

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday October 23, 2008**

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, Henry Caldwell, Sue Wilson, Sandi Aldrich, John Gaddy, Chauncey Mason, Donald Roessler, Town Counsel Michael Muller and Zoning Administrator Pamela Kenyon.

Absent: None

Herb Koster opened the public hearing at 6:07 PM.

Herb Koster asked if there were any changes or corrections to be made to the September 18, 2008 meeting.

John Gaddy stated that the only comment that he has on the minutes is that for the Eagle Ridge Subdivision they did not include any site plan review for any of those lots. Herb Koster asked if it was stated at the meeting. John Gaddy replied no but he feels that it is something that they missed. He stated that they granted approval with the condition that there would be site plan review for major stormwater on each lot but not for homes. He asked if this could be amended. Counsel replied that they cannot make a condition after the approval has been granted. He stated that sometime ago in a litigation they made a stipulation with the LG Waterkeeper and he thinks that they have been following it. The process by which an application comes into the Zoning Administrator's office is that they take a hard look at it all over again and present it back to the PB with all of the new information as a stormwater project. John Gaddy stated that his concern would be with colors and lights. Counsel stated that they will have the opportunity to review these projects again individually but what's fair is fair and Bolton is pretty weak on color and lighting requirements in terms of the ordinance structure. He continued that it is admittedly true that they expect those cooperative promises out of the applicant, but subsequent to their ownership, it is not a commitment that can be held to the next owner. John Gaddy asked if they missed their opportunity to ask for site plan review on each of the lots for design elements of the house outside of the stormwater. Counsel replied that they will be coming back for stormwater and they can review it at that time.

Motion by John Gaddy to accept the minutes as presented. Don Roessler seconded. All in Favor. Motion Carried.

1) SPR08-25 PARROTTA, ROBERT. Seeks Type II Site Plan Review for a Marina. Section 171.11, Block 2, Lot 12, Zone RCM1.3. Property Location: 5102 Lake Shore Drive and known as the Contessa. Subject to WCPB review. Subject to SEQR.

Bob Parrotta stated that they are looking to modify an existing Class A Marina License to allow boat rentals instead of just dock spaces. He stated that they are already equipped with the required restrooms for the marina. The lighting is there even though they will

not be renting boats at night and the rentals will end at 5pm. There is adequate parking throughout the facility and since they are closing the restaurant there will be additional spaces available there. He stated that he asked for a total of 12 slips but he only needs 6 for the time being. He stated that he requested the 12 because he didn't want to come back each year and request more spots. Working with 6 slips, they will see if the rentals are successful and if so they will add more boats each year, if it is not successful then he would go back to just renting the docks. He stated that they plan on using the middle dock so that it will have less impact on the neighbors. It will be 200' away from the neighbors to the north using only 6 slips and approximately 130' if they use all 12 slips.

John Gaddy stated that the maps do not show which docks will be used for the rentals. Bob Parrotta pointed out the area that would be used. John Gaddy asked if they will be selling any gas. Bob Parrotta replied no. He continued that they will not be repairing boats unless it is a minor problem on one of the rental boats. Based on the drawings submitted, John Gaddy stated that he would need to see more definite plans as to what they have written out so they have some sort of target to shoot at. He stated that parking should be better detailed. Bob Parrotta stated that the restaurant parking lot will be used for the marina parking since it is closed. He stated that he slated to come back to the PB to convert the restaurant into 3- two bedroom units. He stated that there will be less people on the property. John Gaddy stated that he would like to see more detail on how this will be set up.

