object to the new proposed placement of the basin and are much happier with the screening/planting plan.

From the public, Graham Cox, Bolton resident, gave his credentials, along with an overview of what he will address, and said that (1) he is here for a second time to raise some cautionary flags on projects such as the Saddlebrook subdivision, (2) he reminds the PB of what Bolton's own comprehensive plan has to say about maintaining the rural character of this town as a major element to keep and attract residents, (3) the arguments he is going to present have been heard before, but they are being ignored throughout the Adirondack Park as well as the rest of the region because town boards and planning boards take a very short term view of their community's futures and let short term profit motives of developers drive the thinking, (4) he agrees that developers have every right to propose projects that would make money for them from their real estate, but town officials have an equal responsibility to protect long term interests of the community, to thoroughly review these development projects for their adverse impacts, to demand changes to the plans and when necessary say "no" to projects that will end up costing us (the Bolton tax payers) money long after the initial land sub-divider has taken his money and moved on, (5) in working for Audubon New York, their concern is to conserve birds and other wildlife, primarily by protecting their habitat from destruction, from invasive species, from development and from pollution threats, (6) in the Northern Forest, his

concern for the future long term health of the forest products industry—this industry is compatible with bird and wildlife conservation if it is done following some basic sustainable forest management practices, and (7) in assessing the long term needs of the forest industry, the basic conclusion is that we need a coordinated regional four-state economic development strategy that will prepare the ground for a sustainable economy based on our natural resources, which includes forest products, tourism and outdoor recreation—second home development, done at an appropriate scale and in suitable locations, is obviously part of this picture.

Mr. Cox continued by saying that (1) he has worked with several other towns in the Adirondacks and Tug Hill in his University of Vermont research and has found that these communities priorities in looking ahead 30 years to the interests of the next generation are: maintaining the rural character and scale—especially the rural roads; encouraging future development in the hamlet areas where the community services (water, sewer, roads, telecommunications, health services) are best developed; encouraging recreational uses but discouraging second home subdivisions in the most sensitive and productive forest and farm landscapes; encouraging a prosperous forest products industry with the private forest holding a basic ingredient in this industry sector; an economy built on a four-season tourism and recreation foundation with a minimum impact on the land base; limiting land parcelization and forest fragmentation to protect the forest base and protect sensitive natural resource areas; keeping property taxes down; making sure that decisions are made as close to home as possible—not at some distant county or regional level; and affordable housing and housing for senior citizens and (2) some of the recommendations and ideas in the Town of Bolton comprehensive plan are: the essence of the plan is to maintain the town’s distinctive rural character in the face of increased tourism and demographic change; you do this by preserving the natural environment, maintain the distinctive rural character, foster an economic base focused on balance, retain connections to the lake, and preserve the hamlet of Bolton Landing as the focal point for the community; the goal for rural character is as follows: “Protect, maintain, and re-establish the quality of Bolton’s natural setting, open spaces and ecosystems (for example, forests, streams, ponds, wetlands, and other sensitive resources) to preserve the scenic shorelines, hillsides and ridgelines and the overall distinctive character, and to ensure a sustainable future for the town, its residents and wildlife...”; educating town residents about the value of natural resources is one of the key projects recommended in the master plan; continue to implement the town stormwater management law and improvement projects outlined in the stormwater management plan; research recent advances in alternative on-site wastewater treatment systems technology; enact conservation sub-division regulations; establish a scenic overlay district; and review the town’s current vegetative clearing regulations; and many useful ideas about providing affordable housing and housing for senior citizens in the Town of Bolton—this is a necessary part of any balanced plan for the residents.

Mr. Cox continued by looking at the proposed Saddlebrook subdivision in relation to the priorities for the North County communities and in light of Bolton’s own comprehensive plan for recommendations, he said that (1) this subdivision development is far from the hamlet core, (2) it will introduce more traffic to the rural back roads of town, (3) there is

no way that town sewer, water and other basic community services will reach this subdivision, certainly not at an affordable price, (4) it consumes 150 acres of what otherwise could be productive forest lands, undermining a future productive forest base, (5) it brings 24 McMansions to a remote area of town, introducing suburban problems to a rural landscape—these include long roads and driveways, the need to use salt to clear them, plus fertilizers, pesticides, dogs and cats, (6) forest fragmentation brings parasitic cow birds, more raccoons and other wildlife that likes to live with people, and devastates the habitat for woodland bird species, (7) it does nothing to help the affordable housing and senior citizen housing issues, (8) it will certainly result in increased property taxes for all town residents in due course—no residential subdivision pays its own way in terms of revenue generated; they do drive up all town costs, (9) it will certainly add to the stormwater flow and flooding problems along New Vermont Road, as other town residents have explained in their letters to the town after recent rainstorms and (10) five and ten acre lots in fact do more to produce a sterile habitat for wildlife than the alternatives—leaving it alone or building in a cluster development pattern that preserve 95 % of the forested landscape.

Mr. Cox concluded by saying that (1) no matter what the master plan and zoning allow, it is the responsibility of the town and planning boards to think of the broader implications of this and other similarly proposed subdivisions in the more remote rural areas of town, (2) the PB should also consider how to mitigate and adapt to global climate change, which is a problem made worse by bad land use planning decisions that promote sprawl, encourage more cars on more roads, and burn more gasoline—cutting trees and clearing land contributes still more to the problem, (3) he encourages the PB to attend the Adirondack Research Consortium next week in Tupper Lake to learn how serious global climate change is and will be and what they can do as town officials and as individual consumers to help mitigate and adapt, (4) he would ask the PB if they do approve the Saddlebrook subdivision and others like it to ask what the town will get in return to conserve other open spaces and natural resources, (5) he inquires as to if the Bolton PB has considered incentive zoning, which makes the developer pay for significant land conservation efforts elsewhere in town as part of the price of the houses and their impact, (6) we are not paying the PB members and the town staff to allow this landscape to be piecemealed to death by inappropriate subdivision development that is not consistent with the goals and the ideas of the master plan, and (7) he fully supports the efforts and the recommendations of the Lake George Waterkeeper and the Fund for Lake George, which he feels are a formidable force for change and advanced thinking about how to balance development with environmental protection.

Rolf Ronning responded by saying that (1) regarding economic growth and the health of the town, when kids go to school here, unless their family is wealthy then they often can't come back and often times young couples can't afford to be in Bolton Landing—it is a wealthy town that is getting wealthier, (2) yes, Bolton is being labeled as a “second-home community,” but he doesn't think Bolton is that—one of the things he is betting on is young professional families getting jobs as growing local outfits are coming here with their families looking for the best place to live, (3) Bolton is a wonderful town to live in—it is wholesome, beautiful and an Adirondack community—these lots are in the price

range where people can move here full-time, (4) the number of students in the school is going down, the town is getting wealthier and there are more people, but if we lose our school and don't have it as the main focal point of our town then we will be like Hague who lost their soul when they lost their school, (5) this development doesn't have lake views or access, lots are large, he wants it wooded, forested and Adirondack, (6) there's plenty of room on each lot for a good septic system—they have done \$300,00 worth of stormwater and not one more drop of water is going to leave that property, in fact, Dennis Dickinson will confirm that it is less, less water is going to get into New Vermont Road and be capable of washouts, (7) he thinks this development is good for this town that will have year-round homes for people who have children in this school, which is one of the reasons he will be going to the TB, assuming he gets approvals here, to ask them to take it over as a town road—he will make it to town standards and pave it, which won't cost the town a dime, but the school busses can travel on it and (8) he thinks everyone wants more families with children in Bolton and he thinks this subdivision will help that happen.

From the public, Kathy Bozony of the Lake George Association, said that (1) she would like the PB to look at a long form SEQR Form and actually go through the full process and see whether or not on this project and on the Brandow project, whether or not there are any mitigating situations the PB can actually implement, (2) she just recently watched the process happen in the Town of Lake George and it came out with a positive declaration—she thought it was a little bit late in the process to send them back for a full environmental impact study and (3) she wishes the PB members would do it on their own if they are not getting ready to do it as a full board and look at those questions and see whether or not there is anything in either of these two development projects that could be mitigated to help the environment.

From the public, Chris Navitsky, Lake George Waterkeeper, said that (1) there are significant components of this project that are not complying with the town code and will result in impacts to the Indian Brook watershed, (2) deep test pits have not been provided to determine the ability of the selected sites to provide adequate stormwater treatment as required by the Town of Bolton Stormwater Ordinance Section 125-10(B)(2), (3) the stormwater management ordinance requires soil investigations in the areas of the proposed basin and also requires them to be submitted in the report—there is a sheet (E-5) which contains a note which says "...prior to pond construction, soil tests must be performed at the specific pond locations for determination of high ground water..."—this obviously indicates there has been no subsurface exploration of the conditions where the basins are, (4) sheet E-1 contains information on deep test pits for the on-site wastewater treatment systems—26 deep test pits were done and of them, seasonal high ground water was encountered at 48 inches or below in 14 of those, so greater than half of the deep test pits indicate seasonal high ground water, (5) based on available soil information and the depth of excavation required at the basins, it appears seasonal high ground water will impact the basin's ability to infiltrate stormwater, which each pond uses to reduce run-off and it would result in failure of the system (he gave detail on Pond 6 as an example), (6) stormwater basins are located too close to wetlands and streams and do not comply with the Town of Bolton Stormwater Ordinance Section 125-10(B)(2)(d), which will require a

variance as designed right now, (7) each basin requires infiltration to reduce the increased flow and Section 125-10(B)(2)(d) states that "...infiltration devices for major projects shall be located a minimum of 100 feet from any lake, river, protected stream, or wetland..."—Ponds 3, 4 and 6 don't comply and Ponds 4, 5 and 6 are designed with no setback to wetlands, (8) there are alternative locations for each basin which can comply with the ordinance while collecting all of the run-off which was intended to go from the corresponding catchments (he used Ponds 4 and 5 in giving examples of possible alternate locations), (9) if the applicant feels the locations selected are justified, there is a variance procedure detailed in Section 125-15, (10) the proposed basins do not address cold weather climate conditions as required by the Town of Bolton Ordinance 125-10(B)(2)(e), which states that "...infiltration devices shall be designed to extend a minimum of 10 feet of the infiltration surface below prevailing frost depth or four feet in order to provide infiltration during winter months when the ground is frozen..."—this has not been provided on any basin, (11) the stormwater management system should address how it will function when the permanent pools are frozen during the winter months, further reducing available volume and their ability to adequately treat stormwater, (12) this project requires a NYSDEC permit and the NYSDEC stormwater management design manual requires additional volumes for ponds to accommodate snow melt conditions, (13) Mr. Ronning and Mr. Dickinson have revised Pond 3, but he still feels this pond will increase run-off leaving this property (he then referenced the maps and gave specific measurements and run-off paths to make his point), (14) the plan does not address the stream that discharges into where Pond 6 is—that still has not been addressed and will flood that pond out, (15) the applicants want to relocate a stream again that goes down to Pond 5, which will require a permit, (16) in the revised drawings, sheets EC1 and RS-1 contain the old design of Pond 3, so the drawings need to be updated, (17) the culverts under New Vermont Road are designed without any cover over the pipe, which will lead to structural failure, (18) he still feels there are significant problems with this plan, (19) this plan does not comply with the Town of Bolton ordinances—the applicants need variances for the basin locations and (20) he doesn't think the PB can approve the project at this time.

From the public, John Gaddy, neighboring property owner, said that (1) he is thankful for the changes in the reductions of the driveways, (2) he shares Mr. Ronning's concern for affordable housing and agrees with Mr. Ronning's assessment that the school is essential to the vitality of the town, (3) he disagrees with Mr. Ronning's comment that this project will be affordable housing for school-age families—he doesn't know what the house prices will be, but he does know that the people who have traditionally lived here, he would imagine would have affording there own homes back here, but he does think this is a concern that the whole town needs to address, not just one particular project, (4) he has one additional request, in taking a look at some of the Class B regional subdivision regulations and the shoreline regulations, there is a concern for the minimization for the disturbance of wetlands and 200-37 brings up the idea that there should be neither removal of vegetation or degrading within 10 feet from the top of the slope of any streambed or drainage way, (5) while Mr. Ronning has reduced the driveways in this area, the proposed road as it is now, goes through a wet area that drains a large area that comes through and is the headwaters for the permanent stream that then continues down

through another area then through the engineered stormwater areas, (6) there has been a lot of money that has been put into the engineering and constructing, but the headwaters of this stream are still impacted and (7) he doesn't believe that from anything he has read that any engineered stormwater device is as good as the wetlands that are naturally occurring, (8) he still believes the road can be moved up a bit more to protect the existing natural drainage area and (9) beyond that he is happy with the changes proposed by Mr. Ronning.

