

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday June 16, 2016  
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, John Cushing, Henry Caldwell, Gena Lindyberg, John Gaddy, Kirk VanAuken, Sandi Aldrich, Alternate Ann Marie Somma, Zoning Administrator, Pamela Kenyon and Counsel, Michael Muller.

**Absent:**

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

**REGULAR MEETING**

Herb Koster asked if there were any changes or corrections to the May 19, 2016 minutes.

**RESOLUTION:**

**Motion by** Sandi Aldrich to accept the May 19, 2016 minutes as presented with the following change. The last sentence on page 9 should read as follows “John Gaddy asked how far out the proposed natural boulder wall was on the east side of the project”. **Seconded by**, Gena Lindyberg. **All in Favor. Motion Carried.**

1. **SPR16-12 WUN, JOEL & PAULA.** Represented by Stephen Adler. For the construction of a proposed single family dwelling and detached garage, seeks Type II Site Plan Review to discuss condition of approval when approving SD05-11 (Mayfair Subdivision). The condition reads as follows: “Specifically on Lot 5, any construction to the east side of the proposed building envelope needs to come back for site plan review and approval from the Planning Board.” Section 186.14, Block 1, Lot 60.5, Zone RCH5000. Property Location: Lot 5 Mayfair Subdivision. Subject to SEQR. This item was tabled at the May 2016 meeting pending additional information.

Stephen Adler presented the following:

- Under the conditions of approval, they had to return for approvals for a deck and garage.
- They have corrected the plans so they all match.
- Right now they have a building permit for the house.
- The deck is basically 47’ 8”.
- The longest protrusion in the center is 15’ 8”.

- They are placed entirely over the rock outcropping.
- The piers will be pinned to the ledge rock.
- This will not be visible from the lake.
- The detached garage is in compliance with all setbacks and height restrictions.
- This will be a two car, 24' x 24' detached garage with wood siding.
- It is a single story structure with no greater height than 17'.

Gena Lindyberg inquired about the setbacks for the garage. Zoning Administrator, Pamela Kenyon replied that an 8' setback was required from the side. Mr. Adler stated that they were 12' from the property line.

Mr. Adler stated that they had removed 11 trees and that is all that will be removed. He stated the house is shielded from the lake and not visible.

Sandi Aldrich inquired about the bump out on the deck. Mr. Adler stated it was to accommodate outdoor living as it will be a small compact house. It still has a tremendous tree shield and is placed over the bedrock, so as not to create any more disturbance.

Gena Lindyberg asked if there would be any blasting for the deck. Mr. Adler replied absolutely not. They will be peeling a foot off the ledge where it is already fractured and pinning the deck to it.

Mr. Adler stated that the stormwater plan has been approved by the Town Engineer.

Kirk VanAuken asked if the deck had grown since the last meeting. Mr. Adler replied no, he explained that it was a drafting error last time. Kirk VanAuken stated that the dimensions on the deck last month were to be 12' 1 13/16". Mr. Adler stated after scaling them out they realized the dimensions were wrong, it will be 15' 8". He stated that they were trying to maximize the living space because they unfortunately purchased the living space without the knowing the restrictions on the building lot. This was a very expensive lot and the size of the deck should not be intrusive on anything. They will entertain a smaller deck if that is what the Board was looking for.

Sandi Aldrich stated she personally thought it was too big. Mr. Adler stated that was fine, and he would be open to suggestions. He stated the Board could condition the size. Herb Koster stated 12' 2" sounded good to him, this is what the applicant had stated they were looking for at the last meeting. He stated it was a tight lot.

Henry Caldwell asked about a patio. Herb Koster explained that a patio would also be considered a structure. Zoning Administrator, Pamela Kenyon stated this was correct.

## **RESOLUTION:**

**Motion by** Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR16-12. **Seconded by,** Henry Caldwell. **All in Favor. Motion Carried.**

**Motion by** Kirk VanAuken to accept SPR16-12 as complete; waive the Public Hearing, 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 with the following conditions; 1) The deck is to be no more than 12' 2" extending east from the east face of the house. 2) Any exterior lighting is to be downward facing and shielded. **Seconded by,** John Gaddy. **All in Favor. Motion Carried.**

