

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday August 16, 2012
6:00 p.m.**

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPS = Warren County Planning Staff
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Department of Environmental Conservation

Present- Herb Koster, Henry Caldwell, John Gaddy, Kirk VanAuken, Sandi Aldrich, Gena Lindyburg, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent- Don Roessler and Chauncey Mason

The meeting was called to order at 6:07 pm.

Herb Koster asked if there were any changes or corrections to the July 19, 2012 minutes.

RESOLUTION

Motion by Sandi Aldrich to approve the July 19, 2012 minutes as written. **Seconded by** Gena Lindyberg. Henry Caldwell abstained. **All Others in Favor. Motion Carried.**

1. SPR12-20 SOMMER, WARREN & DOROTHEA. Represented by Thomas Sargent. Seek Type II Site Plan Review to timber harvest an area greater than one acre on one parcel. Specifically, 32 acres is proposed in the RL3 zone. Section 140.00, Block 1, Lot 10, Zones RL3 & LC25. Property Location: County Route 11 between Federal Hill Road and New Vermont Road. Subject to WCPS review. Subject to SEQR.

Tom Sargent, Forester with F & W Forestry, stated that the applicants contacted him for a timber sale. He has identified 32 acres within the RL3 zone. This area has pretty sandy soils so it will have minimal amount of damage or run off due to topography and lack of streams. Additionally, he will be taking another 40 acres in LC25 in the rear of the property that was not harvested the last time. There are no threatened or endangered species that are present in these areas.

Tom Sargent stated that he met with Dean Moore at the WC Soil and Water Conservation who indicated that he didn't have any concerns about it. From what he had seen at the time, it was wet but they could be repaired with water bars or straw.

Henry Caldwell asked if the header will be off County Route 11. Tom Sargent replied yes it is an existing woods road with a shoulder entrance that will need to be re-opened.

Tom Sargent stated that he will put the job out to bid but will be overseeing the project. He will be there once a week to make sure that things get done. Henry Caldwell asked when they plan to do the work. Tom Sargent replied that he will not be limited to what time of year they can harvest considering the topography of the ground. He is hoping to help his client out, so if it is a good time of year on sandy soil to get a little better price for the wood he will harvest it.

RESOLUTIONS

Motion by John Gaddy to declare the PB as lead agency for SPR12-20. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR12-20 as complete, waive a public hearing, and having met the criteria set forth in the code, grant final approval of the project as presented with the following condition: 1) that the appropriate measures for logging are taken with regard to times when the ground isn't frozen to help minimize erosion and impact on the stormwater. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

2. SPR12-21 PERA, LINDA. Represented by Barry Kincaid. Seeks Type II Site Plan Review to discuss the proposed restoration of the lake view. Section 171.10, Block 1, Lot 2, Zone RL3. Property Location: 64 Skyline Drive. Subject to SEQ. R.

Barry Kincaid stated that the applicant is seeking to re-establish the view that the applicant had in 1996. He provided pictures to show the view from then and now. He stated that they have lost the view that they had.

John Gaddy stated that he was never happy with the way the clearing was done up there. However he does like Barry's work and stated that if he can enhance the view as well as develop a plan that leads to a filtered view he would be happy. Barry Kincaid stated that this is tough to re-create. He stated that they may be able to leave a few pine tops in the view. However based on the steepness and the width that he is working with it is difficult. He understands what the Board is looking for.

Sandy Aldrich asked how much property is in front of the house. Barry Kincaid replied that they own all the way to the Association road; so there is significant property in front of the house. However the slopes are steep, additionally he believes the septic system is located in front of the house which is another issue. They have plenty of room to do what they want but it is hard to reconstruct the view and create a filtered view because there are no trees close enough to the house. He stated that he is not looking to clear cut but there are some significant trees that will need to be removed or lowered.

Gena Lindyberg asked about the slope on the lot. Barry Kincaid replied that it is approximately 20%. He stated that there are not a lot of canopy trees close to the house.

Herb Koster stated that Barry Kincaid knows what they are looking for. He asked if he could start at the bottom of the lot and work their way up. That way they can review what they truly need to cut. Barry Kincaid stated that wouldn't be a problem for him.

John Gaddy asked how many days it would take to do the work. Barry Kincaid replied that it may be approximately a week to a week and a half. John Gaddy stated that he agreed with Herb Koster's suggestion to start at the bottom. Barry Kincaid stated that he will try to leave some trees to develop a filter.

Sandi Aldrich asked if there was a HOA. Barry Kincaid replied yes but there are no regulations or restrictions. Gena Lindyberg asked if there were any deed restrictions. Barry Kincaid replied no.

RESOLUTION:

Motion by John Gaddy to grant approval of SPR12-21 which will allow for selective clearing and development of the future vegetative screening process. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

3. SPR12-22 DEMATTIES, JOSEPH & BETTY. Represented by Christian Gearwar. Seek Type II Site Plan Review to timber harvest an area greater than one acre on one parcel. Specifically, 15.1 acres is proposed. Section 185.00, Block 3, Lot 55, Zone RL3. Property Location: Lamb Hill Road. Subject to WCPS review. Subject to SEQR.

