

**Town of Bolton
PLANNING BOARD
AGENDA**

**Thursday November 19, 2009
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: Henry Caldwell, Sue Wilson, Sandi Aldrich, John Gaddy, Donald Roessler, Chauncey Mason, Town Counsel Michael Muller and Zoning Administrator Pamela Kenyon.

Absent: Herb Koster

Henry Caldwell opened the meeting at 6:03 PM

Motion by Donald Roessler to table the review of the October minutes until the December meeting. Seconded by John Gaddy. All in Favor. Motion Carried.

1) OBERER, ERNEST (SD06-05)- Discussion of possible default subdivision approval

Counsel Muller explained that the Town has received correspondence from Attorney Michael Hill regarding the Oberer application. He stated that this application was heard with 2 recusals from Henry Caldwell and Sue Wilson. The application was voted on at the December 2008 meeting in which the application received a 3-2 in favor of the application which resulted in no action. At that time, the code indicated that they had to take action within 45 days of closing the public hearing. After 45 days the application, by default, is approved. At the time they negotiated a waiver with the applicant so that the Town could seek alternative members for the ZBA and PB to allow a full board to hear this application. He stated that the Town got that legislation approved quickly. The Town then publicized the 2 alternate positions to both the ZBA and PB. However, since that time they have not even had any interest.

Counsel stated that in September 2009 the application was once again presented with a re-opened hearing to see if there was some flexibility on the part of the applicant. However, that outcome also resulted in a 3-2 vote, which again was no action. He stated that again at the close of that public hearing they discussed the waiver, which he felt continued with the application. However, Counsel stated that in having discussions with Mike Hill found that the applicant was seeking default approval from the Town. He stated that he and Mike Hill tried to find a solution to the problem, but to no avail. Counsel stated that Mike Hill's letter to the Town has indicated that the applicant has withdrawn this waiver. Counsel stated that it is his position, on behalf of the Town, that they honor the withdrawal. He suggested to Mike Hill that they get this back on the agenda as soon as possible and that is what they are discussing tonight.

Counsel stated that normally Sue Wilson and Henry Caldwell would be recusing themselves from hearing the presentation and he feels that they should stand by that recusal. However, for tonight they seeking to just get this item back on the agenda in terms of scheduling a public hearing in December, which is still within 45 days of Mike Hill's notice of withdrawal. He stated that he is hoping that the public hearing could be held and the Board could once again

give consideration to this proposal. He would expect Henry and Sue to recuse themselves from that aspect. However, if Mike Hill would be willing to allow Henry and Sue to vote tonight on this administrative matter they could put this back on the agenda for next month. He stated that at the December meeting he is hoping that they can come to a conclusion that would not result in no action. He stated that they would have 3 options: 1) to approve it as presented, 2) to approve it with conditions or 3) to deny the application, based on specific and rational facts. He stated that if they end up with a stalemate vote in December, he would agree with Mike Hill that it would be considered no action and after 45 days would receive default approval.

Counsel stated that default approval would be concerning, because what is an approved subdivision without stormwater. He stated that it is not good for the applicant or the PB.

Michael Hill stated that his impression coming into the September meeting was that by virtue of being here and presenting their revised application that would re-initiate the proceedings on the Oberer's application. With the 3-2 outcome at the end of that meeting he stated that the applicants should have received default approval after the expiration of the 45 days from the time of that meeting. He stated that he has different views on the expiration date than Counsel Muller and that is what prompted him to send the letter rescinding the waiver so that the process could move forward. He stated that his clients recognize that they also need stormwater management approval and site plan approval related to this project. He stated that his applicants were hoping to receive a favorable approval on the subdivision prior to moving forward, but if not that way they hope to move forward by default.

