

Planning Board- Minutes November 29, 2007
State of New York
Warren County
Town of Bolton

Present: Chairman Herb Koster, Sandi Aldrich, John Gaddy, Sue Wilson, Chauncey Mason, Henry Caldwell, Town Counsel Michael Muller and Zoning Administrator Pamela Kenyon.

Absent: Donald Roessler

Regular Meeting:

H. Koster began the meeting at 6:08pm by asking for corrections to the September 20, 2007 and October 18, 2007 minutes.

September 20, 2007 Minutes:

- 1) Paul Olund from Environmental Design Partnership representing the Federal Hill Corporation asked that his name be spelled correctly.
- 2) J. Gaddy mentioned that on page 6 in the discussion on the type of metal being used for the tower and he stated that he believes it is coriten, not cortin.?
- 3) S. Aldrich stated that page 19, at the bottom of the third paragraph, should read: "S. Wilson said that if there was a road going to a different type of subdivision that was configured a little bit differently and they were aboveground, it wouldn't show on Padanarum Road and Ed English could get power overhead through a differently configured subdivision."

Motion by H. Caldwell to accept the September 2007 minutes as corrected. Seconded by J. Gaddy. All in Favor. Motion Carried.

H. Koster then asked for corrections to the October 18, 2007 minutes.

Motion by J. Gaddy to accept the October 18, 2007 minutes as presented. Seconded by S. Aldrich. All in Favor. Motion Carried. (*H. Caldwell recused himself because he was not in attendance at October's Meeting.*)

- 1) **SPR07-35 Harry Wolkin Trust (Linda Queen).** Represented by Chris Gabriels. In accordance with Section 200-52, seeks Type II Site Plan Review for a privacy fence greater than 6' in height from natural grade to be placed on an existing dock 7.3 ft. is proposed from the mean high water mark. Section 213.17, Block 1, Lot

34, Zone RCM.1.3. Property Location: 3832 Lake Shore Drive. Subject to WCPB & APA Review.

RESOLUTIONS:

This item was tabled at the applicant's request.

Motion by S. Aldrich to move agenda items 2, 3 and 4 to be heard later in the meeting since Jeffrey Stief was not in attendance yet. **Seconded by J. Gaddy. All in Favor. Motion Carried.**

Motion by J. Gaddy to move agenda item 6 to be heard later in the meeting because Dennis Phillips was not in attendance yet. **Seconded by S. Aldrich. All in Favor. Motion Carried.** (*Note: H. Caldwell recused himself.*)

- 2) **SPR07-39 Bolton Lake Partners. (Happy Jack's & Next Summer).**
Represented by Jeff Strief. Seek Type II Site Plan Review for an advertising sign greater than 4 square feet. A total of 26.9 sq ft is proposed. Section 171.15, Block 1 Lot 61, Zone GB5000. Property Location: 4955 Lake Shore Drive formerly known as the Hour Glass Shop. Subject to WCPB review. Subject to SEQR. (*Note: This item was heard as item # 6 on the agenda*)

Jeff Strief, representing Happy Jack's and Next Summer, gave an overview that (1) Happy Jack's is expanding and relocating its shops, (2) that he and Dr. Slaughtner have purchased the Hour Glass building, (3) they are in the process of renovating and updating the building and (4) they are seeking permission to put up new signs as part of the new awning that was approved at last week's ZBA meeting. He stated that the new design shows the renovation to the exterior of the building with the removal of the current awning, which was added to the building in the 1950's, and replacing it with a new awning, with the exact same footprint, but is a couple feet higher up on the building and has a barrel arch in the middle with a red metal roof on it .

Jeff Strief continued stating that the sign application is two fold because there are two signs for the two businesses on the ground floor split between the front and back halves of the building which will be open to one another and customers for both shops will be using the front door, indicating that Happy Jack's will be in the front of the store and Next Summer will be in the back half of the space.

H. Koster asked if the sign will be hanging in the archway as shown on the drawing and if it would be hanging on two steel posts. J. Strief stated yes and the original idea was to have them hung by chain, but the sign designer from Ed Ostberg suggested using the steel posts mounted to the actual awning itself which would be safer and stabilize the signs better in wind.

H. Caldwell asked about the actual artwork on the signs, if they were supposed to be geese or flying fish. J. Strief stated (1) that they were geese and that for the purposes of the application, the drawing was his and that it would be better depicted and (2) that the geese, as well as all of the lettering, would be cut out of aluminum.

S. Wilson asked if the font size be reflected the same as it is in conjunction with the sign. J. Strief stated yes.

S. Aldrich asked (1) if the "H" actually extends beyond the sign. J. Strief stated yes and that if they were familiar with the current Happy Jack's sign that it would be constructed in the same way, in which the surface that is red is the base surface, the surface that is blue is raised half an inch and applied to the red oval and the white letters are then applied on top of that for a three dimensional look. He further stated that the squirrel will all be painted onto the red and the squirrel will have a little dimension to it.

H. Caldwell asked is he could go through their proposed lighting. J. Strief stated that (1) it would be two lights that will come straight out from the face of the awning and shine downward onto the two signs and (2) it would be traditional store front lighting, in what he imagines an old hardware store with the goose necks.

S. Wilson asked about the wattage used on the current signs. J. Strief stated 40 watts, but technically it is less than that because he uses compact fluorescents. S. Wilson asked if it is enough for the current sign. J. Strief stated that (1) he would prefer more, and that in this case that they would need more than that because it is a larger space and there are two sign and (2) given the fixture that the architect picked out, two flood lights would be ample and they would continue to use the compact fluorescents but in this case would use a 100 watt equivalent.

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

RESOLUTIONS:

Motion by John Gaddy to accept the application as complete, waive a public hearing and grant approval as presented, including the lighting as specified. 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. **All in favor.**
Motion Carried.

- 3) **SPR07-38 Strief, Jeffrey (Mrs. Whizzy's Fizz Poppo)** Seek Type II Site Plan Review for an advertising sign greater than 4 square feet. Approximately 12 sq. ft is proposed. Section 171.19, Block 2, Lot 2, Zone GB5000. Property Location 4938 Lake Shore Drive known as Performance Marine. Subject to WCPB

Review. Subject to SEQR. (Note: This item was heard as item # 7 on the agenda)

Jeff Strief, representing Mrs. Whizzy's Fizz Pops, explained an overall shift has been made due to the purchase of the Hour Glass Shop by (1) recombining both Happy Jack's into one store and actually split it into two stores again, Next Summer will move into the Hour Glass space, (2) the space next to Ben & Jerry's will house all of the children's items under Happy Jack's Kids, and (3) since they still hold the lease on the former Bolton Babies, which was Happy Jack's too, they would like to change that into a new business, which will be a candy shop called Mrs. Whizzy's Fizz Pops Donut, Fudge and Candy Shop and this application is for that shop.

Jeff Strief stated that (1) they received approval last Monday to add awnings to the front of that building (2) they are seeking to put up a larger sign than they have right now and (3) the new sign would hang on the wood awning that is currently covered up by the fabric awning and remove the sign from the second story that hangs next to the window, essentially taking the two signs and combining them into one.

H. Caldwell asked if the sign would hang from the wood. J. Strief stated yes, that currently where the sign hangs is about halfway back towards the door from the front of that awning, and because this fabric awning would come out six feet from the building, they would like to move where the oval sign hangs right now closer to the front of that wood awning. He stated that the reason they are not removing the wood awning, is that (1) as you can see in the fabric awning, there is actually a u-shaped cut-out to leave that second story window exposed (2) they don't want rain and snow to fall on anyone standing underneath, and (3) the old wood awning covers up the hole in the brick from where the old movie marquee used to be.

H. Koster asked if the sign was going to be lit and if so, with what. J. Strief stated yes and the intention was to attach downward facing shielded lighting on the underside of the fabric awning which will have a metal frame and attach the same 40 watt light to the underside of that fabric awning to shine on the oval.

The PB found no concern with Section 200-31A-D of the Zoning Ordinance and C1-C7 on the SEQR Form.

