

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday July 17, 2008**

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

**Absent:** None

H. Koster opened the meeting at 6:05 PM.

**REGULAR MEETING:**

H. Koster asked if there were any corrections or changes to the June 19, 2008 minutes.

1. S. Aldrich, with regard to SD04-16, SPR05-11, SD06-14 and SD07-04 “NOTE: *THIS IS AN AMENDED APPLICATION. The public hearing was kept open at the March 2008 meeting pending additional information.*” She stated that they closed that in May. P. Kenyon stated that she was reading from the agenda item and it is not part of the minutes. S. Aldrich asked if it was incorrect and should it be changed because the hearing was closed in May. H. Koster stated that it was okay as it is.

**Motion by Donald Roessler to accept the minutes as written. Seconded by John Gaddy. All in Favor. Motion Carried.**

Items 1 through 4 are to be heard together.

1) **SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning.** Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 23 lots that parcel designated as Section 139.00, Block 1, Lot 48.11, Zone RL3. Access to be gained through Section 139.00, Block 1, Lot 28.1(Reed) see SD07-04. Property Location: High Meadow Farm Road. Major Subdivision. Preliminary Plat. Subject to SEQR. *Note: This application is in conjunction with SPR05-11, SD06-14, and SD07-04 and was originally approved on May 17, 2007. NOTE: THIS IS AN AMENDED APPLICATION. To be heard only if all documentation is received by 7-15-08.*

2) **SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq. ft. of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 28.1, 36.1 & 48.11, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot is reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to

SEQR. *Note: This application is in conjunction with SD04-16, SD06-14 and SD07-04 and was originally approved on May 17, 2007. NOTE: THIS IS AN AMENDED APPLICATION . To be heard only if all documentation is received by 7-15-08.*

3) **SD06-14 RONNING, ROLF & LEONE, MICHAEL.** Seek lot line adjustment between those parcels designated as Section 139.00, Block 1, Lots 48.11 & 36.1, Zone RL3. Property Location: New Vermont Road, approximately 2000 ft. north of County Route 11 intersection. Final Plat. Subject to SEQR. *Note: This application is in conjunction with SD04-16 Saddlebrook Subdivision, SPR05-11 and SD07-04 and was originally approved on May 17, 2007. NOTE: To be heard only if all documentation is received by 7-15-08.*

4) **SD07-04 RONNING, ROLF & REED, WILLIAM.** Seek lot line adjustment between those parcels designated as 139.00, Block 1, Lots 28.1 & 48.11, Zone RL3. Property Location: 252 New Vermont Road. Final Plat. Subject to SEQR. *Note: This application is in conjunction with SD04-16, Saddlebrook Subdivision, SPR05-11 and SD06-14 and was originally approved on May 17, 2007. NOTE: To be heard only if all documentation is received by 7-15-08.*

*NOTE: John Gaddy recused himself from all discussions and decisions pertaining to SD04-16, APR05-11, SD06-14 and SD07-04.*

Dennis Phillips provided an update on what has been accomplished since the last meeting. He stated that they entered into an agreement with the LG Waterkeeper whereby they took a second look at the stormwater plan to see if they could better that plan. On July 1, 2008 Dennis Dickinson, Thomas Nace the Town engineer, Charles Maine a soil expert, Chris Navitsky the LG Waterkeeper and Rolf Ronning got together on site to test 2 possible additional locations for stormwater. He stated that on Lot 1 they dug 2 test holes and upon evaluation of the soils Dennis Dickinson and Tom Nace agreed that this site was not suitable for stormwater management. He stated that he thought this was a general agreement but apparently not. With regard to the second site on Lot 23 they dug test holes and agreed that additional stormwater could be done and some infiltration could be achieved and as a result the stormwater plan was amended. He stated that in honor of the agreement with the Lake George Waterkeeper he feels that they have bettered the stormwater plan. However, even though they have attempted to better the plan the LG Waterkeeper's letter of July 17, 2008 is nitpicking their amended plan.

Dennis Phillips stated that they have received a letter of acknowledgement with respect to the original stormwater management plan from NYSDEC. He stated that it has been included under the general permit relative to stormwater and with the betterment of the plan they will be filing an amendment to NYSDEC.

With regard to Chris Navitsky's letter, Dennis Phillips stated that the Waterkeeper indicates that the applicant agreed to a 100' buffer. However, he feels that the LG Waterkeeper misunderstands what an agreement is, in the sense that they had agreed to

do that voluntarily if there were to be no Article 78 proceeding initiated against the Town and developer but they do not have that agreement. The 100' buffer, which is not required anywhere in law, was a trade off for a guarantee that there would not be an Article 78. With regard to the Waterkeeper's comments about the Sommas' property, Dennis Phillips stated that the stormwater plan does downsize that pipe from a 36" pipe to a 30" pipe. The pipe ends on the Ronning property in a relatively flat area which is just above a natural drainage that otherwise is part of Indian Brook. He stated that after the LG Waterkeeper left the meeting on July 1, 2008, the engineers went to that site with the developer and it was thoroughly inspected and examined.