Dennis Dickinson responded by saying that (1) they have 26 plus test pits on the property for 23 lots, so they have a good feel for the soil stratus situation and (2) a lot of the minutia has been reviewed by Town Engineer Tom Nace, who is very thorough and who has signed-off on it.

S. Wilson asked if Tom Nace reviews stormwater solely for its function or how it applies to the code as well and P. Kenyon said that she believes he applies it to the code. Dennis Dickinson said that (1) there are a couple of codes involved here—the Town of Bolton has adopted stormwater regulations that were promulgated by the LGPC and there are also the NYSDEC regulations, which are pretty healthy regulations that come from the federal government's interest in stormwater and (2) Tom Nace uses both sets of codes to review the plans as well as they do for the design.

No correspondence.

**Motion by** Henry Caldwell to close the public hearing. **Seconded by** Donald Roessler. John Gaddy recused himself. **All others in favor. Motion Carried.**

#### **REGULAR MEETING:**

*Note: John Gaddy resumed his position on the PB at this time.*

H. Koster began the regular meeting at 6:57 pm by asking for corrections to the April 19, 2007 minutes.

S. Aldrich said that page 23, paragraph 4, the last sentence should read as follows: "H. Koster said that the *existing easement* is a 10-foot right-of-way with five feet on each side."

**Motion by** John Gaddy approve the April 19, 2007 minutes as amended. **Seconded by** Sandi Aldrich. **Six in favor** (H. Koster, S. Aldrich, J. Gaddy, C. Mason, D. Roessler and S. Wilson). **One abstained** (H. Caldwell, as he was not present at that meeting). **Motion carried.**

*Note: Applicant agreed to have Agenda items SD04-08 and SPR06-21 heard together.*

- 1) **SD04-08 BRANDOW, EDWARD. Trout Lake West.** Represented by Rolf Ronning. Seeks to divide into 5 lots that parcel designated as Section 185.00. Block

1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. Major Subdivision. Preliminary Plat. Subject to SEQR. *Note: The public hearing was kept open from the April 2007 meeting pending additional information.*

S. Aldrich said that the PB has a letter from the APA dated October 2006 and asked if the applicant has anything more recent. Dennis Dickinson said that (1) they have been corresponding with the APA, (2) they have re-submitted the subdivision to the APA and (3) the APA sent them a laundry list of minutia they wanted, which the applicants have responded on, so the ball is back in the APA's court. H. Koster said that the PB can certainly make a decision on this as to the town requirements with a stipulation that this be approved by the APA as well.

H. Caldwell asked if the stormwater basin is going to be built first. Dennis Dickinson said (1) yes, generally what you do is you rook them out when you start so that you have some stormwater controls in place that will assist you when you first start construction, (2) it will be constructed in phases and the purpose of that is to limit the amount of area you have disturbed at any one given time and (3) when the project is farther down the road and there is some stabilization, they will go back, clean out the ponds from any siltation they have and final grade, seed and mulch them.

D. Roessler asked if the applicant has provisions for recreation on this lot or if they will agree to the \$400 recreation fee per lot and Dennis Dickinson said that they have no problem with the \$400 recreation fee per lot.

J. Gaddy asked Counsel's advice on the PB voting on these items together or separately. Counsel said that (1) the PB should address them separately and (2) there was a proposal to give consideration to the SEQR in terms of what the PB has is adequate or give consideration to the long form, so if some discussion is appropriate there, the PB has discretion—the PB makes the choice.

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

Rolf Ronning said that he doesn't know if the PB addressed the SEQR issue, but last year in Lake George he got approval on a subdivision but the PB didn't mention the SEQR form and the PB decided to go with short form versus a long form, then the Lake George Waterkeeper sued the Town and him, which he doesn't want to have happen here and (3) he hopes they have had enough discussion on what SEQR form to use. Counsel said it has already been done. H. Koster said this PB already ran through the SEQR—the questions you have to ask to determine a negative declaration. Rolf Ronning said he wanted to make sure they have covered their bases.

No correspondence.

No comments of public in attendance.

**Motion by** Donald Roessler to approve the preliminary plat, convert the preliminary plat to final plat and grant final approval as presented with the following conditions:

- 1) A \$400.00 recreation fee is to be paid to the Town of Bolton prior to a Certificate of Compliance being issued for each lot.
- 2) Site Plan Review is required for the construction of a single family dwelling on each lot.

This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Chauncey Mason. **All in favor. Motion Carried.**

**2) SPR06-21 BRANDOW, EDWARD. Trout Lake West.** Represented by 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. 35,750 sq. ft. is proposed. Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. *Note: The public hearing was kept open from the April 2007 meeting pending additional information.*

No correspondence.

No comments of public in attendance.

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

1. The project meets the design requirements and performance standards set forth in the code.
2. The project will not have an undue adverse impact regarding the criteria set forth in the code.
3. That the stormwater control measures proposed will function as designed and constitutes the best possible methods feasible and practicable for the project site.
4. Adequate and sufficient provisions are presented as part of the plan to assure future function or responsibility in the event of failure.
5. The project will not contribute to flooding, siltation, or stream bank erosion and will not pollute Trout Lake, Lake George, its tributaries or streams with stormwater run-off.

**Motion by** John Gaddy to accept the application as complete and approve the application with the following conditions:

- 1) The applicant is to notify the Zoning Administrator before stormwater and road construction is undertaken.
- 2) The Town Engineer is to make periodic inspections at the applicant's expense and approve the construction of the roadway and stormwater controls.

- 3) The stormwater controls for each parcel must meet the criteria of a major stormwater project.

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

***Note: Applicant agreed to have Agenda items SD04-16, SPR05-11, SD06-14 and SD07-04 heard together.***

*Note: John Gaddy recused himself from the PB for Agenda items SD04-16, SPR05-11, SD06-14 and SD07-04.*

- 3) **SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning.** Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 23 lots that parcel designated as Section 139.00, Block 1, Lot 48.1, Zone RL3. Access to be gained through Section 139.00, Block 1, Lot 28.1(Reed) see SD07-04. Property Location: High Meadow Farm Road. Major Subdivision. Preliminary plat. Subject to SEQR. *Note: This application is in conjunction with SPR05-11. The public hearing was kept open from the April 2007 meeting pending additional information.*

H. Caldwell asked about the status of the Town of Bolton taking over the road and Rolf Ronning said that (1) the Town of Bolton won't address that issue until he gets PB approvals, (2) he will be scheduled at the June 2007 meeting to try to convince the Town of Bolton to take the road over and (3) he has agreed that if the Town of Bolton takes the road over that he will pave it and maybe even give them a place for their new cemetery. H. Koster said that Rolf Ronning said he would pave the road either way and Rolf Ronning said that he would. H. Koster asked if the road will all be done to Town of Bolton specifications and Rolf Ronning said yes.

H. Caldwell asked if all of the wetlands are on the road lot and Dennis Dickinson said yes. H. Caldwell said that (1) he can't imagine that the town is going to want to take over the road and to also take over the wetlands and (2) then they are going to have to end up having to separate it and Rolf Ronning will be back in front of the PB. Dennis Dickinson said that (1) he knows how towns feel about this, but one of the significant contributors to the stormwater is the road, so they are really one in the same and (2) it is an awkward situation he tries to deal with in Lake George and here—he doesn't understand how a municipality would take over a road and not take the stormwater, but if that is what they want to do, then H. Caldwell is right that the applicant will have to come back to the PB. H. Caldwell said that the Town of Bolton would be taking over 65 acres of land and most of that is wetlands. Dennis Dickinson said that (1) the Town of Bolton hasn't taken a road in the 30 some years he's been here—why they don't is their problem, he hasn't been able to figure that out and (2) he doesn't see the Town of Bolton coming charging in to take this road over, but it is an option that they are exploring and he would be very surprised if they are successful in doing that and (3) he thinks what the PB sees is what they are going to end up with. Rolf Ronning said that (1) he is going to try to make the Town of Bolton an offer they can't refuse and (2) if the PB's concern is that it is going to

be another lot, if the Town of Bolton isn't consistent at separating the wetlands from the road and then they take the road over, they will make the wetlands a lot and if need be, if that happens, he will stipulate that he will combine those two lots that come down by Billy Reed's right-of-way into one lot, so there won't be any more lots.

H. Caldwell asked about the area being called a "dump" on Lot 5. Rolf Ronning said that there is evidence that 20, 30, 50 years ago that somebody dumped something along the bank of the brook—it was a long time ago, he hasn't disturbed it, he hasn't done anything about it, he doesn't know what happened there, it has been there a long time. H. Caldwell said that it does seem to be moving toward Indian Brook and Rolf Ronning said that (1) he doesn't think it has moved—he thinks it is pretty stable, but it is there, whatever it is, he isn't sure what it is. H. Caldwell said that he is not so sure it is stable. Rolf Ronning said that (1) he hasn't seen it move and (2) there is a lot of vegetation, saplings, brush, grass and plants on top of it. H. Caldwell said that he is concerned about it. Dennis Dickinson asked if the PB wants them to remove it and H. Koster said (1) no, the PB is not going to step on that, but he is sure ENCON is interested in this now or Chris Navitsky has stated that he has informed ENCON and (2) he would hesitate to approve this as a building lot if there is a problem with that lot. Dennis Dickinson said that he confirms what Rolf Ronning said in that what has been there has been there for a long time. H. Koster said he understands that. Dennis Dickinson said that (1) he understands the PB's concern and (2) they would certainly be willing to have that lot conditioned on getting an environmental evaluation of that situation before they can sell it.

H. Caldwell said that there have been some serious stormwater problems in this area, and Dennis Dickinson agreed. H. Caldwell said that (1) the whole construction phase of this project is of concern and (2) the proposal is to build the stormwater retention basins as they go in and propose to build the one by the road first then head in. Rolf Ronning said that (1) the construction has been divided into five phases as shown, (2) their intention is never to disturb the equivalent of more than one phase at a time, (3) they will build one phase, then maybe start on another—he is sure Tom Nace is going to be there approving phase by phase, (4) he is not saying that they will only work on one phase on a time, but they will never be disturbing more than the equivalent of one phase at a time, (5) the reason they may have to work at two phases is because in some spots they take out soil or rocks and in some places they have to put in soil and rocks—they are going to do that as cautiously and properly as they can with the least amount of soil disturbance at any one time and (6) no more than the equivalent of one phase will ever be disturbed before it is re-seeded, re-mulched and stabilized. H. Koster asked if the basin by the road, which is the only entrance to the property will be put in first and Rolf Ronning said no, he doesn't think that is going to be first—he doesn't think that is the first phase. H. Caldwell said that is what the sheet says. Dennis Dickinson said that (1) the basin by the road is definitely going in first, (2) they are going to come in, open it up and use it as the preliminary stormwater catch basin, (3) H. Caldwell is correct that it is their sole access point, (4) they are going to have a construction road entrance there as well, so you can clean the wheels of the trucks before you enter a public highway, (5) when they complete that section, they will then come back, finish the construction of the basin, remove any

silt material in there, stabilize it and move on. H. Koster asked if there will be any materials removed from the site and Dennis Dickinson said that he doubts it. H. Koster asked if they have even cuts and fills and Dennis Dickinson said that the cuts and fills are real close. Dennis Dickinson then referenced the maps to further explain the phasing process.

H. Caldwell asked about the micro-pool extended detention pond and Dennis Dickinson said that (1) there are half a dozen pond types in NYSDEC regulations and the micro-pool extended ponds is one of the favorites, (2) what they make you do with this pond is to have a permanent pool—it's best described as an artificial wetland, (3) the bottom of the pond will have water in it, hopefully year-round, that will attract hydrous plantings and flora and fauna, (4) this type of pond, according to the experts, is supposed to help treat the stormwater and (5) there are several requirements in the stormwater regulations for discharge volumes and rates and what the micro-pools do is to extend the time frame in order to reduce the peak and maintain the volume—this is one of the ponds that works best here.