Don Roessler asked how he planned to gas up the boats. Bob Parrotta replied that they would use Norowal, Water's Edge or Smith's. Don Roessler asked what type of boats would be used as rentals at the marina. Bob Parrotta replied that they will all be pontoon boats with 4 stroke engines, which is the latest technology. They are quiet, they only burn gas and not oil and they are not very fast which makes them safer. Sue Wilson asked how many dock spaces they rent now. Bob Parrotta replied 16. Sandi Aldrich asked if they utilize the south side of the south dock because it runs off of the edge of the paper and she thinks that it may be encroaching on the neighbor's property. Bob Parrotta replied that they use all of the spots and that particular spot is his personal dock space. He stated that they have owned the property since 1957 and have always used that spot. John Gaddy asked where the restrooms were located. Bob Parrotta replied that they are located at the bottom of the restaurant and that is where they will remain. There is a men's and ladies room and they are open 24 hours a day. John Gaddy stated that if they park up top then there will not be a lot of car traffic with the exception of unloading. He asked if they intend on stopping the dock space rentals. Bob Parrotta replied that it will be a trade off and whatever is not used for boat rental will be available for dock space rental. John Gaddy asked how many moorings were on the property. Bob Parrotta replied that there are 2 on the property. Sandi Aldrich asked what the lower parking lot would be used for. Bob Parrotta replied that it would be used for dock space rentals, unloading for boat renters and it could be used for hotel guests.

Don Roessler asked if they plan to have winter storage of the boats on the property. Bob Parrotta replied yes but only for his rental boats. Herb Koster asked where on the

property he intends to store the boats in the winter. Bob Parrotta replied throughout the property but probably most would be stored in the parking lots up top.

Sue Wilson asked if he had his application prepared for the conversion of the restaurant to seasonal rental units. Bob Parrotta replied that most of it has been submitted and the rest will be in tomorrow. Sue Wilson asked if there would be a problem in looking at these applications together. Counsel replied no and the process would encourage a comprehensive look at the entire project. Sue Wilson agreed that she would encourage that as well. Sandi Aldrich stated that she agrees with John Gaddy that they will need more detail on this application. Counsel replied that they need to specifically tell the applicant what details they would like to see more of so that he can prepare.

Henry Caldwell stated that they have received a bunch of letters from the neighbors and he feels that the applicant has answered most of their questions but asked some of the remaining unanswered questions. He asked where the repairs will be done for the rental boats. Bob Parrotta replied that he anticipates using the small area to the side of the restaurant. Sandi Aldrich stated that he will have to take the boats some place else for launch and retrieval. Bob Parrotta replied that they will be using Norowal for that purpose. Henry Caldwell asked who will oversee the operation on a day to day basis. Bob Parrotta replied that he will. Herb Koster asked what type of repairs they would be doing on the property. Bob Parrotta replied that it would be minor repairs such as propellers. Henry Caldwell asked what type of night time lighting will be required. Bob Parrotta replied that he doesn't think that any night time lighting is required although there are lights down there. There are 2 street lights and the lower parking lot is lit at night. Henry Caldwell stated that the neighbor to the south did talk about the riparian rights but it was the neighbor's property line extending into one of his docks. Henry Caldwell asked what kind of signage would be used for the marina. Bob Parrotta replied that he would use the restaurant sign for the boat rental/marina.

John Gaddy stated that he would like to see the following details on the plan: 1) lighting, 2) detailed parking, 3) a timeline in how the conversion to boat rentals will be implemented and 4) a plan for infiltration of stormwater. He stated that the applicant is the recipient of water coming down 9N and the State was so kind to bring what seems like all of the water from Braley Road to cross under the road and is dumped onto his property. He stated that in speaking with the applicant he was told that there are a series of sandbags that absorb this water as it goes down but as they get closer to bottom of the paved area there is water that is just washing right off of the property into the dock area and he was hoping to address that with some infiltration. Bob Parrotta stated that he was confused with the request since he is only asking to rent boats. John Gaddy stated that they are looking at developing and using property and this is something that could be done to improve the property. He stated that the applicant is trying to make a living from the lake and he thinks that they should be responsible for protecting the lake as well. Bob Parrotta stated that he could understand the request if he was the one who created the problem but the State created the problem. John Gaddy replied that he can see that some of it is from the State but there is also water coming off of his property and he is requesting that he look at ways to infiltrate that water. He stated that there is some soil

down there and he is hoping that some of that water can be directed to the soil before it gets to the lake. Bob Parrotta agreed. Henry Caldwell stated that NYS DOT are re-doing the road next summer and asked if they have talked to the applicant about this problem. Bob Parrotta stated that he doesn't think they intend to change that with their project. John Gaddy asked if the applicant intends to do more planting on the property. Bob Parrotta replied that he may add a few more bushes but otherwise not much.