RESOLUTIONS:

Motion by John Gaddy to accept the application as complete, waive a public hearing and grant approval as presented with the following condition: 1) Exterior lighting must be downward facing and under the cover of the awning. 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. **All in favor. Motion Carried.**

- 4) **SPR07-40 Strief, Jeffrey. (Happy Jack's Kids).** Seek Type II Site Plan Review for an advertising sign greater than 4 square feet. 6.2 sq. ft. is proposed. Section 171.15, Block 3, Lot 91, Zone GB 5000. Property Location: 4950 Lake Shore Drive known as Ben & Jerry's. Subject to WCPB Review. (*Note: This item was heard as item # 8 on the agenda*)

Jeff Strief, representing Happy Jack's Kids, gave an overview of the application stating that (1) they are changing the current sign from Happy Jack's to say Happy Jack's Kids, (2) they are changing the shape from a horizontal oval to a more vertical oval, (3) they would like to replace the armature that is currently on the sign post to be more traditional wood instead of the decorative oval metal, (4) the change would allow them to attach two smaller light bars to the top of the sign instead of the metal bars and (5) the overall square footage of the sign is less.

J. Gaddy asked if the sign would be in the same location. J. Strief stated yes.

The PB found no concerns with Section 200-31A-D of the Zoning Ordinance and C1-C7 SEQR Form.

RESOLUTIONS:

Motion by John Gaddy to accept the application as complete, waive a public hearing and grant approval as presented, including the lighting as specified. 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.**

Note: PB took a break and reconvened at 7:55 p.m.

- 5) **V07-65 Sweet Toney LLC.** Represented by Atty's Jonathan Lapper & Stefanie DiLallo Bitter. For the construction of a proposed single family dwelling with attached garage. Seeks area variance for 1) deficient side yard setback, 50 ft. is required, 19.9 ft is proposed on the north side and 20 ft is proposed on the south side. Section 199.04, Block 1, Lot 34 Zones LC25. Property Location: Clairview Lane. Note: Site Plan Review is required for a single family dwelling in the CL25 zone, but has not yet been applied for. The Zoning Board of Appeals is seeking the Planning Board's input.

RESOLUTIONS:

This item was tabled at the applicant's request.

Note: H. Caldwell recused himself from SD06-05.

- 6) **SD06-05 Bixby III, William.** Represented by D.L. Dickinson Associates. Seeks to amend previously approved plat, SD, 96-07, approved by the Board on July 25, 1996. Specifically to merge those parcels designated as Section 156.00, Block 1, Lots 70.3 & 70.4 and then subdivide into 3 lots. Zones RL3 & LC25. Property Location: County Route 11. Sketch Plan Review. Minor Subdivision. Subject to SEQR. *(Note: This item was heard as item # 3 on the agenda)*

Dennis Phillips, representing William Bixby III stated that (1) they are seeking a modification of an existing subdivision in which there were three lots, (2) the property had the density to hold four lots, (3) the subdivision has split zone to it, which includes a 3 acre part and a LC25 acre part, (4) they are looking to add another lot by combining the two current lots and making it three, (5) with the density shift on this, the adjoining neighbor that owns Lot 1 (156.00-1-70.2) has consented in writing to this modification and is prepared to make that consent a matter of record so that there is no question, and that Lot 1 would never be re-subdivided because the density in this modified subdivision would be all used up.

H. Koster asked Counsel if in the future that they would need to get a letter for density. Counsel stated that (1) this lot, by record, will have shown that the density is no longer assigned to parcel 156.00-1-70.2 and that parcel is no longer able to be subdivided and (2) there is no increase in density and it is binding forever because it is on record in the Clerk's office. H. Koster stated that Lot 1 only has 4-5 acres so it would not be able to be subdivided at any rate, but was concerned that there are other subdivisions in Town that in the past, have subdivided after they were sold.

J. Gaddy asked Counsel if when they put the phrase "no further subdivision" and an applicant agrees to that, but they have not used up the density, that is when subsequent owners of the lot may appeal for further subdivision. Counsel responded that they would want to bind that authority with a deed covenant, in addition to the permission granting and receiving, to be enforceable by all whom may have agreed, neighbors, subsequent chain title, earlier chain of title, Town of Bolton.

H. Koster asked what if adjoining property has been sold off, would it be possible to reverse the covenant. Counsel stated that hypothetically, if all beneficiaries involved could agree to reverse the deed covenant, it could be done. Counsel continued by stating that a deed covenant could not be appealed so they would not even have to bother with Town Code or Town Law.

H. Koster asked P. Kenyon asked how far back the Town goes when determining if a project is major or minor. P. Kenyon stated 10 years. Counsel stated that this would be forever, recognizing the exception, which would be to gather up all the people who were in title and the beneficiary of such a covenant and get all parties to agree. S. Aldrich asked if they were only dealing with 2 parties as of right now. Dennis Phillips stated yes. Counsel suggested that Dennis Phillips join the Town of Bolton as beneficiary covenant.

Dennis Phillips stated that he believes that they could consent to that, because that is the intent.

S. Wilson asked if it needed further approval from the A.P.A. Dennis Phillips stated that that the A.P.A. has flagged wetlands on the property, but there are no lines that go through any of those wetlands and noted that the boundary lines are around those wetlands.

H. Koster asked (1) if they were previously flagged with the previous subdivision. Dennis Phillips stated that no, they were new designations for the wetlands. (2) H. Koster asked if they had moved. Dennis Phillips stated no.

S. Wilson referred to letter from the A.P.A. dated March 2007 indicating that they were going to take jurisdiction and didn't know if there was anything else to that. Dennis Phillips stated that it was under a previous plan.

The PB has no concerns with C1-C7 on the SEQR Form.

RESOLUTIONS:

Motion by John Gaddy to accept the application as completed sketch plan, convert the sketch plan to final plat, waive a public hearing and grant final approval as presented with the following conditions:

- 1) The lots are not to be further subdivided.
- 2) The Town of Bolton is to become a party of interest on the covenant stipulating that the lots will not be further subdivided.
- 3) All 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** Sandi Aldrich. Henry Caldwell recused himself. **All others in favor. Motion Carried.**

Regarding Saddlebrook Subdivision, Items 16 and 17, Dennis Phillips stated that the anticipated court order lifting the stay relative to the Saddlebrook Subdivision has not been signed yet, but it is impending and that it should be off the agenda for tonight. H. Koster stated that he would prefer that it were off the agenda anyway since the PB has absolutely no documentation before them. Counsel stated that (1) we are compelled by Town Law Section 282 to keep it off, (2) Rolf had assured him and it was a believable scenario, that the order would be signed and in his hands Monday, which did not happen.

J. Gaddy stated that at the last TB meeting, there was a reaffirmation of the fact that the Boards were not going to hear anything that didn't meet the deadlines that have been established. Counsel responded that (1) during the lawsuit you can do anything to create a workable solution in settling that lawsuit. In this case it was to get it back on the agenda as soon as possible to allow the scheduling of a public hearing, (2) it has been a

challenge between the attorneys, they have all agreed in principal to solve this problem, but it is not in writing, and (3) some parties have slowed down the process in asking for this or that, but is happy to say that the Town of Bolton has not been an impediment to the settlement.

H. Koster again stated that even if Rolf did come through with what he promised, that the PB has absolutely nothing in front of them regarding this project, how do they call for a public hearing. Counsel stated that (1) he would instruct the applicant's that you have nothing before on this application and that you will continue to table it until he has submitted everything and (2) it is Counsel's understanding that the plans that will come before the PB will be substantially shaped by the stipulation and order provide for.

Counsel asked Dennis Phillips if they were still struggling with area variances granted and protected or if they are abandoned. Dennis Phillips stated (1) that the variance language appears to be the issue and the only thing holding up the signing of the stipulation by himself, Mr. Lassowitz and the Town, (2) that it is a very technical matter and really doesn't even go to the merits of the lawsuit, that it is beyond that, and (3) in a settlement type situation, things happen that don't happen otherwise.

Counsel suggested to Dennis Phillips to pass along to Rolf that (1) should he and Dennis have the opportunity to sign the Stipulation tomorrow which constitutes the basis of the Order, and Rolf feels as though he is ready to go with the PB and will not be changing anything and stands by what he previously submitted to the PB he is going to be subject to the same criticism that brought the lawsuit or (2) if he is going to supplement his current plan that it better be in by the deadline. H. Koster stated that even if it is the same, that they have to have what was presented here which is not in the office. P. Kenyon stated (1) that all they have is the office copy and that they didn't keep any of those plans and (2) he is going before the ZBA in December for another variance on the stormwater control. S. Aldrich asked if it was a different variance entirely. P. Kenyon stated yes. Counsel stated that was not aware of that and asked if Dennis Phillips was aware of it. Dennis Phillips stated that he was not aware of that. Counsel instructed P. Kenyon that (1) under a court order that we cannot accept the application (2) we are under a stay set by statutes and Rolf should be and agreed to be doing nothing.