H. Caldwell said that (1) there is a vernal pool close to (about 50 feet) from where the house is flagged off on Lot 23 and (2) he thinks it should be further away. Dennis Dickinson (1) asked what the concern is and (2) said that it is only a little wet area there. H. Caldwell said that it is standing water and it was ice last winter. Dennis Dickinson said that it would be gone in a couple of weeks and H. Caldwell said that he'd be surprised if it was.

D. Roessler inquired about the bond. Rolf Ronning said that (1) he is hoping to get the sign-off on Westwood Forest in the next couple of days—he had put up \$150,000 for that project, which was all one phase/project done at once (1,600 feet of road), (2) this project is almost 6,000 feet that they divided into five phases, (3) he would like to make the pitch to put up \$100,000 instead of \$150,000 as they propose to not disturb more than the equivalent of one phase at a time and (4) if he has to, he is good with \$150,000, but he doesn't feel there is a need for more than that. H. Koster said that the applicant would be disturbing every phase downhill as he does the phase above it. Rolf Ronning said that they would stipulate not to disturb more than the equivalent of one phase at one time. H. Koster said that (1) the applicant is going to re-disturb portions of the road that he (Ronning) says are graded and complete, but they are going to have to be re-graded, (2) the basins are going to have to be re-graded and re-planted—these basins are a lot more complicated than the other project Rolf Ronning is talking about and (3) the purpose of a bond is to protect the town should the road not be completed. Rolf Ronning said that as they finish one phase, the stormwater basins would be complete in that phase, which is the purpose of the stormwater basins so that nothing will happen. H. Koster said that he doesn't believe they will be complete and Rolf Ronning replied by saying that they will be complete on each phase before they get to the next phase—that is what he is offering to do. H. Koster said that's not going to happen, because the whole project is going to get disturbed downhill every time you go to the next section. Rolf Ronning said that if they disturb something and if they clog up the stormwater then they will clean it up immediately—the stormwater device is going to be in there and that is the purpose of it.

H. Koster said that is exactly why he is saying that \$150,000 is not enough. Rolf Ronning said that (1) it seems like more than enough to him and (2) the PB is setting a precedent with this bond. H. Koster said that the incentive is not to have them do any damage. Dennis Dickinson said that (1) the basins are from the state stormwater regulations—they don't want you to go in and start a project bigger than you can control, (2) there will be some erosion problems from the trucks, but he doesn't think it will be significant and (3) it is difficult to get the \$150,000, which is why they have phased it, so they can do it a little at a time and keep everything in control. H. Koster asked if the applicant will be looking for \$30,000 back each time a phase is complete and Rolf Ronning said no, he will be happy to agree to wait for the whole \$150,000 when the whole project is done and Tom Nace has signed-off. Dennis Dickinson said that they have contacted three contractors that are well known and well established, who have good track records for this kind of development. Rolf Ronning said that (1) he has done a lot of subdivisions and put a lot of bonds up with the Town of Bolton, (2) nobody in the Town of Bolton has ever asked him to dip into a bond—he has done the projects rights and his track record is good, (3) he has built good roads and (4) it's cash—any developer knows you can't get performance bonds anymore and if the PB raises this up to high, the PB is just going to stop the ordinary person from ever being able to do anything.

S. Wilson asked about the concept of a bank letter and Counsel said that (1) he did mention a letter of credit where any applicant who has a strong credit relationship with the bank may get a letter of credit based on their ability to negotiate with their own bank, in that the bank would sign a contract where it would stand as a surety in the event there was a default, (2) the banks do charge a fee to do that in addition to the money they hold for the bond, (3) the \$150,000 is held in a very tight escrow account by terms stating that no money is to be released until the project is completed and Town Engineer Tom Nace has signed-off on it, (4) the PB just needs to exercise some discretion as to what the PB feels is enough that secures the Town of Bolton's position in the event of a failure on the part of the developer, (5) in fairness to Rolf Ronning, \$150,000 is a great deal of money and in fairness to the Town of Bolton, that is probably not enough to complete something that is worse than incomplete or improperly done and (6) Rolf Ronning is present in this town—he is here, rooted to this spot and in a manner of speaking, if that bond was insufficient, Rolf Ronning is still personally on the hook and that would be part of the surety agreement and (7) Rolf Ronning had promised in his previous escrow agreement and would be promising in this one, that he would be responsible for anything not covered by the surety. H. Caldwell said that he thinks having the whole project bonded is pretty standard and Counsel agreed and said that if he winds up being the escrow agent for this bond, he would expect the PB to have the condition that no money is released until the entire project (all five phases) are complete. Rolf Ronning said that (1) the Town of Bolton has been holding money from him for years and have never asked for a dime, because he has done it right and (2) \$150,000 is more than he wants to provide, but he will do it. H. Koster said that (1) he thinks that road is worth about \$600,000 if it is 6,000 feet long for total without the paving, but he is not looking for that much and (2) as long as Rolf Ronning is personally liable like Counsel said, then \$150,000 is fine with him.

S. Wilson asked if there is a full environmental assessment on file and P. Kenyon said yes, there is a copy in each PB member packet.

S. Aldrich said that she has two “DP1” pages in her packet—one is the old one and one is the new one with the house on Lot 16 revised—one needs to be omitted.

D. Roessler asked if it is a 23 or 24-lot subdivision, because the application says it is 24. Dennis Dickinson said that (1) at one point it was 24, but that has been changed and (2) it is 23 residential lots including 9 and 10 and not including the property line adjustment with the Leones. D. Roessler said that the application may need to be changed to reflect that. H. Koster said that it should say 24 lots, which includes 23 residential lots and one common area lot. Rolf Ronning agreed. H. Koster also said that there can’t be any property sold on this subdivision without knowing what is going on with the road—either there has to be an offering plan or the Town of Bolton has to own the road, one or the other. Rolf Ronning said that (1) he knows that his obligation is to get the HOA in place before he conveys any lots and (2) he hopes to have an answer from the TB at the June 2007 meeting.

S. Aldrich asked how the PB deals with the HOA assuming the Town of Bolton doesn’t take over the road. Counsel said that (1) like he did on the last one, he ordinarily asks P. Kenyon if they are going to see a stormwater management agreement and she usually says “yes” and (2) he doesn’t see anything here that gives him a clear understanding of who is in charge. Rolf Ronning said that (1) the stormwater is a standard form and he is going to sign the same agreement as he does on other stuff, so that is not the issue and (2) one of two things will happen—either the Town of Bolton will take over the road or they won’t and if they don’t, he (Ronning) will immediately go to Atty. Dan Smith and get an HOA filed, which will be similar to the other HOAs he has done. Counsel said that in March, Rolf Ronning’s attorney Dan Smith did send what constitutes their proposed covenants, conditions, restrictions, easements and how it would operate an HOA—it is a format, which as a roadmap, it is an excellent document.

P. Kenyon asked if Rolf Ronning is going to sell any of the lots before the stormwater controls and road are in. Rolf Ronning said yes. P. Kenyon said that she has a bit of an issue with that based on what this PB addressed where a lot got sold and the new owners weren’t happy with the stormwater controls that had gotten approved and the issue went around and around. Rolf Ronning said that there’s no way he can do this road before he sells some lots. P. Kenyon said that the Westwood Forest West situation was very difficult. Rolf Ronning said (1) that was because they were in a hurry in trying to get a commercial enterprise going, but they resolved it, the road is done and they are happy, (2) in every other subdivision the PB has ever approved, you can sell the lots once the approvals are filed and all the guarantees and HOAs are in order and (3) it is absolutely unfair financially for him to not be able to sell some lots to get this infrastructure in. Dennis Dickinson said that (1) the Westwood Forest stormwater facilities were actually located on the lots by easement, so when the property was sold the right to the underlying easement was sold to a third party, which became a very interesting problem and (2) in this project all the stormwater facilities are not on the lots, but on the one road lot, so they

have control here and can sell the lots—nobody is going to stop them from doing what they need to do. P. Kenyon said okay. H. Caldwell asked if Rolf Ronning would sell lots before the road is complete and Rolf Ronning said yes and he is going to sell the house as soon as he gets an HOA or a commitment from the Town of Bolton.

Counsel said that the PB has a full environmental assessment form that the PB has to go over at length and he does want the PB to give it serious consideration to that he would like the record to be amply filled out with discussion. Section II of the Long Environmental Assessment form was filled out by the Board.

**Motion by** Donald Roessler to determine that the project will not result in any large and important impacts, and to the extent that it has been noted that there are potentially moderate to large impacts, those impacts have been adequately addressed and mitigated by the applicant's plans for mitigation and therefore this project is one which will not have a significant impact on the environment. Therefore a negative declaration is appropriate as this boards State Environmental Quality Review determination. **Seconded by** Sandi Aldrich. John Gaddy recused himself. **All others in favor. Motion Carried.**

H. Koster said that (1) he has concern with selling lots before the full completion of the project, because the scheduling on the different sections and where the applicant sells a lot and having utilities in, (2) the purchaser has to have some kind of knowledge or guarantee of completion, (3) if the PB approves this project and the applicant is allowed to sell lots without utilities in and possibly doesn't have the road into their lot, then the new owners come to the Zoning Administrator looking for a building permit and they don't have access to their lot. Counsel replied by saying that (1) there is a good chance that he and the Zoning Administrator would have the discussion and his recommendation to the Zoning Administrator might be, in the scenario H. Koster just gave—no utilities and no road—that he is not comfortable allowing the issuance of a Certificate of Compliance and (2) it just has some shortcomings in that it is entirely approved, it is all mapped and on paper, but it is not real. H. Koster asked how the purchaser would know this and Rolf Ronning said that (1) one of the things he will be selling is the Mowery house, which is built, there is power to it, and the road is done—so there shouldn't be a problem with that, (2) with the lots, he is willing to stipulate as he enters into contract that no building permit or certificate of compliance will be issued, whichever the PB chooses, until his obligations with putting the road in are satisfied and signed-off by the Town Engineer and (3) he is comfortable with having to have all five phases complete before a Certificate of Compliance is issued—the buyers will be comfortable with that too. Counsel said (1) that is fine, (2) the Town of Bolton is holding back—they are basically the guardians at the gate with the Certificate of Compliance and (3) nothing goes without a Certificate of Compliance. Rolf Ronning asked if the lots can still be sold without a Certificate of Compliance and Counsel said that he guesses so—if you have a filed subdivision map, absolutely, positively, that will be a salable independent lot. Rolf Ronning said that (1) he and his buyers will be comfortable with the Building Permit or Certificate of Compliance not being issued until everything is done and (2) the only exception is the Mowery house which is done and Counsel agreed saying that the Mowery house is a done deal.

H. Koster said another concern of his is a situation that was brought up tonight about questioning the applicant's setbacks of his stormwater management from existing wetlands. Dennis Dickinson said that (1) the basins he discussed earlier are not infiltration basins like the LGPC has—they aren't based on infiltrated water, but on detaining the water and controlling the outlet, so they don't really have the problem of the setback to the water, because no water comes out of there unless it is treated and (2) they don't need the 100 foot setback—it is a precautionary measure if you use an infiltration basin. H. Koster said that (1) part of this basin is still designed for re-infiltration and (2) he is getting to where he is questioning the applicant's business and that makes him very uncomfortable—all his is looking for is a guarantee to this PB that they meet all the setbacks that are required by the Town of Bolton in its stormwater management. Dennis Dickinson agreed. Counsel said that (1) in the logical sense of what they are doing here tonight, if someone wants to sue the PB for its determination based upon criteria and the applicant does not satisfy the minimal requirements of the Town of Bolton stormwater regulations, obviously it is going to be engineer to engineer, (2) he is very comfortable having Dennis Dickinson in the room and having Tom Nace in the room and it is really going to come down to both of them agreeing, but he (Counsel) doesn't honestly know as he sits here, (3) he (Counsel) relies 100% on Tom Nace—he is very credible, (4) what he is uncertain about is that when those two guys put together the best stormwater plan, they also go out and start to apply what they consider the best practices and things that are a little outside of the code, because if they are going to be held by the strict application of the stormwater regulations and the Town of Bolton finds out that the applicants have a better system or a great idea or what NYSDEC thought was an improvement, then he thinks they are in a jam in that Rolf Ronning was back so it was a disservice to his application and for the unfortunate circumstances for Bolton that they all had to march back here and tow the letter of the stormwater regulations that were written for them and handed to them by the LGPC—he just wants to make sure they are on the money on that one and if they are, then anybody that seeks to appeal this would be wrong, so the PB would be right and the applicant would be right, (5) the applicant has worked a lot closer with Tom Nace on getting the criteria involved here and (6) he (Counsel) is hearing that there are shortcomings and the applicant doesn't have the proper setbacks. Dennis Dickinson said that he is comfortable with the proposal, and even more so since Tom Nace has approved it. Counsel said that his question is if this plan follows the criteria as specified by Bolton's stormwater regulations and Dennis Dickinson answered by saying that it is his firm belief based on his engineering experience that this complies with all of the requirements of the Bolton stormwater ordinance. Counsel said that (1) he can accept that—he is no engineer, (2) he certainly accepts Tom Nace's approval wholeheartedly and (3) they raised the flag on the issue and here it is.

