

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday MAY 20, 2010  
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-** Herb Koster, Henry Caldwell, John Gaddy, Chauncey Mason, Sandi Aldrich, Sue Wilson, Counsel Michael Muller, Zoning Administrator Pamela Kenyon

**Absent- None**

The meeting was called to order at 6:06pm

Herb Koster asked if there were any changes or corrections to the April 22, 2010 minutes.

**RESOLUTION:**

**Motion by** Donald Roessler to accept the April 22, 2010 Planning Board minutes as written.

**Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

**1) SPR10-09 JANSSEN, DANIEL & LISA.** Seek Type I Site Plan Review for development within 100' of a wetland. Specifically to alter single-family dwelling by adding a garage, breezeway and family room. Section 199.00, Block 1, Lot 16, Zone LC25. Property Location: 539 Wall Street. Subject to SEQR. Subject to APA approval.

Daniel Janssen stated that he and his wife purchased the property in 2001 and since that time they have expanded their family. The parcel is limited in construction and placement of the structure due to the wetlands which cover the vast majority of the property. The current structure is a modest, log home with 2 bedrooms. He feels that the proposal is within the aesthetics of the current home. The expansion will not be any taller than the original home and the siding will match the current exterior. They will be using log siding made by the same company that did the siding for the original structure. They also plan to re-roof the existing house so the entire roof will be the same.

Daniel Janssen further explained the proposal. They are proposing to build a semi-attached one car garage with a breezeway and family room. They will not be adding any plumbing with the exception of a heated slab in the garage. There will be no addition to the sewer line. The management of any stormwater run-off will be contained on the property with a berm along the perimeter of the wetlands as suggested by Pam Kenyon. There will be a drain in the garage due to the nature of the heated slab which will drain to the lawn. Although they do not anticipate a noticeable outflow they will provide the additional protection of the wetlands by not draining any closer than 30' from the wetlands.

Daniel Janssen stated that they are also proposing to modify the front porch by replacing the shed roof with a truss gable roof. He stated that overall the proposal is to modify the porch and roof, add a semi-attached garage with a breezeway which will be attached to a rather sizable family room on the back of the house.

Daniel Janssen stated that he has already applied to the APA who has provided their comments and indicated that they do not have jurisdiction.

Sue Wilson asked if the applicant needed to be before the Board due to the proximity of the wetlands. Pam Kenyon replied yes they are within 100'. John Gaddy asked if any variances would be required. Pam Kenyon replied no.

## **RESOLUTION**

**Motion by Henry Caldwell** to accept application SPR10-09 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. **Seconded by Don Roessler. All in Favor. Motion Carried.**

**2) SPR09-32 INDEPENDENT TOWERS HOLDING, LLC.** Represented by Daniel Schweigard. In accordance with Article XVII, seek Type II Site Plan Review for a telecommunications Tower. Section 139.00, Block 1, Lot 7, Zone RIL3 & LC45. Property Location: 1792 East Schroon River Road, owned by Raymond Hensler. Subject to WCPB and APA review. Subject to SEQR. This item was tabled at the January 21, 2010 meeting pending additional information on the stormwater controls.

Daniel Schweigard presented the road design that was reviewed and approved by the Town Engineer. He stated that since January they have had a few reviews and revisions of the stormwater plan. He stated that with the latest information presented, the applicant is seeking to move forward with the proposal.

Daniel Schweigard gave a basic overview of the project. He stated that it is an 80' cell tower to accommodate AT&T who has indentified a service deficiency in that area. He stated that previously they discussed the approved project on Dixon Hill for an AT&T tower and the fact that the PB would like him to vacate that approval. He stated that he is respectfully asking that he not have to vacate that approval. He has had discussions with the owners of their company who have a significant investment in that initial approval for that project. That project is independent of the current project; they are 4-5 miles away from one another and are stand alone projects. Although the Dixon Hill project will not be used by AT&T it could potentially be used in the future by another service provider.

Daniel Schweigard stated that they have not submitted an application to APA, but that will be coming in the next step. Henry Caldwell stated that they have already done so much with the APA so it seems surprising that they would not have applied at this point. Daniel Schweigard stated that under the advice of their legal counsel they did not pursue concurrent applications.

This was suggested because in the instance that the local municipality denies the application they would not have wasted their efforts with an application to the APA. However, as they have approached the local municipalities they have found that each of the Towns prefer to have concurrent applications and in the future they intend to do so.