Dennis Phillips asked Counsel if they were in a stay with respect to the PB because that section of law only applies to the PB but not to the ZB. Counsel stated that he was correct. P. Kenyon (1) asked Counsel if she should accept the variance application and (2) stated that she doesn't believe it is an actual change in the plan, but it is another item that doesn't quite meet the code. Counsel asked when the deadline was. P. Kenyon stated that it has passed. Counsel stated (1) to leave it where it is for now and that he and P. Kenyon would talk about it tomorrow (2) that he and Dennis Phillips would talk about it tomorrow and (3) instructed Dennis Phillips to ask Rolf what he is doing.

Note: H. Caldwell recused himself from SD06-01 and SPR07-29.

Note: SD06-01 and SPR07-29 were heard as items # 1 and 2 on the agenda

- 7) **SD06-01 Federal Hill Corporation. Matthew Defty.** Seeks to divide into 7 lots that parcel designated as Section 156.00, Block 1, Lot 70.1. Zones RB3 & LC25. Property Location: 433 Federal Hill Road. Final Plat. Major Subdivision. Subject to SEQR. NOTE: This item was tabled at the September meeting pending additional information. *Note: This item is in conjunction with SPR07-29.*
- 8) **SPR07-29 Federal Hill Corporation. Matthew Defty.** Represented by Dennis MacElroy of Environmental Design Partnership. 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, 5.42 acres is proposed. Section 156.00, Block 1, Lot 70.1. Zones RL3 & LC25. Property Location 433 Federal Hill Road. Subject to WCPB review. Subject to SEQR. *Note: This item was tabled at the September 2007 meeting pending additional information. Note: This item is in conjunction with SD06-01. (Note: This item was heard as item # 2 on the agenda)*

Paul Olund from Environmental Design Partnership, representing Federal Hill Corporation and Matthew Defty, stated they have addressed the PB requests and submitted new plans to reflect the following (1) the driveways have been adjusted for the best entry from County Route 11, (2) they have added some curvature to the driveway to provide a visual buffer, (3) they have provided reconfigured metes and bounds for all four lots, (4) there has been a change to the access road to reduce the width to 18 ft. and (5) they have found that with the curve cuts around County Route 11, that there is a application permit process with the County DPW which they will proceed when necessary.

J. Gaddy asked if there had been any feedback from the A.P.A. Paul Olund stated no.

J. Gaddy stated that looking at the previous minutes that there was a question as to whether this had A.P.A. jurisdiction. Pam stated no.

J. Gaddy stated looking at the minutes that there was some concern from the neighbors regarding the flow of water from the stormwater management area and asked if that issue had been addressed. Paul Olund stated that they have addressed that in their design and the neighbors were present at the public hearing regarding the impact of the stormwater management.

H. Koster asked if (1) he had heard from Tom Nace regarding the revised road and (2) if the stormwater design was the same. Paul Olund stated that (1) no he had not heard back from T. Nace regarding the revised road and (2) that it didn't really affect the stormwater design, it added approximately 15 linear ft. which he feels as though is negligible. H. Koster agreed.

S. Aldrich stated that previously J. Gaddy was concerned about plantings around the stormwater device, but it was never discussed in full, and asked J. Gaddy if he wanted to pursue that conversation again.

J. Gaddy stated that (1) in terms of the stormwater, it is a pretty wide area of approximately 200 ft. Paul Olund suggested that he look at page 3 for a better view and stated at the widest point they would need to clear no more than 150 ft. (2) asked if it was going to be scenic and stabilized as they build it. Paul Olund stated yes and that they are also going to provide some plantings and native trees that are appropriate. J. Gaddy stated that the plantings would accelerate the process. Paul Olund stated that there should be a plan outlining the plantings in their packets. J. Gaddy said that there were lighting and recreation fees in there but not the plantings. Paul Olund stated that he may not have resubmitted that for this meeting and provided a copy previously submitted for him to see. J. Gaddy stated that it looked great.

J. Gaddy asked if power for lots 1-4 would be coming from the Federal Hill side. Paul Olund stated yes. H. Koster stated that there is a right-of-way on the plans.

RESOLUTIONS:

Item #7 SD06-01 FEDERAL HILL CORPORATION . Matthew Defty.

The PB has no concerns with C1-C7 on the SEQR Form.

Motion by John Gaddy to accept the final plat as complete and with a public hearing having been held, grant final approval as presented with the following conditions:

- 1) A \$400. Recreation fee is applied to each lot at the time a certificate of compliance is applied for.
- 2) Exterior lighting to be downward facing and shielded with low wattage bulbs used.
- 3) The stormwater basin will be planted as specified and the map will be submitted to the Zoning Administrator to reflect any changes that would make the map more accurate.

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.**

Item # 8 SPR07-29 FEDERAL HILL CORPORATION. Mathew Defty

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 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 stormwater run-off.

Motion by John Gaddy to accept application as completed sketch plan, and with a public hearing having been held, approve the application as presented with the following condition:

- 1) The major stormwater regulations will be applied to each lot when developed.

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: SD06-18 and SPR06-39 were presented together as items # 4 and 5 on the agenda.

- 9) **SD06-18 Eagle Ridge Subdivision. Richard & Elizabeth Kranz.** Represented by Tom Jarrett of Jarrett Martin Engineers. Seek to divide into 3 lots that parcel designated as Section 140.00, Block 1, Lot 40.6, Zone RL3. Property Location: New Vermont Road, formerly known as the Observatory & Rugg Hill Subdivision. Minor Subdivision. Sketch Plan Review. Subject to SEQR. *Note: This item is in conjunction with SPR06-31. This item was tabled at the December 2006 meeting pending additional information. Conceptual approval only.*
- 10) **SPR06-31 Eagle Ridge Subdivision. Richard & Elizabeth Kranz.** Represented by Tom Jarrett of Jarrett Martin Engineers. In accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan Review for a major project to remove more than 15, 000 sq. ft. of vegetation. 1.9 acres is proposed. Section 140.00, Block 1 Lot 40.6, Zone RL3. Property Location: New Vermont Rd., formerly known as the Rugg Hill & Observatory Subdivisions.

Subject to SEQR. Note: This item was tabled at the December 2006 meeting pending additional information. This item is in conjunction with SD06-18. Conceptual approval only.

Tom Jarrett of Jarrett Martin Engineers, representing Richard and Elizabeth Kranz, stated that the PB had some concerns over the driveway, and since that meeting they have revised the design to alleviate concerns as follows: (1) the grade has been reduced on the steepest section to below 15 %, (2) a dry fire line has been added up the hill with dry hydrants at each end, one at the bottom of the hill entrance to the driveway and a dry hydrant at the very top to facilitate fire fighting operations, (3) they addressed concerns that Tom Nace had regarding design issues that will be resolved in preliminary design, such as culvert elevations to match the new grades on the driveway, (4) they also addressed Tom Nace's concern with the entrance grade into the driveway off of New Vermont Road, and resolved it with him in the field earlier in the week and have modified the design to soften the grade at New Vermont road to 6%, (5) that he brought a plan to show that grade and stated that he will submit that to Zoning Administrator tonight. He described the revised plan stating that at the entrance to the driveway to the first 40 feet would be 6% and that they would steepen the driveway slightly to 13% for the next several hundred feet to catch up with the grade that they originally proposed.

T. Jarrett gave an overview of the entire project stating that (1) they are proposing 3 lots on a parcel that can support 6 lots, (2) they have a driveway that is safe and meets Town standards, (3) they feel that they have addressed the fire company's concerns with regard to the driveway and (4) they are seeking to gain the PB approval of the sketch plan so that they could move forward to design and preliminary approval.

J. Gaddy asked T. Jarrett if the property mathematically could support 6 lots. T. Jarrett replied yes, that the originally approval allowed for 6 lots, but they have since rescinded some years back and they now propose three.

J. Gaddy stated that initially some of those signs that were put up to create the path up the hill that there was a lot of fill on the west side and asked how they proposed to reinforce that area for the passageway. T. Jarrett responded (1) that there was one spot that had washed out several years ago that they have corrected and it is the one spot that is the most tenuous as far as safety goes and that in one of the earlier submissions that they show guardrails installed per DOT standards and (2) they have designed pull-offs on the project, one at the very bottom near New Vermont Road and pull-offs further up on the driveway as well for fire trucks or cars passing. J. Gaddy asked if the approximate size of each pull-off was 20 ft by 40 ft. T. Jarrett responded he believes that each is slightly narrower than 20 ft. but longer than 40 ft. T. Jarrett stated that the one at the top is 15 ft. by 40 ft. which exists now and that they are going to improve it and that there are two on the lower section, he did not have the detail as to their size, but believes that they are slightly narrower than 20 ft but longer than 40 ft.