John Gaddy stated that he is not sure about all of the requirements for the LGPC. Bob Parrotta replied that they already have a Class A Marina License and all this request is for a modification of that license. Within the license they can pump gas, have a pump out station and many other things. He stated that when his father set up the marina license he only wanted to rent dock spaces. Bob Parrotta stated that he thought it was ok to rent boats but learned that he would need to modify the permit and that is why he is here.

Sandi Aldrich stated that she would like to see more detail for the south dock. Herb Koster agreed and stated that basically they will need all dimensions on the lake front, which would include distance between the docks, length of the docks and distance off property lines. John Gaddy stated that he should also specify which docks are going to be used because they will be answering to the neighbors. Don Roessler asked the applicant to indicate the storage area for the boats in the winter, the repair area, the number of spaces and the parking spaces for the new units. John Gaddy asked if he intends to have any additional construction on the docks themselves. Bob Parrotta replied no they cannot. He stated that physically nothing is going to change on the docks or the restaurant on the outside. Herb Koster asked the applicant to locate the moorings on the plan. John Gaddy asked if the applicant could also provide the hours of operation. Bob Parrotta stated that the hours of operation will be 8:00 am to 5:00 pm but he will put that on the plan as well. John Gaddy stated that there were some questions from neighbors about whether or not there would be overnight docking, but that is not an issue because the boats will only be used during the day. Bob Parrotta stated that he does have some people that rent dock spaces that spend the night now and have for years. However it is very limited and only happens once in a while. He stated that he will not do this on a regular basis because he is not renting them a hotel. Henry Caldwell asked how many people each boat can allow. Bob Parrotta replied 10-11 people.

Bob Parrotta asked if the PB wants him to write all of this requested information on the plan. Herb Koster stated that he does not think that there is enough room on this. Sandi Aldrich added also that the south dock is not on the plan. Bob Parrotta asked if it would be sufficient to provide information about the distance between the docks and property lines on this plan and not provide another map. Herb Koster stated that the map has already been traced off of someone else's map. Bob Parrotta stated that the LGPC has the actual plan and measurements of the frontage and he could get that for them. Herb Koster stated that they need something drawn up with the dimensions on it because whatever is approved will need to be filed with Warren County.

RESOLUTION:

Motion by Donald Roessler to table SPR08-25 pending the following additional information:

1. Provide a detailed lighting plan.
2. Provide a parking plan and indicate each the motel parking, dock rental parking and boat rental parking on the map.
3. Time line for implementation of the marina.
4. Plan for infiltration of stormwater running onto the applicant's property from an adjoining property as well as for the stormwater coming directly from the applicant's property.
5. Provide dimensions for the lakefront, including the length of each dock the space between each dock and distance from property lines on the map.
6. Specify which docks will be used for the marina operation on the map.
7. Specify the winter boat storage areas and the boat repair area on the map.
8. Locate moorings on the map.
9. Provide details about hours of operation.

Seconded by John Gaddy. All in Favor. Motion Carried.

2) SD08-04 WATERHOUSE, LAWRENCE. Represented by Joe Pfau. Seeks to amend previously approved plat, (SD04-27 Valley Woods Subdivision) approved by the Planning Board on 4/28/05. Specifically to divide into 5 parcels that lot designated as Section 140.00, Block 3, Lot 20, Zone RL3. Property Location: Valley Woods Road. Sketch Plan Review. Major Subdivision. Subject to SEQ. R.

Joe Pfau stated that this is a sketch plan review for a 25 acre piece of property on Valley Woods Road in the RL3 zone. He stated that is a 5 residential lot proposal. This lot was originally part of a 15 lot subdivision approved by this Board and this is one of the remaining parcels. He stated that Mr. Waterhouse purchased this lot and wants to subdivide into 5 parcels and maintain for his large family. He stated that the access would be off of Valley Woods Road, the lots are served by wells and septic and there are no wetlands on this particular piece of property. He stated that they have done some preliminary soil testing and they do not anticipate any problems for stormwater. He stated when they come in with their preliminary plans the roadway which will show that the road will be constructed similarly to the one put on the first portion of the subdivision project to the south.