Henry Caldwell stated that they did a balloon test with the APA but didn't contact the Town. Daniel Schweigard stated that the APA requested that they do pre-application visits with them to do a preliminary balloon test. He stated that they are willing to do a balloon test for the Town if that is their pleasure. He stated that they did the test for the APA because if the APA doesn't like the project or the outcome of the test then they would change/modify the project or not even proceed with it. He stated that they take the information and guidance from the preliminary meeting with the APA and use it to finalize the design.

Henry Caldwell stated that he was concerned that the balloon simulation is not a true showing of what is going to be done to the site. He stated that there is a quite a bit of clearing that will be occurring with 10,000 sq. ft. and feels that it will look totally different from the simulation with the balloons. Daniel Schweigard disagreed that it would be totally different. The 10,000 sq. ft is the lease area that they negotiate with the land owner. The actual construction area is only about 50' x 75'. The balloon test is to see about the height of the tower and how much of the tower will be seen.

John Gaddy asked if the tower will be extending above the proposed branch line. Daniel Schweigard replied that it is an 80' monopole and the antenna will be mounted at a center line of 76'. The top of the antennas will be at 80 and they will screen the antenna area for each carrier. The tree height in this location is approximately 70'. He stated that both they and the APA are concerned with screening the straight lines associated with the antennas and pole. The pole itself will be painted an olive green and will blend in. John Gaddy asked if the facility at exit 23 was their tower. Daniel Schweigard replied no, it is Verizon's but it is similar to what they are proposing. John Gaddy stated that pole blends in perfectly and he would like to see the same. Daniel Schweigard stated that they are very similar in design. However, that site is considered a horizon site, which means it breaks the horizon and does not have a backdrop. Their proposal is for a tower that will have a backdrop which will assist in helping it blend in. He feels this is a better design and the APA has indicated the same.

Herb Koster asked about the clearing limits for the tower. Daniel Schweigard stated that there is an existing road that will require minimal clearing. They surveyed the trees in this area and they are showing a 100' x 100' leaf area and inside of that it shows the 50' x 75' compound. There was further discussion of the tree clearing.

Henry Caldwell asked if this would require major stormwater. Daniel Schweigard replied yes because the road makes it 15,000 sq. ft. He stated that they looked closely at the position of the tower and they have about 60-70' additional tree coverage between the site clearing limit and the edge of a reasonably steep ridge. Additionally, he stated that if they were to look at the size of the trees that they would be cutting are relatively small and would not contribute to the canopy in the cleared area. Henry Caldwell asked if the power will be underground. Daniel Schweigard replied yes.

Henry Caldwell asked if this had anything to do with the proposed ski resort in that area. Daniel Schweigard replied no, this is part of AT&T's build out plan. They are in competition with other service providers and want to be able to compete in the market.

Herb Koster asked why they have a long form SEQR. Pam Kenyon replied that it is required by the code because it is a cell tower.

John Gaddy asked Counsel Muller about their request for vacating approval of the Dixon Hill site. He stated that he understands that the applicant does not want that to happen but asked if there is a way to have that site return to the PB to possibly modify the original design to this type of standard which provides a nice camouflage. Counsel Muller stated that they do not have any retained jurisdiction on that approval. Daniel Schweigard stated that project never went before the APA so if they are to move forward with the Dixon Hill approval they will need to submit an application to the APA. John Gaddy feels that would take care of his concerns.

Counsel Muller advised that they hold a public hearing for the application. Henry Caldwell agreed stating that this is a fairly new concept in the Town. Herb Koster agreed and added that it would also be a good idea since a full environmental assessment would be probably be required. Counsel Muller stated that a public hearing is discretionary but certainly well advised.

## **RESOLUTION**

**Motion by** Henry Caldwell to declare the Bolton Planning Board as lead agency for application SPR09-32 and set a public hearing for the June 2010 Planning Board meeting. **Seconded by** John Gaddy. Chauncey Mason abstained. **All Others in Favor. Motion Carried.**

Daniel Schweigard indicated that in an effort to assist AT&T with their build out plan, they are working on a project in Hague.

**3) TOWN BOARD.** Seeks Planning Board input pertaining to required stormwater remediation on that parcel designated as Section 139.00, Block 2, Lot 92 owned by Rolf Ronning.