J. Gaddy stated that work that they have done on this since, his original concern was and still is about the elevation between the upper roadway where it flattens out above that last turn with the big 15 ft. by 40 ft. pull-off, because they still have houses going up another 30 ft. beyond the road bed. T. Jarrett stated that the one at the very end was not that much higher in elevation, but the other two will depend on where they site the houses and discussed before that they would come to site plan review, but as of right now they have not locked into any particular elevation.

J. Gaddy asked if he could give a run-down on how they would approach a house with a driveway in there, such as the one with the 920 ft. elevation. T. Jarrett responded that they had two ideas, (1) that they have a driveway that would not go all the way up to the houses themselves and (2) that they would have separate driveways that would lead up to the house in a serpentine fashion to fight the slope. T. Jarrett further stated that they could start the driveway on either side of the leaching system which straddles the property line and then bend to the north or south to traverse that slope on a gradual ascent. H. Koster stated that they have plenty of width (600-700 ft.) on the lot to do that. J. Gaddy asked if they would lose that much in view coming down close to the road. T. Jarrett stated that there was not any significant view other than the mountain tops, so he did not feel it would be a problem if they had to move it down in elevation slightly.

H. Koster stated that it would be helpful if they had lot dimensions on the plans. T. Jarrett stated that he notes that as well, but believes that they had originally given them a plat and was trying to find it in his file. H. Koster asked if they had changed the dimensions of the lots at all. T. Jarrett stated no. H. Koster asked if P. Kenyon had a copy of the original. P. Kenyon stated that she has one copy of all the originals. H. Koster stated that he did not need it, but what T. Jarrett is presenting now needs dimensions on it. H. Koster stated that his point is that there is plenty of room on each of the lots to get the house elevation. T. Jarrett stated that (1) they could move the houses down in elevation closer to the driveway, (2) they have not gotten into a final design for the lots yet, and (3) that it is up to the buyers to determine what they desire and the PB can weigh in on that.

S. Aldrich asked regarding the dry hydrants and dry main, which is approximately 500 ft of dry main and 160 ft of elevation change, if the fire companies could handle this. T. Jarrett stated that (1) he has not heard directly from the Town fire company but has discussed with other fire companies and they have stated that there should not be any problems. (2) they resolve to put a 6 inch dry main with hydrants at each end and it is about the same length similar elevation difference. J. Gaddy asked if there were any limits. T. Jarrett responded that it depends on the trucks and the head loss on the main, but doesn't feel as though there is any hard and fast rule.

S. Aldrich asked, since not having the revised driveway plans in front of them, would the turnout at the bottom be adequate enough. T. Jarrett stated that upon looking at it in the field with T. Nace they thought it would be more constructive to move it up the slope about 20 ft. so that a larger area can be left in case it is icy coming down the hill and T.

Nace agreed with him. S. Aldrich asked if they have a fire truck in there, would it get it totally off the road. T. Jarrett stated yes.

H. Koster asked about the construction of the 6 in. fire main. T. Jarrett replied that they would be looking to use a high density polyethylene that can fuse joints, so there is no problem with leakage or joint pull out and it conforms to topography very well and there is minimal head loss. H. Koster asked if the main would be above ground. T. Jarrett stated yes and that they would protect it with something surficial but it would not be buried to 4 or 5 ft. H. Koster asked if there would be compression fitting on the main. T. Jarrett stated that no, it would be a fusion weld joint so that it is one continuous pipe.

H. Koster asked (1) if T. Jarrett could put all of these things discussed on the drawing and (2) about a stormwater management plan. T. Jarrett replied that they had done stormwater management originally when they had proposed the driveway improvements, and then were instructed by the PB to come back with the sketch plan for the subdivision and stated that they have not updated stormwater since and will do it now passed this step.

H. Caldwell asked if they see any further subdivision of these lots. T. Jarrett responded that the owners were there and willing to stipulate on the record. Richard Kranz stated that it fits the community. T. Jarrett stated that he would put that on the plat if the PB wished. H. Caldwell agreed. H. Koster asked Counsel if the plat should be signed off by the owners. Counsel stated yes.

J. Gaddy asked if there were more than two test pits on this project. T. Jarrett stated (1) that they did do more and that Mitzi was there when they did a number of them and that he would have to go back to the plans to see where the rest of them are. (2) that there are two on the lower section and one on the upper section and several done later but have not been reflected on this plat yet. J. Gaddy asked if he could submit those next time on the plat. T. Jarrett stated that they may have to do more for the houses anyway and that they did not do an exhaustive search, just enough to show that they can build. J. Gaddy stated that there were holes down below and houses going up top. T. Jarrett responded that they did do holes up above where the houses are, but was not sure why they were not depicted on this plat.

S. Wilson asked if the plans show ownership of the driveway. T. Jarrett stated no, not yet, but it is in letter furnished to the PB and will certainly be put on the next plat.

J. Gaddy asked (1) if he has driven up the property. T. Jarrett stated yes. (2) with what type of vehicle, because he has always had difficulty getting up and down there. T. Jarrett stated his SUV and asked if the difficulty was because of the water bars or the grade. J. Gaddy responded that with the cover and the grade. S. Wilson stated that she has gone up in a pickup truck. J. Gaddy stated that is such a steep slope. T. Jarrett stated that the one section is still at 19% which will be cut down by 4% with this proposal.

RESOLUTIONS:

Item # 9 SD06-18 EAGLE RIDGE SUBDIVISION. Richard & Elizabeth Kranz.

Item # 10 SPR06-31 EAGLE RIDGE SUBDIVISION. Richard & Elizabeth Kranz.
Motion by John Gaddy to accept application as completed sketch plan, and table SD06-18 & SPR06-31 pending additional information as follows:

- 1) Dimensions for each lot to be shown.
- 2) Major stormwater plans to be reviewed and approved by Tom Nace, Town Engineer.
- 3) A map note stating that there will be no further subdivision.
- 4) Deep test hole locations to be shown.
- 5) Details on the water main to be provided.
- 6) Details on the stabilization of previously worked out of area.
- 7) A map note: showing the ownership of the driveway.

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

- 11) **SD06-16 Westwood Forest West- Rolf Ronning.** Seeks to discuss conditions of approval set forth when approving SD05-24 by the Planning Board on August 24, 2006. Specifically the conditions read as follows: 1) Lot 8 is to be utilized as Bolton Central School athletic fields; 2) Lot 8 shall include ownership of the road as shown on map prepared by D.L. Dickinson dated October 2, 2006, entitled "Map of proposed re-subdivision of lots 5-8 for Westwood Forest West", and 3) The mylar shall not be signed nor filed until Bolton Central School agrees to accept Lot 8 as an athletic field. Section 139.00, Block 1, Lot 89, Zones RR10 & RIL3. Property Location: West side of Hendricks Road, off County Route 11.

Rolf Ronning, representing Westwood Forest West, asked the PB if they had received a copy of the letter from Ray Ciccarelli, Superintendent of Bolton Central School. PB stated yes. R. Ronning explained (1) a year ago that he reconfigured the lots to accommodate a lot to create a soccer field to give to the school, (2) the school accepted the lot through a letter, which the PB has a copy of and (3) approximately a month ago the school wrote a letter stating that they no longer wish to have the field and they are negotiating with others for a new piece of property (4) with the reconfiguration, this lot had to go to the BCS as a soccer field (5) he was thinking about going back to the former lots, but they have already put the driveways in these lots as configured, (6) he now

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wants to sell the lot as is, but there is a note on the map that states “Lot 8 to be utilized as BCS athletic fields, and Lot 8 shall approve ownership for the road” (which he stated that he does not care if that remains), however wishes to sell since BCS does not want the lot and (7) is now asking to file an amended mylar removing that condition.

H. Koster asked what his plans were with the road. R. Ronning stated that would leave it with Lot 8.

Counsel stated that (1) he had no legal problem with what he is asking for since he is not changing any of the lots, especially Lot 8, (2) that it would not be appropriate for the PB to restrain free eligibility of a lot and (3) R. Ronning is in the proper place to ask for it to be amended from the map.

