

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday February 21, 2013
6:00 p.m.**

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

Present- Herb Koster, Henry Caldwell, Donald Roessler, Chauncey Mason, Kirk VanAuken, Sandi Aldrich, Gena Lindyburg, Counsel Michael Muller and Zoning Administrator Pamela Kenyon

Absent- John Gaddy

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

PUBLIC HEARING

1. SPR12-32 GRAMEGNA, JOHN. Seeks Type II Site Plan Review to amend SPR11-28 approved on May 17, 2012 for large gatherings/events for up to 125 people. Specifically to revise the parking plan. 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. *Note: This item was tabled at the January 2013 meeting pending a public hearing.*

Bob McNally introduced the project. He reminded the Board of the requests being heard tonight. The applicant is already approved for a bed and breakfast and events. The project is only before the Board because the business was more successful than anticipated and had some issues and concerns that arose during the first year of operation. The applicant is seeking to address these issues tonight and is here on a voluntary basis to amend his site plan review to alleviate the parking and noise problems. Bob McNally stated that the applicant was here to present solutions.

Curt Dybas provided details and information that the PB requested. A complete stormwater plan, completed by Tom Hutchins has been submitted. Also as requested, they have submitted information about the permeable parking surface that will be used on the other side of Diamond Ridge Road. In developing the plan a couple of parking spaces were moved. With regard to the concern about ingress and egress of emergency vehicles, Curt Dybas stated that they eliminated the parking spot that was concerning. With the reconfiguration there are 44 parking spaces and 42 are required. They only have one area that will not be as easily accessible by the garage but that will be used by staff for parking since they will be there for the entirety of the events.

Curt Dybas stated that they have provided details regarding the septic systems. He indicated that they have been pumped and maintained regularly but they are not sure of the exact location of the septic fields for the system servicing the main structure.

Curt Dybas stated that the applicant has hired a property manager and assistant manager to assist with the concerns from last summer. The manager will be living on Long View

Lane prior to the start of the season.

Herb Koster stated that he understands there are a lot of public in attendance that would like to speak. The Board has also received a lot of letters that have been submitted with regard to this proposal. He asked the public to keep their comments to 3 minutes to be fair to everyone that would like to speak. He stated that all letters will be part of the record but all are welcome to speak as well.

Alex Jeyschune, President of the HOA, stated that he has 12 pages of comments that he would like to share with the Board. He provided the written comments to the Board. In the course of the last year they have found that the applicant's permit was laden with numerous omissions and significant material misrepresentations. Additionally, they have had the benefit of seeing a year of operation.

Alex Jeyschune stated that the applicant was encroaching on lot 1 of the Diamond Ridge Subdivision for parking during site plan review process and before he even purchased the property from Richard and Carol Green. This encroachment occurred between February and middle of March 2012. He purchased the lot on 3/22 the same day that he had a public hearing on his application. He stated that Mr. Green came up to see his property as he does every year and found the encroachment, he had planned to contest the applicants application but instead the applicant settled with Mr. Green and the purchase went through. The applicant never amended his plans to reflect the parking on Lot 1. The encroachment is on record by survey with local officials. The applicant also failed to tell the PB that parking on Diamond Ridge Road was part of this operational plans, which he indicates on his internet listings for his business. By encroaching into lot 1 and using Diamond Ridge Road, the applicant knew that his facility could not support an event for 125 people. However his job was just to convince the Board. Alex Jeyschune read some excerpts from the 3 internet advertising listings for Somewhere in Time, which states: "Guests should use on street parking for more than 50 cars." and "Side road makes plenty of parking."

Alex Jeyschune stated that the material misrepresentations are that the encroachment on lot 1 and the public invitation to park on Diamond Ridge Road were never mentioned or documented in the application or discussed with this Board. The applicant also failed to indicate that any activity occurring on Lot 1 was governed by the bylaws and covenants of the DRHA and its Board. The applicant answered no to the question about requiring approval from other Boards. Alex Jeyschune stated that he is not blaming the Board for their approval because he feels the PB was just as deceived as they were by the applicant. The applicant continues to disregard the DRHA Board with regard to lot 1. He knows that the PB would not approve any development on lots within the Diamond Ridge Estates without first having approval or review from the DRHA Board.

Alex Jeyschune stated that the previous plan only allocated 1 parking space for support staff, creating the illusion that there was adequate parking for the B & B. He does not see how you can have a 7 room B & B and a venue for 125 people with only 1 support staff. There was also no allocation for the 2 handicap spaces that are mandated by the

ADA. All of these actions indicate that the applicant knew all along that his facility could not accommodate his expanding events and yet used material misrepresentations and omissions to receive approval from this Board.