H. Koster said that bonding or cash money is another issue. Rolf Ronning said that he is offering to put up \$150,000 cash bond before construction begins with the agreement that the bond will not be released until there is a complete sign-off for the entire road, including paving, by the Town Engineer. H. Caldwell asked if it is correct that the applicant will be doing a \$500,000 road and be putting up \$150,000 and Rolf Ronning said (1) yes and this would include his personal guarantee and (2) he is agreeing not to

disturb the equivalent of more than one phase at a time—they will be working on more than two phases at a time, but it will not be the equivalent of more than the disturbance of one phase, which is one-fifth of the entire project, so before they go onto the next phase, they will stabilize completely according to the directions of the plans the phase they have been working on. H. Caldwell asked what happens if something goes wrong here and Counsels said that (1) he is told by the engineer, not by a PB member, that something has gone wrong and then he, as the escrow agent, is authorized to use \$150,000 towards the catastrophe as noted and there may have some shortcomings in it, so lets suggest to the PB members that it is hypothetically a \$300,000 catastrophe over the \$150,000 he has already used, then he has Rolf Ronning's personal guarantee within the same escrow agreement, so he guesses he (Ronning) would be all done being a subdivider in the Town of Bolton, because the Town of Bolton will lock up his property based on his personal guarantee. H. Caldwell said that (1) the Indian Brook corridor has had some serious stormwater problems and (2) there was a \$900,000 bill the taxpayers picked up and a lot of that was along that corridor and (3) he asked what would happen if you have a \$150,000 bond and some big storms—how fast can the Town of Bolton move on it. Counsel said that the Town of Bolton is only going to have \$150,000 traction on something like that and the rest of it is based upon personal guarantee and all of the shortcomings of proof. Rolf Ronning said that (1) the proposed stormwater will put less water into Indian Brook than what is going in there now, so there won't be the surges, because the basins slow it down and (2) any erosion and difficulties that caused problems with Indian Brook because of the 1,000-year storm that happened a few of years ago was not the result of anything he did on the property, because he has done nothing on the property yet. H. Koster said that whatever property the applicant owns would be immediately tied up, in the event there was a situation where the cost went above the \$150,000. Counsel said that the bond is \$150,000 cash and it is an unconditional surety, which is personal property. H. Koster said that personal property would include this subdivision and whatever other property the applicant owns. Rolf Ronning said that is until Tom Nace signs-off saying he has done everything correct, then it all ends. Counsel agreed. Rolf Ronning said that he is agreeing to that. H. Koster said that he believes the applicant giving his personal guarantee in addition to the \$150,000 which will be sufficient as there is a lot of land in the applicant's name. S. Wilson asked for the explanation of personal guarantee and Counsel said that Rolf Ronning is basically giving his unconditional promise that if the \$150,000 is exhausted, his (Ronning's) credit, assets, he (Ronning) is basically obligated himself to personally pay the deficiency. S. Wilson asked if it would be against all of the applicant's property and not just Saddlebrook. Counsel answered by saying that it would be against all of Rolf Ronning's property in any county where the judgment is recorded.

D. Roessler said that one of the conditions discussed is that there will be no building permits until the road and utilities are complete. Rolf Ronning said that he thought it was certificate of compliance until the road is complete was the condition. H. Koster said it is road and utilities. Rolf Ronning said you can't control utilities with National Grid. Counsel said that he thought Rolf Ronning said that he (Ronning) would agree and stipulate that no certificate of compliance need be issued by the Town of Bolton until the road and the utilities are complete. Rolf Ronning said that (1) he will agree until the road

is complete and National Grid gives him a price and he holds that in escrow or he pays that and (2) for Westwood Forest, he gave National Grid about \$80,000 two years ago and they are just getting around to putting the power in, which burns him and a lot of people up, but it is out of his control. Counsel said that (1) he thinks the problem for the Town of Bolton is that if they approve this subdivision, it endorses it, if you will, and here they have created a subdivided residential lot and they are going to go through the process of misleading the purchaser to believe they can build on it and (2) if they go with Rolf Ronning's scenario, they issue a certificate of compliance, they can build because the applicant has a right to sell them a lot, but then they can't hook up to power. Rolf Ronning said that (1) he can't control National Grid if they don't follow through, (2) you can still live in a house without power by using generators, (3) what Counsel and the PB are concerned about is the stormwater management and building the road to town standards, which is what he agrees to do and (4) regarding power, he has to satisfy the buyer and the buyer should be satisfied with him having an agreement with National Grid, but he can't control when National Grid puts the power in and he doesn't think that is the Town of Bolton's responsibility. Counsel said that (1) a person cannot develop their lot until they have received site plan review approval for stormwater on that lot and (2) while this doesn't sound eminently fair to Rolf Ronning as the developer, it does sound eminently fair to the person who wants to build a house, so that would be that the Town of Bolton couldn't approve site plan without power. Rolf Ronning said that you can buy a generator, then you have power. Counsel agreed and said that (1) Rolf Ronning has a practical answer, but he doesn't think they have gotten over the impasse that the Town of Bolton has given its endorsement and approved a subdivision that doesn't have power. Rolf Ronning said that (1) all he can do is go to National Grid get a bill on how much it will cost to put the power in and pay that bill—National Grid takes its own sweet time to schedule it, but he can't do anything about that and (2) he'd rent generators if need be, but getting the power put in is out of his control. Counsel said that chances are the PB is going to revisit this issue if the PB allows this to go through (he is not suggesting the PB must or should) then the PB will be confronted with the consumer and at that point in time the PB would be really in a jam—it is a tough choice and the choice needs to be made somewhere—in this application or the next one—no power, you can't proceed. Rolf Ronning said that (1) he doesn't think the Town of Bolton is in a jam because the town isn't required to guarantee power to everybody—he is required to do that so he gets a decent amount of money for his lot, (2) most attorneys are comfortable when he pays National Grid all of the money it wants up front, then it's just a matter of putting pressure on National Grid and (3) when a person buys a lot, there is full disclosure that he can't promise when the power is in, but he can promise National Grid is making the power, which should be enough. H. Koster said that if people try to live there without power, then it becomes a sanitary problem for the town. Rolf Ronning disagreed and said that (1) they can stipulate that if people try to live without National Grid hooking them up, that the owners have to have an electric generator before a certificate of occupancy is issued and (2) he knows of lots of houses in Bolton that run strictly on generators—not on power from National Grid. H. Koster said that (1) this is something that is being hashed out before the PB and (2) the PB has to ensure the health and welfare of the applicant's subdivision.

S. Wilson asked if the conditions need to include the requirement for the HOA and H. Koster said yes. S. Wilson asked about the APA and Rolf Ronning said that there is a non-jurisdictional letter from the APA on file. P. Kenyon agreed.

H. Koster asked if the PB can permit the applicant to sell lots before a decision by the TB has been made as to if the Town of Bolton will or will not take over the road, since the applicant already has an HOA and an offering plan. Counsel said that (1) the subdivision of land code the PB works under refers to the fact that the PB has a policy "...to consider land subdivision as part of a plan for orderly, efficient and economical development of the town..." so if the PB has something that is incomplete, notable the PB has closed the public hearing, the PB has a clock running and the PB needs to have some completion here. H. Koster said that he doesn't think the applicant should be allowed to sell a lot until he has power and until the applicant has a definitive answer on whether or not the Town of Bolton is going to take over the road and until he has an offering plan. Counsel said that the PB is clearly within its discretion to require that. Rolf Ronning said that (1) he is agreeable that they will solve the issue with the Town of Bolton and the offering plan, because that will be resolved in two weeks and (2) regarding the power, the road has to be put in before the power and he has to sell some lots to put the road in—the power comes in at the last stage of the road. Counsel said that (1) H. Koster said you can sell lots, but it is under the unfortunate circumstance here, because nobody is getting a certificate of compliance, (2) if they put on the mylar that no certificate of compliance should be issued until the road is completed and the power is in, that is exactly what it means, and quite frankly the public is on notice—that is a filed map in the clerk's office—every title company and every attorney searching the title history will check it and it will stand out and say it there that you cannot build on this thing until certain conditions are met. H. Koster said that you can't get a building permit without a certificate of compliance and Counsel said that is correct. H. Koster said that is fine. Counsel said that on these lots, a certificate of compliance can only be issued after a site plan has been approved for each lot. Rolf Ronning said that excludes Lot 3, the Mowery lot, which is already sold and Counsel agreed and added that Lot 3 is part of this subdivision so it will be part of the covenants. Rolf Ronning asked if it is correct that Lot 3 can be exempted from the HOA because they have a pre-existing road and Counsel said that the applicant needs to decide what is being done there—either 23 residential lots subject to the covenants, restrictions and declarations or 22 residential lots and the pre-existing residence on the soon to be re-shaped lot is not part of that HOA. Rolf Ronning said that he cannot answer that right now as he doesn't know what the owners of Lot 3 will want to do at this point in time. H. Koster said that the access to Lot 3 is through the association road. Rolf Ronning said that he has no idea why the Mowery lot has to be part of the association. H. Koster asked if the PB can excuse the Mowery lot from the association and Counsel said that (1) Rolf Ronning is presently the owner of that property, so he is in control, (2) the PB has discretion, controls this application and the PB, if it feels the plan requires all the lots in the subdivision be considered part of the subdivision, then they would all be considered part of the covenants, deed restrictions and obligations—that is the PB's call and (3) the PB can accept Lot 3 out of the subdivision, but he would say to the PB that the general policy and the declaration of what you do in a subdivision is creating equal lots with equal responsibility regardless of size, which is a

plan—it is an odd plan if you go 22 in and 1 out—he would be persuaded to 22 are in and 1 is out if it were different ownerships, but it is not. H. Koster asked what would be done with the person who is pre-existing that only has access across that road and is not in common ownership with the applicant and not listed as one of the lots. Counsel said that (1) the person referenced is exempt and excluded as a matter of law and is not even before this PB and (2) he would encourage the PB to try to keep some kind of comprehensive plan going here that all lots shown on the subdivision are equally burdened by the same covenants and restrictions. H. Koster agreed. Rolf Ronning agreed that Lot 3 would be part of the subdivision. Counsel said that he agrees that the applicant can sell the lot that already has the house on it—it is ready to go and not held up by any certificate of compliance or building permit, but it is considered part of the subdivision and the covenants and restrictions imposed falling equally on all lots in that subdivision. Rolf Ronning agreed to that. Counsel said that if there is a HOA, then Lot 3 would be a member of the HOA. Rolf Ronning agreed.

H. Koster asked if they are all set with power now and Counsel replied by saying that (1) it is the PB's call—there is ample provision in the code that talks about that (2) if the PB finds it acceptable what the applicant has proposed and wants to assure itself that it is not part of a system that allows the sale of lots that you can't build on, then he thinks the only thing the PB can disclose to the public that is the circumstance is that on the plat that will be filed in the clerk's office, it would have to so note these limitations, then these people are on notice.

No correspondence.

No comments of public in attendance.

**Motion by** Donald Roessler to approve the preliminary plat, convert the preliminary plat to final plat and grant final approval as presented with the following conditions:

- 1) A \$400.00 recreation fee is to be paid to the Town of Bolton prior to a Certificate of Compliance being issued for each lot.
- 2) A bond in the amount of \$150,000 insured by a bonding agency licensed in the State of New York is to be submitted for Town Counsel's approval.
- 3) In lieu of the bond, \$150,000 in cash can be placed in an escrow account, maintained by Town Counsel.
- 4) The developer is giving his personal guarantee that the road and stormwater controls will be installed in accordance with the plans
- 5) The alleged dump site on lot 5 is to be evaluated by DEC prior to the lot being sold.
- 6) The applicant is to notify the Zoning Administrator before stormwater and road construction is undertaken.
- 7) The Town Engineer is to make periodic inspections at the applicants expense and approve each phase of road construction / stormwater controls.