Joe Dematties, retired Senior Forester from the Northville DEC office stated that he is seeking to timber harvest part of his land.

Henry Caldwell asked when he plans to do the harvesting. Joe Dematties replied that he was hoping to do this year but due to the loss of timber on the front he was unable to. The winter storms really leveled his pine timber. Pine isn't really bringing in anything but a lot of salvage and wants to salvage it while he can. There are a few trees next Johnson's that he wants to retract as well.

Joe Dematties stated that the WC Soil and Water is ok with the plan. This is a gentle slope except for the very top western edge; none of it is above 20%.

RESOLUTIONS

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR12-22. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR12-22 as complete, waive a public hearing, and having met the criteria set forth in the code, grant final approval of the project as presented the following condition: 1) that the applicant follow the best management processes of the harvesting as presented in the application from Chris Gearwar of Lake George Forestry, LLC. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

4. SPR12-23 GRAMEGNA, JOHN. Seeks Type II Site Plan Review to create an impervious parking area along the south side of the property. Section 213.17, Block 1, Lot 9, Zone, RCM1.3. Property Location: 3841 Lake Shore Drive known as Somewhere in Time Bed & Breakfast. Subject to WCPS review. Subject to SEQR.

John Gaddy stated that they have received quite a bit of correspondence since the

applicant was last here. Looking at the impervious parking area along the south side of the right-of-way he is not in favor of this move. The original presentation showed that there was going to be parking there but there would be a buffer between him and the south neighbor. He noticed that the trees have been trimmed to facilitate parking there but with the way that section drains off into the drains at the base of the road and down into the lake he is concerned with creating more impervious area.

John Gramegna stated that this was an impervious surface for a long period of time; it used to be the entrance to Somewhere in Time. When he received the permit for parking on that side of the road he indicated that if he were to ever do anything more to it, such as paving, he would return to the PB. He doesn't think he will be making an impervious surface with using 2" trap rock.

John Gramegna stated that there is a stormwater run-off problem from the Diamond Ridge Association above. He went to the Town to try and address it to come to a resolution and the engineer decided that although it was not built per the stormwater plan, it was not creating a problem for him on lot 1. Since then, everyone has learned that there is a holding pond on his property. Additionally, six years ago the Association went in and dug a trench on the property line between him and his neighbor on the south side, which is causing this area to be wet now.

John Gramegna stated that a letter has been sent that indicates that the stormwater was over engineered, but what it fails to say is that the HOA dug a pond and 2 trenches on his property. He stated that in lieu of that he needs to park his cars here now and it is mushy. He stated that his trailer had to sit there for 6 months because it was buried in the mud. He is in need of putting this stone down to be able to utilize the space for parking for his service vendors.

John Gramegna stated the HOA has tried to deter the proposal by saying that he did not have ingress or egress to this portion of the property due to the HOA stormwater trench. He had to table his events because he needed to get the engineer to look at the stormwater and see what could be done to access the area. The engineer indicated that it would be okay to put 3" trap rock in the trench to be able to drive over it. However now the rest of the area is wet from the run-off from the HOA road run-off. He feels that he should not have to continue to pay the price for stormwater being done incorrectly.

John Gramegna stated that the emails and letters that the Board have received are preposterous. One individual turned his words around to seem like he was the bad guy.

John Gramegna stated that 2" trap rock will not make an impervious surface. He has to be able to park cars on that piece of the property in order to continue to do his business. He stated that the other homeowners are trying to bankrupt him and make it difficult for him to do business here. He stated that he has been successful. He has invited them up to his home so that they could work something out.

John Gramegna stated that the entrance to Diamond Ridge Road was a disgrace. He has

beautified his property and made his side of the road nice. He has tried to trim and clean up the other side so that when they come up they could see that he is willing to make this an entrance that Diamond Ridge Association is proud of. He stated that he was not aware that these same individuals were at the Supervisor's office speaking ill of him behind his back.

John Gaddy asked if they put rock on top of this would it be impervious. Herb Koster replied that he thought that it was not considered impervious unless it was small stone with dust mixed with it. Pam Kenyon stated that according to Tom Nace it would be considered impervious. John Gaddy stated that based upon Tom Nace's determination he does not want to increase the impervious area.

Herb Koster asked if Tom Nace stated that the stormwater was not done correctly. Counsel Muller replied yes Tom Nace indicated that it was not done properly. He also indicated that there was no virtue in correcting it; it will not perform the way that Mr. Gramegna would like it to perform if it got re-done exactly as drawn. Counsel Muller stated that he got involved because the Planning Office asked if they should prosecute or enforce. He indicated no because it will not result in any net change, but more importantly the record seemed to indicate that when the Diamond Ridge stormwater plan was implemented, someone came back to this Board and said we are all set and the Board approved it, followed by the signature of the engineer that designed it saying it looks exactly as it is supposed to look. Now it is 9-10 years later and they don't have something that they can enforce.