Alex Jeyschune stated that approval of this plan resulted in unfortunate acts of trespass on Diamond Ridge Road and created noise issues. Contractors parked their equipment on Diamond Ridge Road even with the no parking signs and caused damage to the roadway surface. In an attempt to stop this trespassing the DRHA issued a cease and desist letter dated 5/11/12 to the applicant who treated it with total disregard.

In the opinion of the DRHA Board and Jeff Tennent, the applicant made substantive and unauthorized changes to the DR stormwater management facilities in the process of this encroachment into lot 1. In the course of last season the applicant acted repeatedly in defiance of the noise ordinance and restrictions. His events also resulted in litter along Diamond Ridge Road. Mr. Gramegna severely abused the special sound permit graciously issued to him for his Labor Day 2012 event. The applicant also refused to obey an order from the Code Enforcement Officer on April 25, 2012 to restore the area of encroachment on lot 1 to its nature condition. The applicant ignored this order for the summer season so he could continue to use it for parking for his facility.

The applicant originally submitted his plan December 2011. During the course of review in March and early April the DRHA Board complained to ZA Pam Kenyon about the encroachment on Lot 1. On April 25, Jane Bozone, John Gramegna, Pam Kenyon, Chris Navitsky and Tom Nace met on the site and found that parking was occurring on Lot 1. However at the May meeting it was approved and none of this information was even discussed.

Alex Jeyschune stated that there are violations with the ADA. If you are serving the public and have less than 50 parking spaces you must have 2 handicap accessible spots and one of those spots is supposed to be big enough for a handicap van. Both of the applicant's spots are for cars and are undersized. In order to be in compliance, the applicant would need 3 spots, 1 for a car and 2 spaces to accommodate a van. Alex Jeyschune stated that he is ready to file this with the Justice Department at any time.

Alex Jeyschune stated that there is proof of violations of sound permits, trespassing, etc. There were numerous calls to the Bolton Police Department, Warren County Sheriff's Department and NYS Police for violations due to direct operation of the B & B.

Alex Jeyschune stated that the applicant's actions last year resulted in many letters of complaints and information supporting their claims to local authorities. In spite of all of these issues the applicant continues to claim in his applications that his operation is in harmony with the local neighborhood and environment. There are complaints and proof of violations that have been ongoing on this property and asked the Board if this is something that they want to continue to support.

Alex Jeyschune stated that in reading through the minutes from several years ago, there

was a Bolton resident that was making some modifications to his house and putting in a new dormer. There were tons of minutes about how egregious this was and the Board forced the applicant to change the window out. Herb Koster stated that is a misrepresentation, there was a plan for the building that was approved and the builder decided to change the plan without authorization of this Board. Alex Jeyschune stated that his point is, if they can be so granular to look at a window how they could turn a blind eye all summer long.

With regard to the January 2013 PB minutes, as they pertain to the applicants conduct of operation. In paragraph 2 there is some reference to “some issues on the original submission”. As they have previously established to this Board and the Town, these are material misrepresentations, not issues. Again in paragraph 2 it states that the applicant relied on “an old survey map to create the proposal”. He stated that all the applicant would have to do is to verify with his deed to know where the property line was or to look at the maps on file with the DR subdivision map for boundary lines and property descriptions. Paragraph 2 also indicates that the applicant had the property re-surveyed and based the parking on that. However in looking at parking plans a and b, clearly suggests that a lot line adjustment has been approved between his establishment and Lot 1.

Alex Jeyschune stated that the applicant is aware that the boundary line cuts through the concrete amphitheater. The applicant shows a proposed lot line adjustment on his plan that would alter the outer boundary of DR Estates, reduce the subdivision by over 1 acre, potentially require them to file new subdivision definitions and survey with State and local authorities and violate the bylaws of the DRHA. Per the rules and regulations, the only lot lines that they can consider must involve interior lot lines between 2 contiguous lots, the result of which, if approved results in no change in density in the lots involved and do not violate any subdivision descriptions, bylaws or covenants. The DRHA Board cannot, has not and will not consider approval or allow any lot line adjustments that alter the outer boundaries of the subdivision or that of a commercial venture that intrudes upon their residential subdivision. The applicant as owner of lot 1 has a copy and agreed to abide by those bylaws and covenants at his closing. He believes the applicants goal is to have this PB approve his application not only to continue his current operation but for purposes of inferring that in so doing you have proposed his lot line adjustment.