Herb Koster stated that this has to do with the old logging road that was disturbed by the property owner and the PB had indicated that they wanted him to remediate it. Rolf Ronning stated that he entered into an agreement with Counsel Muller which stated that it would be fixed this spring. However, since that time he has been working on a plan for a ski area on this property. He feels that the road has filled in and he has not seen any additional erosion. He stated that if the ski area gets approval there won't even be a road so it seems ridiculous to try and fix something that he didn't create in the first place and it is not going to be used. Additionally, it will involve more disturbance and be more costly.

Rolf Ronning stated that he went to the TB last month and requested that this be delayed so that he could work on plans for the ski resort. The TB agreed to delay it for a year with the condition that the PB agreed.

Herb Koster stated that he has not been up there this spring, but the last visit showed that there certainly was disturbance. Rolf Ronning explained that in 2007 he tried to improve the existing road so that they could get up there and market the lot. No work has been done on that road since 2007. Henry Caldwell stated that it all needs to be stabilized. Rolf Ronning stated that they seeded it over the fall. Henry Caldwell stated that he was up there the day before and found the road to be a mess; there is a lot of erosion. Rolf Ronning stated that there are a lot of erosion problems and that is what he tried to fix a few years ago. He stated that the run-off is not going into the stream but rather into the forest, which is what it was doing before he tried to fix it.

Sue Wilson stated that the PB concurred with Pam Kenyon's determination that a violation existed. She stated that the only options of this Board are 1) that they find that there is no violation or 2) Rolf Ronning would need to go before the ZBA to get relief from that. Counsel Muller stated that this is properly here before the Board. Since his idea to create the ski area, he feels that it is not necessary at this time because if the project goes through there will no longer be a road there. Counsel Muller stated that when Rolf Ronning was told he had a violation he had he was told to correct the violation by hiring a professional engineer to create a stormwater plan. Rolf Ronning at that time, had expressed that it would be a financial burden that he could not undertake, nor was it an appropriate time seasonally to do any correction. Therefore, they reached an agreement and their recommendation to Rolf Ronning was to use the Warren County Soil and Water Conservation expertise, which would be wise and much less costly. Rolf Ronning did get the advice of WC Soil and Water. However, as evidenced through the pictures of the site the work has not been completed. He stated that the TB gave consideration to Rolf Ronning's recent request and recommended allowing a one year delay to see where this ski area is going, conditioned upon the PB agreement.

Sue Wilson asked what a delay means for Rolf in terms of pursuing the ski area. Rolf Ronning stated that his next step would be to receive conceptual approval of the ski area as indicated on the next agenda item. He stated that the Saratoga Associates is present to provide such presentation. He stated that if the PB doesn't want a ski area there he is not going to get investors to invest in doing the engineering work. If conceptual approval does exist, he will do whatever they want him to do. However, he feels that it is ridiculous to fix this road any further. He stated that he has seeded this area and nothing is going into any streams. Herb Koster stated that there is obviously damage here and it has the tendency to wash out. Rolf Ronning stated that was the whole point of fixing the road a few years ago. Herb Koster stated that the problem is that he did this without anyone's permission. He stated that he of all people should know that he needed permission to do such work.

Rolf Ronning stated that when he came before the PB a year ago, the road was there, it looked washed out and he wanted to be able to drive on it, so he put some fill in there to be able to drive over it. Herb Koster stated that is called disturbance. Rolf Ronning stated that it seems to him that when someone's driveway washes out, they fix it and they don't see them having to get permits. Herb Koster stated that it was a logging road and if any logging was done he would have had to have gone to Pam Kenyon to re-establish it with Pam Kenyon. Rolf Ronning stated that there is an old road that goes up and over to Sky Farm Camp that goes on for miles and has been there for a long time. Herb Koster stated that theoretically, if he is claiming that he fixed the road, he didn't do it properly. Rolf Ronning agreed but stated that it was washed out before and

he does not feel that it is in any worse condition. His intention is that if there is a ski area the road will not be in existence anyway. He stated that it seems like an unnecessary financial burden that he cannot afford. He asked for a year delay in hopes of knowing more about the direction of the ski area and if at that point, the ski area is not going anywhere, before he sells the lot they could put the stipulation that the road has to be fixed the way he indicated in the original stipulation.

Sue Wilson stated that Dave Wick of WC Soil and Water indicated recommendations in his report. Rolf Ronning stated that his recommendations would have involved a considerable amount of work and money.