Herb Koster asked if the Parrotta property was part of this subdivision. Joe Pfau replied yes it was part of the original subdivision. Sandi Aldrich stated that she recalls from the original subdivision that they had some trading of density across zones. Joe Pfau replied yes there was and it is on the original map of the subdivision. He stated that when they did the overall density calculations it came to 24 lots. Sandi Aldrich asked if they have used some of that density in their subdivision. Joe Pfau replied yes but the overall density was 24 lots and with this 5 lot subdivision it would bring the total up to 19. John Gaddy asked if this would be the extent of the project at this point. Joe Pfau replied yes. He stated that in the last approval there were deed restrictions that he had added and he intends on putting the same deed restrictions on these lots as well.

John Gaddy asked what the diameter of the cul-de-sac was. Joe Pfau stated that the outside paved radius is 55' and they intend to keep the middle vegetated which would make it 110' diameter. John Gaddy commented that the project will not be seen. He asked what the grade would be coming in off Edgecomb Pond Road. Joe Pfau replied that it is approximately 20% for about 30-40 feet. He continued that he profiled this out already and he has no cuts or fills over 3' on this and should be able to get the grade to no more than 10%. Sandi Aldrich asked if they will be using the same crushed stone surface. Joe Pfau replied yes. Don Roessler asked what the total length of the road will be. Joe Pfau replied approximately 1,300'.

John Gaddy asked if the applicant had any plans for any recreation or did they plan to put this up for payment of the recreation fee on each lot. Joe Pfau replied that he would ask his client but he thinks he will probably put up the recreation fee.

RESOLUTION:

Motion by Donald Roessler to approve the sketch plan convert to preliminary plat and table the application pending a major stormwater project. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

3) SD06-05 OBERER, ERNEST. Represented by Scott Miller and Peter Loyola of CLA Site. Seeks to divide into 3 lots that parcel designated as Section 171.00, Block 1, Lot 6, Zone LC25. Final Plat. Minor Subdivision. Subject to SEQR. *Note: This item was tabled at the September 2008 meeting pending additional information. Site Plan Review for a major stormwater project is required, but has not yet been applied for.*

(Note: Sue Wilson recused herself from this application)

Scott Miller stated that at the last meeting they had the PB asked for some additional information and some adjustments on the maps and filtered view creation plan that they had submitted. The first item they addressed was the close proximity of the cut and fill to adjacent property lines. They have all been moved back at least 20' from adjacent property lines. A planting plan was also asked for the cleared areas and they have submitted that for their review as well. He stated that Don Roessler had asked for a turn around near the water storage tank and they have added that as well. He stated John Gaddy had requested some additional language in the filtered view creation plan regarding a pre-photo survey, as well as the use of native plants and that has been added as well. Sandi Aldrich had concerns with the house and septic and individual driveways being cleared prior to the sale of the lots and the language in the report has been changed to reflect that, which would allow each individual lot owner to come back for site plan approval. He stated that they also added building envelopes. There was additional language added to the filtered view creation plan defining what a dead tree would be in the removal of vegetation. Based on the road design that they had presented to the Board, the deed language, filtered view creation plan, planting plan and other parameters and special requirements that they have added in the actual design they are seeking approval conditional on the stormwater review by Nace Engineering.

Herb Koster was concerned with the use of 1, 2 and 3 year seedlings because they are not very big. Scott Miller stated that they do a lot of reclamation work and what they are showing there is pretty standard for reclamation. They will have a combination of wildflower grass/seed mixture and then they will have groves that are placed based on what is currently there. They have located these groves based on site visits and aerial photography. They are hoping to let nature take its course and they expect it to come in fairly quickly. He stated that the seeded area will not be maintained and will be allowed to grow wild. The trees will start naturally growing and they will be allowed to do that and they hope that this will create a complete dense canopy where the roadway has been graded. Peter Loyola stated that they have found that if they go with a typical landscape stump, which is balled and burlaped, it typically does a lot worse in terms of survivability than the actual seedling. These trees are starting from a landscaped environment and are fertilized and watered on a schedule so when they are placed in this environment they get away from that schedule and have a higher rate of mortality. Herb Koster asked if the road side mix has crown vegetation which will hold the soil. Scott Miller replied yes, it is all native and the mix is specifically designed for road side applications and will give them the erosion control and soil stabilization that they are looking for. Scott Miller stated that they have used this mix in a subdivision in Hague approximately 2 years ago and it has established very well and the site looks great. Herb Koster asked if they have a schedule for maintaining this in case they get a 100 year storm. Scott Miller replied that if any of the areas were damaged they would be repaired. Peter Loyola added that as far as stormwater controls go they will be required to monitor that during construction and after every rainfall they will be checking for any erosion. He stated that this would be better defined in their stormwater plan. Scott Miller stated that they will need to submit a NOI for this application because of the amount of clearing and they will have to meet all of DEC's parameters.