H. Koster asked if he was looking for any additional lots. R. Ronning stated no.

S. Aldrich asked about item 3 “Mylar shall not be signed nor filed...” R. Ronning responded that it has been signed and filed because they got a letter from the Superintendent of the school stating the Board of Education voted to accept the lot, and now they voted to not accept the lot.

RESOLUTIONS:

Motion by Henry Caldwell to amend the conditions of approval set forth by the Planning Board on August 24, 2006, when approving SD05-24 as follows:

- 1) To eliminate the requirement whereby lot 8 was to be utilized as the Bolton Central School athletic fields.
- 2) A new mylar must be prepared for the Planning Board Chairman’s signature without the restrictive language noted above and filed with Warren County.
- 3) The road will continue to be a part of lot 8.

Seconded by Sue Wilson. **All in favor. Motion Carried.**

- 12) **SD06-20 Padanarum Park. Rolf Ronning.** Seeks to merge those parcels designated as 107.00-2-8 & 9 and 108.00-1-4 & 6 and then divide into 15 lots with 2 lot line adjustments. Zoning LC45. Property Location: Padanarum Road. Sketch Plan Review. Major Subdivision. Subject to SEQR. Note: This item was table at the September 2007 meeting pending additional information.

Rolf Ronning stated that (1) he was turning this over to his engineer Dennis Dickinson of D.L. Dickinson Associates to discuss the proposal, (2) he thinks there has been a

mistake, that there are two lines, but it is one lot line adjustment and (3) that everything that was requested from him was in front of them.

D. Dickinson stated (1) that page one in the packet basically has the whole project on one sheet including topography, test pits, lot layout and sizes, etc. (2) the lots are large, with the smallest lot being 12-14 acres and they go up from there, (3) the boundary line adjustment that they are looking for is on the parcel adjacent to the piece purchased by Ed English, which he has offered to purchase to add to his current parcel which is a stand alone lot that has its own tax map and title.

P. Kenyon asked if a deed has already been filed showing that portion of the lot to be conveyed to Ed English. R. Ronning stated no, that a deed has been filed for that tax parcel and there may be a survey map that shows lot line adjustment applied for before the Bolton PB, but that piece of property has not been conveyed because we do not have approvals for it and that there may be a map that is filed with a dotted line. P. Kenyon continued by stating that they have already received a map change from the County showing that lot line adjustment. R. Ronning stated that it was another lot line adjustment that the County forgot to draw in, which is in a different location and was done before he bought the property. R. Ronning continued by stating that the line was not correctly represented on the tax map and that all that he conveyed to Ed English was the one tax parcel.

D. Dickinson asked H. Koster if they were looking at the subdivision at the same time or are they just looking at the boundary line adjustment. H. Koster stated that he believes that it is all together here. D. Dickinson asked if he wanted him to go through everything.

H. Koster stated that it was confusing and asked what they were looking to sell to the neighbor. D. Dickinson gave an overview of the layout of lots explaining that R. Ronning has an agreement with the Land Conservancy to purchase most of the wetlands (Lots 1-6) on Padanarum Road with the exception of Dr. Connerty's piece and a piece that R. Ronning is retaining (Lot 7).

D. Dickinson further stated that the reason there are lots on there is to substantiate purchase price and it is his understanding that they are not intending to build anything on these lands.

D. Dickinson also stated that they have done test pits on the lands that R. Ronning is interested in selling and they are bonafide lots and meet the requirements, such as road frontage, etc.

D. Dickinson stated that (1) the easterly side of the road is what R. Ronning is subdividing, (2) he has sold a piece to Ed English, who is hoping to have a lot line adjustment and purchase the additional parcel (3) Lot 7 which R. Ronning is retaining is 25 acres with approximately 1,600 ft of road frontage, (4) Lots 8-15 are all along

Padanarum Road and as far as he can tell, meet all the requirements of the zoning, including road frontage, acreage and all the topography and test pits which are indicated in the package submitted.

D. Dickinson stated that the only other issue that they are dealing with is stormwater stating that (1) these lots are very large to do any specific stormwater, (2) they are not building anything, these are lands subdivided along a Town road, no roads or structures will be built and (3) he suggested that in other towns each individual lot owner or purchaser is responsible for their own stormwater plan before they can get a building permit and (4) they could make this a condition of approval and would be put on the subdivision map.

H. Koster asked Counsel since the lots are so large how will a major stormwater design for individual lots be perceived by the Courts. Counsel stated (1) that D. Dickinson's representation is entirely accurate, (2) it would be correct if the PB exercises discretion in allowing this subdivision to occur on the understanding that there is absolutely no development, (3) that each of the lesser created lots would be subject to Major Stormwater Review when development did occur and (4) it would be totally appropriate for them to defer it like this.

H. Koster asked Counsel about where the Town stands with above or below ground power. Counsel stated that (1) above ground power is permitted for Mr. English, he has a right to it and that is well on its way, (2) that the municipality Supervisor gave those orders and wrote that letter, and that was part of the review process that there would be no requirement for Mr. English, which he felt was important to mention, because it sets the tone as to what is on the road, (3) the fact of the matter is, it is still on road, taking that out of context and looking only at the Zoning Code, this is a regional subdivision, the Code defines regional subdivision as a subdivision that is within the appropriate A.P.A. zone which triggers certain criteria and considerations, one of them is that the PB may require under appropriate circumstances underground utilities, (4) they have a tough formula ahead in which creating the criteria of requiring underground utility service that is appropriate for a regional subdivision and is it appropriate for this regional subdivision because we will already have been exposed to above ground utility service by virtue of Mr. English's right to get it in the first place.

S. Wilson asked about the status of the power currently. R. Ronning stated that (1) the power lines have all been laid out, (2) to his knowledge all of the easements have been signed, (3) the money is in an escrow account for the total cost of power and (4) although there is some final tuning of the numbers to find out how much the telephone company is contributing, once the total is achieved, a check will be cut and the power company stated that they can start in 4-6 weeks.

S. Aldrich asked if the easements were over other people's property. R. Ronning stated that Von Tekmitchov, and two or three others, which he believes have all been signed.

R. Ronning further stated that they said the work was guaranteed to be done by May 1st but will be working at it this winter and believe it will be done by March.

J. Gaddy asked if it density has been used or is the property still able to be divided. R. Ronning stated that Mr. English's lot has 150 acres and that was appraised and had nothing to do with the PB, so technically if he chooses to, he could subdivide into three lots. J. Gaddy stated that was not what he was asking. R. Ronning stated that (1) he was asked to reduce the amount of lots because they were too tight, (2) he is prepared to stipulate as a condition of approval that each lot will never be subdivided again and (3) that he could have squeezed in more lots but he has made them larger upon request and is willing to stipulate that no further subdivision of the lots that the Land Conservancy buys or what he is selling.

H. Koster stated that basically they have no stormwater on this. Counsel stated that if they exercise their discretion and vote that there is no present requirements for stormwater and it is all deferred as a Major Stormwater project for each of the subdivided lots that are proposed for development, that it is appropriate.

H. Koster asked if they had any intention of putting in driveways so that they could sell the lots. R. Ronning stated that (1) he and D. Dickinson have drawn the lines so that there is a good location or relatively flat spot on each of these lots and that is why the road frontage differs, (2) he wanted each of the lots to border state land and (3) wanted each to have a good level building site with good soil. R. Ronning stated further that putting a driveway or getting stormwater would be ludicrous, he just wants to sell the lots. R. Ronning stated that he is willing to put a restriction (1) that no house be less than 200 ft. from the centerline of Padanarum Road, (2) that those houses be screened so that they are not easily visible and (3) to put some restriction, such as, between the center of the road and 100 ft except for the driveway there will be no tree cutting. H. Koster asked if he was going to put the same restriction of the other side of the road. R. Ronning stated yes he would be happy to, but doesn't believe it will be a major concern for building anything and that he wants to keep the area as nice as possible. Speaking about the lots on Padanarum Road, R. Ronning stated that (1) he carefully went and plotted good locations for driveways that wouldn't require a lot of bulldozing or blasting, (2) he feels these lots will be bought by those seeking privacy or a sportsman who is looking for 200,000 acres of state land and (3) it makes sense that Stormwater be the concern for the individual buying the lot. R. Ronning stated that he would like to move on and have a public hearing and so that they can move forward.