Don Roessler asked Pam Kenyon how much more damage has occurred since last year. Pam Kenyon replied that she is not sure if it is more or the same because she did not visit the site. Herb Koster stated that is not the point. The point is, they have had a couple of 500 year storms over the last 5 years and that could very easily happen again. If this gets worse than it is now, then the PB will hear about the even greater financial burden that this will involve.

Sue Wilson stated that in reading Dave Wick's conclusion it states, "The long term outlook of this roadway without improvements is concerning." Rolf Ronning stated that this will not be used as a road. Sue Wilson stated that he is not commenting on the use of the road, it is the rain and run-off on it. Rolf Ronning stated that after they received that report he purchased some fast growing grass seed which they can see is coming out. In another month that grass will be even taller and thicker. If he follows Dave Wick's recommendations he would have to take that all out because he wants him to raise and lower the roadway for better stormwater.

John Gaddy referred to Dave Wick's letter which indicates that the steepest sections of the road were created with a high uniform grade, it has no compactable material and no cohesion which make it susceptible to erosion. He also states that the turnout at the bottom of the driveway has no structural design, stable slopes, no compaction records or other design aspects which would be proper. Dave Wick indicates "In his professional opinion, the area has an exceedingly high probability of mass failure over relatively short time frame, taking anything on it down slope for 30-50 vertical feet. It carries a tremendous liability for not only the land owner but also the contractor who approved it or any organization who was party to its approval."

Rolf Ronning stated that this road was never a part of any approval process, it was already there. Herb Koster stated that was the whole point and now he has to fix it.

Counsel Muller advised the PB of their options. He stated that they can 1) take the TB recommendation and allow for the year delay, 2) not take the recommendation and make him fix the road or 3) another outcome to their liking. He stated that the decision lies solely with the PB.

Herb Koster stated that even if the PB was 100% behind the ski area, he does not see in any way that he would be approved in a year. He just sees this getting further and further delayed and if they were to get a rain storm they are going to have to deal with this massive failure.

Rolf Ronning further explained what he used to fill the road with and stated that no further damage could occur to this road. He stated that the run-off and erosion is just running into the

woods. Sue Wilson stated that WC Soil and Water do not agree. They know the situation up there and that is what the PB is concerned with. Rolf Ronning stated that the situation has been up there for over 100 years in worse condition.

John Gaddy referred to Dave Wick's report, item 4 turnout removal, "The turnout at the bottom of the road is both a safety and environmental hazard. All of the fill, brush and stumps should be removed and properly disposed of." Rolf Ronning stated that the fill he is referring to was when Kingsley was supposed to build this out 50' but he only built out 28' and now he is in litigation with him over this matter. John Gaddy stated that although he is in litigation with Kingsley, as developer he would be responsible for this. Rolf Ronning stated that if things go well with the ski area there will not be a road here anyway.

Counsel Muller stated that this discussion should include the fact that when Rolf Ronning was first in front of them for this violation, his role was to try and solve the problem. The Planning Office does not allow applicants to move forward with new applications if there is a pending violation on the property. He stated that in the effort to try and re-iterate the problem that is how they set Rolf Ronning up with Dave Wick. He stated that they handed Rolf a way to get a more affordable solution and he didn't deliver.

Rolf Ronning stated that the seed that he did put down should really be grown in a month. He asked the PB if they would allow a month to see if they would feel differently about the stabilization of the road. That way it would allow him to move forward on the ski area. Herb Koster asked if they should discuss the next item so that they can get a full picture. Counsel Muller asked Rolf Ronning if he would consent to that. Rolf Ronning replied no.

## **RESOLUTION**

**Motion by** John Gaddy that based upon Dave Wick of Warren County Soil and Water Conservation independent analysis of the project, the applicant is required to fix the items specified in Dave Wick's report of November 3, 2009. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

**4) SPR10-08 RONNING, ROLF.** Seeks Type I Site Plan Review for a ski center. Section 139.00, Block 2, Lot 92 & Section 123.00, Block 2, Lot 2, Zones RR10 & LC25. Property Location: 275 Hendricks Road and Lot 9 of West Wood Forest West. Subject to SEQR. Subject to APA approval.

Herb Koster stated although this item is in limbo due to the violation they would like to at least share the feeling of the Town on this item. He stated that they will not be providing a conceptual approval.

Herb Koster stated that he has nothing against the ski area, but Rolf Ronning has to provide engineering to show that this a feasible project. It has to be viable without destroying the environment.