Michael Hill stated that from his clients' perspective they do not see the need to resume the public hearing. He feels that it is not required and they would hope that it would not be necessary. However, he understands that Counsel has a different opinion on this matter. He stated that if the PB is not comfortable with proceeding given Herb Koster's absence he would be willing to withdraw the letter of November 16th for the time being to allow him to make this decision with the Board. Henry Caldwell stated that he has no problem making this administrative vote to open the public hearing tonight. Mike Hill stated that he does not see anything in the Town Code that requires that the public hearing be re-opened after a waiver has been granted. He feels that it would be superfluous and unnecessary.

Don Roessler stated that he would be willing to make a resolution to set the public hearing for next month. Sue Wilson asked if that was Counsel's advice. Counsel replied yes he would recommend taking this action.

Michael Hill stated that on behalf of the applicant, he wanted to note their objection to the public hearing. He stated that they have not found anything in the code that requires it. The application has already been subject to a public hearing, in which they heard a lot of public comment. Sue Wilson stated that re-opening the public hearing would be reflective of their previous actions in other applications. Counsel agreed. He stated that it is discretionary but the Zoning Administrator feels that it should go to public hearing again. Don Roessler asked if the 45 days would start after the close of the public hearing in December. Pam Kenyon replied yes. Counsel stated that it could be debatable. The 45 days could start from the November 16th letter, or it could start after the public hearing in December depending upon the interpretation.

He stated that he would urge this Board to not put the Town in the position of having to pick one of those dates and figure it out. He hopes that at the December meeting they can come to a complete conclusion.

RESOLUTION:

Motion by Donald Roessler to re-open the public hearing for the Oberer application (SD06-05) at the December 17, 2009 Planning Board meeting. **Seconded by** John Gaddy. **All in Favor.**
Motion Carried.

2) SPR09-20 BELL POINT SHORES HOMEOWNERS ASSOCIATION. Represented by Atty. Michael O'Connor and Jarrett Engineers. Seeks 1) to modify stormwater damage on lake access road from cul-de-sac to beach lot, 2) modify stormwater management on beach lot, 3) modify conditions of approval for the subdivision, specifically to eliminate the toilet in the support building at the lake and eliminate the requirement that the Old Bell Point Road be maintained as passable. See SD93-04 approved by the PB on May 26, 1994. Section 156.16, Block 1, Lots 1.1 & 3, Zone RCM1.3. Property Location: Bell Point Shores. Default approval by the WCPB. Subject to SEQR.

Mike O'Connor stated there have been questions about whether or not there were adequate stormwater controls on the access road from the cul-de-sac to the beach lot and on the beach lot itself. He stated that Tom Jarrett has evaluated the area and has designed a stormwater management plan for these areas. Mike O'Connor stated that he has correspondence from Tom Nace indicating his review and approval of the plan proposed.

Tom Jarrett stated that they are proposing to intercept run-off as it comes down the access road and divert it into 3 stormwater management basins. There would be a basin at the top which would hopefully handle a lot the water run-off issues that they have now from the up gradient areas. The next basin is in the middle and is intended to take much of the balance of the run-off from the driveway itself. Lastly, the waterfront area will be improved by re-grading the area. They will be sloping the area away from the lake into a basin which will retain and infiltrate the water.

With regard to the toilet in the utility building, Mike O'Connor stated that it was apparently never installed. He stated that the property owners have gotten along without it since '93 or '94. He stated that they feel that it is not necessary and would like to have the requirement removed. The beach and dock area is not open to the public and the beach and docks are not far from the property owners homes either. He stated that the HOA has concerns that if they had a bathroom, it has the potential to be used as a public facility. However, if the Board requires it, they would be willing to comply. He stated that they have considered putting in a portable toilet during the summer months but they do not see the need for a permanent bathroom facility. Mike O'Connor stated that this is not a specific condition. However, it was put on the proposed plan and the Town takes the position that what is on the maps is part of the approval.

