

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday, September 20, 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: None

PUBLIC HEARING:

Chairman Herb Koster opened the public hearings at 6:05pm.

- 1) **SPR06-03A INDEPENDENT TOWERS, LLC.** Represented by Joe Ross, Real Estate Consultant. In accordance with Article XVII Telecommunications Towers. Seek Type II Site Plan Review for a telecommunications tower. Section 198.04, Block 1, Lot 16, Zones **RR5**, RR10 & LC25. Property Location: 236 Wall Street, owned by James Todd Davis. Subject to WCPB & APA Review. Subject to SEQR. *NOTE: This item was tabled at the August 2007 meeting pending a public hearing.*

Joe Ross, Real Estate Consultant, representing Independent Towers, LLC, gave an overview and said that (1) they flew a couple of balloons at the proposed site and (2) they submitted tower drawings with dimensions and fire tower photos as requested by the PB.

Correspondence: Read into the record by S. Aldrich

- Email from Kathy Bozony of the LGA received on 09/20/07 – requesting the towns make it a requirement, if feasible, that all cell services be able to lease space on one tower instead of individual companies on individual towers

H. Koster said that he doesn't see how the PB could get into forcing an applicant to sign a contract with a company that is not interested in using this tower and Counsel agreed. Joe Ross said that the APA does force all tower builders to allow it, however Verizon has chosen not to in Pilot Knob. H. Koster said it seems Kathy Bozony is hinting that the Town of Bolton should force them to use the applicant's tower, but that can't be done. Counsel agreed and said that there is not interest on the part of Bolton to force this applicant into anything.

There were no comments from public in attendance.

Motion by Donald Roessler to close the public hearing. Seconded by John Gaddy. All in favor. Motion Carried.

2) SPR06-28 RUSSELL, LESLIE & SPRAGUE, MARY & MCNULTY, CHARLES. Represented by Donald Russell. Seek Type II Site Plan Review for a marina in the RCH5000 zone. Section 186.07, Block 1, Lot 9, Zone RCH5000. Property Location: 4802 Lake Shore Drive, known as "The Point". Subject to WCPB REVIEW. Subject to SEQR. Note: SPR05-51 approved 12/15/05 has been withdrawn. *NOTE: This item was tabled at the August 2007 meeting pending a public hearing.*

Don Russell, representing Leslie Russell, Mary Sprague and Charles McNulty, handed out revised drawings, gave an overview and said that the few minor changes made from last month are: the leach field is located on the map, the trees and species are labeled, the compost/toilet facility is relocated and he dropped a mooring from his application based on the LGPC's recommendation.

Andrea Maranville of the Marcella Sembrich Memorial Association said that the legal counsel for the Marcella Sembrich Memorial Association provided a letter of concerns to the PB, reflecting the application dated April 22, 2007, but the association board has not gotten a chance to review the revised plan dated September 20, 2007, although it does seem to have reflected some of their concerns within their letter. H. Caldwell asked if the mooring was a big concern and if the way it is proposed now is acceptable to the Marcella Sembrich Memorial Association and Andrea Maranville replied by saying that the mooring was a big concern and she believes it is acceptable now, but she would have to speak with her board of directors. H. Koster asked if this public hearing should be adjourned to next month since these revised plans were just received tonight and Counsel said yes, he thinks the PB is obliged to.

Atty. Jeffrey Meyer of Fitzgerald, Morris, Baker & Firth, representing Twin Bay Village said that Atty. Matt Fuller submitted a letter and then he handed out photographs to the PB members.

Correspondence:

- Letter dated 9/13/07 from Atty. Matt Fuller representing Twin Bay Village - concerns (Atty. Jeffrey Meyer said that it was not necessary to read the entire letter into the record as long as the PB members have it and are able to review it.)
- Letter dated 9/18/07 from Stafford, Carr & McNally, representing the Marcella Sembrich Memorial Association - concerns (Andrea Maranville said that it was not necessary to read the entire letter into the record as long as the PB members have it and are able to review it.)
- Letter dated 9/11/07 from Molly Gallagher of the LGA dated - concerns (read into the record in its entirety)

No additional comments from public in attendance.

Motion by Henry Caldwell to extend the public hearing to October 2007, allowing the public time to review the revised plan submitted at the meeting. Seconded by Donald Roessler. All in favor. Motion Carried.

- 2) **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 RL3 & LC25. Property Location: 433 Federal Hill Road. Preliminary Plat. Major Subdivision. Subject to SEQR. *This item was tabled at the August 2007 meeting pending a public hearing. Note: This item is in conjunction with SPR07-29.*

SPR07-29 FEDERAL HILL CORPORATION. Mathew 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, specifically 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 is in conjunction with SD06-01.*

Paul Owen, representing Matthew Defty and Federal Hill Corporation, gave an overview and said that (1) they addressed previous PB requests and submitted new plans to the PB, (2) there will be a \$400 recreation fee per lot, (3) lighting notes were added to the plan, (4) a planting plan was provided for the stormwater management area and (5) he believes some draft information was provided to the town for review of deed covenants and restrictions.

Ken Hawthorne, 49 Wright's Farm Road, asked if the stormwater management area will be a retention base type area and if trees will be taken out of that area. Paul Owen replied by saying that trees will be taken out and pointed out the clearing limits on the plan. Mr. Hawthorne asked if it is correct that there is a 20 ft. setback requirement from the property line for the stormwater setback. H. Koster asked if the same setback is required for stormwater management as it is for buildings and P. Kenyon said no. H. Koster asked if there are any setbacks to property lines or lot lines and P. Kenyon said no, she doesn't believe so. Counsel agreed and said that (1) he hasn't seen any in the code and (2) the only setback requirements he's seen is for wetlands, wells and septic. Paul Owen said that he believes the 20 ft. setback from the property line is a building setback. Counsel said that a structure has a required 20 ft. setback from a property line, so that would include such things as a retaining wall or a house.

Correspondence: Read into the record in its entirety by Counsel

- Letter dated 9/19/07 from Kathy Bozony of LGA dated - concerns

H. Koster asked where the applicant came up with the clearing figure and Paul Owen said that they did a clearing limit line computation based on the area they needed for the draining, the driveways, the building footprint, for the septic system, and the well, so just basically the area that would be developed. H. Koster said that regarding Mr. Hawthorne's question on stormwater setbacks, the Bolton's regulations are very specific about not allowing water to go on any property that was not flowing on that property before, so the applicant's design will have to come up with a remedy that proves that there will be no additional water going onto the Hawthorne property. S. Aldrich asked if

in doing the clearing limits if the applicant figured the houses at 2,000 sq. ft. or more and Paul Owen said yes, the footprints are more than 2,000 sq. ft.

No further comments from public in attendance.

Motion by Donald Roessler to close the public hearing on SD06-01 & SPR07-29.
Seconded by Chauncey Mason. Henry Caldwell recused himself. **All others in favor. Motion Carried.**

REGULAR MEETING:

H. Koster began the regular meeting at 6:36pm by asking for corrections to the July 19, 2007 and August 16, 2007 minutes.

July 19, 2007 Minutes: PB members agreed to defer voting on these minutes, as they are still reviewing them.