John Gaddy stated that he has been impressed by the presentation but he wanted to bring up the points of the code that need to be brought up at this point. Looking at the policy for the subdivision of land section 150-1, it talks about the idea that the lands to be subdivided should be properly related to the proposal shown on the Master Plan if it does exist and he stated that they have adopted their Master Plan 2 or 3 years ago. Another point is in Section 150-12 brings up the idea of cluster development and under this article it says "pursuant to resolution of the TB, the PB is in the power to modify the minimum lot size" and "in order to enable and encourage flexibility design and development of land in such a manner as to promote the most appropriate use of the land and to facilitate adequate and economic use of the streets and utilities and to preserve the nature and scenic qualities of the open land". He stated that under the procedures it says "a cluster design shall be required if the characteristics of the site include any of the following" and as you drop down to "h. sites exposed to views from Lake George" and this has been a concern that he has had about this project for along the way. He continued that further in 150-15 in the general requirements they are looking to generally minimize impacts on natural and public resources. He stated that he got a chance to go up to the top of Cat Mountain and Henry Caldwell has brought up the idea as to where they stand in the terms of disturbance for the number of homes proposed and he still feels that this is an awful lot

of disturbance along the way. John Gaddy stated that in Zoning Section 200-25 it talks about the purpose of the site plan and it states "because of the special characteristics of the area in which it is located, special consideration must be done on certain things". He stated that the PB is trying to accommodate growth but also protect the health, safety and welfare of the Town and citizens. He also stated that section d, in the objectives of the land use plan, they had 795 people respond to a survey that was done and the number one concern that people had was looking to maintain and re-establish the qualities of the natural settings and open spaces and there were specific comments regarding the ridge line development. He stated that he knows in past discussions the applicant has made references that these homes proposed would be very similar to another house and the only one that he can see would be the castle and some to the south but they were 20 years ago before any pressure for development and things that may have been allowed in the past are being looked at in a different light along the way. John Gaddy stated that in section 200-23, section 3 "Review" it gets down to an approval of site plan, the PB should take into consideration and find that the proposed development meets all the requirements and if they long under 3a5 it starts talking about visual compatibility with the surroundings. In spite of the fact that the clearing and re-vegetation plan is the best thing that he has ever seen he still doesn't feel that they have a guarantee that they will not be left holding the bag. He stated that as Counsel has said no matter what kind of restrictions the applicant agrees upon he doesn't see that the Town should be monitoring and regulating the trees. He stated that this is a very sensitive spot and he would like to see the homes brought down lower on the property to minimize the disturbance. He stated that the Master Plan also talks about maintaining the hillsides and especially the ridges. Scott Miller stated that he understands where they are coming from but he stated that is why they are going through the process they are and why they are trying to do so much.

Herb Koster stated that the design that they are presenting is very much in line with how they would like to see development occur in Bolton. He stated that the castle was built about 25 years ago and it was clear cut in front of that for several acres, but he doesn't visually see that happening at this site. Scott Miller stated that is why they took these added measures and added the enforcement that the Town will be capable of doing. John Gaddy stated that they have had these restrictions before but they are not always followed and they have no control over it. Herb Koster stated that he cannot take the guilt of one person and pass it on to the next 100 applicants. Peter Loyola stated that they are trying to offer solutions that will allow this project and protect against physical and visual impacts. He stated that the Town will not have to worry about the maintenance of the driveway but they want the Town to know that there is enforceability to carry out an enforcement action if they should so choose. He stated that this is considered a minor subdivision and he doesn't know how much more they can cluster the homes. He stated that they have three homes on 75 acres, and what they are looking at is a cluster concept because they are not proposing to scatter the homes. Scott Miller stated that the 3 homes were clustered higher on the ridge and they tried to compromise and move them down a bit which meant spreading them out a little further. Peter Loyola stated in terms of minimizing the impact with regard to visibility, he thinks that what they are showing the PB is that they are going to be responsible to make sure that happens. They are going to do everything they can possible do and they have taken a lot time and effort to map it out

