

**Town of Bolton
PLANNING BOARD
MINUTES**

**Thursday July 21, 2011
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- Donald Roessler, John Gaddy, Chauncey Mason, Sandi Aldrich, Sue Wilson, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent- Herb Koster, Henry Caldwell

The meeting was called to order at 6:00 pm.

John Gaddy acted as Chairman for the meeting. He announced that item #3 SPR11-14 Simonsen has been tabled for this evening. He indicated that since they were short 2 members applicant may choose to postpone their application at any time during their presentation in anticipation of a future meeting when more members are present.

John Gaddy asked if there were any corrections to the June 16, 2011 minutes.

RESOLUTION

Motion by Don Roessler to accept the June 16, 2011 minutes as written. Seconded by Sue Wilson. Sandi Aldrich abstained. All Others in Favor. Motion Carried.

1) SPR11-11, HUCK, MICHAEL & MICHELLE. Represented by Eugene Baker. Seek Type II Site Plan Review for an indoor boat maintenance facility. Section 171.06, Block 1, lot 13, Zone RL3. Property Location: 180 Finkle Road. Subject to WCPB review. Subject to SEQR.

Don Roessler asked if there would be any boat storage in the building. Mike Huck replied no just maintenance. Don Roessler asked what type of boats would be worked on. Mike Huck replied just wooden boats. He asked if he would be working on the wooden portion, mechanical portion or boat. Mike Huck replied both but it would be minor mechanical work. John Gaddy asked if there will be any fuel storage or oil changes. Mike Huck replied no.

Sandi Aldrich asked if this was an accessory use. Pam Kenyon replied no because the use is allowed in this zone, it is considered a primary use. Eventually if they decide to build a house then the primary use would switch to single family dwelling, and boat maintenance would become accessory to the single family dwelling. Mike Muller agreed.

John Gaddy asked if they have spoken to all of the neighbors. Mike Huck replied yes and they have no issues.

Sandi Aldrich asked if the building would be screened from the road. Gene Baker replied yes.

John Gaddy asked if there was any issues with septic systems in this area. Gene Baker replied that he does not see there being any problem with it, but they have not done any test pits. He stated that when the system is done it will be engineered.

Chauncey Mason asked if there will be a second door on the back of the facility. Gene Baker replied they had not planned for it but they could allow for a second egress.

Pam Kenyon asked if they were going to have an oil separator for the building. Gene Baker stated that they are waiting to see what Warren County is going to require.

Pam Kenyon indicated that there was no quorum for WC PB.

RESOLUTION

Motion by Don Roessler to accept SPR11-11 as complete, waive a public hearing, having met the criteria set forth in the code, grant final approval of the project as presented with the following condition: 1) that the applicant adds a second door on the back of the structure as another means of egress. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by Sandi Aldrich. All in Favor. Motion Carried.**

2) SPR11-13 CANTRELL, ELLEN. Seeks Type II Site Plan Review for an agricultural use to house 4 miniature horses. Section 186.00, Block 1, Lot 41, Zone RL3. Property Location: 32 Brookside Parkway. Subject to SEQR.

Ellen Cantrell stated that she just bought this house a few months ago. She has 2 horses, one miniature and one regular size horse that have been in Warrensburg for 3 years. She and her daughter would like to bring their miniature up on the property and possibly purchase another miniature. She will not bring her larger horse because she is more of a jockeying horse that is better suited in an arena setting. She stated that she has had horses since she was in college. Her last house had 5 acres with 2 pastures and a 5 horse barn.

Ellen Cantrell provided her plan for 2 pastures. One will be a grassy pasture and the other will be brush and dirt and will be fenced off. She provided some information on miniature horses which typically require 8' x 8' cells. However she understands that the Town requires 12' x 12' cells for horses, but she provided the information in case the Board felt it necessary to change that. She stated that in the proposed barn they would be 8' x 10' stalls with a 4' aisle.

John Gaddy asked if they can grant relief from the 12' x 12' cell requirement. Counsel Muller asked where the standards came from. Ellen Cantrell stated that she got the information from a horse barn website. Counsel Muller stated that it is only the manufacturer's recommendation. Ellen Cantrell stated that it is pretty standard since they do not need as much room as a regular horse. Pam Kenyon stated that the 12' x 12' cell requirement comes directly from their code. Counsel Muller stated that it would require relief from ZBA if she really wanted to have them smaller. Ellen Cantrell stated that she does not have a problem with the 12' x 12' stalls but that will increase the overall size of her structure.