2. **SPR16-14 KLYKKEN-URTZ, SONJA.** Seeks Type II Site Plan Review for Commercial Boat Storage. Section 199.08, Block 1, Lot 11.2, Zone RL3. Property Location: 634 Coolidge Hill Road. Subject to WCPS review. See V16-25 associated with this project. To be heard only if a successful variance is granted.  
\* **The Variance Was Tabled at the Zoning Board of Appeals Meeting \***
3. **SPR16-15 BOLTON HISTORICAL MUSEUM.** Seeks Type II Site Plan Review for 2 advertising signs greater than 4 square feet. 36 square feet for each sign is proposed. Section 171.19, Block 2, Lot 13, Zone GB5000. Property Location: 4924 Lake Shore Drive. Subject to WCPS review. Subject to SEQR.  
\* **This Item has been Tabled \***
4. **SD16-05 FOY, EDWARD.** Represented by Joseph Haines. For a proposed 3-unit townhouse project on individual lots, seeks to divide into 3 lots that parcel designated as Section 171.15, Block 3, Lot 28, Zone GB5000. Property Location: 4992 Lake Shore Drive. Minor Subdivision. Sketch Plan Review. Subject to SEQR. See SPR16-16 and V15-45 associated with this project. To be heard only, if a successful variance is granted.
5. **SPR16-16 FOY, EDWARD.** Represented by Joseph Haines. For a proposed 3-unit townhouse project on individual lots, seeks Type II Site Plan Review for multifamily dwellings. Section 171.15, Block 3, Lot 28, Zone GB5000. Property Location: 4992 Lake Shore Drive. Subject to WCPS review. Subject to SEQR. See SD16-05 and V15-45 associated with this project. To be heard only, if a successful variance is granted.

Joseph Haines presented the following:

- They are now proposing 3 townhouses at 4992 Lake Shore Drive.
- They have been before the Zoning Board a few times and they have requested them to come before the Planning Board for an advisory opinion on the project.
- There are easement rights for the private road that are being addressed by the attorneys for Norowal Marina and Mr. Foy.
- The proposed project is for three, 3-bedroom townhouses.
- He detailed the site plan to the Board.
- Each of the units will be on its own piece of property because they are subdividing each townhouse for ownership reasons.
- This brings up a litany of variance requests.

- Each unit will have 3 parking spaces, which is one more than required allowing for a guest parking spot.
- All parking is under the townhouse in the rear.
- The front will have a 1.5 story look to it on the Lakeshore Drive side.
- He detailed the materials to be used.
- The grade will drop in the back to allow for parking in the back.
- They meet the height requirement of 35'.
- They have wrapped the porch around the corner.
- He detailed the plantings in the front.
- He detailed the floor plan on the plans to the Board.
- Each unit has two parking spaces inside.
- The center unit is tandem parking so as not to break up the façade on the front of the house.
- He detailed the renderings to the Board.
- All lighting will be dark sky compliant and minimal.
- He detailed the minor stormwater plan prepared by D.L. Dickinson Engineering and approved by Town Engineer, Tom Nace.
- He stated that Mr. Navitsky had some concerns about the drainage.
- They are willing to work with Mr. Navitsky and his suggestions to raise the house grades to get the perc he is concerned about.

Herb Koster asked if they would be having a HOA for the property to deal with the shared stormwater. Mr. Haines replied they would; it would address the overall property maintenance, the exterior and the stormwater. He stated there would be an easement across the back to accommodate the parking. He explained that the pavement in the back would be pervious. Herb Koster stated that there was a conflict between the drawings by the architect and the engineer. Lot # 3 had 4,800 sq. ft. on one and the other had 1,899 sq. ft. Mr. Haines stated that it was probably a typo from when they reduced the plans from 4 units to 3 units.

Sandi Aldrich asked how much they reduced the project when they went from 4 units to 3 units. Mr. Haines replied 12.5% about 450 sq. ft. Sandi Aldrich asked if it was possible to reduce it more. Mr. Haines stated that setback wise they do well on their plan.

Henry Caldwell stated they went from 4 units to 3 units and it looks to be the same size as the original plan. Mr. Haines went through the plans and stated that they kept the setback along the side yard of 8'. They are asking for a variance on the front yard, which is pretty much the same as all the other buildings on the street. He stated they could take away the porches to reduce the footprint, but he believes they give the front a nice look and it is a nice amenity. It is good for the safety of the neighborhood. He stated the wrap around porch puts the setback a few inches further out. He said they pulled the building 6'+ back from the setback of Norowal Road. He detailed the floor plan to the Board stating the rooms are not extravagant and it would be hard to reduce the footprint of these at all. He said he squeezed them as tight as he could to make them a feasible, marketable plan.

John Cushing said he did not see them meeting one required setback on the whole plan except for the height of the plan. Mr. Haines stated they met the lot coverage on some lots and the rear yard setback. He stated the variances are due to the way the Zoning Code is written right now, making it very tough to do townhouses in this zone. If this was not a townhouse and just considered one building, they would have no side yard setback variances. They have 0' lot line variances for these units, and according to the Code, they have a large density requirement. This again is due to the type of use they are requesting, if they were apartments, they would only need a minor density variance. He would like them to consider the other uses such as stores with apartments above them, this is the same density, just a different use.