- 8) Only 2 phases can be worked on at one time.
- 9) The metes and bounds description for the roadway on the Reed parcel must be shown.
- 10) Site Plan Review is required for the construction of a single-family dwelling on each lot.
- 11) No Certificate of Compliance will be issued until such time that the road and utilities are in place (excluding lot 3) and the Homeowners Association bylaws are in place.
- 12) All lots within the subdivision are to be part of the Homeowners Association and must comply with the bylaws.

**Seconded by** Chauncey Mason. John Gaddy recused himself. **All others in favor. Motion Carried.**

- 4) **SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq ft of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 28.1, 36.1 & 48.1, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot be reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to SEQR. *Note: This application is in conjunction with SD04-16. The public hearing was kept open from the April 2007 meeting pending additional information.*

No correspondence.

No comments of public in attendance.

**Section II of the Long Environmental Assessment form was filled out by the Board. A negative declaration was made.**

**Motion by** Donald Roessler to determine that the project will not result in any large and important impacts, and to the extent that it has been noted that there are potentially moderate to large impacts, those impacts have been adequately addressed and mitigated by the applicant's plans for mitigation and therefore this project is one which will not have a significant impact on the environment. Therefore a negative declaration is appropriate as this boards State Environmental Quality Review determination. **Seconded by** Sandi Aldrich. John Gaddy recused himself. **All others in favor. Motion Carried.**

The WCPB determined no county impact with the condition each individual lot be reviewed for stormwater and erosion control measures, lot clearing and lot access.

The PB found no concerns with Section 200-31A-D of the zoning ordinance.

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

1. The project meets the design requirements and performance standards set forth in the code.
2. The project will not have an undue adverse impact regarding the criteria set forth in the code.
3. That the stormwater control measures proposed will function as designed and constitutes the best possible methods feasible and practicable for the project site.
4. Adequate and sufficient provisions are presented as part of the plan to assure future function or responsibility in the event of failure.
5. The project will not contribute to flooding, siltation, or stream bank erosion and will not pollute Lake George, its tributaries or streams with run-off.

**Motion by** Susan Wilson to accept the application as complete, waive a public hearing and grant approval as presented with the following condition:

- 1) The stormwater controls proposed for each parcel must meet the criteria of a major stormwater project (excluding lot 3).

**Seconded by** Donald Roessler. John Gaddy recused himself. **All others in favor. Motion Carried.**

- 5) **SD06-14 RONNING, ROLF & LEONE, MICHAEL.** Seek lot line adjustment between those parcels designated as Section 139.00, Block 1, Lots 48.1 & 36.1, Zone RL3. Property Location: New Vermont Road, approximately 2000 ft. north of County Route 11 intersection. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SD04-16 Saddlebrook Subdivision and was tabled at the April 2007 meeting pending a public hearing on SD04-16 & SPR05-11.*

No correspondence.

No comments of public in attendance.

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 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. John Gaddy recused himself. **All others in favor. Motion Carried.**

- 6) **SD07-04 RONNING, ROLF & REED, WILLIAM.** Seek lot line adjustment between those parcels designated as 139.00, Block 1, Lots 28.1 & 48.1, Zone RL3. Property Location: 252 New Vermont Road. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SD04-16, Saddlebrook Subdivision and was tabled at the April 2007 meeting pending a public hearing on SD04-16 & SPR05-11.*

No correspondence.

No comments of public in attendance.

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 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** Sue Wilson. John Gaddy recused himself. **All others in favor. Motion Carried.**

*Note: John Gaddy resumed his position on the PB at this time, as the applicant had no objection to this.*

- 7) **SPR05-37 RONNING, ROLF. (Saddlebrook Subdivision).** In accordance with Section 200-22, seeks Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Specifically 32 sq. ft. is proposed (including the stone wall). Section 139.00, Block 1, Lot 48.1, Zone RL3. Property Location: High Meadow Farm Road off of New Vermont Road. Subject to SEQR. *This item was tabled at the April 2007 pending subdivision approval.*

Rolf Ronning gave an overview and said that (1) this is the same format as the Wright's Farm and Indian Summit signs and (2) the proposed sign would be in the center of the stonewall with "Saddlebrook" on both sides and the colors would be consistent with all of his signs.

J. Gaddy asked if this is the same size as Indian Summit and Rolf Ronning said yes, he believes all of his signs are the same. S. Aldrich said that she believes P. Kenyon researched this and determined it was the same size as Wright's Farm. H. Caldwell said that he doesn't think it is. Rolf Ronning said that the stonewall may be different, but the sign is the same size. H. Caldwell asked the dimension of the center measurement and Rolf Ronning said that it is 25 inches at the highest point and 62 inches long. H. Koster said the drawings submitted to the PB show 25 inches on the shallow edge. Rolf Ronning said that he thinks it is 25 inches at the highest point and will basically be the same as what he has done at the other three locations except the wording will be on both sides. S. Aldrich asked if the sign will be lighted and Rolf Ronning said no. H. Caldwell

said that the PB would go with whichever is smaller—the Wright’s Farm sign or the 25 inches by 62 inches. Rolf Ronning agreed.

No correspondence.

No comments of public in attendance.

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) No lighting is allowed.
- 2) The actual sign itself is to be no larger than 25 inches x 62 inches and will be double faced and encased in a stone wall.

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.**

**8) SD07-04 TENNENT, JEFFREY & WEISS, LORRAINE.** Seek to amend previously approved plat SD90-08 (Diamond Ridge Subdivision) last revised 9/22/05 under SD05-22. Specifically to create lot line adjustments between those parcels designated as Section 212.04, Block 2, Lots 4 & 5. Zone LC25. Property Location: Diamond Ridge Road lots 13 & 14. Sketch Plan Review. Subject to SEQR.

Jeffrey Tennent, representing himself and Lorraine Weiss, said that he is here requesting a lot line adjustment between two existing lots in the Diamond Ridge Subdivision.

D. Roessler asked if they are the same sized lots paper wise and Jeffery Tennent said yes. S. Aldrich asked if the size of the lots remains the same and it is just that they are basically swapping the same size of property. Jeffrey Tennent said that (1) the size of the lots are exactly the same as previously approved and (2) the quantity of property being switched between the lots is exactly the same, so it doesn’t change the acreage in either lot. J. Gaddy asked the purpose of the lot line adjustment and Jeffrey Tennent replied by saying that it will provide an easier and much less grade of an access to Lot 13, which really works to make it better.

No correspondence.

No comments of public in attendance.

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 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.**

9) **SPR07-18 NICHOLS, DANIEL. dba Blue Water Manor.** In accordance with Section 200-22, seeks Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Approximately 49 sq. ft. is proposed. (excluding roof & pillars) Section 200.06, Block 1, Lot 19.1, Zone RM1.3. Property Location: 4436 Lakeshore Drive. Subject to WCPB Review. Subject to SEQR.

Daniel Nichols dba Blue Water Manor, said that they are looking to replace the existing sign, because it has aged.

H. Koster asked the status of all the other signs and Daniel Nichols said that (1) the only sign presently up is the one in front for the restaurant and there is another one up for parking and (2) the proposed sign will replace the need for all of the other signs.

J. Gaddy asked if there would be any lighting on the sign and Daniel Nichols said yes, it would be built into the top going down. C. Mason asked if the lighting will shine out the dormers too and Daniel Nichols said no. S. Wilson asked if they are actual windows and Daniel Nichols said yes, they would be.

S. Wilson said that the location of the sign makes it difficult if you are pulling out and turning south. Daniel Nichols said that it gives you enough room where you can fit a car in there and see plenty—it's a flat piece where you come out by the entrance. H. Koster asked if it is correct that the applicant is in the right-of-way at Route 9N and Daniel Nichols said yes. H. Koster asked if the applicant is dealing with that with the state and Daniel Nichols replied by saying that he has spoke with a state representative and are awaiting word. S. Aldrich asked if the existing wooden post with the arm is roughly where the west side of the proposed sign is going to be and Daniel Nichols said yes. S. Wilson asked if the existing wooden post with the arm would be removed and Daniel Nichols said yes.

H. Caldwell asked how the sizes of the existing sign and the proposed sign compare and Daniel Nichols said that the proposed sign is bigger. H. Caldwell asked if the area as shown on the drawing that says, "...book your wedding and receptions here..." would be backlit and Daniel Nichols said no. S. Wilson asked if the wording would be permanent or change and Daniel Nichols said that it would change.

S. Aldrich said that she would like to see the proposed sign a whole lot smaller, as the proposed sign is 60 square feet, which she thinks is an awful lot. C. Mason said (1) that includes the enclosure and stand, (2) for where it goes it is in scale and (3) it's different because some of the other signs are coming down.

No correspondence.

No comments of public in attendance.

The WCPB determined no County impact with the stipulation that the applicants get all the required permits from the state.

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) Exterior lighting must be downward facing and shielded with low wattage bulbs used.
- 2) If any changes are proposed the applicant must submit a new Site Plan Review application for the Planning Boards Review.
- 3) A permit must be obtained from Department of Transportation to erect a sign in the State right-of-way.

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.**

*Note: Henry Caldwell recused himself from the PB for Agenda item SPR07-20.*

**10) SPR07-20 LAKE GEORGE LAND CONSERVANCY.** In accordance with Section 200-22, seeks Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Specifically 15 sq. ft. is proposed. Section 171.19, Block 1, Lot 54, Zones GB5000 & RM 1.3. Property Location: 4905 Lakeshore Drive. Subject to WCPB Review. Subject to SEQR.

D. Roessler asked if there would be any lighting on the sign and Hugh Roberts, representing the Lake George Land Conservancy, said yes, because the sign would be low to the ground, they are proposing ground lighting of one bulb on each side with fixtures melded into the landscaping around the sign so it won't glare. S. Wilson asked if any lighting will only impact the sign itself and Hugh Roberts said yes. H. Koster asked if lighting will definitely be shielded by shrubbery and Hugh Roberts said yes. J. Gaddy asked what the proposed wattage is and Hugh Roberts said they won't know until they install it, but probably a 75-watt bulb. J. Gaddy said that the PB has been trying to get lights downward facing and Hugh Roberts said that they haven't tried that here because it is a low sign. C. Mason said that it is not good for light pollution when the lights are facing up like that and Hugh Roberts said yes, but it will be close to the sign and it will be in the landscape bed.

No correspondence.

No comments of public in attendance.

The WCPB determined 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** Donald Roessler to accept the application as complete, waive a public hearing, and grant approval as presented with the following conditions:

- 1) Lighting is to be kept to a minimum.
- 2) Shrubs are to shield the light fixtures from the roadway.
- 3) If any changes are proposed the applicant must submit a new Site Plan Review application for the Planning Boards review.

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. Henry Caldwell recused himself. **All others in favor. Motion Carried.**

*Note: Henry Caldwell resumed his position on the PB at this time.*

**11) SPR07-21 BOWEN, SUZANNE.** Represented by Gary Bowen. To expand existing garage/guest cottage, seeks Type II Site Plan Review for an accessory structure greater than 1,500 sq. ft. 1,792 sq. ft. exists, 2,208 sq. ft is proposed. Section 213.13, Block 1, Lot 11, Zones RL3 & LC25 . Property Location: 11 Park Ridge Drive, off of Coolidge Hill Rd. Subject to WCPB Review. Subject to SEQR.

Gary Bowen, representing Suzanne Bowen, gave an overview and said that (1) they propose to put a 260 square foot single-floor addition on an existing structure to be used for storage and greenhouse activities and (2) the construction will be similar to the existing building with a shingled roof and similar siding.

No correspondence.

No comments of public in attendance.

The WCPB determined no County impact.

J. Gaddy said that Gary Bowen was amenable at the site visit to shielding the one existing yard light and Gary Bowen agreed.

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, wave a public hearing and grant approval as presented with the following conditions:

- 1) Exterior lighting must be downward facing and shielded with low wattage bulbs used.
- 2) The existing light located in the west side peak of the structure must be shielded.

This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

**12) SPR07-17 RAMME, ERIC.** Represented by Barry Kincaid. As a condition of approval set forth by the Planning Board on 9/22/05, seeks to review proposed clearing plans extending beyond 20' from the foundation. Section 212.04, Block 2, Lot 10, Zone LC25. Property Location: 196 Diamond Ridge Road. Subject to SEQR.