In paragraph 3 of the January 2013 PB minutes, Curt Dybas specifically admits that there are potential safety hazards with numerous parking spaces. These hazardous conditions involve such things as inadequate back up space and blockage of other vehicles. In spite of his opinion, Mr. Gramegna states that there are no public hazards in his proposal that are related to traffic or his proposed parking plan. In addition, Don Roessler stated that he is concerned with parking lot 29 because it could block emergency vehicles from accessing the property. He reminded the Board that even Chairman Herb Koster indicated that he has passed by this property and seen cars parked side by side in the driveway, which could cause public hazard and prevention of emergency vehicle access. Mr. Roessler also indicated that he was concerned about parking spaces 1-10 on the south side of DR Road due to the steepness and compact space. They believe these claims to

be valid and also believe the parking in these spaces constitutes a hazardous situation. He strongly encouraged the PB members to visit the site to make a determination. He reminded the Board that the DRHA owns the road and 15' to each side of the road for a total of 50', which subjects the DRHA to the risk of liability should any incidents or accidents occur. They recommend that parking be prohibited in this area. They are also asking the Board to consider the site challenges and resulting hazardous conditions that exist at all times entering Route 9N from Diamond Ridge Road. The probability of incidents occurring at this intersection greatly increase for guests leaving the applicants venue that have had an opportunity to consume alcohol.

In paragraph 5, page 2; someone claimed that people were parking on Diamond Ridge Road because they "didn't know that they couldn't". Alex Jeyschune stated that on May 25th the DRHA put up 6 signs in the area along the driveway near the B & B that prohibited parking. These signs were completely ignored all summer by employees, guests, contractors and vendors. He stated that the applicant has advertised to park on DR Road, so it is not that they didn't know they couldn't, they were invited to do so. In the same paragraph Bob McNally stated that parking on the road would not happen again. Which raises the question, who will be there to enforce it if it does happen again.

In paragraph 2 on page 3 Curt Dybas stated that "there are 11 staff spaces that would leave 32 spaces for guests." In paragraph 5, page 3 John Gaddy disagrees and states that they have had both the Town Engineer and applicants engineer sign off on the parking plan but it doesn't work and people are still parking on Diamond Ridge Road." He stated that Mr. Gaddy is right, the applicant used a creative process to deceive this board on the amount of spaces that he has. He stated that the idea that 4 guests arrive in one vehicle is unrealistic. On June 21, Jane Bozone counted 31 cars parked on Diamond Ridge Road and personally observed 1-2 guests per car. He stated that it is clear that the applicant cannot adequately accommodate the amount of guests that this venue can hold.

Alex Jeyschune provided the Board with a copy of a current description of Somewhere in Time on www.homeaway.com. It states that there is parking for 45+ cars before he has even gotten approval from the Board. Additionally, at best the plan calls for parking of 43 cars, not 45. He feels that the applicant will take this Board's approval and say that they also approve the lot line adjustment to allow for parking on lot 1 as well as allow guests to park on Diamond Ridge Road.

Alex Jeyschune stated that by approving the original parking plan and granting the initial permit this Board has already given this applicant much more than his applications and plans have warranted. The Board has also graciously given the applicant a year to demonstrate that he can operate in harmony with his neighbors, in accordance with the law and restrictions which the applicant has failed miserably as supported by their submittal. Allowing this operation to continue in this matter would be considered continued bad judgment, failure to thoroughly review applications and proposals, lack of concern for public safety and protection of private property rights and a total disregard for the facts presented.

Alex Jeyschune stated that earlier this week the HOA and neighbors have signed a petition for the PB to restrict the activities on this property to solely be for a 7 room B & B. This constitutes the only activity that this facility can support. He asked that the PB act finally and immediately, act consistent in their duties and responsibilities to the property owners/tax payers of Bolton and take immediate action to restrict the activities on this property.

Lawrence O'Connell, Vice President of DRHA and neighbor, raised the concern with the stormwater plan. The DRHA have had a stormwater plan in place since 2004. In the winter from 2010-11 the run-off from the applicant's gravel driveway due to construction caused a wash out that clogged their stormwater drains. He is concerned with the increased impervious surfaces and lack of appropriate rain gardens is causing more problems with run-off. Additionally the applicant has his driveway plowed and the snow ends up covering their drains. Lawrence O'Connell stated that they have had to make some repairs to the stormwater due to this and the applicant has never paid them anything. He stated that they have consulted Dave Meyer, Engineer, about their stormwater who indicated that the stormwater would be fine as long as the applicant did not put any more strain on the system. He also suggested putting another drain on the property. He stated that this drains down on Mr. Gramegna's property to the lake. If the applicant were allowed to change the permeability of the property, the water is going to drain down and create problems.

Lawrence O'Connell stated that the previous owners never had a stormwater problem. He stated that the applicant has claimed that his property is wet due to the HOA stormwater. This is the first time that they have heard this claim. Lawrence O'Connell stated that when he had constructed a barn on his property he was required to provide for storm water as well as other requirements. He stated that he doesn't understand how the applicant can do all of this on his property without significant stormwater management.

Lawrence O'Connell stated that the applicant claims to be a problem solver. However, he feels that the applicant only passes his problems onto the next guy. He explained that the applicant's guests trespass on the neighboring properties to access the lake. This is because he does not have adequate walking area to access the lake.