John Gaddy stated that the letters they received indicated that only 2 of the 18 potential house sites have been developed so far. Mike O'Connor agreed. John Gaddy stated that having the additional 16 homes built might complicate the issue of not having a facility. Mike O'Connor stated that there are 4 active owners that visit the property on a regular basis and have not found it necessary for their lifestyle. He is not sure why other owners would not be able to accommodate this as well.

Sandi Aldrich asked if people use this area to spend time at the beach or is it mainly to access the docks and their boat. Tom Damiani, President of Bell Point Shores HOA, stated that most people just use this area to access their boats. He stated that they spend minimal time at the beach. Mike O'Connor stated that there really is not much of a beach to sit at anyway. Henry Caldwell stated that the HOA could always decide to install a bathroom at a later date if they find it necessary. Chauncey Mason stated that he belongs to an association and they have brought in a portable unit. He stated that they are not very expensive and they provide convenience to the homeowners.

With regard to the maintenance of the Old Bell Point Road, Mike O'Connor provided the conditions of approval in 1994. Sandi Aldrich stated that she didn't think that the ZBA or PB could take any action if there was a pending violation on an application. Counsel stated if there is a pending violation the application can not be heard. However, he is not aware of any pending violation on this property. Sandi Aldrich stated that this road access issue has been raised at least once. Counsel agreed and stated that it has been raised every year. He stated that in the beginning they were having difficulty with this issue and it was being raised at every TB meeting. He stated that they finally made some progress and got into semi-annual inspections. Counsel stated that the previous conditions of approval had some strange wording to indicate when the road should be checked. He stated that it has been tough to understand and get performance from the applicant, not necessarily from a lack of cooperation but rather a lack of understanding what was expected back in 1994. He stated that there are also private rights, that they do not enforce, that have claim of interest as per approval and as per their private rights. Counsel stated that he does not deal with enforcing of any private rights. Sandi Aldrich asked if they can take away someone else's private rights. Counsel replied no. He stated that they will have to hear more about this during a public hearing.

Mike O'Connor stated that they are not taking away anyone's private right to use a right-of-way. He understands that there are about 7-8 families that have the right to use the Old Bell Point Road. There was 1958 lawsuit that set that and was affirmed in 1991 by a separate lawsuit. The Court said that these people have a right-of-way and unrestricted right to surface the roadway on its entire distance with blacktop or other surface material up to a width of 10 feet. He stated that they do not dispute these Court decisions.

Mike O'Connor stated that the black letter law states that if someone has a right-of-way across another's property, they have the right to improve it and make reasonable use of it. He stated that when one makes those improvements or maintains it, it should be done at their own expense. The land/fee owner does not have an obligation to maintain a right-of-way for another. However, when this subdivision was approved, that burden was shifted by the PB to the land/fee owner. Mike O'Connor read condition 6 of the 1994 approval as follows: "In

addition members of the HOA will maintain the upper part of the old road from NYS Route 9N to the cul-de-sac, as passable including snowplowing.”

Mike O’Connor stated that this issue has been raised with this Board on other occasions. He stated that in 2001 the PB decided that what was intended was to be passable by an ordinary passenger vehicle including the occurrence of vehicle snow plowing. He stated that the applicant is asking that they terminate that obligation for portions of the road. Old Bell Point road only serves as access to 1 or 2 lots in the subdivision; Lot 1 and 11. Lot 1 comes directly off Route 9N and Lot 11 comes from the cul-de-sac onto Old Bell Point Road. A portion of old road would be used by both of these lot owners when they develop their property. He stated that if the PB should accept the elimination of the condition, the applicant would be willing to continue maintenance 10’ past the intersections of Lots 1 and 11 private driveways.

Mike O’Connor stated that he feels that condition 6 of the ‘94 approval was an unconstitutional taking. He does not think that a municipal board can tell a land owner to pay for someone else’s right-of-way. If there is a municipal purpose for the condition, it is allowed. However, he does not see any basis that this was a municipal condition. Mike O’Connor stated that the 7 families that had this right-of-way were also granted a right-of-way across the new road, Norwood Drive. He stated that these homeowners have a much nicer roadway to use that is built to Town standards, which is maintained free of charge. The additional cost that the HOA incurs are additional takings that are unconstitutional because they benefit only private property owners and not the Town/municipality.