Dennis Phillips concluded that with regard to the subdivision the applicant is within the zoning law. The APA has declared this a Class B Regional Project and in its non-jurisdictional determination found that no wetlands subject to APA jurisdiction would be involved or affected by the project as proposed. Under Town regulations, when dealing with a Class B. Regional Project they are also required to consider the 33 development considerations that are in §150-19 of the Subdivision Regulations. He stated that as he reviewed these development considerations he found that to a large degree they are very similar to the considerations that they cover when they perform the SEQR and he thinks there may be a bit of duplication. He stated as the PB goes through the SEQR process tonight they will also be considering development consideration in §150-19 of the Subdivision Regulations which will have to be considered in approval of a Class B Regional Project. He feels that there is quite a bit of duplication and deferred to their Counsel as to how they wish to analyze this.

With regard to the stormwater plan, Mr. Ronning is a subdivider not a builder, he will not know what kind of housing will be on these lots and as part of his plan he understands that the PB will retain site plan review for stormwater on these properties, he also understands that it will be considered major stormwater, as the LG Waterkeeper has suggested and they have agreed to. He stated that once the SEQR process is complete he feels that the record will be complete for purposes of the subdivision and stormwater and they will be requesting the PB to grant approval for the subdivision as presented.

Dennis Dickinson explained the amended stormwater plan. He explained the location of the additional pond on Lot 23. He stated that when looking at pond design especially when trying to infiltrate you must have good soils and a good location. He stated that in the field this area looked good but upon placing it on the map they had a great deal of difficulty getting any water into it because of the grading at the intersection. Therefore they have designed a small pond that will pick up a large amount from the road at that location. He stated that they left Pond 6 the way it was because Pond 10 is so small. Pond 10 is considered a bonus pond which will definitely help with roadside stormwater treatment, collect siltation, provide some infiltration and have a minimal effect on relieving some of the water coming down the site. He stated that they also downsized the pipe across from the Sommas' property but it is capable of handling a 100 year storm.

H. Koster asked if Tom Nace had any comments to add to the applicant's presentation. Tom Nace replied no. H. Koster stated that they closed the public hearing, but in fairness he offered the floor to any concerned public in attendance.

Ann Marie Somma, adjacent land owner, asked where the pipe would end with respect to her property line. Dennis Dickinson replied that presently it is 4-5 feet but they do have the ability to trim it back to the contour which would be approximately 10-12 feet. S. Wilson asked if the current plan reflects any change in the pipe location. Dennis Dickinson replied no. H. Koster agreed that the plan seems to indicate a change. Upon review of the plan Dennis Dickinson replied that it was approximately 10-12 feet. He stated that on these plans there is a chart determining energy dissipation from the pipe and they have enough room here for a proper size dissipating pipe. Ann Marie Somma stated that she has chart Figure 5B 12 from the DEC under the New York Standards and Specifications for Erosion and Sediment Control. She stated that she also spoke with Bill Lupo of the DEC and he indicated as per the chart that the amount of feet the applicant proposes is not adequate. She stated that it also shows that clearly the diameter of the pipe proposed (30") is larger than needed and the DEC recommended 18" which would require a rip-rap apron of 20' long by 23' wide and that the bigger the diameter the larger the apron of rip-rap. H. Koster stated that they are crossing boundaries here because DEC has its own regulations on stormwater which differs from the Town's and they cannot be evaluating each project on both sets of regulations. He stated that the applicant will have to go before DEC to get approval and if they do not meet DEC's requirements they will not get a permit.

Ann Marie Somma stated that regardless her main concern is that the applicant will be discharging what Tom Nace has stated to be a "significant amount of stormwater" which will be concentrated at one point and directed at her property. She does not feel that the applicant has the right to that and she doesn't see how the PB can approve it and feel like they are protecting her property rights. Dennis Dickinson responded that the flow dissipater at the pond in question is to DEC standards and fits on the applicant's property. With regard to the area of discharge he stated that presently there is an area of discharge because there is an existing culvert that crosses the road.

Chris Navitsky, Lake George Waterkeeper, stated that they have worked hard with the applicant to get these issues resolved and he appreciates the Board's patience. He stated that they are close to an agreement but have not reached one as of yet. He listed a couple of main issues that still have not been addressed: 1) With a subdivision of 160 acres he does not understand how the applicant cannot reduce the stormwater to a point that they cannot match existing conditions and discharge onto a neighbors property. The applicant has just mentioned that there is a 12' culvert that crosses the road that will be replaced by a 30' culvert and they do not feel that those conditions match. They feel that there will be impacts to the adjoining property. The applicant's stormwater report says that the existing channel is 6' wide by 2' deep and they do not feel that matches existing conditions and that is why they suggested that they look at Lot 1. He stated that he does not agree with Dennis Phillips comments that Lot 1 was not suitable for stormwater management. He stated that Lot 1 is suitable for stormwater management but it may not