Lawrence O'Connell stated that last summer, after Tom Burhoe of Canoe Island Lodge asked him about fireworks that were set off late at night, he went over to the applicant's property to inquire. Lawrence O'Connell stated that when he went over to the applicant's property, only the guests were present, there was no management. He stated that the record speaks for itself with regard to noise violations.

Dennis Phillips, representing DRHA, spoke regarding the zoning. This property is in the RCM1.3, residential/commercial zone. One permitted use for that zone is a one family residence. The HOA is looking to protect the zone that they bought into. In October 2000, this property was a single family dwelling that was permitted to be converted into a 4 bedroom B & B.

Before the prior application, the Zoning Administrator provided her opinion to the Board dated December 29, 2011 that said “the impact of a B & B should not be much greater than that of a private home with frequent house guests, with the exception of parking demand”. A B & B would be considered a low impact use in a residential zone. However in this case they have gone from something that was low impact to something that is very high impact.

Last fall the DRHA made the application to rescind the prior approval of the event facility. Dennis Phillips stated that looking at the site plan review application, with regard to easements and ROW on the property, the applicant answered N/A. However there was an easement in place between in the north and south portions of the property. In speaking with the HOA, it seems that the intent for that easement was for lawn maintenance purposes and kept as green space. If this area turns into a parking area for up to 10 cars, then you will allow for up to 40 people to use this easement.

Dennis Phillips stated that in paragraph 9 the site talks about being 3.7 acres. He is not sure if there is a survey on record that indicates that acreage because when he looks at the tax map there is only 3.47 acres, so there is a discrepancy.

Dennis Phillips stated that paragraph 16b talks about whether this project is in harmony with the general purpose or intent of the zoning ordinance. They feel that it is for single family residential, so the answer would be no. With regard to 16c, Dennis Phillips stated that parking, traffic and congestion are the problems both inside and outside of this subdivision. With regard to SEQRA question about whether or not there would be an adverse effects with existing traffic patterns, the applicant answered no and in fact is was and is an issue. They feel this really requires further study and review under the long form SEQRA assessment.

In terms of this application, Dennis Phillips stated that in general the explanations are not satisfactory. They feel the answers should be explained in detail to the Board and the general public. He does not feel that this is a complete application and the Board should require more detailed information.

With regard to the SEQRA form item C4, Dennis Phillips stated that community’s plan and existing goals are as a single family residential area. In 2000 this property received approval for a B & B, which as ZA determined to be a low impact.

Dennis Phillips stated that this application is incomplete because it does not provide explanations, he has heard nothing that fill in the gaps. Additionally, the environmental and stormwater issues should be studied further. He requested that the PB rescind the amendment to the original approval that permitted the additional use as entertainment venue and deny the application proposed before the Board.

Curt Dybas stated that he takes misrepresentations and misconceptions personally. He stated that he takes responsibility for using the old survey to create the parking plan. On that survey, the property lines were correct and the only thing that was incorrect was

where the garage and road were located. He stated that after the applicant was made aware that parking was taking place on lot 1, the property was restored to its original state and they had a survey done of all the structures in existence on the property. The property is 3.44 acres, according to the last survey. He stated that they developed this plan in good faith. The stormwater was created by a NYS certified and licensed engineer; it has been reviewed and accepted. With regard to the comments about the inn guests and staff parking, Curt Dybas stated that the people staying at the B & B are guests at the event. He stated that vendor trucks will not be staying and parking, they will unload and leave the venue before the event takes place.

Tom Hutchins, stated that his involvement has been somewhat limited, but he did want to clarify some comments. His job was to develop a replacement septic system for serving the guest cottage which has been done. He provided some further details. The system for the main house has been maintained and serviced. However the details of it are somewhat unknown but they have put some effort into locating details. With regard to stormwater, he was asked to inventory the stormwater facilities which he has indicated on the plan. He provided further details. Chris Navitsky, Lake George Waterkeeper, confirmed that the rain gardens/bio retention are in existence and were built to correct standards because he was present when they were installed.

Tom Hutchins stated that the portion on the southern side is proposed to use permeable pavement. The area will be tight but it does work. He stated that this area does not receive run-off other than the rain that falls directly on it.

They have proposed additional diversionary berms for grass parking areas and they feel that will enhance infiltration around the area and help with stormwater. Overall he feels that the site performs reasonably well and now that the site is stabilized it is not a significant contributor to run-off issues in this area.

Bob McNally stated a lot of issues have been raised tonight. He stated that they are not seeking a boundary line adjustment. The applicant is not here to talk about access down to the lake. The application is whether or not they can improve some of the problems that occurred over the summer.