John Gaddy asked about the storage of manure. Ellen Cantrell replied that she treats it as garbage and would have it removed weekly from the property which she would prefer. Ellen Cantrell stated that she will remove the larger shavings but the smaller she will put it a compost pile.

Don Roessler asked if the neighbors had any concerns. Ellen Cantrell replied that she is surrounded by the Kincaids and neither had any problems with it. Don Roessler asked if they were looking for a total of 4 horses. Ellen Cantrell replied that she would like to be prepared for that. She really only wants 2 for now, but in the future they may add 1 or 2 more if the Board will allow it.

Don Roessler asked if there would be any lighting. Ellen Cantrell stated that it will be downward facing for the exterior. Don Roessler asked if they will have any lighting in the barn. Ellen Cantrell replied yes especially since it gets dark so early in the winter.

Sue Wilson asked if this required a special use permit in this zone. Pam Kenyon replied no it just needed site plan review.

Sandi Aldrich stated that if the applicant is only planning the barn structure for 2 then maybe they should only grant approval for 2 because she does not have the ability to house 4 horses. The applicant can always come back if she chooses to add more.

Sandi Aldrich asked if there was any conflict with the HOA. Ellen Cantrell stated that the only thing that she is bound by in an easement with National Grid and shared responsibility with the road maintenance. This lot was not officially considered a part of the HOA since it was in existence prior to the subdivision.

RESOLUTION

Motion by Don Roessler to accept SPR11-13 as complete, waive a public hearing, having met the criteria set forth in the code, grant final approval of the project as presented with the following conditions: 1) any exterior lighting is to be downward facing and shielded, 2) a maximum of 2 horses will be permitted, if the applicant wishes for additional horses they

would need to have Site Plan Review for additional barn storage, 3) 12' x 12' stalls will be required as per code and 4) manure disposal is treated per applicant's proposal of weekly removal. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by Sandi Aldrich. All in Favor. Motion Carried.**

3)SPR11-14 SIMONSON, RICHARD & VIVIAN. Represented by Atty. Melissa Lescault. Seek Type II Site Plan Review to construct a single family dwelling in the LC45 zone. Section 186.18, Block 1, Lot 31, **Zone LC45 & RCH5000.** Property Location: Shallow Beach Road. Subject to WCPB review. Subject to SEQR.

Note: This item was tabled at the applicant's request.

4) SD06-03 & SPR10-05 MJ REAL ESTATE HOLDINGS, LLC. Represented by Atty. Bruce Lipinski. To discuss condition #6 set forth by the Planning Board on April 22, 2010 when approving the MJ Real Estate Holdings Subdivision. Specifically, the condition reads as follows: No work is to commence until all approvals are final and received by the Planning Office, including approval of the HOA declaration from the Attorney General's Office. Section 123.00, Block 2, Lot 57.1, Zones RL3 & LC45. Property Location: New Vermont Road.

Stephanie Bitter stated that Lot 1 of this 7 lot subdivision has frontage on New Vermont Road and has a driveway to access off New Vermont Road. Although they understand that condition #6 requires that no construction occurs prior to approval of the HOA, lot 1 will not be part of the HOA because it will not be sharing any of the roadway or storm water systems proposed for this subdivision. It will be subject to the restrictive covenants but will not be part of the HOA. Given that, the applicant is requesting to have an amendment to that condition so that the applicant can move forward and market and sell lot 1.

John Gaddy stated that he understands that Counsel Muller has advised that this lot can be looked at as a separate lot. Counsel Muller stated that depends on the Board's comfort level. He stated that they have independent lot access and will not be affected by the shared roadway or storm water. He stated that this allows them to use their discretion. John Gaddy stated that he understands that this parcel will not benefit from any storm water but asked if it will be used for any storm water treatment for any of the other lots. Stephanie Bitter replied no.

Don Roessler asked if the map filed at Warren County specifies that Lot 1 is not part of the HOA because that would be his biggest concern. Stephanie Bitter stated that they could file a new mylar and make sure to note that Lot 1 is not part of the HOA. Counsel Muller agreed that would need to be done.

John Gaddy asked if the HOA agreement been applied for with the State. Stephanie Bitter replied that it is in the works but it has not been completed. Typically it takes a little over 6

months to gain approval.