be suitable for infiltration. He stated that they could put another pond there and reduce the stormwater in Pond 6. 2) They are looking at relocating an existing stream to the east side of High Meadows Road which will require a DEC permit. 3) Their stormwater development report basically says that their pre-development will equal post-development run-off. He stated that in the LG Waterkeeper's most recent letter they cited that there are 2 catchment areas that show that they are increasing forest cover. He stated that he didn't realize this was a re-forestation project. The applicant is adding 4 acres of forest which decreases the run-off of the property but again raises the question of the run-off calculation. 4) They are pleased to hear that they are addressing the lot development individually, because not one house cover was included in the calculations and their detail on one of the maps indicates that there will be minor stormwater requirements on the house and requested that be eliminated. 5) He stated that he does not know how they got DEC approval because as per DEC, infiltration basins are generally less than 5 acres tributary area and Pond 3 has 38 acres tributary. 6) With regard to Lot 23, although they appreciate the applicant looking at this lot for stormwater and possibly reducing the size of Pond 6p to give a buffer he feels that they could have routed more stormwater to that pond. It would have provided some additional grading similar to what is provided on Pond P7 where they have a 10' high berm along the road. 7) The applicant has 160 acres and they intend to remove 400' of buffer along the wetlands and right up to the wetlands and it is difficult to comprehend how they cannot do a better job on this type of development. 8) Referring back to a variance they received in December 2007 regarding subsurface infiltration on Pond P4. The applicant was granted that variance with a pond of 20,000 cubic feet and they have now reduced that pond by half the size. Therefore they feel that the variance does not apply anymore because they changed the conditions of that approval. He stated that they have let the applicant know this and subsurface area still does not show up on plans and they feel that the variance is null and void. In conclusion he stated that they have worked hard and they have made progress but he feels that there are some critical items that impact Indian Brook and neighbors.

Dennis Dickinson responded that this plan is complicated and the Waterkeeper is pulling miniscule numbers out of the plan and not giving them the full picture. He stated that they are not re-foresting this property. With regard to buffer removal, he stated that there are no buffer requirements. With regard to Lot 1, Pond 3, which is one of the most important ponds because it is a true infiltration pond, doesn't require the amount of re-grading because it is in the ground and asked why they would make it smaller and move part of it to an area that is less acceptable.

With regard to the Sommas' property, H. Koster stated that he has been on that site often and was up there late in the spring after a downpour to observe the area. He stated that Ann Marie has indicated that no water currently runs across her property in the location, however he observed that stone from New Vermont Road was washed out onto their lawn almost to the garden. He stated that water was transferred and does currently run across their property when there are storms and the applicant would not be leading fresh water that has never crossed their property before.

Rob Somma agreed that in that particular area water does cross their property and ever since they got washed out, it seems to get worse and worse. He stated that the main point is that the applicant has indicated how much water would be running across in a 100 year storm or better. Even during the storm back in June 2005 that amount of water certainly did not flow there and although the proposal indicates that the amount of flow will be the same or less than it is now, it will be more concentrated than it was. H. Koster stated he believes that the water that destroyed their house in June 2005 is being diverted by the applicant to a pond and they should not get the quantity of water that they had in that storm. Ann Marie Somma stated that she didn't have a problem with the Town or Mr. Ronning in putting in the drainage ditch along the road because it is necessary there, but her problem is that there is a concrete path that crosses over her garden where it does not go now and enters into her stream before the bridge which already can't handle more water than it does.

S. Wilson asked Tom Nace if he has heard anything tonight that would cause him to second guess or have any other concerns. Tom Nace replied no.

Counsel stated that at the last meeting they reviewed Part 1 of the State Environmental Quality Review Full Environmental Assessment Form and recommended that they not go over every detail. He asked if this was the consensus of the Board or if they wish to discuss more details especially pertaining to the changes on Lot 23, the downsizing of the pipe and the possible stream re-location. The Board agreed to move forward only with Part 2. For review of Part 1 of the Stated Environmental Quality Review Full Environmental Assessment Form please refer to the minutes from the June 19, 2008 meeting. Counsel continued with Part 2- Project Impacts and Their Magnitude for Saddlebrook Subdivision.

## **Part 2- PROJECT IMPACTS AND THEIR MAGNITUDE**

### **Impact on Land**

1. Will the proposed Action result in a physical change to the project site?  
Yes, but upon discussion of the criteria listed it was determined that the impact would be small to moderate.
2. Will there be an effect to any unique or unusual land forms found on the site? No.

### **Impact on Water**

3. Will proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL) No.
4. Will proposed Action affect any non-protected existing or new body of water?  
No.
5. Will Proposed Action affect surface or groundwater quality or quantity? H.  
Koster replied theoretically the answer is no. Counsel asked if Tom Nace felt that

if this project would add anything to ground water quantity. Tom Nace replied no.

6. Will Proposed Action affect drainage flow or patterns, or surface water runoff? Yes, but upon discussion of the criteria listed it was determined that the impact would be small to moderate.

#### Impact on Air

7. Will Proposed Action affect air quality? No.

#### Impact on Plants and Animals

8. Will Proposed Action affect any threatened or endangered species? Yes, but it would be a small to moderate impact. Dennis Dickinson stated that he has provided the project coordinates to DEC and they have indicated that there are no threatened or endangered species in that area. J. Gaddy stated that this could be but if DEC has not sent anyone out there they have no record of endangered species and this should be answered no according to the data that they provide. H. Koster asked if John Gaddy knew of any endangered species in this area. J. Gaddy stated that you could probably find something up there but if it is not identified by the State the answer would have to be no.
9. Will Proposed Action substantially affect non-threatened or non-endangered species. No.