J. Gaddy asked Counsel that in looking at the correspondence for the month there was some discussion of this being a Class C. Regional Subdivision, and asked if this was accurate. Counsel stated that he did not know. J. Gaddy stated that there was something in the packet that was discussing whether or not this was a Class C Regional Subdivision and he thought that this is where the underground power kicked in. Counsel stated that where the under ground power kicked in was in a resource management area of any subdivision of land that constitutes a regional subdivision. J. Gaddy stated that if this

falls into the Class C Regional Subdivision because it is adjacent to state land do subsequent developers of the individual lots fall under Class C Subdivision regulations. Counsel responded that yes the lesser included parts still have to comply with the greater. J. Gaddy stated that basically we are approving lines on a piece of paper. Counsel stated yes, so far.

H. Koster asked Counsel if they can require that the power be underground to these lots. Counsel stated that they have to go through an analysis, but you can require it, but asked if it is it appropriate and reasonable to the nature...H. Koster stated that R. Ronning wants to keep it pristine, and that part of being pristine is not having a series of power poles going up every driveway. Counsel stated that (1) off of the right of way utility that may be on a pole underground within the subdivided lots and (2) they have to undertake an analysis to look at the cost benefit factors and weigh and balance and find out from the applicant what that is going to take, typically money wise. R. Ronning explained that the map shows a scale of one inch being 400 ft. stating that most lots would be building ¼ mile, ¾ mile in and a mile of underground cable is going to be ridiculously prohibitive. R. Ronning further stated that legally, in some areas, they will get one pole and run power along the ground because they can do anything they want on their own property and asked who it would affect.

Counsel stated if R. Ronning was asking a rhetorical question on who will it affect, the rhetorical answers would be, not just poles coming up along the driveway, but there is going to be clearing limits as you know, where the utility company is going to have a slot wherever there is pole. R. Ronning stated that (1) he wanted to have a 100-200 ft. no cutting limit because he didn't want the houses visible from the road, (2) it would seem to him a fair requirement if they want to go above ground, to have the power lines go along the driveway until it is out of site, then no one is going to see it, (3) you have to cut for a driveway anyway, so they could run the power lines along the driveway and (4) this would be reasonable and he could agree to that. Counsel stated that this is a difficult balancing act where the scenic corridor makes a provision for a requirement for underground utilities and that there is a main exception in there that is a utility corridor, such as the one on County Route 11.

H. Koster asked that he has another application for the lot line adjustment to add to the lot that supposedly allows the owner to get the power across the road, theoretically does he become part of the subdivision now. Counsel stated that no, not once they do the lot line adjustment. H. Koster asked what about before we do it. R. Ronning stated that if they don't approve it, than he doesn't get the lot line adjustment. Counsel stated that yes his toe is in the water, but the end result of this application would be that if granted the reconfiguration of the tax map parcel still exists and hypothetically it is the unrelated parcel to the subdivision in its post approval reconfiguration, but you are right as it stands now. H. Koster stated that he could retract, and he could do a subdivision and after its all done he can have a lot line adjustment. Counsel stated that there also is a section in the Code which allows the applicant to try to persuade the Zoning Administrator that a lot line adjustment is appropriate. H. Koster stated that he is just

trying to keep power poles out of there. R. Ronning stated that if they would like on the next map to have this section of land attached to Lot 8 and Lot 8 will be 12 acres bigger and then the following month the PB will come back and ask for Lot 8 to be 12 acres smaller. H. Koster stated that this was not necessary and that he was asking questions to see if they could force them to put power underground, and that he is not interested in playing games.

S. Wilson asked about the status of the sale of the other lots to the Land Conservancy. R. Ronning stated that as far as he knows it is good, that they have a contract and a deposit and they have a grant and, if approved, they are scheduled in December that they could take title in January. Counsel stated that he should not require that the conveyance occur to the Conservancy in order to get the subdivision should it fail. R. Ronning asked if H. Caldwell if he could back what he was saying. H. Caldwell stated that he was right, but he did not have any inside information. R. Ronning stated that nor did he, but that it was a legitimate contract and he intends to convey the property. H. Caldwell stated that it is a grant from Parks and Recreation and that is why they are leaving these lots so that it will appraise high enough for the Parks and Recreation to make a donation. R. Ronning further stated that he is not backing out of this contract, he feels as though it is good for the Town and good for everyone.

H. Koster stated that he feels another reason requiring the number of lots so that he cannot utilize that number in future subdivision. R. Ronning stated that he reduced the number of lots this summer because the PB requested it. H. Koster stated further that may be not only to verify that they are buying 6 lots and not just 1 lot, but they also want to utilize your allotment for lots. H. Caldwell stated that R. Ronning has agreed to no further subdivision.

R. Ronning asked (1) if this could be converted to a preliminary plat, with any changes requested and (2) requested a public hearing to move forward with this.

H. Koster asked Counsel if they should deal with the lot line adjustment as a separate issue. Counsel stated yes.

R. Ronning asked that if the lot line adjustment is appropriate, could it be approved so he can convey that property to Ed English before next month's meeting and in which he would provide a map that would reflect that piece being out of the picture.

H. Caldwell asked if they were showing the lot line adjustment on any other maps other than the first page. D. Dickinson stated that the map is broken down into large chunks in their package and if they put them altogether they would get the whole area, but did not have the metes and bounds marked. D. Dickinson then displayed the map they prepared for Ed English in which it has the metes and bounds on it and he stated he will transfer them onto this map before next month's meeting.

H. Koster stated that theoretically they cannot approve something without having metes and bounds on it. R. Ronning stated that they did have it on the Ed English map. H. Koster stated that it was not on their copies. R. Ronning asked D. Dickinson if he had twelve copies. Counsel asked if the PB had the map that was displayed. H. Koster stated no.

R. Ronning stated that (1) they should have it because he filed a lot line application request two or three months ago, (2) P. Kenyon was on vacation and that Mitzi took the request, and (3) in her office she would find a formal application for a lot line adjustment and a map just like the one displayed. P. Kenyon stated that she found a map in the file and upon comparing it with the map on display stated that it was the same map, but did not know what that map was. R. Ronning stated that she was on vacation and he explained it to Mitzi and that he did file it with the office. H. Koster stated that it was not the same map as in the packet, and that the lot line adjustment goes all the way to Lot 8. R. Ronning asked D. Dickinson to assist in looking at the map and upon further comparison, the PB came to the conclusion that it was the same map. H. Koster stated that (1) R. Ronning claims to have submitted a lot line adjustment application three months ago as an individual thing and this is it, (2) the map says it was received September 6, 2007 and (3) this map has metes and bounds on it. Counsel stated that if they feel uncomfortable with it that they should say so, but he thinks that it is fine.

RESOLUTIONS:

Motion by Henry Caldwell to approve the multi lot line adjustments between those parcels designated as 108.00-1-4, 107.00-2-9 and 108.00-1-6 as shown on map entitled "Map of lands to be conveyed by Rolf Ronning to Indian Pond Estates, LLC., dated August 6, 2007 last revised August 10, 2007. Map prepared by D.L. Dickinson Associates. **Seconded by** John Gaddy. **All in favor. Motion Carried.**

Motion by Henry Caldwell to accept the application as a completed sketch plan, convert the sketch plan to preliminary plat and schedule a public hearing for December 20, 2007 at 6:00 pm. **Seconded by** John Gaddy. **All in favor. Motion Carried.**

Counsel asked the PB what their level of comfort was on the stormwater issue, what direction are they going in, do they (1) accept the proposition that there be no development and that there is no requirement to proceed on stormwater, or (2) do they wish him to do something more on that and (3) he suggested that they make an addendum stating to that affect. J. Gaddy stated that they were comfortable with the first proposition. Counsel stated that he should make a motion to that affect.

Motion by John Gaddy to determine that a major stormwater project is not required at this time. The major stormwater regulations will be applied to each lot when developed, including the driveways. **Seconded by** Sue Wilson. **All in favor. Motion Carried.**

R. Ronning requested clarification for the next meeting, stating that other than the removal of the 12 acre lot to Ed English, there were no other changes to the map. H. Koster stated that no just that removal of that lot and that there wasn't a need for metes and bounds now, because they already have their own map of that.

- 13) **SPR07-37 Sheppard Machinery Inc. (Lakeside at Nirvana).** Represented by David Mazzeo and Boswell Engineering. Seek Type II Site Plan Review for a 9 unit condominium project. Section 171.15, Block 3, Lot 60, Zone GB5000. Property Location: 18 Sagamore Road known as Nirvana. Subject to WCPB review. Subject to SEQR. This application is in conjunction with V07-73 & SD07-22.