August 16, 2007 Minutes:

- 1) J. Gaddy said on page 5, the third full paragraph should reflect “*guyed towers*”, not “*guide towers*”, so the paragraph should read: “J. Gaddy asked about the regulations that talk about the design that says, “... in all cases *guyed* towers should be preferable to free-standing structures...” and Joe Ross replied by saying that (1) the APA prefers (*guyed*) lattice towers because you can see through them, which is fine with him, (2) it makes no difference to him—*guyed* towers, lattice towers and self-supporting towers all meet the exact same engineering standards and are all just as strong as one another and (3) whatever type of tower the Town of Bolton wants to put up is fine with him.”
- 2) S. Aldrich said on page 8, paragraph 2, sentence 2 should read: “H. Caldwell said that as long as the agencies use the cellular *carriers* that are on the tower, then they are all set.”
- 3) S. Aldrich said on page 15, paragraph 4, sentence 2 should read: “S. Aldrich asked if it is correct assuming that a good portion of the stormwater where it says they will be disturbing 2.8 acres is removing the old driveway and *parking area and re-grading.*”
- 4) J. Gaddy said on page 6, the last line should read: “...and Joe Ross replied by saying that (1) if it were designed with the correct foundation it could be, but everything in this area with this area with the APA is very difficult and usually the soft *costs* of extending something is almost as much money as going a mile or two...”

Motion by John Gaddy to accept the August 16, 2007 minutes as amended. Seconded by Sandi Aldrich. Five favorable. Two abstained (Herb Koster & Donald Roessler weren't at that meeting). Motion carried.

- 1) **SPR06-03A INDEPENDENT TOWERS, LLC.** Represented by Joe Ross, Real Estate Consultant. In accordance with Article XVII Telecommunications Towers. Seek Type II Site Plan Review for a telecommunications tower. Section 198.04, Block 1, Lot 16, Zones RR5, RR10 & LC25. Property Location: 236 Wall Street, owned by James Todd Davis. Subject to WCPB & APA Review. Subject to SEQR. *NOTE: This item was tabled at the August 2007 meeting pending a public hearing.* WCPB determined no county impact by default approval, as there was no quorum.

J. Gaddy asked why the McDonalds sign near exit 23 wasn't a viable option. Joe Ross replied by saying that (1) that sign is on the site of a closed down gas station, (2) the carriers didn't want to go there, because they would rather go to a site with no possible contamination, because even the State of New York won't indemnify them for any future actions on a pre-contaminated site and (3) there are still issues with the approvals on that sign in Lake George and (4) the McDonalds sign option has been researched.

J. Gaddy said that the monopole depicted in the packet doesn't look as though it has the same appearance it would have if four platforms were included. Joe Ross agreed and said that (1) in the information provided there are diagrams of the platforms, (2) the tower is from one vendor and the side arms and everything else are from another vendor, so there are no plans depicting it, because that is usually up to the end user to determine what type of side arms and cross arms will be incorporated to fit particular types of antennas and (3) he did provide the PB with a sheet with all the dimensions of the side arms, which are approximately 6 ft. wide and they stand off 3 ft. away from the tower. J. Gaddy asked if the potential exists for four platforms and Joe Ross said no, the potential for this tower is for only for two platforms, because the other ones would be below the tree line and have no use whatsoever.

J. Gaddy asked if it would be possible to get more access at a lower level if the applicant thinned trees out on a five-year schedule and Joe Ross said that (1) you could do that, but he thinks the site in and of itself is so benign and 90 ft. is not really that tall, (2) he thinks any reduction in height would be insignificant, especially because you can't really get closer than a mile from the site just about, so the difference would be negligible, (3) he thinks the height is right the way it is and they are just on the threshold of coverage which would enable coverage to a part of the interstate that have the problems, (4) the trees grow to 60-70 ft. and this tower at 90 ft. seems reasonable to him and he doesn't think trimming trees and continuing to trim trees would because that seems to upset people more than just leaving them the way it is and (5) people tend to prefer the tower over the tree line to cutting trees all the time. J. Gaddy said that in looking at the balloons when they were flying, there are only a few spots it appears to project above the ridgeline, so it is going to be hidden. Joe Ross agreed and said that (1) the PB members pass towers all the time and have probably seen good and bad sitings, (2) he thinks, from his experience

and the way it is sited, this tower is one you could get right next to and still not find and (3) he thinks it is a good sighting that it is not offensive, so the way it is situated works.

S. Wilson said that Joe Ross mentioned that the APA liked the latticed towers and asked why he is presenting the monopole. Joe Ross said that (1) the APA prefers the guyed lattice towers, (2) he is suggesting the monopole, because you have to present something, (3) the APA has approved different types of towers on different occasions, (4) monopoles require less engineering right up front to say it can be put in an area, (5) you have to clear more trees and land for guyed towers, because they have to be cleared all the way and underneath them and they have to be kept clear, (6) he has always said he'd leave it up to the Bolton PB or the APA as to the type of tower and (7) he thinks self-supportings with three legs are actually the best, as they present the least amount of view shed. S. Aldrich asked how big the balloon was and Joe Ross said that the balloons are about 6.5-7 ft. S. Aldrich asked if the width of the balloon would be the width of the arms coming off the tower and Joe Ross said no, the arms of the tower would be twice the width of the balloon.

J. Gaddy asked if the applicant had a chance to look into the Pore-10 self-rusting metal and Joe Ross said that they can copy the color scheme of it no problem, but he has not found a tower made up of that particular substance. H. Caldwell asked if the applicant is saying he can't use Pore-10 and Joe Ross said no, he just hasn't found a tower made out of that. H. Koster said that (1) he doesn't think they will let them use Pore-10 because it rusts a lot quicker than the material that they use and (2) they have a lot of problems with the guardrails up here in the Adirondacks. H. Caldwell said that there is a bridge in Warrensburg made out of Pore-10. Joe Ross said that apparently there is not anyone out there using this material for towers at this time. H. Caldwell said that if they are making bridges out of it, he doesn't know why you can't make towers out of it. H. Koster said that material does rust more quickly. Joe Ross said that rust would interfere with the signal because of the metallic component of it. H. Koster said that he knows NYSDOT complains about the guardrails, because they have to be replaced a lot more often than the galvanized guardrails.

J. Gaddy asked what the cost difference would be between the proposed monopole and the "Frankenpine-type" pole and Joe Ross said that (1) he'd say from \$80,000 or \$90,000 to more than double the cost of this, (2) he is not a proponent of those things, because he is afraid of what will happen 10-15 years from now when the branches turn white and the question of maintenance comes into play and (3) he thinks the paint or color is the way to make it blend in more and painting a tower is something people are used to doing. S. Aldrich asked the length of time the 3M tape is supposed to last and Joe Ross said that supposedly it is to be replaced every 7-8 years. J. Gaddy asked who would be responsible for that and Joe Ross said that it would be the tower owner's responsibility. Joe Ross added that he thinks that neutral density gray, blends in just as well as many other colors. S. Wilson asked who the owner would be and Joe Ross said Independent Towers, LLC. J. Gaddy asked if the last person put on the tower would be the responsible party for dismantling. Joe Ross said that (1) he as a developer will provide the Bolton PB with a bond and the bond removes any responsibility in perpetuity as long

as that bond continues to stay in place, (2) the PB would be notified every year on the status of the bond and (3) the bond is paid a certain amount of money up front then no matter who is on the tower or who buys it, the bond stays with it, so that is the Bolton PB's safety valve in terms of responsibility. Counsel (1) asked who requires the bond from the applicant—if it is the state and (2) said that he is very familiar with the bonds on sand and gravel reclamation, but the monitoring of that is usually through the state. Joe Ross replied by saying that (1) one of the beauties of this is that anyone can tear down one of these towers in two days with a crane and two people and (2) he has never seen one of these towers come down yet—even by accident. J. Gaddy said that the argument that it is a cheap widely used technology and fail-safe, seems to say that it is here to stay for a while. Joe Ross agreed. C. Mason asked the proposed color of the equipment cabinets and Joe Ross said beige.