Pam Kenyon stated her concern was that Rolf Ronning wanted to do this for Saddlebrook and the PB decided that they wanted him to come back with a new application.

Sue Wilson stated that she was concerned because the original approval was granted after a public hearing. Counsel Muller stated that if they felt that would be the appropriate thing to do they could require another public hearing. However this is a minor and technical change. Sandi Aldrich stated that this will not impact any of the neighbors.

John Gaddy asked the Board members if they felt this property could stand alone. Sue Wilson stated that the only reason she is suggesting a public hearing from a procedural standpoint. Don Roessler stated that he gets the feeling that this lot is not part of the subdivision and they could break it off. None of the other lots have been sold which he feels would trigger the need to have a public hearing.

John Gaddy stated that they have been through this and he feels that this is a separate lot and doesn't mind breaking it off. As for the public hearing he agrees with Sue Wilson that procedurally it makes sense but he does not feel that there would be any public input.

Chris Navitsky, Lake George Waterkeeper asked if there is site plan review for the individual lots. John Gaddy replied yes it was included in condition #5. Stephanie Bitter stated that they ran this amendment through the APA and they did not have any concerns. John Gaddy asked if this went to the County. Pam Kenyon replied no it did not have to go to the County, because it was a condition of approval.

RESOLUTION

Motion by Don Roessler to amend SD06-03 and SPR10-05 specifically, condition #6 to read that Lot 1 is not to be included for the reasons that it does not have any ties with stormwater or use of main driveway. This amended condition will be on a new map and is to be filed in the Warren County Clerk's office. The Board waived a public hearing on this matter. **Seconded by Chauncey Mason. All in Favor. Motion Carried.**

John Gaddy stated that he was interested in getting a report from Counsel Muller regarding the recommendations that they passed along to the TB for the Sagbolt application. He stated that it seems that their recommendations did not meet with fertile ground. With regard to plumbing, Counsel Muller replied that the TB seemed to very satisfied that there is ample water supply. There was a lively discussion and debate over conserving water and the water that is used. In the end they decided to only require the low flow fixtures in the new facilities and left the option open for the developer to change out when they make additional upgrades or as they see

fit.

With regard to the lighting, Counsel Muller stated that the TB was pleased with downward shielded lighting that the developer has been using throughout the property. However they were not capable of specifically addressing the lights on the bridge. Sue Wilson stated that it seemed that the consensus was that the PB was trying to bring something to the table that doesn't pertain to the application.

Counsel Muller stated that they may have the option to revisit this application because the Town has been issued an Article 78. Pam Kenyon stated that it is all based upon the procedure. Counsel Muller stated that he would like to discuss their SEQRA process. He stated that they are very serious about analysis however he does feel that procedurally they may be lacking at times. He stated that most SEQRA applications are not controversial. However there is a body of case law that contrue SEQRA to say that there should be a formal designation of lead agency. He stated that sometimes what is lacking is that there is a lack of articulation of the SEQRA process. He feels that they should get into the habit of articulating these findings of fact in order to make their negative declaration. John Gaddy stated that this would be similar to what they have done with storm water. Counsel Muller replied yes.

Counsel Muller stated that they could say something to the effect that there are no problems and they have analyzed the self assessment form and they find these issues are not important, don't exist or have been properly mitigated.

Counsel Muller explained that the Article 78 seems to say that the SEQRA process was segmented and not a coordinated review. They are stating that the SEQRA form supplied to the ZBA was different from the one submitted to the PB and that was different from what was submitted to the TB. Pam Kenyon stated that they were different. Counsel Muller stated that they are waiting to see what Sagbolt would like to do since they have a higher stake in this. He stated they may decide to come back and let the Town state that they are the lead agency.

Counsel Muller suggested declaring themselves as lead agent for SEQRA process. Don Roessler asked if that should be done at the beginning of the proposal. Counsel Muller replied yes. He suggested that they do it by resolution, to propose that the PB give consideration to declare itself lead agency on the SEQRA. Sue Wilson asked if this should be done on all projects that require SEQRA. Counsel Muller replied yes. This would allow the appropriate platform to begin hearing the application.

John Gaddy asked if the TB would understand if declare themselves as lead agent. Counsel Muller replied yes because they rely heavily on the experience of the PB.

The meeting was adjourned at 6:50pm