RESOLUTIONS:

This item was tabled at the applicant's request.

- 14) **SD07-22 Sheppard Machinery Inc. (Lakeside at Nirvana).**). Represented by David Mazzeo and Boswell Engineering. Seek subdivision approval for a 9 unit condominium project. Section 171.15, Block 3, Lot 60, Zone GB5000. Property Location: 18 Sagamore Road known as Nirvana. Subject to WCPB review. Subject to SEQR. This application is in conjunction with V07-73 & SD07-22.

RESOLUTIONS:

This item was tabled at the applicant's request.

- 15) **SD07-23 Twin Bay Village. Tamara Chomiak.** Represented by Atty. Matthew Fuller and Matt Steves of VanDusen and STEves. Seek subdivision approval for a 40 until townhouse project. Section 186.06, Block 1, Lot 14.1 and Section 186.07, Block 1, Lot 7, zone RM1.3, RL3 and RCH5000. 4804 Lake Shore Drive. Subject to SEQR. Major Subdivision. Sketch Plan Review. Conceptual approvals only.

Matthew Fuller, of Fitzgerald Morris, stated that Matt Steves could not be present tonight, and that he was with Dan Ryan, the project engineer. M. Fuller stated that (1) they are present for strictly preliminary purposes and (2) there are a lot of the engineering aspects have not been completed and they are looking to get information and input on what the PB would like to see.

M. Fuller further stated that (1) they have had some input from the A.P.A., but have not received official word from them as of yet, (2) the advice that they did get on past precedent, that had used in another case, was that as far as the density goes in the hamlet that they would be able to exchange the principle building rights that are there on the site

for the number of units that you see, based on the measurement of motel units that are there now that are at least 300 square feet, have to have a kitchen facility, have to have a bathroom, essentially a living quarters and that motel units with just a bed and bathroom would not qualify as a living quarters or principle building, and (3) he believes that Town Counsel originally submitted that request for clarification in June or July and they have not heard back yet but they anticipate submitting that actual letter as soon as the A.P.A sends it to them. M. Fuller stated again that they were not looking for a decision, just some dialog from the PB.

M. Fuller gave an overview (1) of the property, (2) approximate locations of where to place new buildings, which he stated was very open to discussion, (3) conceptual plans for septic. M. Fuller continued stating that there are eight lakeside units and thirty-two mountainside units which is an overall decrease in units, currently there are 66 units not including the Villa, dropping to somewhere around 40. M. Fuller stated that some of the lakeside cabins would be used strictly as storage for the beach, or that the HOA may want to utilize this for lifeguard equipment, etc. M. Fuller stated that they might keep some of the old cabins down there just for that or the possibility of a restroom facility so that people would not have to go back in forth, go outside or potentially in the lake.

M. Fuller stated that there was some parking on the lakeside, approximately in the area where it is now for those mountainside units. M. Fuller stated that they still have a lot of stormwater work to do, and they are aware of that, however the grade is under 15% and as shown on the map, there are a lot of notes as to where the road might be and where the units might be.

M. Fuller stated that with regard to the utilities that they would be underground and that they are not anticipating power lines going up the mountain, this is going to be a higher end development and they don't want to see that.

Dan Ryan, Project Engineer of Vision Engineering, stated that (1) he will be performing the engineering design and analysis for the project, (2) they are in the conceptual phase, but they have done some preliminary site work to obtain an idea of what they have for existing soils, depth to bedrock, depth to ground water, (3) over the years the motel has retrofitted their existing septic system because of a few problems, and most of the sewage system is on the west side of Route 9 with a couple of pump stations that get the sewage to that location.

D. Ryan further stated that right now they are evaluating two scenarios currently for sewage, (1) individual septic or sewage systems for each duplex or (2) having a centralize community sewage system, which may be preferred.

D. Ryan stated that as M. Fuller stated stormwater will be a huge concern for this project and that they will be complying with DEC requirements and will it require DEC permitting, and likewise, if we do a community sewage system a SPDES permit would be required for that.

D. Ryan further discussed parking stating that there is currently some parking, which is already in existence that is used for the HOA for beach use and those individuals on the east side.

D. Ryan also stated that they are looking (1) for feedback from the PB, (2) to obtain better guidelines as to what they would prefer to see and (3) what some of their majors concerns are from an engineering aspect and from a planning aspect.

H. Koster asked if it was intended to allow for all buildings to have access to the lake. M. Fuller stated yes. H. Koster said that is a concern because in the ordinance there is a stipulation for the amount of people allowed on certain per foot of lake front, and this exceeds that.

S. Wilson asked how this was impacted by the shoreline regulations. Counsel stated that they would have to look at Section 200-37 on page 246. P. Kenyon read the following- "that the following minimum shore line frontages shall be required for deeded or contractual access to all such lakes, ponds, rivers, streams for a one lot parcel or site, or multiple family dwelling unit, not having separate and distinct ownership of shore frontage." Counsel continued that "a total not less than 125 linear feet of shoreline in the..." P. Kenyon asked what zone they were in, if it was the RCH5000 on that side of the road. M. Fuller stated yes. P. Kenyon continued that 125 linear feet of shore frontage is required for the first parcel and 10 additional feet for each lot, in this case it would be units. H. Koster stated that they only have 122 ft. of shoreline which is deficient. Counsel stated that if you read the section it will not be well worded. Counsel stated that upon discussing it with P. Kenyon, that (1) on one hand the project proposes that we have preexisting principle buildings that presently do have access to the lake, her point is a valid one, that having already inventoried the principle buildings but then these get expanded so it actually does put more people on the shore line, (2) if it is a vested right how can you diminish the vested right by saying that we are not going to allow you to use your vested right to its full vestment, in other words, we are now going to diminish the lake access. Counsel stated that this is something the Zoning Administrator will have to grapple with and that he would give her the best advice that he can, but she is going to come up with the interpretation. Counsel stated further that if it comes out favorable than the applicant is happy, if it comes out unfavorable than the challenge is before the ZBA and they will figure it out.

Counsel stated that what is driving things here in terms of how much you have in the way of a vested property right in terms of occupancy or principle buildings is premised on the A.P.A.'s version. Counsel states that his sense is that the A.P.A. doesn't want to answer because they don't like the answer. Counsel described the Dinapoli project that was similar to this issue, in which he had 9 units on a small parcel. After analyzing, the A.P.A. stated that each of the units were a principle building and this piece of property was substantially undersized and that they couldn't build a house on it. Counsel stated that this was an appeal after a ZBA determination. Counsel continued stated that Mr.

Dinapoli's answer to what the A.P.A. set as the structure, was that he took one of his 9 principle buildings off the lot and built a house. Counsel stated that he was absolutely right and the A.P.A. set a course here that they shouldn't have set. M. Fuller further stated that the A.P.A. specifically stated to do that in their decision. Counsel stated that this is Dinapoli all over again and that each person that he asked at the A.P.A., which he has done the right asking to the right people, want to pass it to the other person who is going to have come up with the right answer and put his/her name on the letter. Counsel stated that it comes out to the analysis that M. Fuller gave you, which is that there are some preexisting principle buildings here that are calculated in the inventory and can be replaced by larger modern principle buildings, and it will set the tone for how many of these have access to the lake, and if it has a primary building aspect to it, how can you diminish the vestement.

H. Koster stated that these are different than Dinapoli, because his were separate cottages, these are hotel units in two or three buildings. M. Fuller stated that he asked the same question to the A.P.A that they were not willing to give them one for each motel unit, which would be 66 units and that was where the A.P.A's 300 sq. ft. comes in.

M. Fuller stated that he would come back to the PB with a layout of which units meet the criteria and which do not. Counsel stated that the A.P.A.'s answer is important because we want to get it right, and P. Kenyon needs to come up with an interpretation that works based on that issue.

H. Koster stated that we are dealing with the hamlet here and that the Town of Bolton controls the hamlet and that he doesn't feel like they should deal with the A.P.A. at all and deal with their own interpretation. Counsel stated that he was correct and yet when the A.P.A. deals outside the hamlet, they are making a concession that is favorable to this applicant in terms of how many building rights that they have, in other words it is substantially hands off, which is why they have a greater inventory to them when they are outside of the hamlet. Counsel continued that the A.P.A. is out and they get the benefit of more building rights with more principle buildings. H. Koster stated that it depends on the interpretation, because these are motel units not cabins. Counsel stated that if Bolton wishes to take the course of, we are going to interpret differently because it is inside the hamlet then of course it needs an interpretation.