Counsel said that this particular application has a long form SEQR, because it is required by the code and SEQR for a telecommunications tower. Joe Ross said that (1) they already have a NEPA screening in there, which he thinks is what triggered the long form SEQR and (2) he would appreciate the PB go through the long form SEQR.

Counsel said that this is long form information that is provided by the applicant and they are identified as Independent Towers LLC Communications Facility and the name of the owner of the premises is James Todd Davis. Counsel added that the description of this action is as follows: The proposed action involves the construction of a new wireless telecommunication facility by Independent Towers LLC; Independent Towers LLC proposes the construction of a new ninety (90) foot tall monopole contained within a 3,600 square foot fenced compound with all necessary appurtenances, cabling, and fixtures; associated unmanned equipment will be located within the fenced compound; the facility will be capable of supporting the co-location of additional wireless carriers; and site access and limited parking for site maintenance is via a proposed 12' wide access drive.

Counsel said that (1) the present use of the property as disclosed by the applicant is rural non-farm, (2) the estimated area of this project is .10 acres (one-tenth of an acre), (3) the approximate acreage that is mentioned here in terms of different types of uses, presently it is meadow and brushland approximately .05 acres and forested .05 acres, (4) with respect to what is proposed for a road, they would have a .02 acres dedicated to road, buildings or other paved surfaces and they would have a .08 acres dedicated to wireless telecom facility compound and road, (5) the predominant soil types for the project site are well-drained, 100% of the site, (6) the site in question does not involve any agricultural land, (7) the applicant indicates that there are no bedrock outcroppings and that the estimated depth to bedrock would be greater than five (5) feet and (8) approximate percentage of proposed project site without slopes: about 60% of this project site is with slopes between 0% and 10%, approximately 30% of the project site have slopes that are between 10% and 15% and approximately 10% of the site has slopes that are greater than 15%.

Counsel continued by saying that (1) the question about is this project substantially contiguous to or contain a building site or district that may be listed on a state or national register of historic places, the answer is “no”, (2) is the project substantially contiguous to a site listed on a register of national natural landmarks, “no”, (3) the depth to water table investigated by the applicant to be greater than six (6) feet, (4) is the site located over a primary principal or sole source aquifer, and the answer provided is “no” and (5) do hunting, fishing or shell fishing opportunities presently exist in the project area, and the applicant has answered “no”.

Counsel said that then they do go with the questions that are usually posed on a short form and these are the ones that the PB does have to deal with in terms of coming up with some conclusions—these are yes/no answers and if they are worthy of discussion, the PB should discuss them.

Counsel asked, does this project site contain any species of plant or animal life that is identified as threatened or endangered? He said that there has actually been no discussion about that at all on this application and asked if the PB members wanted to say anything about that or question it. The PB members said no. Counsel said then, the answer would be “no”.

Counsel asked of there are any unique or unusual land forms on the project site, such as cliffs or dunes or other geological formations and said that the answer provided by the applicant is “no”. Counsel asked if that is agreeable and PB members said yes, it is agreed that the answer is “no”.

Counsel the question is if the project site is presently used by the community or neighborhood as an open space or recreation area and the applicant provides an answer “no”. Counsel asked if that is a correct response. PB members said that is correct.

Counsel said that (1) the next question is if the present site includes scenic views known to be important to the community and (2) the applicant proposes the answer would be “no”. Counsel asked the PB members if that is okay and the PB members said yes, it is okay.

Counsel said that streams within or contiguous to the project area are specified as “none” and asked if that is satisfactory. The PB members said it is satisfactory.

Counsel said that for lakes, ponds, wetland areas within or contiguous to project area, the applicant answers “none” and asked if that is satisfactory. The PB members said it is satisfactory.

Counsel said that (1) regarding if the site is served by existing public utilities the answer provided by the applicant is “yes”, (2) the SEQR analysis says, if yes, does sufficient capacity exist to allow this connection, and the applicant provides and affirmative “yes” and (3) will improvements be necessary to this connection and the answer again is “yes”.

Counsel said that the next question is if the site is located in an agricultural district certified by the Agriculture and Markets Law, it then cites several sections of New York State Law, and the answer provided by the applicant is “no”.

Counsel said that with respect to whether or not it is located within a critical environmental area that may be designated by environmental conservation law, the answer also provided is “no”, which he believes is also consistent with what the PB members heard on the application.

Counsel said the next question is if this site has ever been used for the disposal of solid or hazardous waste and the answer provided is “no”.

Counsel said that the project description, the application goes on to actually repeat and the answers are the same that they have already gone over, so he doesn't believe there is much here they need to repeat. Counsel said that it comes back down to a specification, though, as to what is the largest proposed structure and that is meaningful, and it is, as the applicant says, that “this will be ninety feet in height, it is fifty-seven feet wide and fifty-seven feet in length”. Counsel asked if the applicant is actually describing the footprint and fenced area and Joe Ross said yes.

Counsel said that (1) in answer to how much natural material, such as rock or earth, will be removed from the site, the applicant says “zero” and (2) regarding if disturbed areas will be reclaimed, the answer given is “yes, disturbed soils will be grass seeded for aesthetic purposes and erosion protection”, (3) will topsoil be stockpiled, the answer given is “yes”, (4) will upper subsoil be stockpiled for reclamation and the answer is “yes”, (5) how many acres of vegetation (trees, shrubs, ground covers) will be removed from the site, the answer given is “less than .10 acres”, (6) will mature forests over 100 years old or other locally important vegetation be removed by this project, the answer given is “no”, (7) if a single-phased project, the anticipated period of construction and the answer given is “two months”, (8) the number of phases anticipated is “one”, (10) will blasting occur during the construction, the answer is “no”, (11) will there be jobs generated, the answer is “+/- 10 during construction and zero after the project is complete”, (12) will the project require relocation of any projects or facilities, and the answer is “no”, (13) is surface liquid waste disposal involved, and the answer given is “no”, (14) is subsurface liquid waste disposal involved, and the answer again given is “no”, (15) is the project or any portion of the project located within a 100 year flood plan, and the answer given is “no”, (16) will this project generate a solid waste, and the answer given is “no”, (17) will the project involve the disposal of solid waste, and the answer is still “no”, (18) will the project use herbicides or pesticides, “no”, (19) will the project will the project routinely produce odors, “no”, (20) will the project produce operating noise exceeding local ambient noise levels, “no”, (21) will the project result in an increase in energy use, and the answer given is “yes, during construction, the use of fossil fuels will occur for construction equipment; post construction, the developed telecommunications facility will use electricity to power transmission and receiving equipment” and (22) does this project involve Local, State or Federal Funding, and the answer given is “no”.