Mike O’Connor stated that he has a letter from the Bolton Fire District that says the use of Old Bell Point Road is not necessary and they would not use it for emergency service. Don Roessler stated that they have not used that road because it is not passable with their equipment. Mike O’Connor stated that he is not sure that it ever was passable for emergency vehicles. He stated that most of the houses in the new subdivision are located toward Norwood Drive and their driveways are on Norwood Drive. He stated that they would not have access from the old road.

Mike O’Connor stated that there are portions of Old Bell Point Road that aren’t bad. However, after January 1st and the road is frozen, it is impossible to plow it in a reasonable manner, given the width. He stated that they have tried several options none of which have been successful given the topography of the road. He stated that this road was built as a driveway to access one lot a long time ago. Henry Caldwell stated that it was a driveway to service a lot of houses, so it became unclear as to whether it was a roadway or driveway.

Mike O’Connor stated that Tom Jarrett indicated that the old road had minimal macadam on it and part of the problem is that it doesn’t get a lot of use. The lack of use has caused the road to break up. He stated that some of the homeowners along the lake did some heavy construction and those trucks did cause some damage and rutting in the road. The road also received a lot of damage when County Route 11 flooded out. He stated that this road was never included in the stormwater management plans for this subdivision, nor has there been any submittal for stormwater management on this road.

Henry Caldwell stated that they have received a lot of letters on this issue and he feels that it would be best to hold a public hearing.

Mike O'Connor stated that they feel that it is time to be practical and to step back and review the use of this road. He stated that he hopes to work in a cooperative manner with the neighbors. He stated that they are not taking away their rights to the road, they are just asking that the obligation not fall on them.

Henry Caldwell asked if Lot 8 would access from the old road. Mike O'Connor replied no, because it is so wet behind his house.

RESOLUTION:

Motion by Donald Roessler to schedule a public hearing for SPR09-20 for the December 17, 2009 Planning Board meeting. **Seconded** by Chauncey Mason. **All in Favor. Motion Carried.**

Mike O'Connor asked if there was anything that the PB would like to see more details on. Don Roessler stated that he would like to see how far Lot 8's house is from the new road and old road. Mr. Scanlon, owner of Lot 8, stated that per the subdivision approval he is limited to clear no more than 15,000 sq. ft. He stated that whether or not the old road is close or he is not allowed to cut a path through. Don Roessler asked how far it was. Mr. Scanlon stated that it is about 150' from Norwood Drive and 100' from Old Bell Point. However, due to the topography and conditions of the lot he would not be able to access the old road.

3) V09-52 SAGBOLT, LLC. Represented by Attys. Benjamin Pratt and Jonathan Lapper. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance to 1) rehabilitate the "land-side" of the steamboat dock including new walls, benches, fencing, lighting and landscaping; and 2) To demolish and replace lakeside food service/snack bar building and decks. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPB, PB, TB & APA review.

Ben Pratt explained that they are requesting an amendment to a PUD. Their presentation is more of a procedural appearance. He stated that the Bolton ordinance requires that any amendment to a PUD is to be reviewed first by the ZBA and the PB, in effect, making a recommendation to the TB, which has the only authority to create the change because it is a legislative change. He stated that they are seeking a positive recommendation to the TB. He stated that they also have minor stormwater with this project that they wanted to present to the Board as well. He stated that this plan has been reviewed by Pam Kenyon and she found it acceptable.

Ben Pratt gave an overview of the proposed changes. He highlighted that they will be replacing the food service building and will be adding an additional bathroom to the facility. This building currently serves the pool, beach and dock area. The current building is approximately 1,000 sq. ft and the proposed building will be approximately 1,500 sq. ft.