John Gaddy stated that he does not believe that the Town has gotten the townhouse concept correct yet. He asked where they expect to place the utilities like propane tanks. Mr. Haines detailed this on the site plan where he would like to place them. Henry Caldwell asked if they would be burying the propane tanks or if they would be up against the building. Mr. Haines stated it would be possible to bury them in the front yard if they had to. Gena Lindyberg asked about air conditioners. Mr. Haines stated they would need three condensers which would be outside and screened properly. Herb Koster asked where the condenser for the middle unit would be placed. Mr. Haines detailed it on the plan, stating they would need an easement.

Herb Koster asked if they needed a variance because he is moving stormwater from one piece of property to another. Atty. Muller stated that was a good point. In order to get an exception from this requirement a variance would be required. He stated it should be treated and contained on the lot.

John Gaddy asked about more sidewalks and if they could wrap them around and bring them down Norowal Road and not allow parking on the road. Mr. Haines stated he did not believe they could because they do not own the road, it is not their property. John Gaddy stated it was a high traffic road in the summer time. Mr. Haines stated it was a private road, and they can't tell anyone that they can or can't park on it. They only have an access on it to get to their property. Edward Foy Sr. asked if he meant for them to put the sidewalk on their property. John Gaddy said that is correct. Mr. Haines asked if you would want to invite people down that way. Herb Koster stated you would be adding a 5' wide area and turn it impervious. Henry Caldwell stated that there were a lot of people using that road. Mr. Foy said he did not mind doing this, but wouldn't that reduce drainage by covering the area. Herb Koster stated that putting in a sidewalk would invite parking. Mr. Foy stated he is afraid that they would lose green area and putting a sidewalk there would invite parking along the sidewalk and all the way down the road. He explained they had planned to have a fence line too, to give the property owners privacy. Kirk VanAuken talked about the liability of people walking on the homeowner's property.

Henry Caldwell asked about moving the whole building further north to create more space on the south side. Mr. Haines stated he was just trying to stay further away from the road and they meet the 8' requirement. He stated if the Board feels it is a good idea to bring it over and there is a balance especially now that they have increased this and there is an open porch. Henry Caldwell stated he was a little disappointed because he thought when they decreased the project it would drop 25%, which they are not.

Herb Koster stated that you run into this problem up and down Main Street, because it is a commercial area. Residential gets approved in the area and whenever a commercial business wants to do something they are fought against, by the residential properties. Mr. Haines stated that he understands.

Sandi Aldrich said she thought that when they went from 4 to 3 units it was to get everything on the first floor and aren't these virtually the same. Mr. Haines stated they did not have bedrooms on the first floor of the interior units on the 4-unit plan.

Gena Lindyberg asked if there would be planting and better screening than what is depicted on the rendering. Mr. Haines stated they could put more screening in if that is what the Board required.

Gena Lindyberg asked if they could cut off the porch on the side. Mr. Haines said they could take that into consideration. He was wrapping it around to soften the corner. He stated they could slide the building north about 5' if he removed the porch.

Ann Marie Somma asked about the space on the basement floor marked recreation and why it is drawn like a bedroom. She asked if it met the legal requirements as a bedroom with egress. Mr. Haines stated they did have the required windows for egress.

Gena Lindyberg stated she would like to see the utilities depicted on the final plans and how they will be treated and covered.

Sandi Aldrich asked if Ann Marie Somma was inquiring about if the bedroom was in the basement, they could go with smaller units and remove the master bedroom on the first floor. Ann Marie Somma stated that was not her point she was more concerned with the exit in case of fire if it ends up being used as a bedroom for people to easily get out. Mr. Haines stated a market study was done based on the units that have sold in the area and it was determined that a first floor bedroom was a very marketable item to have.

Gena Lindyberg stated she had read that one of these units will be able to rented for up to 12 people.

Henry Caldwell inquired about handicap access. Mr. Haines replied this was not a requirement. Henry Caldwell stated he was not so sure they were not making a mistake, not having handicap access. Mr. Foy stated that was why they had a first floor bedroom. Henry Caldwell asked how they planned to get into the first floor. Herb Koster stated that there are any number of things an owner can do to make it handicap accessible.

Herb Koster stated he would like to see the house moved 5 to 6' and he would like to see all the utilities placed on the plan, with the intended screening. Mr. Haines stated they will pull off the wrap around porch and do an updated complete plan.

Gena Lindyberg inquired if the HOA restrictions, parking etc. would be set up before the units were sold. Mr. Haines stated it would.

Mr. Foy asked if taking the wrap around porch off would soften that corner up or sharpen it. Henry Caldwell stated they had a lot of variances, why not leave it on and ask for one more. Mr. Foy stated he thinks it would soften it up, but he is happy to do whatever the Board would like. Gena Lindyberg asked if the planting would soften it up as they would be obscuring the points. Mr. Haines stated they would remove the wrap around porch and he will screen it well. They will slide the building 4' to 6' north.