Counsel said that (1) approvals then are specified by this applicant as being required would be a town planning board for site plan approval and from a state agency (APA) for telecommunications, (2) the question posed, does this proposed action involve planning or zoning decisions, and the answer given is “yes, the specification is a site plan”, (3) the question of what is the zoning classification of this site, “RR-5”, (4) what is the proposed zoning of this site, “no proposed change”, (5) what is the maximum potential development for this site, “no proposed change to zoning”, (6) is this proposed action consistent with the recommended uses in the adopted local land use plan, the answer given is “yes”, (7) are the predominant land use(s) and the zoning classifications within a ¼ mile radius of proposed action, the answer given is “rural residential and land conservation”, (8) is the proposed action compatible with adjoining or surrounding land uses within ¼ mile, the answer given is “yes”, (9) will the proposed action require any authorizations or the formation of a sewer or water district, the answer provided is “no”, (10) will the proposed action create a demand for any community provided services, such as increase in recreation, education, police or fire protection, the answer given is “no” and (11) will the proposed action result in the generation of traffic significantly above present levels, and the answer given is “no”.

Counsel said that if the PB members heard anything that needs to be explored, then speak now or forever hold your peace. There were no PB member comments at this time.

Counsel said that if there are no questions from the PB on the long form SEQR, then the PB should give consideration to the possibility that it is a satisfactory completed SEQR application and that the applicant has demonstrated that there are no negative impacts. J. Gaddy (1) said that the visual addendum on Appendix B on the first page under visibility is the question of if a site area, lake or reservoir or highway designated scenic and will this be visible from a scenic highway and (2) asked if the I-87 interstate is considered a scenic highway. Joe Ross said no and added that portions of it are considered scenic, but not this area. H. Koster said that I-87 won an award from Warrensburg north for about 40 miles as being one of the most scenic highways, but that it just an award, it is not designated scenic highway. J. Gaddy said that on the second page of that, dealing with exposure, there is a figure given for 13,366 AADT with an asterisk. Joe Ross said that it is an amount average daily traffic, so it is a traffic average. J. Gaddy said that it seems like a low number and Joe Ross said that it is a number provided by the State of New York. There were no additional questions on the long form SEQR document for this application.

H. Caldwell said that he still doesn't see the exact dimensional details for the pole that the PB wanted to see. Joe Ross approached the PB bench to clarify. H. Caldwell said that the PB would then be approving a concept—something they can't even look at and Joe Ross said that (1) is correct—the PB does not need construction type drawings—it is not a requirement at the planning stage and (2) the town building inspector is the one that has to approve the plan and construction and whether the thing is safe and adequate. Individual discussions ensued among PB members and Joe Ross at the PB bench.

The WCPB determined no county impact by default approval, as there was no quorum.

After reviewing the long form SEQR, 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 and a public hearing having been held, grant approval as presented with the following conditions: 1) A monopole not to exceed 90 ft. in height, 9 ft. at the base and 3 ft. at the top, is to be utilized. 2) Two platforms not to exceed 9 ft. across in any direction are allowed. 3) the pole must be covered with camouflaged 3-M tape or painted dark brown. 4) All lighting must be downward facing and shielded. 5) Any alterations proposed by the applicant or required by the APA must be approved by the Planning Board. 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 opposed. **All others in favor. Motion Carried.**

- 2) **SPR06-28 RUSSELL, LESLIE & SPRAGUE, MARY & MCNULTY, CHARLES.** Represented by Donald Russell. Seek Type II Site Plan Review for a marina in the RCH5000 zone. Section 186.07, Block 1, Lot 9, Zone RCH5000. Property Location: 4802 Lake Shore Drive, known as "The Point". Subject to WCPB REVIEW. Subject to SEQR. Note: SPR05-51 approved 12/15/05 has been withdrawn. *NOTE: This item was tabled at the August 2007 meeting pending a public hearing.*

Motion by Donald Roessler to table the application allowing the Planning Board time to review the revised plan submitted at the meeting. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

Note: applicant agreed to have items SD06-01 and SPR07-29 heard together.

Note: H. Caldwell recused himself from these items.

- 3) **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 RL3 & LC25. Property Location: 433 Federal Hill Road. Preliminary Plat. Major Subdivision. Subject to SEQR. *NOTE: This item was tabled at the August 2007 meeting pending a public hearing. Note: This item is in conjunction with SPR07-29.*
- 4) **SPR07-29 FEDERAL HILL CORPORATION. Mathew 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, specifically 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 August 2007 meeting pending a public hearing. Note: This item is in conjunction with SD06-01.*

Paul Owen of Environmental Design Partnership, representing Federal Hill Corporation and Mathew Defty, gave an overview and said that (1) this is an existing lot at the intersection of County Route 11 and Federal Hill Road, which they are proposing to develop into 7 residential lots with Lot 5 being the remaining lands of the existing Federal Hill Farmstead, (2) four of the lots will be accessed from a private driveway off of County Route 11, (3) an additional lot at the intersection of Federal Hill Road and County Route 11 will also be accessed off of County Route 11 and the final lot will be accessed from Federal Hill Road, (4) all the lots will be served by private septic systems and wells, (5) they have addressed the engineering comments and (6) they are here for preliminary subdivision approval and site plan review for a major stormwater project.

H. Koster asked (1) if the private cul-de-sac and the driveway off County Route 11 have been laid out for the best possible grade to enter off County Route 11 and (2) if the driveways could be shifted so the cul-de-sac and the house are not seen from that entrance. Paul Owen said that it might be difficult due to existing conditions there, but they would look into it. H. Koster said the PB would like to see it at a 90-degree angle after the rock outcropping. Paul Owen said that (1) it is a possibility and (2) it is a private drive and they are not designing for any speed limit, so you could probably put a bend in there without too much trouble. H. Koster said that the PB would also like to see a 90-degree angle for Lot 7 as well. Paul Owen agreed. H. Koster said that the proposed entrance off Federal Hill Road is ideal for Lot 6. P. Kenyon asked how many lots the driveway with the cul-de-sac would access and H. Koster said four lots. P. Kenyon asked if the PB would be treating it as a shared driveway or a road and H. Koster said that the PB is looking at it as a road. P. Kenyon asked if it meets road standards. D. Roessler asked the proposed grade of the road and Paul Owen said that (1) he thinks the maximum grade is 10% and (2) he thinks there is a different set of standards for a public road versus private road and this is a private drive that will be maintained by a HOA. P. Kenyon said it is 12% grade for a road. H. Koster asked the proposed road width and Paul Owen said 20 ft. wide with 2-ft. wind curved on either side. H. Koster said that the PB is willing to go to an 18 ft. width road with 2-ft. shoulders on each side. H. Koster asked if the cuts and fills seem to even out and Paul Owen said yes. P. Kenyon asked the width of the right-of-way and Paul Owen said they propose 50 ft.

J. Gaddy asked if in the stormwater management area the disturbance area is a maximum of 150 ft., and Paul Owen said yes. J. Gaddy asked the proposal for re-establishing slopes on that in terms of vegetation and Paul Owen said that they would sack out the topsoil, reuse topsoils, screen if necessary, seed it with an acceptable seed mixture for erosion control, in some steeper slope areas they may use an erosion control bag product like jute mesh and there are also plantings proposed on the sides of the banks.