Ben Pratt stated that the second part of the project is to rehabilitate the steamboat dock in hopes of having the large steamboats dock at this site once again. In doing so, they will also re-do the landside of the docks. They plan to add some vegetation and landscape in this area and will retain all of the trees. This area will not only be better for stormwater but will be more aesthetically pleasing. This area will also be made handicapped accessible to the dock and existing restaurant.

Ben Pratt stated that the landing area has hard packed impermeable stone dust covered ground. In hard rain fall this area gets eroded. The LA Group has proposed a complete rehabilitation of the area which creates a lawn area to increase the permeability of the site which will help the stormwater run-off. They will also improve stormwater with the new building by providing areas to catch the water which does not exist now. Overall, the stormwater management will be much improved over what exists now for the entire site.

Ben Pratt provided further details of the proposed plan. He stated that the proposal provides a better use for the space with less environmental impact and will increase the commercial opportunities of the steamboat dock and the increased food and beverage service.

Ben Pratt stated that the ZBA has granted their positive recommendation. With regard to review and approval required of other agencies, Ben Pratt stated that WC has found no impact. The NYS Office of Parks, Recreation, and Historic Preservation have determined that there will be no negative historic impact. The Lake George Waterkeeper was consulted and took no issue with this project. They NYS Liquor Authority has seen drawings and they seem to be happy. They have a letter from the APA who seem to be content but will not make a determination until after the Town has made its decision. He stated that the APA actually visited the site and were blown away by the work that was done since last year. They have looked at this and do not seem to have any difficulties.

Don Roessler asked if the steamboat pier would be changing at all. Ben Pratt replied no, it would be replacement in kind. Henry Caldwell asked if they will be replacing the cribs to the lake bottom. Ben Pratt replied yes. Henry Caldwell asked if the Steamboat Company or Shoreline Cruises been consulted on this for their input on the dock. Tom Guay, Sagamore General Manager, replied that they have had preliminary meetings with Bill Dow and the Steamboat Company. Henry Caldwell stated that he was surprised that they would approve of the proposed dock posts. Jeff Anthony stated that the smaller posts are not for the larger boats to tie up on. Ben Pratt stated they will revisit that item to be sure that is okay because it is their intention to bring the large steamboats back. Henry Caldwell stated that it would be great if they could return to Bolton. Ben Pratt stated that the rendering might have provided for a little artistic license. He is sure that it was designed that way but they will confirm that.

John Gaddy stated that the plan indicates that they will be using typical lighting fixtures. He stated that he is concerned with what that means because he would prefer to see downward facing, shielded lighting. Jeff Anthony stated that on the dock itself and on the patio/deck area they will be using the same ballard that has been used through out the rest of the landscape theme. However, there will only be 2 other additional lights, both of which will be downward

casting and will only be used when they are loading or unloading passengers off the boats at night. John Gaddy asked about the lighting on the beach cabana. Jeff Anthony stated that he is not sure what they will be using inside but they will make it a condition to have any exterior lighting be downward facing and shielded.

Henry Caldwell stated that he feels that the Sagamore has an overkill with the lighting in general. He stated that as a neighbor, he cannot go out on his dock to look at the stars especially over the Sagamore. He feels that it is a waste of money and energy. Ben Pratt stated that this point has been raised before and has been conveyed to the owners. He stated that as they go along and make improvements they continue to try and address the lighting. The lighting for this proposal will be less than what had existed in the past. Henry Caldwell stated that the lights on the bridge are especially troublesome and feels that they could cut the wattage used and still have a safe crossing over the bridge.

Zandy Gabriels stated that the proposal is to use cement on the steamboat dock and asked if the quality of the cement will be low calcium/low leaching. He stated that Norowal recently installed a ramp for launching and they had to get specialized cement for that project. Ben Pratt stated that the cement is all above the water. Zandy Gabriels stated that the rain will leach the concrete eventually and sometimes they have large waves from the south. Henry Caldwell agreed and stated that this occurred in Lake George Village. Ben Pratt stated that they would agree to the condition of using a low calcium cement.