John Gramegna stated that they put these devices on this property without anyone's consent. If they are going to continue to go through this he wants it filled in to have his land protected. Gena Lindyberg asked if they were in when he bought the property. John Gramegna replied yes, but it doesn't make it right. He stated that it will probably become a civil matter that will need to be settled. In the meantime he is seeking to have this permit granted so that he can continue to operate his business. He feels that he should be allowed to do this. The water runs off this area as it is, so the area is already not absorbing the water as they hoped. He stated that he has already installed rain gardens elsewhere on the property and would be willing to do the same here as well. With regard to the southern neighbor, John Gramegna indicated that the last time he was willing to work with the neighbor to protect his property from headlights and noise by planting a buffer or installing a fence and he is still willing to do that.

Herb Koster stated that there are a lot of different issues. One issue he has is that he passed by during an event and saw that the entire circular drive was completely filled with cars. John Gramegna stated that it doesn't happen very often. Herb Koster stated that he is concerned with this because the approval had a condition about not blocking the driveway so that EMS could get through. John Gramegna stated that it has nothing to do with what he is asking for tonight. Herb Koster stated that it is related because he told the PB that he would had adequate room to put these vehicles in parking spaces and still leave for emergency vehicles. John Gramegna stated that he does but he cannot be a policeman of parking.

Kirk VanAuken stated that he remembers the parking and parking arrangement as well. He stated that at the time the applicant agreed that he had enough parking shown on the grass and the Engineer agreed. Kirk VanAuken asked if the applicant has had any issues with parking on the grass area. John Gramegna stated that he is trying to do a lot line adjustment with lot 1, which he recently purchased. Kirk VanAuken stated that he thought that when they approved the plan that the applicant was willing to work with what was there and now he is asking to change it again because it is not working out the way he planned. John Gramegna stated that he thought he left the door open about changing the surface of the parking area on the south side.

Herb Koster stated that there are a lot of issues. One of them is a buyer beware issue with regard to the stormwater. The applicant admitted that the pond and trenches were on the property when he purchased.

Counsel Muller stated that there are a lot of details that you don't have in order to make a decision. He asked what the Board would like from the applicant. Herb Koster stated that he would like to hold a public hearing because it would be the fairest way to handle this.

RESOLUTION

Motion by Henry Caldwell to hold a public hearing on SPR12-23 at the September 20, 2012 Planning Board meeting at 6:00 pm. **Seconded by John Gaddy. All in Favor. Motion Carried.**

5. SD12-02 GADDY, JOHN & DEBORAH. Seek to divide into two lots that parcel designated as Section 123.00, Block 2, Lot 65, Zone RL3. Minor Subdivision. Sketch Plan Review. Property Location: 346 New Vermont Road. Subject to SEQ. R.

Note: John Gaddy recused himself.

John Gaddy stated that as his father is aging he realizes that he doesn't want any more property than he wants to pay taxes on. His father wants to keep a lot around his house and sell the remaining acreage. John Gaddy stated that he and his wife are going to purchase the additional lot because it adjoins with their property to the south and across the street. The wetlands are outlined on the plan and he has sent a jurisdictional inquiry form to the APA but has not heard anything back. The plan proposes a 2.21 acres in 3 acre zoning which his father will retain and the other lot will be the remaining 22.68 acres. Although there is plenty of land he wanted to be sure that the house that he lives in would have control of the trees to the south because they have a filtered view of Buck Mountain.

John Gaddy stated there will be no change to the lots physically other than lines on the map; there are no additional buildings, development or lights. Herb Koster asked if the lots will be merged. John Gaddy replied no that was not the intent.

RESOLUTION

Motion by Henry Caldwell to declare the Bolton PB as lead agency for SD12-02.

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

Motion by Henry Caldwell to accept SD12-02 as complete, waive a public hearing, and having met the criteria set forth in the code, to approve the sketch plan convert to final plat and grant final approval of the project as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented.. **Seconded by** Gena Lindyberg. John Gaddy recused himself. **All Others in Favor. Motion Carried.**

Herb Koster stated that he understands that the TB is contemplating joining up with Lake George regarding seeking to be lead agency on boathouses. Counsel Muller replied that it is his understanding that the TB is interested in sponsoring the same resolution in support of a piece of legislation that the State could enact which would allow municipalities to regulate boathouses.

Counsel Muller stated that currently Bolton does not have jurisdiction on the lake side of the mean high water mark. He stated that the decision that was handed down from Judge Krogmann was well based. However they are going to deal with boathouses that start on land. Pam Kenyon stated that they are also going to be dealing with requests for boathouses on vacant land. Without jurisdiction these types of requests could be approved which goes against Town code.

Henry Caldwell asked if riparian rights change in the winter. Counsel Muller stated that riparian rights extend out into the lake at all times; they are reasonable rights as far as you can reasonably use it. He stated that they must not get riparian rights mixed up with the boundaries that are the delineations set by the State.

Herb Koster stated that he would like to make a recommendation to the TB with regard to this matter.

RESOLUTION

Motion by Sandi Aldrich to move that the Bolton Planning Board supports legislation that will allow local Town jurisdiction on boathouses and docks. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

The meeting was adjourned at 7:06pm.

Minutes respectfully submitted by Kristen MacEwan.