J. Gaddy asked how on Lots 2 and 3 by the driveways that direct water down to the cul-de-sac would be taken care of. Paul Owen said that the water gets down to the culverts then they propose infiltration basins. J. Gaddy said that the infiltration basins are up about 970. Paul Owen said that for Lots 2 and 3 there are two sets of basins—one for the house and one for the outflow of each culvert. He then approached the PB bench to

clarify on the map. P. Kenyon said that Town Engineer Tom Nace has signed-off on this project.

S. Aldrich asked if this needs to go to the APA for jurisdictional determination and P. Kenyon said that she hasn't heard back from the APA. S. Aldrich said that (1) her concern is that on Lot 7 the applicants show a wet area and (2) the APA likes all the wet areas to stay on one lot—they don't like having it divided with a boundary line. Paul Owen said that (1) they are not disturbing it and (2) he believes their client did have some APA staff walk the site and as far as he knows they didn't express any concerns with the proposal. S. Aldrich said that she thinks when the APA looked at this site, Lot 7 was not proposed—they were talking about the four lots off County Route 11 and the one lot off Federal Hill Road, so she doesn't know that the APA even looked at that area of property. Counsel clarified by saying that (1) you can subdivide a wetland according to Bolton's Code, but you might not succeed at the APA level because they have a requirement that you have to get a freshwater wetlands permit and (3) there is an administrative process at the APA that once this is all applied for and processed, the APA answer could be no, but there is an administrative process where the applicant may do it. H. Koster said that (1) the PB can go forward with its process here and (2) the PB has approved previous subdivisions and the applicants have come back for a lot line adjustment to accommodate the APA, which is very simple. Paul Owen said that it is shown as a wet area on the plan, but he is not sure if it is a jurisdictional wetland.

Motion by Donald Rossler to approve the preliminary plat, convert the preliminary plat to final plat and table the application pending additional information as follows:
1) The driveway on lot 7 and the shared driveway are to be revised whereby a "bend" is created. **Seconded by** John Gaddy. Henry Caldwell recused himself.
All others in favor. Motion Carried.

- 5) **SPR07-32 BESSETTE, WILLIAM & IRIS.** Seek Type II Site Plan Review for a multi family structure. Section 170.00, Block 1, Lot 39, Zones **RR5 & LC25.**
Property Location: 345 Edgecomb Pond Road. Subject to SEQR.

William Bessette said that they are here to see if this project is going to be doable for them.

S. Aldrich asked which side faces Edgecomb Pond Road and William Bessette approached the PB bench to clarify on the map. William Bessette said that they don't propose any changes to the outside of the building. D. Roessler asked if the property size is 14.17 acres and William Bessette said yes.

H. Caldwell asked if the multi-family is for the applicant's own use and it would not be a rental. William Bessette agreed and said that they want to have it for his mother-in-law's use. S. Aldrich asked if the rec. room currently has any sanitary facilities in it and William Bessette said (1) no, not at the moment and (2) it is basically a big open finished room that has no kitchen or bathroom. S. Aldrich asked about the septic system if you go

to a two-family from a single-family and P. Kenyon said that (1) if additional bedrooms are added then yes, the septic system will be addressed, but the PB doesn't have to worry about that and (2) this is the first base to see if the applicants can even do it.

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

Motion by Sue Wilson 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** Sandi Aldrich. **All in favor. Motion Carried.**

- 6) **SD 06-20 PADANARUM PARK. Rolf Ronning.** Seeks to merge those parcels designated as 107.00-2-8 & 9 and 108.00-1-1, 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 project was formally known as Stonybrook Land LLC last heard before the Board on July 2007.

H. Koster said that his understanding is that the plans for this item were not submitted on time, so he told Code Enforcement Officer Mitzi Nittmann that the PB could deal with the lot line adjustment. Rolf Ronning said that (1) what is written on the agenda is inaccurate, as he is here for sketch plan review of Padanarum Park with modifications the PB suggested, (2) he told Mitzi Nittmann that at some point there was going to be a lot line adjustment—not two of them—as part of the process, which he is not looking for tonight, as he is just disclosing the fact that's being contemplated and (3) he sold off one tax map parcel, so the entire subdivision is smaller, but this is sketch plan review and this is down from 21 lots to 15 lots now.

H. Koster said that by selling off that parcel off to get aboveground power up there, the PB is still going to fight for underground power through this project. Rolf Ronning said that he thinks H. Koster is making an assumption, because he sold that parcel because he needed some money. H. Koster said that he thinks Rolf Ronning sold it off to get over-ground power throughout this subdivision and Rolf Ronning replied by saying that he objects to that subjective analysis. H. Koster said that he's just telling Rolf Ronning that the PB is still going to be looking for underground power in this subdivision. Rolf Ronning said that the PB can look for it.

P. Kenyon said the following four things were required from last month, which was information set forth in Section 150-23B, including a sketch plan showing a cluster subdivision to consider merging a couple of lots, the area to be developed to be shown on a map by itself. P. Kenyon asked if that map has been provided and Rolf Ronning said that is the map he has tonight. S. Wilson asked if the map being presented shows all of the original five tax map parcels and Rolf Ronning said no. Rolf Ronning added that (1) on the agenda there is a tax map parcel listed that is no longer his, so he wants that corrected, (2) tax map parcel 108.00-1-4 is not on this map as part of the subdivision

because he doesn't own it, (3) the PB asked for a reduction of lots—he was entitled to 21 or 22 and he is down to 15 lots total, (4) he eliminated some lots and made them wider, (5) each lot complies with the minimum road frontage width, (6) each lot has different amounts of road frontage so they can design lots with nice driveways without too much decline, (8) each lot has access to state land and (9) there is no HOA or community property, so the lot meets the code.

J. Gaddy said that Lots 8, 10 and 11 border wetlands. Rolf Ronning said yes, that is why there is no subdivision of wetlands, because they are small wetlands, which will be contained inside of each lot.

S. Aldrich asked if a cluster alternative was requested and P. Kenyon said yes, a sketch plan showing a cluster subdivision must be submitted. Rolf Ronning said that (1) he examined the cluster option and he rejected it—he doesn't want to cluster, (2) this is an area that deserves homes on large acreage, (3) he doesn't want to create a common area and (4) he doesn't want a cluster development here—he has reduced the density substantially. H. Koster said that he doesn't think the PB can force the applicant to do something he doesn't want to do. Counsel said that (1) the PB is allowed to request of the applicant a plan in the alternative, then the PB goes through the whole process then make a determination and (2) it was an option and he thought the PB was exercising it, now they just have to find it. J. Gaddy said that it is Section 150-12. Rolf Ronning said that he examined the option, but couldn't figure out how to do it. Counsel said that it wasn't for Rolf Ronning to examine, but it is for the PB. J. Gaddy said that (1) in looking at the procedures, it said if the PB had a request, it shall be required that if wetlands occupied over 25% of the site or if streams were crossed by development of the site and (2) he asked if there is a wetland analysis. Rolf Ronning referenced the maps to clarify and said that (1) the Lake George Land Conservancy wanted to buy six lots separately so they can get grant money, (2) for all practical purposes, the Lake George Land Conservancy has no intention of selling those lots, (3) really, he is down to 9 lots here and (4) Lots 1, 2, 3, 4, 5 and 6 are legitimate lots that can be built on, which builds the appraisal up for grant money, which is the real reason for that and that is all the wetlands. J. Gaddy asked if the PB considers this whole thing together for the wetlands since this is all part of the parcel presented to the PB. Rolf Ronning said that it has to be. Counsel said yes, the PB has to do it comprehensively as long as the PB is not misunderstanding his answer and that is that he agrees with Rolf Ronning that the English parcel is out—it is history—everything else is the PB's concern.