#### Impact on Agricultural Land Resources

10. Will Proposed Action affect land resources? No.

#### Impact on Aesthetic Resources

11. Will Proposed Action affect aesthetic resources? No.

#### Impact on Historic and Archaeological Resources

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance? No.

#### Impact on Open Space and Recreation

13. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities? Yes

#### Impact on Critical Environmental Areas

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)? No.

#### Impact on Transportation

15. Will there be an effect to existing transportation systems? No.

Impact on Energy

16. Will Proposed Action affect the community's source of fuel or energy supply?  
Yes but with a small to moderate impact.

Noise and Odor Impact

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action? Yes, but with a small to moderate impact.

Impact on Public Health

18. Will Proposed Action affect public health and safety? No.

Impact on Growth and Character of Community or Neighborhood

19. Will Proposed Action affect the character of the existing community? No.  
20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts? No.

**DETERMINATION OF SIGNIFICANCE- Type 1 and Unlisted Actions**

Counsel stated that the following question is part of the process in assisting the PB in articulating a decision favorable or unfavorable. In accordance with the requirements of Article 5 of the Town's Subdivision Regulations in particular §150-19 which mandates a special review for Class B Regional Subdivisions, which are essentially upon the same findings considered and determined as part of the SEQR process. This PB determined that the application SD04-16 Saddlebrook Subdivision and those others joined in this consideration as proposed considered an offer for approval. Do they have any undue adverse impacts on natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Town? Do they negatively impact upon the ability of the Town to provide the public with facilities and services necessary or created by the subdivision. Have they taken into account commercial, industrial, residential, recreational or other benefits that might be derived from this subdivision. In final analysis, in terms of this process, is it favorable or unfavorable to the applicant or would they need more information because they cannot decide.

H. Koster stated that as a whole he feels that it is favorable to the applicant. S. Wilson agreed. Counsel stated that they are at the point where they need to make a motion on their analysis of the SEQR process, that they have ascertained the impacts, considered all that was required by §150-19 of the Subdivision Regulations and that together and collectively those impacts were properly addressed and considered small to moderate and the application deserves favorable approval at the SEQR process level.

**RESOLUTIONS:**

**Motion by** Sue Wilson, based upon analysis and having ascertained all impacts and considered all that was required by Section 150-19 of the Subdivision Regulations and having found that collectively those impacts were properly addressed and considered small to moderate, grant approval of the SEQR process for applications SD04-16,



SPR05-11, SD06-14 and SD07-04. **Seconded by** Donald Roessler. John Gaddy recused himself. **All others in Favor. Motion Carried.**

Counsel asked if the PB has completed its discussion regarding the changes to stormwater. The PB agreed that they have completed their discussion. He encouraged the Board to consider the project separately and asked if they Board has enough information. The PB agreed that they had enough information.

H. Koster stated that he would like to thank all parties for their time and input. He thanked the applicant and stated that he knows that it was expensive but it was very educational for all parties involved. He thanked Tom Nace for representing the Town's interests.

Counsel read the "Proposed Findings of Fact and Conclusions of Law with Respect to the Saddlebrook Subdivision Owned by Rolf O. Ronning" submitted by the applicant. Counsel stated that the PB could accept that submission as presented for their findings of fact and conclusions of law or they can challenge them and create their own. He stated that these findings of fact and conclusions of law only pertains to the subdivision because they have their own special findings of fact and conclusions of law for stormwater.

The PB having completed the discussion of the applicant's submission the Planning Board accepted the edited "Proposed Findings of Fact and Conclusions of Law with Respect to the Saddlebrook Subdivision Owned by Rolf O. Ronning" as follows:

#### Findings of Fact

1. The Saddlebrook Subdivision project area is 169 acres of land in an RL3 zone where a detached single-family residence is the first permitted use under §200-14 of the Schedule of Use Regulations.
2. The Saddlebrook Subdivision contains 23 residential use lots, less than half (41%) of the 56 lots of maximum potential development permitted by the present zoning Ordinance.
3. The Saddlebrook Subdivision is exempt from the jurisdiction of the New York State Department of Health as a realty subdivision, due to the fact that most of the lots in the subdivision are greater than five acres (217,800 square feet).
4. The Saddlebrook Subdivision has been determined to be non-jurisdictional by the Adirondack Park Agency (the "Agency") by jurisdictional determination J2006-831B, which means that the Saddlebrook subdivision project does not require a permit or variance from the Agency.
5. The Saddlebrook Subdivision has been determined by the Agency to be a Class B regional project, after the Agency stated that the property is located in a low

intensity use area and that “no wetlands subject to Agency jurisdiction on the property will be involved or affected by the project as proposed.”