Zandy Gabriels, speaking on behalf of Jane Gabriels and Gabriels Partnership, stated that they fully support the project and hope that the PB approves this concept. This is a great improvement to the dock space.

Henry Caldwell asked when they would like to begin construction. Ben Pratt replied that they hope to start before the end of the year and have it all ready by early spring. Henry Caldwell stated that they will have stormwater concerns during construction. Ben Pratt stated that they would be sure to address those issues as usual.

Henry Caldwell stated that in one section of the plans it stated that they would be using either a 50 watt or 100 watt bulb. He suggested that they use the lesser wattage. Don Roessler stated that he has a problem with telling the applicant what wattage bulbs he can use. He stated that the other side of the argument to the lighting issue is safety. If there is a problem because there is not enough lighting and someone gets hurt, the insurance company could go in there and ask why they didn't have more lighting which could then become the Town's liability since it was added as a condition. He feels that they can restrict applicants to downward facing and shielded but they should not be telling them what size bulbs they should be using.

RESOLUTION:

Motion by Donald Roessler to favorably recommend application V09-52 to the Town Board with the following conditions: 1) that low calcium concrete is used on the steamboat dock; and 2) Any exterior lighting is to be downward facing and shielded. **Seconded by Sandi Aldrich. All in Favor. Motion Carried.**

4) SD09-06 LARKIN, RICHARD. Seeks to divide into 6 lots that parcel designated as Section 184.02, Block 2, Lot 6, Zone RR5. Major Subdivision. Sketch Plan Review. Property Location: 863 East Schroon River Road. Subject to SEQR.

Richard Larkin explained that he is seeking to subdivide his 36 acre lot into 6 parcels. This subdivision will be set up so that development will not have any impact on the wetlands on this parcel. He stated that he has spoken to the APA who have indicated that his request falls in line with what they are looking for.

Sandi Aldrich asked how the wetlands will be handled. Rich Larkin stated that all of the wetlands will be part of Lot 6 which he will retain. He stated that it is his intention to allow all of the other lots an easement/access to the river over his lot. He stated that this area is not all wetlands; there is a nice beach and scenic park in that area. Henry Caldwell asked if the pre-existing road would be the access to that area. Rich Larkin replied yes. Sandi Aldrich stated that she really likes this idea. The Board agreed.

Sandi Aldrich asked Counsel if this would just be incorporated within the deed. Counsel replied yes, but it would have to meet the shoreline accessibility requirements. Pam Kenyon stated that the applicant will have plenty of shoreline to be able to grant this type of access.

John Gaddy asked how the applicant would access lot 2. Rich Larkin stated that they will access that lot at the bottom of Lamb Hill Road. He stated that he has spoken to a couple of contractors and he intends on talking to Tim Coon about providing the best access at this point.

Rich Larkin stated that he is utilizing the service of Jim Hutchins for his engineering on the project. Counsel stated that Pam Kenyon has suggested that stormwater management review should be reserved for when each lots is developed, which he agrees with. He stated if they are agreeable to that, tonight they will be just act on creating the subdivision lines. Rich Larkin stated that this was Jim Hutchins suggestion as well. He indicated that it should be based on the individual house because he is not creating any roads. The roads will all be driveways created by the individual owners. Henry Caldwell stated that all of the lots will be required to provide a major stormwater plan. Rich Larkin agreed. He stated that he would not be able to take a stormwater position at this time since he is not sure of the size or placement of the buildings. The Board agreed.

RESOLUTION:

Motion by Donald Roessler to approve the sketch plan for application SD09-06 which is to be converted to preliminary plat with a public hearing scheduled for the January 2010 Planning Board meeting. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

5) SPR09-29 DiCERBO, PATRICK Represented by Carl Schoder, P.E.. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II site plan review for 1) a major project to remove more than 15,000 sq. ft. of vegetation, 24,000 sq. ft is proposed, and 2) Condition of approval. Selective tree cutting to be reviewed by the Bolton Planning Board.