Counsel asked if they hit any of the thresholds for Section 150-12 and the mandatory alternative for clustering. Rolf Ronning said no, he doesn't think he meets those thresholds, as this is not terribly mountainous terrain. Counsel said that (1) the applicant's position is well, (2) the next step is to find out if anybody on the PB agrees or disagrees that whatever is on this entire site has a consideration of significant wildlife or plant habitat that may be impacted by the development of the site—the PB has to make that determination then tells the applicant or asks of the applicant more information, (3) he doesn't know if anybody has inventoried the wetlands and maybe the applicant is right on this and (4) this is for certain, and that is that, this has not been explored, soils with

percolation rate of less than .06 inches or greater than 6 inches per hour occupy over 25% of the site—the PB members have no criteria on this before them tonight, (5) soils with a depth of bedrock at 18 inches or less occupy over 25% of the site—again, no criteria, (6) it is fair to state that the issue was favorable to the applicant in that the sites are not exposed to views from Lake George and (7) there are things in here that he understands Rolf Ronning’s position in that they are not applicable, but the PB is entitled to explore them and challenge the applicant on them.

H. Caldwell asked if he should recuse himself on this or not because he is also on the Lake George Land Conservancy board. Counsel said the very first place is to ask the applicant if that imposes a requirement on this person to figure out whether or not they need to recuse themselves. Rolf Ronning said that in this case, he is not asking for H. Caldwell to recuse himself. Counsel said that it is final now and the next step is that H. Caldwell has to think about it and if he can be fair on the merits of this application, so be it, but if H. Caldwell thinks his allegiances are to the other organization, then he should take a seat. H. Caldwell said that (1) he thinks he can be fair on this one, (2) asked if the LGLC property is being looked at as one big lot or as six lots, because for intensive purposes, eventually this will be one big lot, (3) basically there will be one huge lot with the wetlands in probably the most critical environmental area, then the lots are being clustered on the east side of Padanarum Road and they are substantial lots that are in fitting with that neighborhood, as the lots are all big in that neighborhood. H. Koster said that the word “clustering” is subjective and this is clustering. Counsel said that H. Koster is right in that the clustering is the management of special relationships and some are smaller and balanced into a corner or something, but H. Koster is right that it is subjective. H. Koster asked what improvement the applicant plans on doing to the road that goes through there and Rolf Ronning said that (1) it is a town road, (2) he is not responsible for town roads and (3) every deed goes to the center of the middle road, so the Town of Bolton has acquired the rights by use and in the highway law, they have a 50-ft. right-of-way, 25-ft. from the center line on each side of the road for improvements, stormwater, ditches, drainage, utilities, etc. and (4) technically, the deeds say to the middle of the road, but there is an exclusive right-of-way for 25 ft. to the Town of Bolton on each side of the center line. H. Koster asked if Rolf Ronning has any intention of donating the 50-ft. right-of-way to the Town of Bolton and Rolf Ronning said that he would be happy to. Counsel said that he does agree with Rolf Ronning’s description of width and acquired ownership and asked if any portion of the road is seasonal and Rolf Ronning said (1) no, not that accesses his property and (2) it does turn seasonal further down, but not here. H. Koster said that Rolf Ronning is saying that the property line runs to the middle of the road and the town has access to the 50-ft. right-of-way and asked if Rolf Ronning owns the property then can the PB force him to improve that road. Counsel said (1) no, not a town road—Rolf Ronning has no authority to do it, that is an acquired right of the town, (2) Rolf Ronning’s rendition is absolutely correct, in that is a road acquired by prescriptive use—not by a deed or document—the apparent center of where you would find the road today is actually a point from which you measure 25 ft. from either side and that is what the town has acquired, so when Rolf Ronning owns this property or when he starts to sell lots, every one of those ownerships are subject to that town right-of-way, that town road, (3) there is not only no authority on the PB to make

Rolf Ronning improve that road, but he would also not be permitted by law, that is that, that is a domain for completely for the town and the highway department—it is their property and (4) it is a combination of fee ownerships, but the principle responsibility as well as authority for road improvement, maintenance and road ownership is the town—you can't make a private developer get involved in that. H. Koster asked if that would be the case even if the town doesn't own it and Counsel said that (1) the town does own it, as they have acquired a public right of use for ingress and egress and they do maintain it and (2) Rolf Ronning could bring a proceeding in court under some theory that he has a superior right and he surely would lose. H. Koster said that if Rolf Ronning develops a minimum size lot in this zoning, then he is entitled to use that property that goes to the centerline of the road to be included in that minimum lot, so Rolf Ronning still owns that property. Counsel said that (1) that is true if H. Koster is talking about the acreage that would be computed in the minimum size lot, the answer would be yes, but of course all of the setbacks are measured from the edge of that right-of-way, which is how the code deals with it, (2) the inventory of how much land does that land include, yes, it would go to the center of the road, he would accept that and (3) the PB has actually seen that in other subdivisions.

D. Roessler asked what the best-case scenario would be on this for the road. Counsel said that (1) the town has acquired all of the rights it needs, (2) if Rolf Ronning for some reason thought that he is prepared to improve upon that and give the town a dedication, he guesses it would start here in terms of how the PB feels about it and what the PB wants to see, (3) the PB is only certainly making the recommendation, so it is up to the TB to give consideration as to whether or not they wish to accept it and (4) he (Counsel) would be pointing out to the TB that should they be reluctant to accept it, that they already own it and somebody on the TB may ask why they need to accept the dedication and his honest answer would be that they don't and (5) it seems to be going around a tight little circle here as an unproductive exercise. D. Roessler said then it doesn't really make any difference. Counsel said (1) it doesn't because town highways are acquired by use or by instrument, (2) in this case it definitely is by use and (3) the question of if it makes it any better if a highway acquired by use now has a document that manifests that, well, some title companies would say it does, but it is really not a distinction and (4) if Highway Superintendent Tim Coon has an obligation to maintain the town highways, he should not be making distinction between those acquired by deed and those acquired by use—he just maintains them all.

H. Koster said that (1) basically the PB has to make a decision whether the PB still wants this thing to be greater and (2) he agrees with H. Caldwell that this is clustered. J. Gaddy said that (1) the idea behind the concept of clustering is to minimize the road disturbance and (2) but if you are looking at this as a whole package, which they have to, and saying that the left hand side of the road is being donated or transferred in one form or another in an untouched form, it is preventing the break-up of that side other than on paper for financial reasons for the benefit of the Land Conservancy—he will accept that. S. Wilson said that in actuality there's no disturbance because it is an existing road. S. Aldrich asked if it would be possible to put shared driveways down the property lines so there were less driveways off Padanarum Road and Rolf Ronning said that it is possible—his

thought was that because of the size of these lots, people like their own driveways and not have to worry about sharing a driveway, but if the PB wants shared driveways he will do that. S. Aldrich said that she would rather see four or five driveways instead of eight.