H. Caldwell stated that if this was vacant land, that there is no way this project would be allowed, so now are they saying it is grandfathered. H. Koster stated that is the A.P.A. interpretation and why he is stating that they should strictly make this a Town decision because we are in the hamlet. H. Caldwell stated further that if it is going to come strictly from the PB, which he likes what he is saying, that there is no way that this project is doable by giving all owners lake rights. Counsel stated that the PB and Zoning Administrator need to take a position.

P. Kenyon stated that she could tell you her position on the Dinapoli project which was that he needed a variance to put that house on that piece of property and the ZBA granted

him that variance, which was reversed by the A.P.A. and then the A.P.A. came back with this letter that if he removes one unit he could build his house.

Counsel stated getting back to the A.P.A. analysis, that (1) H. Koster was right on the money, which is in the hamlet, the Town has greater authority, (2) he was just giving what the A.P.A. constitutes as a principle building, (3) if Bolton has different position that they need to take it and define it.

H. Koster stated that he feels as though they are comparing apples and oranges with this. Counsel stated that they need to be precise about it, he also agreed with H. Caldwell, that if this was a vacant piece of land that this would never happen. Counsel continued that (1) it is a mixed presentation of preexisting rights and a piece of property that has a development opportunity and they need to balance it, and (2) there is the shoreline access issue, which is a reoccurring issue with previous projects, such as Farbaniec and Mayfair and suggested that they take a stance here.

P. Kenyon stated that Mayfair obtained a variance because of the shore frontage and asked why this application would be any different. H. Koster stated that anyone can apply for a variance. P. Kenyon asked why they should say that they don't require a variance. Counsel stated that he was not saying that it was different, but he is suggesting that they have some preexisting rights and that she needs to make a decision as to what is the magnitude of the preexisting right in relation to the shoreline contractual access. P. Kenyon stated that she already knows her position on this and has known it for three months, but the A.P.A. is telling them that they are wrong. H. Koster stated that she needs to take the A.P.A. out of it and make our own decision. Counsel stated that (1) they are going to collect all of the information available and then start taking some positions, (2) he does not have anything in writing from the A.P.A. but has some sense of their answer, (3) he does not have anything in writing from the Zoning Administrator, but he has a sense of where she is coming from, and (3) that the applicant needs to know all of this.

H. Koster stated that the lake frontage/lake access is one of the PB main concerns and the other concern would be septic and stormwater. D. Ryan stated they will not know what direction they will go in until they do further testing. H. Koster stated that his concern would be if they used any of old systems that are there. M. Fuller stated that it would be all new and that wouldn't even be on the table.

J. Gaddy was concerned about enhancing pedestrian access along the route of the Algonquin, Chic's and Town, stating that are a lot of people that walk back and forth and is sure there would be a lot of people there that would be willing and interested in walking back and forth to Town. J. Gaddy continued stating that he knows that the Town is looking at options with the Route 9 project that is proposed and suggested coordinating some discussions with whatever the Town is looking to do. Matt Fuller agreed

M. Fuller stated that are many items that popped up that he didn't know were there, but did want to bring up that (1) the buildings would be screened and not clear cut, (2) that they are going to be very selective because the family is very interested in keeping the cutting to a minimum, (3) they would work on the lakeside a bit with buffering and (3) that all of this would be flushed out with more formal plans.

Counsel asked that as of today, the non-shoreline parcel, by how many units is it improved. M. Fuller stated 22. Counsel asked how many of them were garden variety motel units that have no kitchens. M. Fuller stated that he was not sure if all were considered principle buildings, but a good deal of them are. Counsel asked if all 22 units are the entire improvement on the mountainside. M. Fuller replied that there is the Villa and that is what he is wondering about because they did this discussion last time when they subdivide off the Villa, so there is already a determination on this parcel that P. Kenyon made years ago on the preexisting rights, and the Villa has a couple of cabins up there that are not counted in this number. Counsel asked if the Villa has access to the shoreline. M. Fuller stated yes, which was decided last time. P. Kenyon stated that she remembered this from last time, because she was concerned about it. M. Fuller stated that they discussed this issue at length. P. Kenyon stated that there is an agreement for that access. H. Koster stated that yes, there is a dock space and parking space down there. P. Kenyon stated that she made copies of the agreement for tonight. H. Koster stated that yes she did.

Counsel asked about the lake portion and how it is presently improved. M. Fuller asked T. Chomiak if there were 8 units. T. Chomiak replied yes. M. Fuller continued saying that there are two motel units or three. He stated that this was on the old subdivision map and he would submit a copy of that for them, he continued that the office and dining hall are centrally located and there is a two story unit by Route 9 and another long motel unit that runs down the property towards the lake.

Counsel asked if it was their version that those units because they don't have kitchen facilities, don't count. T. Chomiak stated that some do, but not all of them. M. Fuller stated that the only way the A.P.A. thing crossed into the hamlet is density only, which crosses over with the density per square mile, that is the only thing, that it is not all out in the hamlet, but that density per square mile still does applies. M. Fuller continued that they can't gain grandfathered rights of 22 units of density that are not counted.

H. Koster stated that in a RCH5000 zone that they have the right to build more than they are showing here. M. Fuller stated that he believes that they are maxed out with this on that side of the road. Counsel stated that it is not RCH5000 on that side of the road. M. Fuller stated on the mountainside, no. P. Kenyon asked on the lakeside. S. Aldrich stated on the mountainside. P. Kenyon stated that it is on the agenda with 2 zones. M. Fuller stated that it is RM1.3 and RL3. S. Aldrich stated that RCH5000 is only for the lakeshore.

S. Wilson asked that if all owners have access, what kind of access are they talking about. M. Fuller stated that just beach and that they are not going to have any dock structures. H. Koster asked if the current docks there are coming out. M. Fuller stated no, that they are going to stay there, and that they are not going to touch that structure or make any further improvements to that lake front. M. Fuller stated that they will add some sort of buffer between whatever units are up there and the lake behind the beach and that they anticipate going with the LGA list of buffering.

H. Koster asked (1) the PB if there were any additional concerns. PB responded no. (2) asked Counsel if this was an informal informational thing, and that they do not need a motion for anything. Counsel asked M. Fuller what they were expecting. M. Fuller stated that they were just looking for some dialog of what the PB concerns are.

Counsel stated that one of this concerns is, that neither he nor P. Kenyon can do this on the spot, that they have some section that has to do with conversion of accommodations, cabin colonies, and they cannot find it right at this moment. S. Wilson asked if it was the section regarding complying with the zoning. P. Kenyon stated yes. S. Wilson stated that it is in there some place. Counsel stated that he believes that it is in subdivision, but P. Kenyon thinks it is in zoning. P. Kenyon stated that if one use is replaced with another use, it must conform.

J. Gaddy stated that he was looking at page 272, section 257B which deals with modification. Counsel asked if it was resort, hotel as well as cottage item C. J. Gaddy stated yes. Counsel then read "Resort, hotels, rental cottages and group camps shall not be converted to single family residents as condominiums, cooperatives or any other non-seasonal occupancy except through site plan review. Said conversions when made must conform to the provisions of this article." P. Kenyon stated that they are not converting what they already have, they are demolishing and replacing, so you won't apply that section.

J. Gaddy asked about replacement, stating that there were two sections, modification and the other was replacement. Counsel stated that the first is under the subtitle of modification. J. Gaddy stated that section B, the entire thing covers modification replacement as #1, subunit 1. is modification and 2. is replacement.

P. Kenyon stated that she needs to spend more time on this. M. Fuller agreed. P. Kenyon stated that they have been waiting for the A.P.A. Counsel stated that H. Koster said to stop waiting. H. Koster stated that he was not kidding and to stop waiting. P. Kenyon stated that they are waiting because of what they did with Dinapoli. H. Koster stated that Dinapoli is not in the hamlet. Counsel stated that density issues and shoreline variances are still fair game for the A.P.A. regardless of whether they are in the hamlet or not. P. Kenyon stated she did not believe so. M. Fuller stated that he would love to agree with her, but that is not what the A.P.A. has stated.

H. Koster asked if there were any further concerns or issues for the Board to discuss. J. Gaddy stated that he was asked recently if all of the Board members knew the meaning of shielded downward facing lights and provided materials to all Board members to be sure of the clarification.

Meeting was adjourned at 9:25pm.

Minutes submitted by Kristen MacEwan