6. As a Class B regional project, the Planning Board has considered the thirty-three (33) development considerations set forth in Article V, §150-19 of the Town of Bolton Subdivision Regulations under the general headings of Water Resources, Land Resources, Air Quality, Noise Levels, Critical Resource Areas, Fish and Wildlife, Scenic Vistas and Travel Corridors, Historic Sites or Structures, Site Factors, and Governmental Considerations.
7. A subdivision stormwater pollution prevention plan (the “Plan”) was prepared for the Saddlebrook Subdivision by D.L. Dickinson & Associates, taking into account that Rolf O. Ronning (“Ronning”) is a subdivider, not a builder of specific houses, so the Plan incorporates the condition that the Planning Board will retain Site Plan Review for stormwater approval over each and every vacant lot in the subdivision, so that a site specific stormwater plan customized to the actual building construction on any lot will best protect the health, safety and welfare of the public and the resources of the Lake George Park.
8. Thomas Nace, an independent consultant and engineer, hired by the Planning Board to review the Plan, after being physically present at the project site on July 1, 2008 with Dennis Dickinson, Ronning’s engineer, Charles Maine, a soil scientist, and Christopher Navitsky, the Lake George Waterkeeper, reviewed Ronning’s proposed Plan, as amended, has favorably reported in his review comments and concerns that the Plan substantially conforms to the requirements imposed upon the project by the stormwater and environmental regulations.
9. At the public hearing on the Saddlebrook subdivision application held on March 20, 2008 and May 22, 2008, the Planning Board heard comments on the Plan raised by a few neighbors and Christopher Navitsky, P.E., a non-governmental organization advocate known as the Lake George Waterkeeper. The Waterkeeper’s comments and opinions have been extensive both written and oral, are part of the record, and have been heard, understood and duly considered by the Planning Board. The Planning Board and Ronning favorably received many of the suggestions and recommendations of the Waterkeeper and Ronning has incorporated them into his final Plan.
10. Ronning submitted to the Planning Board a revised full environmental assessment form (“EAF”) dated June 5, 2008. Based on the Project Information contained in Part 1 of the EAF, a public hearing on the EAF was held on June 19, 2008 and continued on July 17, 2008, and the Planning Board took the required “hard look” by thoroughly examining questions 1-20 of Part 2 with respect to the “Project Impacts And Their Magnitude.” The Planning Board determined that the project contained very few small to moderate impacts and that even these impacts were mitigated by the Plan.

11. With respect to question 20 of the EAF, the Planning Board considered all of the statements from both the regular public hearing and the SEQRA public hearing, including submissions and oral statements of the Lake George Waterkeeper, Christopher Navitsky, P.E., and in light of the acceptance of the Plan by the Town Engineer, Thomas Nace, the Planning Board determined that there was no public controversy.
  
12. On behalf of Ronning, Dennis Dickinson filed with the New York State Department of Environmental Conservation (“NYSDEC”) a Notice of Intent for coverage under Stormwater General Permit No. GP-0-08-001 for the construction activities located at the Saddlebrook Subdivision, New Vermont Road, Bolton Landing, New York and by letter dated June 16, 2008, Ronning received an acknowledgment from the NYSDEC and was issued Permit Identification No NYR 10P896. In betterment of the Plan, as a result of the site visit on July 1, 2008 by the parties as above referenced, Dennis Dickinson has or will file an improved amendment to the Plan with NYSDEC.

#### Conclusions of Law

In accordance with the requirements of Article V of the subdivision regulations, and in particular §150-19 as it mandates a special review for Class B Regional Subdivisions, and upon the same findings considered and determined as part of the SEQRA process after taking a hard look at the 20 questions contained in Part 2 thereof, together with the acceptance of the stormwater pollution prevention plan by the Town engineer, it is hereby determined by the Planning Board that SD04-16 Saddlebrook Subdivision as proposed, considered and offered for approval, would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historical, recreational or open space resources of the Town or upon the ability of the public to provide supporting facilities and services made necessary by the subdivision, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the subdivision.

The PB reviewed the conditions of approval from the applications SPR05-11, SD06-14 and SD 07-14 that was originally approved on May 17, 2007. With regard to condition # 5 from that application, P. Kenyon stated DEC has now required the applicant to clean the dump site in accordance to DEC’s plan by August 31, 2008. With regard to condition # 8, Rolf Ronning explained that they may need to travel across additional phases if they are not adjacent phases. H. Caldwell stated that he was concerned that if stormwater controls were not in place they could potentially have some serious stormwater and erosion issues. Rolf Ronning stated that they will only be working on 2 phases at one time and the stormwater for those phases will be in place before construction and his point is that there may be movement across a phase not being worked on. Upon further discussion the PB decided that they would allow travel across additional phases as long as the stormwater is complete prior to use. Tom Nace suggested that they modify the request because the stormwater for each phase should be worked on first and rather require that erosion and sediment control shall be in place for any additional phases traveled on. H. Koster and Rolf Ronning agreed.

## **RESOLUTIONS:**

**Motion by** Donald Roessler, having found the “Proposed Findings of Fact and Conclusions of Law with Respect to the Saddlebrook Subdivision Owned by Rolf O. Ronning”, received by the Bolton Planning Office on July 17, 2008, read into the record by Counsel and proposed by the applicant are acceptable, including the change of #1 in the Findings of Fact, accept the application as complete, and having met the criteria set forth in the code, grant approval for SD04-16 with the following conditions:

- 1) A \$400.00 recreation fee is to be paid to the Town of Bolton prior to a Certificate of Compliance being issued.
- 2) A bond in the amount of \$150,000 insured by a bonding agency licensed in the State of New York is to be submitted for Town Counsel’s approval.
- 3) In lieu of the bond, \$150,000 in cash can be placed in an escrow account maintained by Town Counsel.
- 4) The developer is giving his personal guarantee that the road and stormwater controls will be installed in accordance with the plans.
- 5) The alleged dump site on Lot 5 is to be completed in accordance with DEC’s plans by August 31, 2008.
- 6) The applicant is to notify the Zoning Administrator before stormwater and road construction is undertaken.
- 7) The Town Engineer is to make periodic inspections at the applicant’s expense and approve each phase of road construction/stormwater controls.
- 8) Only two phases can be worked on at one time. If the two phases being worked on are not adjacent phases and additional phases needed to be traveled upon, all phases being used must have erosion and sediment control measures in place.
- 9) The metes and bounds description for the roadway on the Reed parcel must be shown.
- 10) Site Plan Review is required for the construction of a single family dwelling which includes major stormwater on each lot.
- 11) No Certificate of Compliance will be issued until such time that the road and utilities are in place (excluding lot 3) and the Homeowners Association with deed covenants and the Stormwater Maintenance Agreement are recorded in the Warren County Clerk’s Office.
- 12) All lots within the subdivision are to be part of the Homeowners Association and must comply with the bylaws.

**Seconded by** Henry Caldwell. John Gaddy recused himself. **All others in Favor.**  
**Motion Carried.**

**Motion by** Sue Wilson to accept the application as complete, having held a public hearing, completing a Full Environmental SEQR Assessment Form, having the plans approved by Town Engineer Tom Nace and having met the criteria set forth in the code, grant approval for SPR05-11 with the following conditions: 1) All development be

subject to Site Plan Review for major stormwater. **Seconded by** Donald Roessler. John Gaddy recused himself. **All others in Favor. Motion Carried.**

**Motion by** Donald Roessler to accept application SD06-14 Ronning/Leone as complete having met the criteria set forth in the code, grant approval. **Seconded by** Sandi Aldrich. John Gaddy recused himself. **All others in Favor. Motion Carried.**

**Motion by** Donald Roessler to accept application SD07-04 Ronning/Reed as complete having met the criteria set forth in the code, grant approval. **Seconded by** Henry Caldwell. John Gaddy recused himself. **All others in Favor. Motion Carried.**

Rolf Ronning extended his appreciation to the PB for their diligence and interest taken in this project.

5) **SPR08-21 BEEBE, MATTHEW & JULIA.** Represented by Hutchins Engineering. As part of subdivision approval set forth by the Planning Board on January 23, 2003 and 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. 28,000 sq. ft. is proposed. Section 171.07, Block 1, Lot 66, Zone RM1.3 & RL3. Property Location: Cobblestone Court and being lot 16 of the Cobblestone Subdivision. Subject to WCPB Review. Subject to SEQR.

Tom Hutchins stated that the applicants are proposing a nominally 2,800 sq. ft. home with an attached garage. He briefly explained the plans presented. He stated that they have slightly re-arranged the site since the subdivision was originally approved because it seems to have better soils for the wastewater system and aids in stormwater control. He stated that like most of the lots in Cobblestone, water is an issue and for that they have proposed additional roadside drainage into this project. He further explained the stormwater controls and mitigation for the project. S. Aldrich asked if they were adding to the current drainage ditches and rip-rap. Tom Hutchins replied that there is a very short section of rip-rap ditch that leads to nowhere and this would be in addition to what exists. H. Koster stated that they have a letter from Tom Nace asking if it will be 2' x 2' or a 3' x 3' trench. Tom Hutchins replied that it is 3' x 3' and he has addressed that with Tom Nace already.

Counsel asked if H. Koster would like the letter from the Lake George Waterkeeper read. H. Koster replied not unless they decide to have a public hearing on the application which he doubts. P. Kenyon stated that there was no WC impact.

#### **RESOLUTION:**

**Motion by** Sue Wilson to accept the application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following condition: 1) Exterior lighting is to be downward facing and shielded with low wattage bulbs used. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Donald Roessler. **All in Favor. Motion Carried.**

**6) SPR08-10 DJMD BOLTON NY LLC. Daniel R. Lewis, Managing Partners.** Represented by Peter L. Gluck and Partners, Architects. 1) 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. 38,600 sq. ft. is proposed. Section 156.20, Block 1, Lot 39, Zone RCM1.3. Property Location: 5274 Lakeshore Drive. The WCPB determined no county impact. Subject to SEQR.

Peter Gluck stated that the project is an unusual design for a garage building with adjoining guest rooms. He stated that this is a 23 acre site. Construction is ongoing for the main house by the lake. He stated the purpose of the project is to reduce the impact of the site. He explained that cars coming into the site can be parked here and electric vehicles, such as golf carts or smart cars can be used to get to and from the main site. The garage has room for 8 cars and there is a parking area for 8 cars outside. There are 5 bedrooms in the guest building with a total of 10,000 sq. ft. He stated that there will not be any blasting and the excavation will involve normal fill. There is no stream disturbance or wetland disturbance. He stated that they also propose exterior lighting that is shielded and downward facing. The building will have a full sprinkler system with a water holding tank built into the foundation system.

Peter Gluck stated that the WC PB has indicated that there is no WC impact. The APA has stated that no permit is required. The DEC has stated that there are no endangered plants or animal species in this location. He referred to Tom Jarrett to discuss the engineering aspects of the project.