Herb Koster asked if they need to list all of the things they have talked about tonight in the recommendation as changes or do they ask the applicant come back to the Board with the changes before they make a recommendation. Atty. Muller stated the ZBA would like a recommendation from them, so they should come back with the changes and no recommendation tonight. Mr. Haines asked if they make all the changes requested tonight, couldn't they go back to the ZBA to shorten their time line. Atty. Muller said if the Board gave them an explicit list and say that this is their advisory opinion and the applicant agrees to meet all those requirements then it would just be a matter of trust. Herb Koster asked the Board how they felt about a positive recommendation without those changes.

Sandi Aldrich stated that she would like to see it on paper before she made a recommendation.

Kirk VanAuken asked if they had addressed the stormwater concerns enough. The ZBA wanted them to weigh in on this. Mr. Haines stated that Mr. Navitsky had some concerns, but Dickinson Engineering and the Town Engineer had signed off on the project. He stated he would be willing to sit down with Mr. Navitsky before the next ZBA meeting to make sure that he is satisfied. Herb Koster stated when they move the building 5' to 6' north there will be more room for filtration on the south side. Kirk VanAuken inquired about the easement across the 3 lots. Zoning Administrator, Pamela Kenyon stated she believes it will require a variance.

Gena Lindyberg stated she had a concern with the easement for the driveway, and she would like this negotiated first. Atty. Muller stated that the easement was not a sticking point at all. All of the instructions he got were that once Mr. Foy's project had approval, his attorney would need to prepare the easement language. There is no doubt that the property Mr. Foy owns has acquired the access to get around from that direction. When he sells one of the unit, they will need a deeded easement, which is why they are getting it in writing. Herb Koster stated that the other lots will need easements too. Herb Koster asked if they needed to see language for the easement before they gave final approval. Atty. Muller stated that they could do that. A banker and a title company will not move forward without the easement. Henry Caldwell asked if the subdivision was a part of this process. Atty. Muller replied that it was.

Henry Caldwell asked if it was a concrete wall around the parking area on lot 1. Mr. Haines stated it was a block wall that would be approximately 3' high and work its way down to nothing in the middle of lot 2. He stated they would be able to pull it further away by moving the building. Mr. Haines stated that they will be bringing in a new grade plan and landscaping plan.

Kirk VanAuken asked what precludes the finger pointing issues for the gutter that goes to lot 1 somewhere down the road. Atty. Muller stated this would be drafted and addressed in the

covenant restrictions and obligations for the shared use by Mr. Haines. He explained this is fairly customary. Herb Koster stated there are many issues that must be addressed and he thinks they need a HOA. Atty. Muller stated that would be fine, but it would also need deed restrictions too. Mr. Haines stated that they would be doing this. Herb Koster stated the Board would be able to review this, and the Attorney General would review this too.

John Gaddy inquired about the observation well and its purpose in the porous parking in lot 1. Mr. Haines stated that would be an engineering question, but he believed it was to make sure it was to make sure it was percing correctly. John Gaddy stated he noticed a 4' difference from the roadway and the back of the property on the plans and he and Mr. Haines went over the grades.

Mr. Haines went over the list of changes the Board would like to see. Mr. Haines stated he believes he can accomplish all the issues the Board would like to see. Zoning Administrator, Pamela Kenyon stated that he would need amended plans by June 27<sup>th</sup> in order to go back to the Zoning Board next month. Herb Koster stated they would like to see everything

John Cushing asked how much closer the new building would be to Norowal Road than what presently exists. Mr. Haines stated the existing building is in the middle of the property and he detailed the plan to show how close it was.

## **RESOLUTION:**

**Motion by** John Gaddy to provide the Zoning Board of Appeals with the following advisory list of considered points for V15-45, SPR16-16 & SD16-05.

- 1) The applicants obtain a variance for any and all stormwater that is required.
- 2) Propane tanks are to be buried on the property with the location shown.
- 3) Location is to be shown for the condensers for the 3 separate units and they are to be screened.
- 3a) The design and submission of easements for the condensers for the air condition units and the propane tanks if needed.
- 4) The wrap around porch is to be removed and the structure and the parking lot are to be moved 5' to 6' north.
- 5) A proper landscaping plan is to be submitted with concentration on the south and east sides for screening of the neighbors.
- 6) A creation of a HOA.
- 7) The applicants meet and resolve any stormwater issues with Mr. Navitsky.
- 8) An amended application is submitted to the Planning Office by June 27, 2016.
- 9) The applicant will in a timely matter provide the reciprocal easements.

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

The meeting was adjourned at 7:23.

Minutes respectfully submitted by Kate Persons.