to be sure that the driveway and these homes will not affect the view shed. He stated that they will start to see re-grow where the fire was, there will be temporary disturbance for the driveway that will eventually will be overgrown and will not be seen. He stated that a lot of construction that occurs in Bolton Landing starts off with a lot of vegetation removed but within 15 years it becomes a completely wooded driveway again. He has a lot of faith in the amount of vegetation that will be used and guarantees within 15 years there will be succession. John Gaddy stated that he does not have any argument with the fact that someone wants to build a house up there and wants to waive the fire protection, but overall the amount of disturbance for three homes is an issue for him. Scott Miller stated that they need to keep in mind that the locations of quite a few portions of that driveway are in the location of the existing driveway.

John Gaddy stated that if the Town has adopted the Master Plan and this makes reference to the fact that every proposal in here has been studied, discussed and put into this document with 800 people that made this, one of their key points was protection of the hillsides and ridge lines. He asked Counsel if this document has weight since it has been adopted. Counsel replied that it is policy but if he is asking where they lay their expectations for applicants, they are appropriate to require of an applicant and that would be in their embodiment of their law. It is policy and that code that is being worked on is moving closer to policy but it is not the law yet and this applicant should be held to what is in the text currently. John Gaddy asked if all of his references based on the existing law are on solid ground. Counsel replied that they are on solid ground but there are obviously choices in the text of the ordinance. He stated that if the choice comes down and they have something in the Master Plan versus an older existing code that has an idea that has fallen out of favor, he recommends going with the local law. Herb Koster stated that even the Master Plan is subjective reading and it is not a cut and dry issue. Counsel agreed. With regard to clustering of this subdivision, Counsel stated that the applicant brings up an interesting answer to the challenge of “a cluster design alternative shall be required” because they have suggested that this is a cluster.

Herb Koster stated that the applicant has put a lot of expense into this plan and he asked if they could hold a public hearing without having to go into the stormwater management. Counsel replied yes and they can have the stormwater contingent of the approval. Don Roessler asked if they should see stormwater plan at this time. Counsel replied that they do not want to request that this time because it is a big expense for this driveway. Herb Koster agreed and stated that if it goes to approval then would definitely be conditional approval. Don Roessler asked if they can table the public hearing until after they look at the stormwater plan and then give a final approval at the same time. Counsel replied that it would be best if they had the consent of the applicant on that procedure. He stated that he would assume that the applicant is interested in closing the public hearing so that they have some definitive line in the sand and this discussion can be done. Herb Koster agreed and stated that they are looking for an answer as to whether the PB approves or disapproves this project before they move on to stormwater. Peter Loyola stated that they are running into quite an expense right now and they felt back in October 2007 that they were heading in the right direction with sketch plan. He stated that they would like to move forward with a public hearing and have definitive response from the PB before

moving forward with stormwater. He stated that they would be more than willing to work with the PB with regard to the extensions so that they could hash out whatever they need to hash. Herb Koster stated that he personally would like a definitive answer after the public hearing and he is giving them an excuse to continually open this up to public comment. Peter Loyola stated that he too would like a definitive answer but he would be willing to work out whatever needs to be worked out. Henry Caldwell stated that the map is going to look different after stormwater is done and asked if that will be discussed at the public hearing. Herb Koster stated that they can have another public hearing on the stormwater, but he would like to close the subdivision public hearing.

RESOLUTION:

Motion by John Gaddy to schedule a public hearing for application SD06-05 at 6:00pm on November 20, 2008. **Seconded by** Donald Roessler. Sue Wilson recused herself. **All Others in Favor. Motion Carried.**

Meeting was adjourned at 7:16 PM.

Minutes submitted by Kristen MacEwan