Bob McNally stated that they are not going to talk about encroachment, the applicant misinterpreted where the lot line was and had a survey done. He stated that the HOA didn't realize that their stormwater retention pond is on the applicant's lot. Looking at a map compared to being in the field are two different things, which shows that people make mistakes in the regular course of trying to figure out what to do with their land.

With regard to payment for the repairs, Bob McNally stated that the applicant has offered but the neighbors have not let him know what he owes nor do they let him pay because that will take away one of their supports in their claim. With regard to the road, it is a private road with an easement and the applicant and his guests have the right to use that road for ingress and egress. With regard to the space on the south side, there is no covenant that states that the area is only to be mowed.

With regard to the noise complaints, not once was there any founded complaint. A ticket was never issued nor was an appearance ticket issued. The applicant has tried to make the situation better.

With regard to the comments about this only being used as a single family dwelling, Bob McNally stated that the property historically has been used for more than just a single family home by evidence of the concrete amphitheater that could hold 200 people.

Bob McNally stated that the applicant has proposed 44 parking spaces, the Town only requires 42. There may be more required by State or others but the applicant has bettered the number that the Town needs.

Bob McNally stated that the applicant has approximately 12 events a year. There can be up to 125 guests at those times, which is not every day. The applicant has hired an event manager to be sure that the parking was occurring in the proper places. He also plans to put in sound deadening curtains on the south side of the pavilion on both floors. The applicant has done his best to work with this Board.

John Gramegna, stated that he was not trying to create a problem for the neighbors. He stated that he was looking to better his retirement. He ended up finding a business opportunity in Somewhere in Time. Last year, he made the mistake of not hiring a manager in hopes that people would follow the rules. However the success of the business has warranted the hiring of a property manager to be sure that someone is there to address any issues. He also has hired an assistant manager.

John Gramegna stated that this is a historical property that has been brought back to life. This parcel has not been just used as a single family dwelling. He stated that this property is zoned commercial and he asks his neighbors to respect the fact that it is commercially zoned and he will respect their needs and concerns. There were problems in the past but he is a problem solver and wants to fix them. He is making changes and improvements.

John Gramegna stated that he has followed the rules and proper protocol when it came to developing this property. He came to this board to be able to better utilize the parking that was already approved for this plan. He stated that the 10 cars could not park on the south side of the property because it was wet due to stormwater run-off from the HOA. He stated that he needs to improve this area so that cars can park in proper spots and not cause problems.

Counsel Muller read the following letters:

1. Email from Carola Demaio, introducing herself as the property manager for Somewhere in Time.
2. Email from Holly Whipple and Faith Miller in opposition
3. Letter from Patricia Taranto in opposition
4. Email from John Dreps in opposition

5. Letter from Jane Bozone in opposition
6. Email from Lorraine Weiss Gill in opposition
7. Email from Tom and Carla Burhoe in opposition
8. Letter from Vernon Wetmore
9. Letter from Tom Nace concern that access to some of the spaces drive over the septic field.
10. Petition from the DRHA.

John Gramegna stated that he did not fill in the stormwater management for Diamond Ridge Road. There is a culvert going underneath the road and that is designed not per the stormwater plan for Diamond Ridge. At the last public hearing he was accused of a number of things. One of which was filling in the wetlands. They found that those accusations were false.

Alex Jeyschune stated that looking at the stormwater examination filed with the Town every 4 years, Mr. Meyers will confirm that the DRHA stormwater is overbuilt. He stated that if the Board would like further details about how the applicant has changed the stormwater they should talk to Jeff Tennent.

Counsel Muller stated that a few months ago there was an accusation about a change to the stormwater configuration. Tom Nace and Mitzi Nittmann reviewed it and found that if it was moved but it was not a problem.

Counsel Muller stated that when they close the public hearing they have to 62 days to make a decision so they can review all of the facts. He urged the Board to take some time to deliberate because their decision should be based on findings and fact.

Herb Koster stated that the applicant is here for an amendment to a parking plan and asked how much should they get into the periphery arguments that were presented. Counsel Muller stated that at a certain point there was an allegation of misrepresentations in the application. Instead of enforcement, the applicant was required to get a survey to get better idea of the site and to be able to get a fresh look at all that pertains to the site.

Herb Koster stated that there are misrepresentations on both sides of the argument. Counsel Muller agreed but the Board has to decide whether they are fundamental to the proposal. They have to see if this is approvable and if so, what are the specific requirements or conditions that can be enforced.

Counsel Muller stated that he has looked at this property on LakeGeorgeWeddings.com is advertising as rental of the entire property. He stated that this is concerning because this does not sound like the first interpretation of the intended use of this property. What is being presented is a lot of different than the owner staying on the property and running the B & B. The intensity of use is a lot larger, he feels that they may need to bring it back with conditions; they need to know how to enforce it.