Tom Jarrett stated that they have tried to isolate their systems from the stream and have a 50' setback from the stream and wetlands. He stated that stormwater is all done by retention and infiltration with landscaping of water tolerant plants. The wastewater system is down slope and near the existing driveway in a relatively flat grade and has been designed with expansion or replacement capabilities meeting code.

Peter Gluck stated that the proposed structure is 375' from Route 9N. D. Roessler asked if it will be seen from 9N. Peter Gluck replied that during the summer it probably won't be seen at all, but he is unsure how much will be seen in the winter. D. Roessler asked if the elevation from 9N is of great distance. Peter Gluck replied that there is a 55' drop-off.

H. Koster asked about a note down by the lake stating that a subterranean garage is to be rebuilt. Peter Gluck replied that there was an existing house and basement and they received approval the first time around to rebuild that garage as it was. H. Koster stated that he was concerned that it wasn't on the map. Peter Gluck replied that it was but it was very small.

H. Koster asked Counsel if they have the ability without a variance to allow an 8 car garage. Counsel stated that Pam Kenyon has to make that interpretation first. Pam

Kenyon stated that she has determined that land owners are allowed as many bays for the allowed amount of homes determined by density. She explained that if there were three houses on the site they allow 9 bays in a garage. H. Koster asked if they would allow 6 bays for boat storage as well. P. Kenyon stated yes that is what they have always done with boat storage. J. Gaddy asked if Pam Kenyon keeps a written record of that so that they have that judgment to be used in future reference points. Counsel replied that when Pam Kenyon makes her own interpretations it should be written in a book. P. Kenyon stated that they are in a 1.3 zone and if they wished the Board could limit the amount of garages for the site.

H. Caldwell stated that he drove in there the other day and he is concerned with stormwater control during construction. He stated that they have had some erosion problems already and there is a lot of water sheeting off of Route 9N and he feels that they should be more aggressive with their stormwater now. He continued that he has no doubt that when the project is complete they will have a great stormwater. Tom Jarrett asked if he could provide some examples as to what he saw. H. Caldwell stated that it looks like the road was washed out off of 9N. Tom Jarrett stated that they watch stormwater very closely and although there is some sheeting of water off of 9N into the woods he doesn't think any is entering the stream at all. He continued that they had a couple of silt fences that were knocked down recently by some storms but they quickly remedied the situation. Peter Gluck agreed and added that if there is a problem it is fixed within a day. He stated that the LG Waterkeeper has also mentioned this problem and has offered some suggestions and they have accommodated him. Tom Jarrett stated that he would be willing to talk to Henry Caldwell about what he saw.

S. Aldrich asked if the proposed structure would be visible from the lake. Tom Jarrett replied no because there are several ridge lines between this and the lake. C. Mason asked if the windows would be screened from the lake. Tom Jarrett stated that it will not be seen from the lake. D. Roessler asked if the proposed structure would have the same look to the building closer to the lake. Peter Gluck replied no because the lakefront building is being built into the hill and the proposed structure is a very low building on the street side but higher on the downside. He stated that they have placed the structure so that they can save the stand of hemlock trees and it will be shielded by these trees. S. Aldrich stated that she has gone by the site on the lake and she is very impressed that she cannot see much of this site at all. Peter Gluck stated that is their main goal.

Henry Caldwell asked about the construction schedule. Peter Gluck replied that they would like to start it as soon as possible and think it will be completed in 14 months.

#### **RESOLUTION:**

**Motion by** John Gaddy to accept the application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. **All in Favor.**  
**Motion Carried.**

7) **V08-30 FEDELE HOLDINGS, INC.** Represented by Joe Pfau. To convert an office into office and/or retail 1) seeks use variance for retail and 2) seeks area variance for deficient parking. Retail requires 12 spaces, 2 spaces exist, and are proposed. Section 171.19, Block 1, Lot 66, Zone RM1.3. Property Location: 2 Karl's Corner Drive. Subject to Planning Board & WCPB review.

Joe Pfau stated that this is the old LG Land Conservancy building located in the Town parking lot behind Fins and Claws. He stated that they are seeking to change the usage to office and office and/or retail. He stated that they are trying to keep it as office use but most interested parties have approached them about retail space or a combination of retail. H. Koster stated that this is just a recommendation to the ZBA.

J. Gaddy asked if there were any other spots on the parcel that could be used for parking. J. Pfau stated that on the south side there is a lawn/landscaping and they would like to keep that buffer between that and the building south of it. He stated that spaces in back will be used for employees and will probably continue to be used for employees. He also doesn't think it would be best to have cars going in and out of Karl's Corner since it is a private road. H. Koster stated that most retail shoppers in Town walk and he doesn't see the necessity of having the required parking spaces.

Pam Kenyon stated that there is no WC impact.