H. Koster asked the length of the road throughout the subdivision and Rolf Ronning said that it is over a mile. H. Koster (1) said that the only thing he doesn't like about shared driveways is that it eventually comes back to the town where some people come back saying someone isn't paying their half for maintenance so they come back to the town and want the town to do something about it and the town has to stay out of those kinds of issues—it just makes trouble and (2) asked if it is offensive to S. Aldrich to have 5 or 10 driveways on a mile or mile-and-a-half road. S. Aldrich said in that area yes, she thinks it would be offensive. D. Roessler said that he agrees with H. Koster. H. Koster said that (1) these things keep coming back to the town and (2) if people are looking to the TB or PB to solve their private personal problems, it takes up a lot of time to tell them no, the TB and PB doesn't do that.

Counsel said that there is a large parcel of property intended to be acquired by the Nature Conservancy and Rolf Ronning said yes, it is intended to be acquired by them if they are successful in getting the grant that they have already applied for. Counsel asked if this plan considering it comprehensively that so-called conservancy parcel actually encompasses in it six lots and Rolf Ronning agreed. Counsel said that the town should be prepared for the possibility that contingencies are not satisfied and those indeed are six additional free-standing could be approved lots sold to other people and Rolf Ronning said (1) yes, if the Nature Conservancy doesn't come up with any money, (2) there is a contract that if the Nature Conservancy is a little less than the amount, they will get five lots and he will get one, (3) he believes the Nature Conservancy is going to end up with four or five lots. Counsel said that this is just so this PB has a fair expectation of what they are being asked to do and what they are dealing with—it is six lots. Rolf Ronning said that no matter what happens—whether they buy it or don't buy it—it's six lots and (2) he is under obligation not to sell those six lots until after January, because the Nature Conservancy will get their news December 31, 2007 or before. Counsel said that part of the marching orders for the PB is that this is actually six real lots. J. Gaddy asked how much of all of these parcels with the exception of the Indian Pond lot is wetland and Rolf Ronning said he doesn't know, but probably 150-200 acres of wetlands.

H. Koster said that the PB is sort of in a catch-22, because the PB doesn't have any idea of what the Nature Conservancy is going to do. Counsel said that (1) he thinks it's helpful that Rolf Ronning explains it and suggests that it is part of his overall plan, but the PB's expectation and the challenge ahead is to provide a comprehensive approach to the maximum amount of lots that are being proposed, (2) there are no guarantees that one owner may acquire multiple lots and come back before the PB to reconfigure them or amend boundary lines and (3) the PB needs to go into this thing with eyes wide open—it is the maximum amount of lots proposed. Rolf Ronning said that (1) he did go to the APA and had a meeting with them on this project, (2) the APA is familiar with this plan and they like the idea that the Lake George Land Conservancy is going to buy the rest of

it and (3) the APA is comfortable with these size lots as long as he doesn't subdivide any of the wetlands, so each wetland is contained within the lot.

Rolf Ronning said that (1) he conveyed a lot to Ed English and (2) he has entered into an agreement with Ed English subject to the PB's blessing, that Ed English's lot becomes larger and if the PB says no, then it would be a separate lot.

Regarding power being run, Rolf Ronning said that (1) underground power is not coming, not because of his being stubborn, but because National Grid is not going to do it underground, (2) the cost of aboveground is about \$150,000 and the cost of underground is about \$500,000 and (3) Highway Superintendent Tim Coon does not want underground power—he thinks it is absolutely ridiculous and he wants it all the way on the very edge of one side or the another of the right-of-way and it has to be a minimum of 23 ft. from the center of the road at all times, unless he (Rolf Ronning) crosses, which means the Town of Bolton would have a trench dug in the woods and the canopy is going to be destroyed. H. Koster asked if the applicant thinks they aren't going to cut anything for the poles and Rolf Ronning said no, not nearly as much. J. Gaddy asked how it would be different looking than the road from where Padanarum starts now, in that it seems as though there has been a lot clearing along there and Rolf Ronning said that he doesn't think that is very attractive and doesn't know why they did that—he didn't think that was necessary. J. Gaddy agreed. Rolf Ronning said that (1) there is a tremendous amount of ledge on that road, (2) they are going to be blasting 23 ft. from the centerline of the road a trough of ledge and cutting trees down, (3) Ed English has applied for power, National Grid has approved it and he (Ronning) is paying for it. S. Wilson said that if the power is going aboveground then maybe it would be better to have a shorter length of it and to reconfigure the subdivision. Rolf Ronning said that Ed English owns a piece of property and is entitled to have power come to his property. 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 property overhead through a differently configured subdivision. Rolf Ronning asked if she means to put power within the property line and S. Wilson said yes. Rolf Ronning said that (1) National Grid requires that a two-wheel drive truck can drive underneath the poles of any road that goes through the forest 12 months of the year, (2) he's not doing a subdivision road and (3) if he doesn't get approved for any subdivision, that power is still going in—you can't stop it—Ed English is entitled to it by law. Counsel said yes, Mr. English is entitled to power by law.

H. Koster said the PB is not getting anything done here until they get some maps they can read. Rolf Ronning said that (1) he is asking for the PB to conceptually approve the sketch plan review, so he can then invest the amount of money required to give the PB the maps they want and (2) the maps presented tonight only show the concept of the size of the lots and where they are placed. Counsel said that a sketch plan is a rough idea. P. Kenyon said that Rolf Ronning should also submit everything that is in Section 150-23B, which is what they talked about last month. Counsel said that (1) he agrees in that he thinks the PB's analysis requires the cluster and (2) if the PB accepts this as cluster then perhaps they are beyond that, but if there is some issue left, then those criteria have to be

answered. Counsel then asked if the PB, as a board, is accepting this as a cluster development. H. Koster said that (1) he doesn't care what the PB calls it, he just agrees that the lots are small enough—he is not looking for something where each little bungalow is on a half-acre site and the rest is association property and (2) he agrees with Rolf Ronning in that there's all forest up there, so there's no need to set up an association for more forest. Counsel said that there is very little for the association to do if it was a town road. Rolf Ronning said that (1) he doesn't want to have a bunch of clustered lots and one great lot, because he doesn't think the market is there for that, (2) he thinks people who want to live up there want elbow room and a large lot and (3) he doesn't want an association. Counsel said that the applicant needs a homework assignment of what he needs. P. Kenyon said that Section 150-23B is sketch plan for major subdivisions. Counsel read the requirements of Section 150-23 Sketch Plan Submission into the record verbatim. Rolf Ronning said that he didn't do all that and this map seems to be pretty good in giving the rough concept of where these lots are and what the size of them are. H. Koster said the maps the PB received are all smudged and unclear—they need clear maps. Further discussion ensued on exactly what the PB is requiring. Counsel said that (1) there is no reason why the applicant can't comply with Section 150-23 of the code, (2) there is a provision in the section that says "...and other specifications that the Zoning Administrator may require..." so P. Kenyon ought to be telling the applicant what that is and "...any other specifications that the PB may reasonably require..." so it can be code compliant and (4) in a matte of speaking, Rolf Ronning can't go wrong if he reads Section 150-23B (1-9) and find out from P. Kenyon and the PB of anything else that is necessary—that would equate to the applicant having the workings of a good sketch plan.