Counsel Muller stated that a new noise ordinance will be considered at the upcoming TB

meeting. It is structured around limitations, process, hours; it is a lot less noise and a lot more enforcement.

Don Roessler stated that there are a lot of questions that need to be answered by the applicant.

RESOLUTION

Motion by Don Roessler to keep the public hearing open for SPR12-32. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

REGULAR MEETING

Herb Koster asked if there were any changes or corrections to the January 17, 2013 minutes.

RESOLUTION

Motion by Don Roessler to approve the January 17, 2013 minutes as written. **Seconded by** Sandi Aldrich. Herb Koster and Chauncey Mason abstained. **All Others in Favor. Motion Carried.**

2. SPR12-32 GRAMEGNA, JOHN. Seeks Type II Site Plan Review to amend SPR11-28 approved on May 17, 2012 for large gatherings/events for up to 125 people. Specifically to revise the parking plan. 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 SEQ. *Note: This item was tabled at the January 2013 meeting pending a public hearing.*

Herb Koster asked what the maximum amount of people was determined to be allowed on this property at one time. Counsel Muller replied 125 people. Kirk VanAuken asked for clarification of the 125 people and whether it includes the staff and guests from the inn. Counsel Muller read from the minutes, which indicated that it was approved for up to 125 people for events not including staff. Henry Caldwell asked how this will be enforceable. Don Roessler recalled making the motion and his intent was specifically for events of up to 125 people.

Counsel Muller read the minutes from the May 2012 meeting.

Herb Koster stated that he would think that 125 people would include all persons on the property especially when dealing with the DOH. Counsel Muller stated that when there is ambiguity and the ambiguity falls favorable to the applicant.

Don Roessler asked how many rooms are available to rent. Counsel Muller stated that at one point the applicant was seeking to increase the number of bedrooms from 4 to 6. John Gramegna indicated that he withdrew that application. Don Roessler stated that he wants to know if the people in the rooms are counted in the 125.

Counsel Muller read from the January 2012 PB minutes. In those minutes it was stated that it was for 125 guests/people sounds like guests of the venue and not the support staff.

Bob McNally stated that Curt Dybas's parking plan took into consideration 125 guests and 11 staff members in addition.

Dennis Phillips stated that in 2000 this was a 4 bedroom B & B and more recently a 5 bedroom B & B. From what he has heard tonight this has changed over from a B & B to something completely different. He stated that on behalf of his clients he would like the opportunity to submit further information on this finding.

Counsel Muller stated that part of the issue is that the applicant has a sign out that has rent-me. When you go to the website it is clear that this is different from a B & B because someone can rent out the entire facility. He thought that the B & B was the anchor or primary use on the property and that the events for 125 people was for a separate event that occurred occasionally.

Kirk VanAuken stated that they need clarification because it can change the parking requirements based upon the definition of use.

Don Roessler stated that he needs clarification on the following: how many rooms are in the B & B, amount of events per year, the time frame when these events occur, the number of people allowed on the property, the number of staff, the number of parking required, the number of handicap spaces required, the size of the parking spaces and whether or not the applicant has a DOH permit for facility capacity.

With regard to the total number of people and whether it includes the B & B, Bob McNally stated that historically with the 6 events that have occurred the guests of the event are using the B & B. So the number is inclusive.

Kirk VanAuken asked for clarification of the parking. With regard to the plan asked what size are the spaces. Curt Dybas stated 10' x 20'. Kirk VanAuken stated that he would like to know about the width of the roadways because they need to be sure that there is adequate turning radius for the parking spots. Herb Koster stated that the parking plan does not coordinate with the stormwater plan with regard to parking layout and should be changed so they are the same on both.

Curt Dybas stated that with regard to the pavilion the maximum occupancy is 115 people but it is open air on all sides. There was further discussion. Herb Koster stated that this is where they are looking controversy, the Board approved 125 people/guests which does not accounting for staff or bands and is over their maximum capacity allowed. Curt Dybas stated that not everyone is in the building; it is open air with patios around the outside. It would be 115 for a closed structure. Counsel Muller stated that he will ask WC about the maximum capacity. Sandi Aldrich asked Counsel to also look for a DOH permit.

With regard to the DOH, Tom Hutchins stated that the DOH does not regulate B & B's or mass gatherings under 5000 attendees. They only regulate the permanent waste water system that exists on the property. They have 2 temporary bathroom facilities on the property.

John Gramegna stated that he wanted to clarify a few points. He stated that he has a 680 gallon tank in this portable bathroom facility. The DOH has stated that he does not need require a permit from them because he is not a large enough venue to be reviewed. He applied for 125 people because he that is what he built the facility for. He stated that he rents the entire property for events and does advertise that his two houses sleep 30 people. He provided further details. Herb Koster stated that he is concerned that the entire property is being rented without a manager or owner to oversee the facility. John Gramegna stated that is why he hired a property manager.