**RESOLUTION:**

**Motion by** Donald Roessler to make a favorable recommendation to the Zoning Board of Appeals for a use variance for retail and/or office space and an area variance for deficient parking for property located at 2 Karl's Corner Drive (171.19-1-66). **Seconded by** Sue Wilson. **All in Favor. Motion Carried.**

8) **SD08-03 TEKMITCHOV, VASILIKI.** Seeks to divide into two lots that parcel designated as Section 171.15, Block 3, Lot 74, Zone GB5000. Minor Subdivision. Sketch Plan Review. Property Location: 4960 Lakeshore Drive. Subject to SEQR. *Note: This application is in conjunction with V08-32.*

Dennis Dickinson briefly explained the layout of the parcel. The main building has 2 businesses downstairs and an apartment upstairs, behind that there is a 3 car garage and behind the garage there are two apartments. He stated that on Monday July 14<sup>th</sup> they received an area variance. He stated that the applicant has a total of 7,850 sq. ft and the split of the property is 2/3 to 1/3 and the garage will stay with Lot B (front building) and the apartment building will be a stand alone by itself. He stated that the ZBA had two conditions; 1) removal of the beam coming out from the garage structure, which they have agreed to and 2) that the parking was made available and usable. He stated that the property line is run 1' off of the garage building which will allow 4 usable parking spaces between the garage and apartment building. He stated that there is also a 5<sup>th</sup> spot on the other side of the building. S. Wilson stated that she was concerned that they will not be able to put 4 cars in that location because it is only 17' wide. Dennis Dickinson replied that he has it measured at 18' and they could easily park a car in a 9' x 20' space.



S. Wilson stated that she is concerned that they will not be able to open the doors. D. Dickinson replied yes and most mall parking lot spaces are 9' wide and some are less. He continued that with only two apartments he doesn't imagine that they would have that many cars there anyway. S. Wilson stated that they claim that it is a 3 car garage but they only have 2 doors. Dennis Dickinson replied that they would have to address that but the space is available.

Pam Kenyon stated that she took a lot of measurements and she agrees with Sue Wilson that she does not know how they are going to park 4 cars between the garage and apartment building. Dennis Dickinson replied that they could change it so that only 2 cars can park there and they would only have a total of 3 spots for this building. P. Kenyon replied that would not work with the conditions that the ZBA put in their resolution which stated that they had to be able to use all parking spaces as shown on the map. H. Koster asked how many spots are shown. P. Kenyon replied 10 and she doesn't think that they can do it. Dennis Dickinson stated that his intention with the 10 spots was to show the maximum possible in limited parking. He continued that the Town's requirements are ridiculous and he cannot think of a place on the street that has nearly the amount of parking called for. He stated that he didn't interpret the ZBA's conditions as requiring them to have all 5 on that lot, but he thinks it can be done with some work.

H. Koster asked why there were no metes and bounds on the map. Dennis Dickinson replied that he unintentionally shut it off of his program when he printed the maps.

H. Caldwell stated that the applicant could tear down the garage and move the property line to the west to provide both places with more parking. Dennis Dickinson replied that with some refurbishing 3 cars could be accommodated in the garage.

S. Aldrich asked what plans they had for snow removal. Dennis Dickinson stated that he had not thought about. He stated that he did not realize that they were committed to all 5 parking spaces. H. Koster asked if the stipulation of the ZBA was to have all 10 spaces. P. Kenyon replied that the ZBA approved the plan as presented. Counsel stated that he recalled that they required actual parking spaces. P. Kenyon replied that they intend to check the minutes from the meeting and let them know what was approved. H. Koster stated that they need to find out exactly how many spots the ZBA approved because they cannot overrule the ZBA's decision.

H. Koster asked if the property line would be on the building line. Dennis Dickinson replied it is 1' off the building. H. Koster asked if he received a variance for that as well. Dennis Dickinson replied yes.

Vasiliki Tekmitchov stated that if people park properly she could have 6 spots in front of the garage. She stated that she definitely has 4 if not 5 spaces for the back parcel. With regard to snow removal she stated that she hopes someone has the common sense not to pile it up in front of her buildings or garage. She stated that she has had problems in the past with whoever removes the snow for Congers Point. The snow should be removed to the open spaces of the Association towards the lake.

H. Koster asked Pam Kenyon if she feels that the applicant can get 5 spaces for that lot. P. Kenyon replied that she believes that they can fit 2 spaces in between the garage and apartment building and possibly 2 on the east side of the apartment building if the boulder and vegetation are removed. H. Koster stated that Dennis Dickinson indicates possible additional space, but it is off the property. P. Kenyon reviewed the map with neighbor Mr. Carnese, who indicated that the piece that she was looking at for additional room for a parking space is part of Mr. Carnese's property. H. Koster stated that he doesn't imagine the ZBA demanding 5 spots for 2 apartments. P. Kenyon stated that Town ordinance requires 2 spots per apartment.

D. Roessler suggested that they table the application. H. Koster agreed and added that they will need to see metes and bounds on the plan. Dennis Dickinson agreed to table the application.

J. Gaddy suggested that they look into removing the rock by impact rather than blasting like they had done with Happy Jacks which will fracture the rock for removal. H. Koster agreed.

**RESOLUTION:**

**Motion by** Henry Caldwell to table this application pending clarification of the ZBA resolution and the applicant providing a plan with metes and bounds and proper lot lines between lots A and B and the neighbors to the east. **Seconded by** Donald Roessler. **All in Favor. Motion Carried.**

Meeting adjourned @ 8:45  
Minutes submitted by Kristen MacEwan