S. Wilson asked at what point the PB would need the driveways and house sites and Counsel said that would be at preliminary plat. Counsel said that (1) at some point they will want driveways, but tonight they are only trying to talk about a sketch and (2) it is true the next phase—the preliminary phase—has more stuff.

H. Koster asked if the PB is on this agreement they made with the LGPC and Counsel said that the PB has a court consent order that does say that the big picture includes a major stormwater and that the subsections—the created lots—require major. H. Koster asked if that has to be done even on the larger lots, where he would still rather see site plan review at the time, as he doesn't want to see the applicant cutting in driveways that are going to be re-cut later on. Counsel asked if the suggestion is that there be a requirement of major on each of the lots as they get developed and H. Koster said yes, like the PB did before with large lots like this. Counsel said that (1) he'd like the chance to talk with the Zoning Administrator about it, (2) they will ask the question at the stormwater conference that will be locally held in the next couple of weeks, (3) Rolf Ronning should read Section 150-23—it is a major subdivision—then go to Section 150-23B and do 1-9. P. Kenyon said all she is requiring is that shown in Section 150-23 and Section 150-23B of the code. Rolf Ronning asked if the PB wants it to the scale that is required and H. Koster said yes.

Motion by Donald Roessler to table the application pending additional information as follows: 1) The information set forth in Section 150-23B must be submitted.

Seconded by Chauncey Mason. **All in favor. Motion Carried.** *Note: although not a condition of approval this month, the area to be developed is to be shown on a separate map as requested by the Planning Board on July 19, 2007.*

- 7) **ED SCHEIBER.** To discuss renovations to the museum. Section 171.19, Block 2, Lot 13, Zone GB5000. Property Location: 4924 Lakeshore Drive.

Ed Scheiber, Bolton Historical Society President, handed out plans to the PB, gave an overview and said that (1) they have run out of space and have outgrown the facility and (2) while there are no requirements to meet setbacks and those kinds of thing since this is a town building, they feel it is worthy to come before each town board to let them know what they are trying to do and why they are trying to do it. Ed Scheiber then gave specific details of the proposal (by referencing the pictorials handed out) regarding what would be added, removed, etc., (3) Chris Navitsky, Lake George Waterkeeper, has offered to do the stormwater evaluation for the Bolton Historical Society and (4) it is a big project, and while they haven't officially started their fundraising efforts yet, they have already raised some money and they are hoping when they do kick this off there will be some generous benefactors out there to help them through this project.

No PB member comments or comments from public in attendance.

- 8) **ELVIN, KEITH & SUSAN.** Seek to discuss the remedial tree planting plan required by the Planning Board on January 22, 2004 when reviewing SPR04-32 for a major stormwater plan. Section 156.00, Block 1, Lot 26, Zone RL3. Property Location: 202 Valley Woods Road.

Keith Elvin said that (1) he is looking for approval from the PB for remedial tree planting he has done at the PB's request if it complies with everything the PB needs and (2) he had a forester come in and make a recommendation as referenced in the letter submitted by the forester to the PB.

J. Gaddy said that the 2004 motion was looking for more hardwood or deciduous trees and asked why more of these types weren't included. Keith Elvin said that (1) there are three oaks and (2) there were only two hardwoods planted. J. Gaddy said that (1) he thinks the applicant has done a nice job there, but he thinks the idea with the original motion that was made was to have a mix of 30 trees with 15 hardwoods. Keith Elvin said that (1) he doesn't know what the exact number is, but there are well over 60 trees and (2) there were four maples taken after Code Enforcement Officer Mitzi Nittmann took the pictures being referenced. J. Gaddy asked if there was confusion and Keith Elvin replied by saying that he doesn't know that there was confusion, but the trees he put in were the ones he liked and the ones he felt would be best on the property.

H. Koster asked if Counsel is looking for a recommendation from the PB to release Keith Elvin's escrow. Counsel said that apparently that which was approved in 2004 has not been implemented. H. Koster said that it was different trees than the PB asked for. Keith Elvin said that the trees were planted—the ones he wanted to plant. Counsel said that he

is happy to return the escrow money to Keith Elvin when the PB says that it is happy with the trees Keith Elvin chose.

J. Gaddy said that (1) his concern is the question of why the PB goes through all of this discussion, talk and consensus, when the PB is asking for something and they don't get something, (2) he thinks it is a pretty reasonable request where they had excessive cutting and came up with a plan to remedy it, (3) he questions the PB if it wants to stand by what it has asked for in terms of what kind of message would be sent to someone else if the PB accepts that which is not the original accepted planting plan—does the PB want to say that what they say is what they mean and (4) he has been at the site and thinks it looks great up there. H. Koster said that the applicant still planted trees. H. Caldwell said that the applicant did a good job, but he didn't do what the PB asked him to do. Counsel said that in a "satisfactory result", he and Tom Nace look for "substantial compliance", which is a valid standard. J. Gaddy said that he agrees with that and agrees with that in this project, but his question is if as a board, the PB is getting credibility when they say stuff. H. Koster said that (1) in other instances it is more critical that the PB stick to what the PB asks for (engineering wise, stormwater management, etc.) and (2) he doesn't think it sets any precedent and (3) it could be put in the motion that the PB does not want to set a precedent in any way. Counsel said that the motion said a mix of 30 trees needed to be planted and Keith Elvin said that he planted 62 trees, eight of which are hardwoods and the remaining are Canadian Hemlock, Blue Spruce, Scotch Pine and another variety of pine. Counsel said that the combination of hardwood is low and the evergreens are higher and Keith Elvin agreed. Counsel said that another criteria was that where there were stumps there were to be an additional 10-12 hemlocks planted and Keith Elvin said that they are not hemlocks, but fir. Counsel asked if it is a coniferous tree and Keith Elvin said yes. Counsel said that the condition to release the money from the escrow fund was for the applicant to establish the \$10,000 escrow fund, half to be returned after the trees are planted and half to be returned after the forester certifies the substantial portion of the trees are healthy and are expected to survive. Keith Elvin said that he expects them to survive. Counsel asked if that constitutes "substantial compliance" and J. Gaddy said yes. H. Caldwell asked what type of motion the PB needs on this. Counsel said that (1) he's not trying to steer the PB one way or another, but if the PB is entirely satisfied that it is not a perfect fit, but it is a substantially adequate fit, then the motion is that there has been substantial compliance with the PB requirements and the escrow funds may be released and the applicant has satisfied what the PB has imposed or has made substantial compliance and (2) the other one is no, the applicant didn't hit it specifically, didn't get the right inventory of trees or the PB doesn't like the mix, so then the applicant would still have to do something.

Motion by John Gaddy to approve the revised tree planting plan as substantial compliance had been met. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

S. Wilson said that she agrees with J. Gaddy in terms of at what point the PB says "it was okay to differ a little bit here"—she just doesn't want to set that type of precedent.

Counsel said that no, they do have to enforce others and he wants to either get it fully satisfied or substantially.

Meeting adjourned at 9:32pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
09/20/07