Henry Caldwell stated that if the applicant is having 16 events per year that the majority of the weekends in the summer will hold events which is a concern of the neighbors. He read from the building code as follows: "In considering approval of the site plan the planning Board shall take into consideration the public health, safety and general welfare, comfort and convenience of the public in general and the residents of the immediate neighborhood in particular and shall find that the proposed development meets all the requirements of this chapter." Henry Caldwell stated that he has been on the PB for 23 years and has never seen this many complaints on one project. He asked the applicant how he plans to correct this. John Gramegna stated that he has a property manager that will be at the events from start to finish. Henry Caldwell stated that the property manager will not be staying on the premises so the property will then be out of their control.

Herb Koster stated that they are not trying to stop the applicant from making a living. However given the past year, the history has shown that this is not being properly managed. John Gramegna stated that he has the tools in place to run properly.

Gena Lindyberg asked how many bedrooms are being rented on the property. John Gramegna stated that there are 6 bedrooms in the B & B and 2 in the carriage house. Gena Lindyberg asked if the property is being operated as a B & B. John Gramegna replied no not at this time, he rents it weekly. He stated that his intention is to run it as a 4 bedroom B & B when he retires in a few years. Counsel Muller stated that it takes a different shape depending on the use for that week or weekend. Kirk VanAuken agreed and stated that it will also affect the parking requirements.

Kirk VanAuken asked for the parking plan to be put to scale, include the driveway width dimensions, parking space dimensions and dimensions from the south parking lot to the nearest house on the south because they may be dealing with buffering requirements.

Henry Caldwell stated that he would like to see how they are going to contain the noise as well as prevent trespassing onto other people's property. Don Roessler stated that he understands that the trespassing issue will be difficult to control. Sandi Aldrich stated

that a possible solution is to not allow guests to use that property at all. Don Roessler stated that it is his property and he has the right to use his property. Bob McNally stated that the applicant has provided maps to his guests and tries to prevent trespassing, but it will be difficult to enforce.

Counsel Muller stated that Dennis Phillips raised the allegation that the application was not complete and asked the Board what they would like to see answered. Herb Koster stated that the applicant has heard all of the complaints tonight and should complete a new SEQRA short form. With the new answers the PB will determine if it is complete or not.

RESOLUTIONS

Motion by Don Roessler to require the applicant to submit a supplemental complete SEQRA short form for SPR12-32 and to address handicap parking. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

Motion by Don Roessler to table SPR12-32 pending further information. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

3. V12-44 SAGBOLT, LLC. Represented by Atty. Benjamin Pratt. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance (PUD Amendment) for **1)** redesign the docks at the boat museum/warehouse to enable the Morgan to be docked there perpendicular to the shore; and **2)** to relocate and redesign the dock where the Morgan currently docks in the summer. Boat rentals are proposed in this area. Existing dock to be removed. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQR. Note: This application replaces V12-01 as it pertains to the berthing of the Morgan. *Note: This application was tabled at the December 20, 2012 meeting.*

Ben Pratt gave a brief overview of the proposed changes. He stated that the 5 things that the board requested were answered in his letter of January 28th to the Board. The drawings have been modified to reflect those changes as well.

Herb Koster asked Jeff Anthony if the Morgan was accurately drawn to scale. Jeff Anthony responded yes it was confirmed with the captains as well. Kirk VanAuken stated that the boat will have an overhang of 10' off the end of the dock.

Sandi Aldrich stated that the Board was concerned about the riparian rights of the neighboring property, she asked Counsel Muller if the agreement between the parties was satisfactory. Counsel Muller stated that it is a license agreement which is different than an easement. It is a personal agreement between the parties to allow permission to cross the property. Sandi Aldrich asked if the agreement will run with the land because that is what Herb Koster wanted. Counsel Muller replied no and it can be terminated by either party. Herb Koster stated that he is concerned that if this doesn't run with the land they are granting permission to dock the Morgan in a position that they can't guarantee will

always be permitted.

Ben Pratt reminded the Board that their role is to make a recommendation as to whether this is compatible with the PUD. He stated that it is not site plan review and they have been happy to provide the answers and information, but ultimately they need to see if this fits the PUD which he feels it does.

Henry Caldwell asked if there will be an agreement between Sagamore Storage and the fire boat. Ben Pratt replied that he was not sure but the Walshes have been very community oriented. He stated that FR Smith still retains control of the building until June 1st because they have their boats in there. The docks are Sagamore's and he is not sure about the negotiation with the current dock renters.

Jeff Anthony stated that the old dock where the Morgan has been docked is still going to be an L-shaped dock. It is just moving off the property line, so if there were to be a change in ownership or an emergency, the Morgan could always be moved back to this dock.