Barry Kincaid of KLC Property Enhancement, representing Eric Ramme, gave an overview and said that (1) his intended purpose of the project is to develop a view of the natural landscape using its integrity and keeping the natural landscape intact, (2) to create an unobtrusive view of the structure from the public, his clients will capture the eloquent beauty and charm of the surrounding environment in a tasteful manner with respect to the views from the lake, which is done by using earth tone colors on the house—dark brown and a dark green roof—to help blend into the forest, this has already been done, (3) they will begin by removing all dead and diseased trees to help the surrounding trees' growth, by doing this first, it will prevent unnecessary tree removal from the view, (4) they intend to leave several large canopy trees in front of the structure—pruning and thinning of the large canopy trees will be minimal, as necessary and (5) minimal trees will be removed and a majority of the cutting will pertain to younger plants—by taking these steps it will provide a filtered view and create healthier trees and vegetation or under-growing.

J. Gaddy said that (1) it is a beautiful house—he likes the colors, (2) there is about 60 feet between the house ending and any vegetation starting up and (3) he asked the quantity of the dead and dying trees presently expected to be removed. Barry Kincaid said that there are not a lot, but they need to do that in the first step, because if he takes out the healthy trees first to create the view then comes back to take out the dead trees, that would be taking out more trees than necessary. J. Gaddy said that he gets nervous when people start assessing what is dead and dying. H. Caldwell asked if Barry Kincaid did a similar job in the house downhill from this location and if this would be similar. Barry Kincaid said yes and handed out a picture from the lake of the downhill project. J. Gaddy said that this is then a good example of how colors really make a big difference and Barry Kincaid said (1) yes, absolutely and (2) there is almost 7,000 ft. going up there, which you don't normally find. S. Aldrich said that Barry Kincaid said there are a few diseased or dead trees and asked they be pointed out on the picture. Barry Kincaid said that he doesn't know, he can't point them out, but that is the process he takes, because if he goes

and reverses it, then legally he can take out a lot more, but that is not his intent—his intent is to keep a nice healthy view and to hit a middle ground.

No correspondence.

No comments of public in attendance.

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

**Motion by** Donald Roessler to accept the application as complete, waive a public hearing and grant approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Henry Caldwell. **All in favor. Motion Carried.**

**13) V07-23 PERRY, MARK & LINDA.** Seek use variance for an agricultural use. Specifically to convert a personal greenhouse into a commercial nursery. Section 156.00, Block 1, Lot 13, Zones RM1.3 & RL3. Property Location: 121 Federal Hill Road. Subject to WCPB Review. Subject to SEQR. *Recommendation only.*

Mark Perry gave an overview and said that (1) they are looking to be able to sell plants from this location and (2) the greenhouse has already been approved—the issue is selling from that location.

H. Caldwell said that he is concerned with the neighbors' thoughts and he would recommend the ZBA have a public hearing on the matter. P. Kenyon said that the ZBA meeting is a public hearing. H. Koster asked if the ZBA asked for PB recommendation and P. Kenyon said that all use variances require recommendation from the PB.

H. Koster asked if the applicant would continue selling from the Char Steer parking lot if they received approval to sell at this location and Mark Perry said no, probably not. J. Gaddy asked how the use of equipment would change with the applicant going to a commercial establishment and Mark Perry replied by saying that it wouldn't change at all from what he is doing now, other than allowing somebody to give him a check on the property for what they might purchase.

D. Roessler asked if there is an area designated for parking and Mark Perry said yes, it is marked on the plan. D. Roessler asked how many cars the area will accommodate and Mark Perry said ten. H. Caldwell said that it is an old farm and this is an agricultural use.

H. Caldwell asked the size of the greenhouse and Mark Perry said that he believes it is just less than 1,000 square ft. S. Aldrich asked if the applicant has any idea of how much traffic will be there on a daily basis and Mark Perry said no, but they hope that if they are successful there would be some.

S. Aldrich asked if this would require an advertising sign and Mark Perry said that if he ever puts any sign up it would be within the four square feet limit. D. Roessler asked if there would be any lighting on the sign and Mark Perry said no. D. Roessler asked what the anticipated hours of operation would be and Mark Perry said that (1) they hope for one retail day two weekends per month to start then take it from there based on response and (2) he anticipates retail hours to be normal retail hours from 9am to 6pm. H. Caldwell asked if this would be somewhat seasonal and Mark Perry said yes. H. Caldwell asked if the applicant plans on doing anything with the greenhouses in the winter and Mark Perry said no.

H. Koster said that he has no problem recommending this to the ZBA, but he really does think the direct neighbors' concerns should be taken into consideration. S. Wilson said that the direct neighbors would have an opportunity to speak at the ZBA meeting. H. Koster agreed. Counsel said all adjacent property owners within 500 feet are given notice and there is an open forum.

**Motion by Donald Roessler to send a positive recommendation to the ZBA. Seconded by Chauncey Mason. All in favor. Motion Carried.**

**14) SD07-11 FOY, KEITH.** Represented by Buddy and Jesse Foy. Seek to amend previously approved plat (SD99-08 Indian Summit), approved by the Planning Board on June 22, 2000. Specifically to divide into 2 lots that parcel designated as Section 140.00, Block 2, Lot 3, Zone RL3. Property Location: Indian Summit Drive lot 9. Sketch Plan Review. Minor Subdivision. Subject to SEQ. *Stormwater plans to be reviewed.*

Edward Foy, Sr., representing Keith Foy, gave an overview and said that the stormwater has been reviewed and signed-off by Town Engineer Tom Nace.

H. Caldwell asked if a letter from Dr. Keating has been received saying that he is in favor of the project. Edward Foy, Sr. replied by saying that (1) that there should be a letter that says that Dr. Keating thought he (Edward Foy, Sr.) misrepresented him at the last meeting—someone was in contact with Dr. Keating and told him that he (Edward Foy, Sr.) had misrepresented him, (2) in his phone discussion with Dr. Keating yesterday, Dr. Keating told him that his understanding was that Edward Foy, Sr. said some things to the PB that he (Keating) didn't say, but when they reviewed the minutes together, it was concluded that he (Edward Foy, Sr.) has in no way, shape or form has misrepresented anything he and Dr. Keating had discussed—he would never do that, (3) Dr. Keating's problem is the same as it has always been—he feels that if this is approved it ends up that every other lot owner up there can subdivide their properties also, (4) he explained to Dr. Keating that it is really impossible for any other lot up there to do what they are trying to do, except for maybe Lot 1 and that would have to stand on its own merits, (5) he believes Dr. Keating called and asked Zoning Administrator P. Kenyon if any other lot would be allowed to do what the applicant seeks to do and P. Kenyon told Dr. Keating that other lot owners would be able to put in an application, (6) putting in an application and having it accepted are two different things, (7) he can't subdivide any of his other

lots—they don't have the road frontage or the room, (8) Dr. Keating's request was for the applicant to get a covenant between all the owners and he (Edward Foy, Sr.) didn't feel comfortable with that—all of his neighbors in the subdivision have given them their approval on this project, but he doesn't think was his right to go back and take any rights away from them, (9) Dr. Keating's concern is that he thinks Pandora's box is being opened and that everybody in the subdivision is going to be able to do what they are doing and (10) he has had some good discussions with Dr. Keating, who is a gentleman, and there are no problems between the two of them—he understands where Dr. Keating is coming from, but that is where the PB members' eyes come in, as they have been up there and see what can and what cannot be done.

J. Gaddy asked that Edward Foy, Sr. to put himself in another lot owner's position. Edward Foy, Sr. said that he wishes Dr. Keating could be here to walk the property with him, so he could show him that there is no room to do this elsewhere in the subdivision, because everything else runs downhill. H. Caldwell said that he would like to get a letter from Dr. Keating that is more possible than what the PB has presently. J. Gaddy said that he is comfortable tabling this item until Dr. Keating comes to the Town of Bolton this summer.

J. Gaddy asked why proposed Lot 9B is 1.28 acres and Lot 9A is left at 3.96 acres. Edward Foy, Sr. said that they are trying to take the least amount of property away from Keith (Foy) as they can. S. Wilson asked about the proposed house site for Keith Foy and Edward Foy, Sr. said that (1) it is right on the top and looks right down to the lake and (2) the utilities are in for Keith's house also. S. Aldrich said that Keith Foy's house site is closer to Anne's property line than he is to the middle of the lot and Edward Foy, Sr. said yes. S. Aldrich asked if there will be quite a bit of property between the two houses (Keith's and Jesse's) and Edward Foy, Sr. said yes, he believes there is 500 feet of road frontage there.

D. Roessler asked if there is any way the applicant can get a letter from Dr. Keating or have him attend a PB meeting on this matter and Edward Foy, Sr. said that (1) he tried, (2) in speaking with Dr. Keating, he knows he (Edward Foy, Sr.) didn't represent him, (3) the whole thing is that Dr. Keating is afraid of all he has already told the PB—that's it in a nutshell, (4) he asked Dr. Keating to write the PB a letter saying that if the PB can assure him (Keating) that Jesse's lot is the only lot that can would go up there then he would go along with it, but Dr. Keating seems to be shying away from being documented, (5) he did nothing to misrepresent Dr. Keating in any way and (6) he (Edward Foy, Sr.) knows that if Dr. Keating thought this is the only lot this would be done with, there wouldn't be any problem, but he (Edward Foy, Sr.) can't assure Dr. Keating of this and the PB can't either and (6) everybody has a constitutional right to come in and put an application in front of the PB—every lot owner up there—but the PB knows from common sense what can and cannot be done up there.

No correspondence.

No comments of public in attendance.

J. Gaddy said that he has a concern with the SEQR form in that he has concerns with the depth to the bedrock regarding fill systems and the percentage. D. Roessler asked if Town Engineer Tom Nace signed-off on this and P. Kenyon said yes, Tom Nace reviewed it and signed-off on it as a major stormwater project when it is actually a minor stormwater project. J. Gaddy said that he is okay with it if the Town Engineer has signed-off on it—he has no SEQR concerns at this point.

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 sketch plan to final plat, waive a public hearing and grant final approval as presented with the following condition:

- 1) Exterior lighting must 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** Sue Wilson. Henry Caldwell, John Gaddy and Sandi Aldrich opposed. **All others in favor. Motion Carried.**

**15) SD07-12 COSSMAN, PETER & BARBARA.** Seek to amend previously approved plat (SD02-11), approved by the Planning Board on August 22, 2002. Specifically to divide into 2 lots that parcel designated as Section 171.11, Block 2, Lot 13.1, Zone RCM1.3. Property Location: 5078 Lakeshore Drive. Subject to APA Review. *Note: This application is in conjunction with V07-19 for deficient density and lot width.* Sketch Plan Review. Minor Subdivision. Subject to SEQR.

Peter Cossman said that he is not applying for an amendment, but for a minor subdivision of his parcel. P. Kenyon said that is how they always write it up in order to keep track. H. Koster agreed and said that there is a cumulative rule here that everything keeps adding on for density reasons. Counsel said that he explained to Mr. Cossman that his applicant stands on its own merits—and it does.

Peter Cossman gave an overview and said that (1) the ZBA granted the needed variances, (2) he thinks what they are applying for will have no impact whatsoever on the lake or the land as it currently exists or on what would exist if the subdivision were granted and (3) under the ordinance, he could build another house on the property, but it seems to make more sense to him to have two lots, each with its own residence on it, rather than to have multiple residences on a single lot.

H. Caldwell asked if the applicant understands that he'd be taxed on two separate lots and Peter Cossman said yes, he understands.

H. Caldwell said that between the Keissling subdivision and this subdivision there are seven variances. S. Aldrich asked if the density has been used on this and P. Kenyon said (1) yes, that is why the applicant needed the variance—the density from the parent parcel had been used and (2) even though this lot is basically conforming, it is actually Keissling's lot that is not conforming. Counsel agreed. S. Aldrich asked if the variance needed was because the density was used and P. Kenyon said yes. H. Caldwell said that once the ZBA does this it is a done deal and asked why it still comes to the PB, because the PB can't turn it down. Counsel said that (1) it goes in that order, because the applicant can never appear before the PB to seek whatever relief they may be entitled to unless they are in conformity with the code and the only way you can get in conformity with the code is either you fit within the code or you get a variance so you are now deemed within the code by virtue of a variance and (2) while H. Caldwell is categorizing this as a done deal, it is the only manner procedurally by which Mr. Cossman could get here on this request. S. Aldrich asked if the PB can still deny it even though the variances have been granted and P. Kenyon said that she believes the ZBA acknowledged that the PB would have the final say on this. Counsel agreed and said (1) yes, the PB has the discretion for denial, approval or approval with conditions and (2) the PB is not mandated that it must approve it. H. Koster said that the PB also can't turn it down without a public hearing. Counsel agreed and said that the PB should have a public hearing. H. Caldwell said that he's not saying that the PB is going to turn it down, but he's kind of disappointed that the PB puts conditions on things that get lifted a year or two down the road. P. Kenyon said that there was never a condition—it was a recommendation that the PB made to the ZBA and the ZBA never accepted that as a condition when they made their motion. Counsel said that it is entirely possible that it was discussed, but in fairness to this applicant and this process, it was not a requirement in the resolution—it was not.