Herb Koster stated that there are outstanding money due to the Town for previous engineering and from Warren County Soil and Water Conservation's review which will need to be addressed before they can move forward. Rolf Ronning stated that he offered a confession of judgment to the TB on that, but he was turned down. He stated that as soon as he can make some sales he will make good on this.

Rolf Ronning stated that he is asking for the opportunity to express the issues involved with a ski area application. He asked if he could have a conceptual approval of the ski area. Herb Koster stated that there will not be conceptual approval. All that he is willing to allow is to discuss their personal feelings about his project.

Rolf Ronning stated that the engineering to prove if this is a viable project will be extremely expensive. He stated that no one would be willing to invest if he can't have certain things. He stated that it must have night skiing, which some may find offensive. If there is a strong objection to that he needs to know because it will not be feasible without night skiing. It also won't be feasible if they cannot have summer use of the property. And the biggest concern would be the tremendous amount of clearing for wide safe trails. He stated that even with all of that engineering that would be done for the project he would be concerned that this project would not get off the ground due to the above concerns.

Herb Koster asked if any Board members wanted to provide their opinion. Counsel Muller stated that the risk of offering an opinion is that there is no fact finding here or anything to go by, so when they offer an opinion it is the case of being arbitrary and capricious. He would not recommend going down this path. Herb Koster stated that he does not want to go down the path of looking at the concept until other things are taken care of. Rolf Ronning stated that he is not asking that, he is asking if about basic concepts. He asked if night skiing and the tremendous clearing are problems for them.

Sue Wilson stated that she agreed with Herb Koster that she had nothing against the idea of the ski area but they cannot give any conceptual approval. Henry Caldwell stated that he did not have a problem with the idea. He feels that it would be a good thing for Bolton as long as it is done properly. Rolf Ronning asked John Gaddy what his thoughts were on night skiing. John Gaddy replied that he is not in favor of night skiing. Don Roessler stated that he agrees with Henry Caldwell. He feels that it will benefit the Town quite a bit as long as it is done properly. Chauncey Mason stated that given the history of the applicant, he is not sure how he feels. He stated that he does not have any problem with the general idea of a ski area, but it must be done properly. Sandi Aldrich stated that it seems they are all on the same page. She does not have any issue with the idea of a ski area. Rolf Ronning asked if she would be opposed to night skiing because that will be an important issue. Sandi Aldrich replied that she was not sure.

Counsel Muller advised the PB to make a resolution tabling the project with consideration of the issues at hand.

Rolf Ronning stated that he has already submitted a JIF form to the APA. Since this is virgin territory for the Town he asked if the Town would be the lead agency. Herb Koster stated that they do not concern themselves with the APA ordinance, this project will be reviewed, approved



or disapprove based upon Town ordinance alone. He stated that they will be the lead agency. Rolf Ronning asked if the Town was declaring themselves as lead agency. Counsel Muller stated that they cannot do that because he first has to pay \$6,750 to move forward with the project.

Rolf Ronning stated that the ordinance does not really give a clear picture or guidance for what is allowed for a ski area. He stated that they know what zones allow ski areas but they don't have any idea of what it is supposed to look like. Herb Koster asked if he thought they were capable of reviewing this application. Rolf Ronning replied that ski areas can take many shapes and sizes. He is concerned with what they will be reviewing in terms of the look of the ski area because none of it is discussed in the ordinance. Herb Koster stated that obviously that will be at their discretion. Counsel Muller stated that to a degree the ordinance has parameters, especially about stormwater and clear cutting. However, it will be up to the applicant to provide the best possible perspective of what constitutes a downhill ski area. He stated that there are no requirements or prohibitions in the ordinance that would limit the size of the area, parking area, etc. so it would be up to the applicant to provide the best possible plan. Henry Caldwell agreed and stated that the applicant needs to think about the best overall plan, because he keeps talking about having the facility open year round and he will need to plan accordingly. Herb Koster stated that when they reviewed the Adirondack Extreme, they had never reviewed such a plan before and he feels that it was very successful for both the applicant and Town. The Board agreed.

**Motion by Sue Wilson to table application SPR10-08 until the applicant can comply with curing the violation on the project site and pays the service fees he owes the Town Engineer and Warren County Soil and Water Conservation in the amount of \$7,260. Seconded by Henry Caldwell. All in Favor. Motion Carried.**

The meeting was adjourned at 7:30pm

Minutes respectfully submitted by Kristen MacEwan.