Ben Pratt stated that the details about the dock construction are on the plan as well as the lighting. There would be no additional lighting on the building and no lights on the dock. He stated that he has been informed that after the evening cruise the boat would be docked and provisioned in the morning.

Henry Caldwell asked for details about the access of the rental docks. Jeff Anthony stated that the rental operation allows for approximately 15-18 boats. He stated that essentially it is the same operation just moved off the property line. Henry Caldwell stated that he is concerned with this location because these docks are more exposed. Ben Pratt stated that it is only moving 35' and they have talked with Tony DePace who indicated that he thought it would be fine. Jeff Anthony stated that they had received complaints regarding the activity so close to the pool and sunbathing area and that is the reason for moving the operation.

Sandi Aldrich stated that she still has a huge concern with the boat backing out into a busy bay. Henry Caldwell stated that they always have 2 captains on the boat to assist with navigation. Ben Pratt stated that it is multi-use area but it is in a 5mph zone.

RESOLUTION

Motion by Henry Caldwell to recommend to the TB to act favorably and approve the PUD amendment for V12-44. **Seconded by** Gena Lindyberg. Sandi Aldrich opposed. **All Others in Favor. Motion Carried.**

Ben Pratt stated that at some point he would like to have a discussion with the Town regarding the thresholds for what requires PUD review. They have several projects that are minor and are wondering if it would truly require a PUD amendment or if it could just require a building permit. For example they would like to put a few dormers on the roof of the service building and building a small loading dock. They feel that under the

ordinance that this kind of change should not involve the time and effort on everyone's part to review this as a change under the PUD. Herb Koster stated that he is not sure because dormers affect the exterior look and that was a big part of the PUD.

Pam Kenyon stated that her position is that any exterior change has to come back before the Boards. Herb Koster stated that he recalls that exterior look was very important. Counsel Muller stated that the code says any changes so they need to look at that. Currently the ZA is the gatekeeper. Herb Koster stated that he is okay with the way it is and trusts that is the correct process.

Ben Pratt stated that the statute says any change in development or use. He feels the PUD is designed to go after something heavier than dormers. He would like the opportunity to talk about it at some point.

4. SPR13-01 GCW PROPERTIES, LLC. Represented by the LA Group. Seeks Type II Site Plan Review for a new land use within 250' of the Lake George shoreline. Specifically to convert a pump house into a boaters' restroom for Lagoon Manor Marina. Section 157.05, Block 1, Lot 20, Zone RCL3. Property Location: 4 Rose Lane. Subject to WCPS review. Subject to SEQR.

Jeff Anthony provided details to the project. He gave a brief overview of the property. The marina sits in front of the Lagoon Manor homes. The LGPC marina permit requires that all marinas have a bathroom facility to all the boaters. He stated that they were using a property with a duplex cabin. Currently the northern half has been used as a restroom/shower for boaters. The intention is to terminate the use as a boaters restroom and convert it into a one unit residence for Gerry Woodard, who is now in charge of the Lagoon Manor project.

In order to meet the LGPC requirements for marina permit, Jeff Anthony stated that the bathroom will be moved into the water pump house that was once used to service the old seasonal subdivision that existed on the property. Subsequent to that use the Lagoon Manor PUD got approved and as part of that approval the APA required that Lagoon Manor HOA give water and sewer to the 14 lots since their septic systems were not in the greatest condition. That has happened and the entire utility center has been built in its entirety to service phase 1 and 2, which are the 48 townhouses and 14 residential lots.

In terminating the use of this building, Jeff Anthony stated that this building has been primarily vacant since 1982 other than for occasional storage. The proposal is to move the bathroom facility into this pump house. The water and sewer system will not be affected because they will be removing the toilet and sink in the existing bathroom and installing a sink and toilet in the pump house structure. There is no construction that will be done to the pump house, the building has been recently painted and it will get a light fixture above the door. There will be installing a skylight on the roof to allow for some additional light. A driveway to the building already exists and no site work other than running line to the building to connect it into the system will need to be done.

Herb Koster asked if the residence will be rented. Gerry Woodard replied that it could be rented.

RESOLUTIONS

Motion by Don Roessler to declare the Bolton Planning Board as lead agency for SPR13-01. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

Motion by Don Roessler to accept SPR 13-01 as complete, waive a public hearing, and having met the criteria set forth in the code, 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. **All in Favor. Motion Carried.**

5. Appointment of Chairman and Vice Chairman of the Planning Board for 2013.

RESOLUTION

Motion by Don Roessler to appoint Herb Koster as Chairman and Henry Caldwell as Vice Chairman of the Planning Board for 2013. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

The meeting was adjourned 9:56pm.

Minutes respectfully submitted by Kristen MacEwan.