Peter Cossman said that (1) the Keisslings put the note on the filed map after the PB meeting that said no further subdivision, but it wasn't actually referenced in any resolution of the PB or ZBA, (2) the Keisslings subsequently sent a letter to the boards indicating that they don't have any objections to this application and (3) regarding the public, he believes that all neighbors were notified before the ZBA meeting and no one appeared in opposition. Counsel agreed to the final statement.

J. Gaddy asked if all of the conditions presented to the PB on June 27, 2002 has been complied with and P. Kenyon said yes.

J. Gaddy asked if the access to Lot A will be from the west of the residence and Peter Cossman said that (1) the access to the Lot A will be directly off of Route 9N where there is an existing road cut and (2) he is not proposing any driveway down there—it would be a footpath going from the upper level down if someone wanted to access the cottage.

H. Caldwell asked if the PB made the recommendation to the ZBA for no further subdivision and P. Kenyon said yes, but the PB doesn't have it in its motion to approve the subdivision. H. Koster said that the ZBA didn't have it in their motion either. H. Caldwell said that he stands corrected.

No comments of public in attendance.

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 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** Chauncey Mason. Sandi Aldrich opposed. **All others in favor. Motion Carried.**

**16) SD07-13 VASSALLO, THOMAS & ROSEMARY.** Represented by Atty. Mark Rehm. Seek to divide into two lots that parcel designated as Section 171.11, Block 1, Lot 55, Zones GB5000 & RM1.3. Property Location: 5033 Lakeshore Drive. Minor Subdivision. Sketch Plan Review. Subject to SEQR.

Atty. Mark Rehm, representing Thomas and Rosemary Vassallo, gave an overview and said that (1) this is a subdivision of one parcel into two parcels, (2) it is not the intent to develop the back parcel at this time, (3) they received a non-jurisdictional letter from the APA—a copy was forwarded to the Zoning Office, (4) there is no proposal to build at this time, (5) as the road continues up to Lot 2 there is no anticipation of getting the lot up to that point—the issue of road steepness would be addresses once potential building sites have been chosen, (6) parcel 2 shows a 75 ft. setback because of the scenic corridor and that can be changed to a 50 ft. setback if the PB wishes, (7) paving will have to be done with caution—they want to try to avoid moving the drive, as they want to disturb less than more and (8) they will reserve the easement right-of-way for one lot only and that lot is yet to be determined.

S. Aldrich asked if putting the driveway into Lot 2 will require blasting and Atty. Rehm said that (1) there is no indication from the surveyor that they would need to blast, but they would certainly take that into consideration and (2) whatever the standards are at the time the applicants wish to move forward, they will comply. S. Aldrich asked if the driveway would have to comply with the 12% grade for roads since it is a shared driveway and H. Koster said no. P. Kenyon asked if the PB will be treating this as a shared driveway and H. Koster said that is up to the PB. S. Aldrich said that she is concerned with the steep pitch of the driveway, so she wanted to make sure it is within the regulations.

No correspondence.

No comments of public in attendance.

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 sketch plan to final plat, waive a public hearing and grant final approval as presented with the following condition:

- 1) Site Plan Review is required for the construction of a single family dwelling on lot 2.

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**

**17) SPR06-41 SMITH, WAYNE.** Represented by Atty. Susan Millington. Seeks 1) Type II Site Plan Review for commercial boat storage. 2) To discuss/amend conditions of approval set forth on January 22, 2004 when approving (SPR03-43) for commercial boat storage and indoor boat maintenance facility. Minimal maintenance was allowed as part of the approval. 3) Type II Site Plan Review for an agriculture use. Specifically to have farm animals. Section 123.00, Block 2, Lot 59, Zone RL3. Property Location: 502 New Vermont Road, approximately 1 mile east of Alder Brook Road. Subject to SEQR. *Note: This application is in conjunction with V06-38. This item was tabled at the September 21, 2006 meeting pending additional information. The ZBA is seeking a recommendation on the boat storage V06-38.*

Atty. Susan Millington, representing Wayne Smith, handed out correspondence to the PB members, gave an overview and said that (1) they are here seeking approval for the keeping of certain animals on the applicant's property and are seeking an increase of boat storage on his property, (2) regarding the issue of the applicant's farm, he has maintained a small family farm on his property for approximately 13 years, (3) in June 1995, the applicant made an application for beef cattle on his property and that request was granted, however, the applicant didn't realize the other farm animals being kept on his property for all those years also needed approval, so that he could continue keeping them on his property, (4) when the applicant realized the other animals also must be approved, he made the application to the Town of Bolton, (5) Wayne Smith is requesting he be allowed to keep the following animals on his farm: 10 cows, 4 pigs (to be butchered in the fall), 16 fowl/poultry and 2 sheep and/or goats (possibly in the future)—the applicant has enough land to support this many animals, (6) the Town of Bolton's animal husbandry ordinance Section 200-42 is confusing at best, so they contacted numerous agencies to determine the needs of the animals he would like to keep on his property, (7) Thomas Gallagher of the Cornell University Cooperative Extension provided a letter detailing the needs of the animals Wayne Smith proposes to keep on his property and (8) Dean Casey from the New York Farm Bureau has reviewed the letter and is present to answer any PB member questions.

H. Koster asked if the applicant plans on submitting a stormwater management plan and Atty. Millington said that (1) they have done a tremendous amount of stormwater work—they have been working with the LGPC and with Warren County Soil and Water, the Town of Bolton Zoning Administrator and Code Enforcement Officer, and the APA and

(2) the APA is completely in agreement with the fact that this project does not affect the stream on the property in the slightest. H. Koster said that the PB has required stormwater management for this project. Wayne Smith said that (1) he met with the Town of Bolton Zoning Administrator and Code Enforcement Officer on this and (2) with all of the recent improvements he has done in working with LGPC and Warren County Soil and Water, he didn't need a stormwater permit until the boat storage facility gets excavated. H. Koster said that (1) the applicant is asking for boat storage, therefore the applicant needs to give the PB a stormwater plan to review and (2) the LGPC does not have jurisdiction for stormwater management in this town (Town of Bolton). Wayne Smith said that (1) the stormwater he has is on the map he provided and (2) the Town of Bolton Zoning Administrator and Code Enforcement Officer didn't want him to do anything on the stormwater until he had gotten his approvals. P. Kenyon said that (1) they told the applicant not to actually do any stormwater on site, but they never told him not to put in an application or to submit a stormwater plan. Wayne Smith said that (1) he met with P. Kenyon three times and she never mentioned the stormwater presentation—whatever he needs to do he will do on that end of it, (2) he has met with every agency—NYSDEC was there yesterday to go over the brook with him, (3) he has worked hard on trying to complete this project properly—any improvement he has done he has talked to the Code Enforcement Officer and cleared it with her before doing any further disturbance, (4) as of now, everything is grass, has been seeded and everything has been laid up and (5) the LGPC wouldn't put his boat storage permit in front of them until he addressed the stormwater on the building and the three dry wells, which he did clear with Code Enforcement Officer Mitzi Nittmann. Atty. Millington said that (1) the LGPC has advised her that they do have jurisdiction on this project and that they are asserting it—they are dealing with them at this moment and (2) he talked to Mike White about this and she read the law itself, and it seems the LGPC does have jurisdiction on this. H. Koster said that (1) the LGPC has jurisdiction for boat storage, (2) for stormwater, the LGPC's jurisdiction has been handed over to the Town of Bolton for the whole Town of Bolton. Atty. Millington said that the LGPC is going to be more stringent on stormwater than the Town of Bolton PB. H. Koster asked how the PB is supposed to operate under this situation and Counsel said that the LGPC is wrong. H. Koster said that he knows that the LGPC is wrong, but the applicant shouldn't have to suffer because of the overlapping. Atty. Millington said that they don't know what to do now, because her client is subject to the LGPC's regulations in order to get his permit for boat storage. Counsel said that he would do what he can to get the Town of Bolton Supervisor to write the LGPC a letter, because they are wrong. Wayne Smith said that he is in front of the LGPC next week for the original 35 boats. Counsel said that (1) he totally acknowledges that the LGPC is in charge of the applicant's marina aspects, but when they step over and say they want to see stormwater, the really have no jurisdiction on stormwater—none and (2) the LGPC has no stormwater regulations so they have no way to enforce it. Wayne Smith said that the LGPC wouldn't put his permit application on their agenda until he completed the items they said. Counsel said what the applicant is telling him is that the LGPC required him to do all sorts of stormwater before he can get a permit and Wayne Smith said yes, it is in the correspondence he provided. Counsel said that he is not criticizing the fact that stormwater is appropriate, but the proper agency is the Town of Bolton. Wayne Smith

said that he would like to put all this behind them and get to the next step of getting approvals and getting the animal husbandry laws and a decision on that from the PB.

H. Koster said that the PB has no idea of what the applicant has installed for stormwater management. Wayne Smith said that the only thing Code Enforcement Officer Mitzi Nittmann told him he needed that was required was a silt fence, which is marked on the map. H. Koster asked about the stormwater management the applicant claimed to have installed. Wayne Smith said that there are three dry wells and he put two additional dry wells off the back of the barn. Atty. Millington said that the stormwater plan for the Quonset hut was already approved by the Town of Bolton. Wayne Smith said that Code Enforcement Officer Mitzi Nittmann was on site yesterday and she said it was compliant. H. Koster said that the PB is still required to review the stormwater the applicant installed. Wayne Smith said that it is on his map and he built it to the Warren County Soil and Water specifications. H. Koster said they got involved in this too and Wayne Smith said yes, he's been working with everybody on this. Atty. Millington said that The LGPC told them they needed to get a hold of Warren County Soil and Water, which they did.

H. Koster asked if it is correct that the PB is obliged to review the applicant's stormwater management and Counsel said yes, if he meets the thresholds, for instance, if this is disturbing less than 5,000 square feet than it is exempt. Wayne Smith said he is disturbing less than 5,000 square feet, so Mitzi Nittmann told him he was exempt. Counsel asked if the applicant will ever go over 5,000 square feet cumulatively and Wayne Smith said no.

H. Koster said that he has a great problem with the LGPC coming in telling this applicant he has to do things before he can even apply for a permit and Counsel agreed. H. Koster said that the PB fights for home rule, then there's an agency that walks in there and makes up rules as it goes along. Counsel said that (1) the LGPC is flat out wrong—something should be done about it and (2) he will meet with the Town of Bolton Supervisor and get him very serious in writing a letter to the LGPC that the Town of Bolton does maintain home rule and that the Town of Bolton has reserved exclusively stormwater regulations. Wayne Smith said that since the beginning, P. Kenyon and M. Nittmann have been in the loop on all of this. Counsel said that (1) in accordance with this stormwater regulation, the applicant is under the limits, so he is fine and (2) what is particularly disturbing to H. Koster and himself is that they have been told informally by Mr. White (LGPC) that the applicant has to do certain things or his permit won't get approved. Atty. Millington said that they have been told that formally by letter. H. Koster said that Mr. White isn't even qualified to design stormwater management. Counsel asked how the applicant gets instructions on how big the dry well is supposed to be and Wayne Smith said that Warren County Soil and Water met with him, looked at the site. Atty. Millington said that prior to that her client got a letter as to how he needed to grade his driveway, how he needed to put grass over the top of some fill in there before the LGPC would consider his application. H. Koster asked if the applicant is saying that the LGPC sent him a letter saying that they (LGPC) would not consider his application and Wayne Smith said yes. H. Koster said that is going way out there. Counsel agreed

and said that LGPC is wrong. Counsel asked who came up with the design and Wayne Smith said that (1) Warren County Soil and Water came up with the design, (2) Mitzi Nittmann told him he needed nothing and (3) he has done more than he was ever asked to do and it has helped. H. Koster asked why Mike White didn't suggest the applicant sees the Town of Bolton and Wayne Smith said that he met with the LGPC and Mike White's staff told him that the LGPC doesn't like the way Bolton enforces its stormwater. H. Koster said that the applicant shouldn't be punished for being in the middle of the two agencies. Counsel said that he is offended by the LGPC's actions—it is not right.