Section 171.15, Block 1, Lot 10, Zone RL3. Property location: Morningside Drive and being Lot 18 of Mohican Heights. Subject to SEQR.

Carl Schoder stated that they are proposing development of a previously approved subdivision lot in the Mohican Heights subdivision. This lot has not been developed as of this time. They are proposing a single family residence and they believe that they are consistent with the zoning and subdivision regulations.

Carl Schoder described the topography of the lot. He stated that there is another relatively flat area, which used to be a fill site. He believes that this fill was placed with the intention to be able to drill a well. The last quarter of the lot drops off steeply and is heavily wooded. The building site will be located in an area where there is shallow bedrock. He stated that the area where they had hoped to provide a well and septic has shallow bedrock. Unfortunately, there was not a lot of fill placed on this site. He stated that they did find useful soils for a conventional septic system. However, they are proposing to use the Elgin Filtraters because although they did find useful soil, they did not find a large long area of that soil. The Elgin system was designed with the intention of 100% replacement area which is the current regulation. He stated that he has spoken to the NYS DOH on this matter and they have indicated that the Elgin system is up for approval to be considered a conventional system, which would require only a 50% replacement area. However, this is still pending approval so he is going on the current regulations of 100%.

Carl Schoder explained the placement of the house. He understands that there is a clearing and cutting plan that was originally set up for the subdivision. He stated that they will not be removing a lot of trees from the front of the house for the filtered view because of the existing conditions of the lot. He stated that the house will be backed up into the hillside which will not require the removal of any trees in that area. He stated that the view of the house will have a few trees in the front and the hillside/higher ground behind them which should help the structure blend in.

Carl Schoder explained the stormwater plan for the project. He stated that they have tried to minimize the rock removal from the site. However, they will have some rock removal that will be necessary. He stated that they are proposing a retaining wall which will assist with the stormwater but will also provide a small front yard for the house.

Carl Schoder stated that the house structure complies with the height requirements for the Town. Pam Kenyon stated that there was also condition of approval which stated that the roof line viewed from Lake George cannot be higher than the ridge in Section 1 of Mohican Heights. Carl Schoder explained that he looked into this condition and the proposed house will not be higher than the ridge line and trees on this lot let alone the area that the condition was referring to.

Sandi Aldrich asked if blasting will be required. Carl Schoder stated yes, but it will be limited. He stated that there is only 6-7' of rock vertically that tapers off quickly. Sandi Aldrich asked when construction was to begin. Carl Schoder replied that they would like to get started in the

spring. Sandi Aldrich stated that they would need to place some limitations on the blasting so that it does not disturb the neighbors.

John Gaddy stated that he would like to see any exterior lighting downward facing and shielded. Carl Schoder stated that they intend on providing such lighting. Henry Caldwell asked if the color of the house would be darker earthen tones. Pat Dicerbo replied that the siding will be constructed in either cedar or hearty plank. The color will slate gray, with a forest green roof which are in compliance with the subdivision plan.

Carl Schoder stated that the retaining wall will not be concrete retaining wall. He stated that it will have a concrete base but it will be faced with field stones.

Sandi Aldrich asked how much screening will be provided from the lake. Carl Schoder replied that there will be some screening, but it depends on where they are at on the lake. He reminded the Board that these conditions were pre-existing on this lot.

RESOLUTION:

Motion by Sue Wilson to accept SPR09-29 as complete, waive a public hearing and having met the criteria set forth in the code, grant final approval. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented with the following conditions: 1) All exterior lighting shall be shielded and downward facing; and 2) Any blasting that is to occur on the project site is limited to the hours of 8:00am to 5:00pm, Monday through Friday. **Seconded by John Gaddy. All in Favor. Motion Carried.**

The meeting was adjourned at 7:41pm.