H. Koster asked if the Town of Bolton works on a cumulative basis and Counsel said yes. P. Kenyon said (1) no, she doesn't and she never has and (2) if that is the case then the ordinance needs to be changed.

Wayne Smith said that he originally met with Lake George Waterkeeper Chris Navitsky on this project and Chris Navitsky sent a letter stating that there is no disturbance here and he is not threatening the wetlands or the brook.

Counsel said that (1) for tonight, the PB is trying to get some traction with respect to progress on this application, (2) items specified as #1 and #2 are advisory in nature to the ZBA in some aspects before it comes back to the PB and (3) item #3 is entirely the PB's—a Type II site plan review for agricultural use. H. Koster said that all the PB can do tonight on items #1 and #2 is give the ZBA a recommendation. Counsel said yes, and on item #3 if the PB has enough information the PB can make a decision and if the PB does not have enough information, it needs to tell the applicant what is missing.

D. Roessler asked how many boats the applicant is currently approved for and Wayne Smith said that (1) he is approved to not exceed 35 boats and would like 50 more, so a total of 85 boats, (2) the boats would be primarily outside—he has dropped the idea of an inside boat maintenance facility and (3) he is requesting a boat washing area where he can prep the boats, start them, wash them, then drop them off in the lake, a plan which the LGPC has already approved. D. Roessler asked if the applicant would be doing tune-ups at this same location and Wayne Smith said that (1) basically it would be what you could do out of a tool box—putting plugs and stuff back in and (2) he would not be doing any oils at this location.

G. Gaddy asked if the applicant is bringing power to this location now and Wayne Smith said yes, he would like to. J. Gaddy asked about quick launch and Wayne Smith said that he is not obligated for quick launch, so he is not going to be doing any quick launch.

Counsel said that the applicant has an application for the ZBA for an area variance for commercial boat storage involving more than 5,000 square feet—17,125 square feet is proposed. H. Koster said that is why he is asking why the PB is not reviewing stormwater on that then if it is over 5,000 square feet. Counsel said that it is a legitimate issue that he and the Zoning Office need to get back to the PB and the applicant on.

No comments of public in attendance.

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 send a favorable recommendation to the ZBA with the following conditions:

- 1) The storage of boats is limited to 85
- 2) The boat wash area is to be located behind the existing building.
- 3) Minimal indoor maintenance only is allowed.
- 4) No major repairs or oil changes are allowed.

**Seconded by** Chauncey Mason. Sandi Aldrich opposed. **All others in favor. Motion Carried.**

Regarding item #3 on this application, P. Kenyon said that the applicant does have space for this and the only question was if stalls were needed in the middle of the pasture. Atty. Millington said that she feels the letter from Cornell University Cooperative Extension letter addresses that, saying it is not necessary. Counsel said that the code has both and he advised the PB to chose one. Dean Casey said that (1) the pigs and chickens are definitely good and (2) the cow issue is whether a cow can be pastured in the summer—he has a natural windbreak and in the two years he’s been doing it he hasn’t lost an animal. Counsel said that (1) in Section 200-42(C)(20047) it is awkwardly worded to say that, “...horse and cattle would require five stalls 12 ft. by 5 ft. and enclosed box stalls 12 ft. by 12 ft. and (2) a few months ago in the discussion, he advised the PB to chose one or another. Dean Casey said that (1) cows prefer a natural habitat without shelter, (2) as long as there is shade tree in the summer time, that is the cows favorite preference—even if it is 20 degrees below zero, the cows would rather be outside, (4) he has 37 years experience in this industry and still currently works in the industry and (5) the applicant doesn’t propose to have the animals there in the winter, so there is no need of housing there at all in his professional opinion. Wayne Smith said that (1) there is a letter from Cornell Cooperative Extension stating that is similar and (2) Code Enforcement Officer Mitzi Nittmann agrees also that a barn is not needed to have cows.

No comments of public in attendance.

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 approve the animal husbandry portion of the application with the following numbers allowed:

- 1) 10 cows
- 2) 4 pigs
- 3) 60 fowl or poultry

- 4) 2 sheep or goats

**Seconded by Henry Caldwell. Sandi Aldrich opposed. All others in favor. Motion Carried.**

**18) SPR05-40 WUBBENHORST, ROBERT.** Represented by Hugh Roberts & the LA Group. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review to remove more than 15,000 sq. ft. of vegetation. Approximately 50,529 sq. ft. is proposed. Section 171.00, Block 1, Lot 11, Zone RR5. Property Location: Potter Hill Rd., approximately 800 ft. east from Edgcomb Pond Rd. intersection. The WCPB determined no county impact. Subject to SEQR. *Note: A single-family dwelling is not proposed at this time. This item was tabled at the October 2005 meeting pending Town Engineer Tom Nace's review and approval.*

Hugh Roberts, representing Robert Wubbenhorst, gave an overview and said that (1) they have obtained an easement from the power company and (2) they have responded to five letters comment letters from Tom Nace's office and they have arrived back here with their approval of this submission.

H. Koster asked why the applicant is putting in a driveway without a residence. Hugh Roberts said that (1) it's impossible to sell something like this property without a plan, (2) they are here before the PB seeking approval of the plan to develop the site, (3) they are seeking final site plan approval and when somebody buys the property and makes a final decision on the house site, the new owner would have to come back before the PB for stormwater.

S. Aldrich asked if the applicant or the buyer would be putting the road in and Hugh Roberts said that he believes the applicants will put in the road. Peter David of the LA Group said that he believes they've satisfied Tom Nace's comments and are seeking that approval.

H. Caldwell said that (1) he is a property owner on one side and his cousins are property owners on the other side, so they sort of surround this property, (2) there is a lot of clearing and vegetation removal to get the driveway in and make it a buildable site, (3) the sites that are easy to build on are pretty much gone and (4) they are seeing more and more sites like this that require a lot of stormwater work.

J. Gaddy asked if there is a planting plan for the cleared spots and Peter David said that (1) the retaining wall system was put in as one of Tom Nace's comments—they have a boulder system and a gapping hole system depending on the site conditions they discover and (2) they are currently proposing to restabilize the banks with erosion control banks. J. Gaddy said that he would like to see a tree re-planting plan put into something like this. P. Kenyon asked if the size of the retaining wall would be more than 2 ft. in height or more than 100 sq. ft. in any given location. Peter David said (1) yes, it is going to be more than 2 ft. in certain locations—there is a possibility they might not even need it and (2) they will have a review engineer with it. P. Kenyon said that the retaining wall would

be considered a structure. Counsel said that in the Bolton code it is defined as constituting a structure, so here there would be an accessory structure without a primary—the applicant doesn't have a house. Hugh Roberts said that (1) you don't know the site is there and won't know it's there after the driveway is built, (2) the removal of trees will remain unnoticed and (3) there will be no negative visual impact.

H. Koster asked if the applicant will be crossing National Grid property and Hugh Roberts responded by saying that they have obtained an easement from National Grid.

J. Gaddy said that he would like to see a planting plan, specifically in the turn off the road before the house spot—the hillsides on basin #1. Hugh Roberts said that the forest regenerates itself and J. Gaddy said that (1) agreed, but said that it doesn't fast enough for him and (2) he is looking at Wright's Farm as an example. Peter David said that they can make a planting plan a condition of approval. H. Koster said that J. Gaddy is looking at planting trees on a 2:1 slope—it is a problem in that it is almost more disturbance than it is worth. J. Gaddy said that obviously it is worthwhile to disturb the area to get to the top and H. Koster said that (1) the applicant is getting up there because it is the only place to build on this lot and (2) J. Gaddy just can't demand planting trees, just for the fact that he wants to plant trees. Hugh Roberts suggested planting 500 native species seedlings and J. Gaddy agreed.

H. Koster said that another issue is that the project progress has to be checked and reported to the PB by the applicant's engineer signing-off on this throughout the project. Counsel agreed. H. Koster said that the PB gets to do the site plan review on any proposed house there. Hugh Roberts asked if site plan review is necessary if the house utilizes the stormwater management as designed and P. Kenyon said yes.

H. Koster said that the house will probably be visible from the lake and Hugh Roberts said no, he doesn't think it will.

No correspondence.

No comments of public in attendance.

The WCPB determined 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, wave a public hearing and grant approval as presented with the following conditions:

- 1) The applicant's engineer is to make periodic inspections and certify to the Town that the driveway and stormwater controls were installed in accordance with the plans approved.

- 2) Site Plan Review is required for construction of the single family dwelling.
- 3) 500 native species nursery stock trees are to be planted, of which 250 trees must have a 2 year survival rate.

This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Donald Roessler. Chauncey Mason opposed. **All others in favor. Motion Carried.**

**19) SPR07-19 HARBOUR LAND HOLDING CORP. dba Fins & Claws.** Represented by Bruce & Kathy Cerosky. In accordance with Section 200-22, seek Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Approximately 31 sq. ft. is proposed. Section 171.19, Block 1, Lot 64, Zone GB5000. Property Location: 4933 Lakeshore Drive. Subject to WCPB Review. Subject to SEQR.

Bruce Cerosky, representing Harbour Land Holding Corp. dba Fins & Claws, gave an overview and said that (1) they propose to move the existing sign to a new location and (2) WCPB approval has been received.

D. Roessler asked if there will be any lighting for the sign and Bruce Cerosky said no, they will not have lighting on that sign.

H. Caldwell asked about the sign location and Bruce Cerosky said that the new sign is going up on the building with no lighting. H. Caldwell said that (1) if the applicant wanted to make it a self-standing sign in the future then he'd have to come back before the PB and (2) he thinks the sign looks great against the building like that.

No correspondence.

No comments of public in attendance.

The WCPB determined 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** Donald Roessler to accept the application as complete, waive a public hearing, and grant approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** John Gaddy. **All in favor. Motion Carried.**

**20) SD06-12 WHISPERING PINES (Bahr Holding, LLC).** Represented by the LA Group. Seek to divide into 15 lots that parcel designated as Section 139.00, Block 1, Lot 46.11, Zone RL3. Property Location: County Route 11. Preliminary Plat. Major Subdivision. Subject to SEQR. *This item was tabled at the September 21, 2006 meeting pending additional information.*

Dan Mock of the LA Group, representing Whispering Pines (Bahr Holding, LLC), gave an overview and said that (1) the road pattern is essentially the same and (2) they are seeking re-approval of the concept sketch plan and (3) they have located identified and changed the length of the wetlands for which they have their setbacks.

J. Gaddy asked if the wetlands are jurisdictional and Dan Mock said that some are jurisdictional and some are not according to the APA.

H. Caldwell asked if the common communal septic system would be a mound system and Dan Moffit said that for the time being it is going to be a shallow field slightly raised. H. Koster asked if this would be gray water with a septic tank on the lot and Dan Mock said that it is a communal system and each lot has a grinder system.

J. Gaddy asked if there is any possibility of getting the power extended behind the vegetation along CR11 and Dan Moffit said that he believes it would be underground. Bruce Cerosky said that they have fiber optics on that side of the road and a pole that ends just adjacent to the end of the property. H. Caldwell asked if the applicant will go underground from Trinket and Bruce Cerosky said yes, they have given more open space or parkland and created larger lots.

D. Roessler asked if Lots 1 and 15 are accessed off of CR11 and Bruce Cerosky said yes.

H. Koster (1) asked why they didn't do separate septic tanks on the individual lots, then just pump gray water, as opposed to pumping solids with a grinder pump and (2) said that if you run gray water and someone abuses their septic system it stays on their lot. Jeff Anthony of the LA Group said that (1) they will present that option to their engineer and (2) they have done it both ways.

Bruce Cerosky said that (1) the open space will not change—it will be non-motorized trails, as they are looking for hiking, snowshoeing, cross country, etc. and (2) this would be exclusively for HOA members.

No correspondence.

No comments of public in attendance.

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

**Motion by** Henry Caldwell to accept the preliminary plat. A major stormwater project must be applied for. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

Meeting adjourned at 12:34 am.

Respectfully submitted by

Jennifer Torebka  
Recording Secretary  
05/31/07