

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday July 17, 2014
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, Sandi Aldrich, Kirk VanAuken, Gena Lindyburg, John Gaddy, John Cushing, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller.

Absent:

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

Herb Koster asked if there were any changes or corrections to the June 19, 2014 minutes.

RESOLUTION:

Motion by Sandi Aldrich to accept the June 19, 2014 minutes as presented with the change noted on page 1; the date in the heading is to read June 19, 2014, not May 22, 2014. **Seconded by** Gena Lindyburg. **All in Favor. Motion Carried.**

REGULAR MEETING

1. **SD14-01 OBERER, ERNEST.** Represented by Peter Loyola. Seeks to merge those parcels designated as Section 171.00, Block 1, Lots 6 & 15.2 then subdivide into 3 lots. Zone LC25. Property Location: Edgecomb Pond Road. Minor Subdivision. Sketch Plan Review. Subject to SEQR. For discussion purposes only. A major stormwater project will also be required but has not yet been applied for. This item was last heard March 2014, at which time the PB declared itself lead agency.

Henry Caldwell and Gena Lindyburg recused themselves.

Herb Koster stated to the applicant that they would need a unanimous vote tonight from the Board because they are short a Board member and 2 others have recused themselves. They agreed.

ZONING ADMINISTRATOR asked the Board if it was at the Sketch Plan stage. Herb Koster stated that he believes that they gave the applicant a list of items of what the Board wanted to see for this meeting, so he would say they are ready for a preliminary hearing. Atty. Muller stated that if that was the sense of the Board than go ahead.

RESOLUTION:

Motion by John Gaddy, to move SD14-01 from the discussion purposes to a formal sketch plan review. **Seconded by** Kirk VanAuken Henry Caldwell and Gena Lindyburg recused themselves. **All others in Favor. Motion Carried**

Atty. Michael Hill stated:

- They have submitted updated subdivision lay out plan, an updated road profile and a subdivision planting plan all those showing the vernal pool requested at the last meeting.
- They have provided individual planting plans for all 3 of the lots along with a filtered view creation plan.
- They provided the requested photo assessment with views from Cat Mountain as requested.
- At this point together with the previous submissions that were made they believe they are in the position that they have a completed application and are ready for the Board to do a review and determine that they are complete to hopefully schedule a Public Hearing at the August meeting.

Peter Loyola stated:

- He would like to start with the photo from Cat Mountain.
- There are a lot of public roadways that inundate the back side of this Ridge line and in some cases the roadways are at least 25' wide and you still can't see them from the back side of these ridgelines.
- There is one small area of the private driveway that shows that a little bit of clearing they will need to do, which they are proposing to replant which will fully mitigate it and you will not be able to see the road at all.
- They do not anticipate any views of the homes from Cat Mountain.
- They will see some tree removal.
- They clearly defined the allowable building envelope showing the 20' maximum from the edge of the buildings on each of the planting plans as the Board requested.
- They would have to come back to the Board for approvals if they wanted to go outside of the envelope.

John Gaddy asked if they are still including the additional clearing for the additional capacity for the replacement septic system leach field. Mr. Loyola replied that was correct. John Gaddy asked what the reason for clearing that now was. Mr. Loyola stated that they just wanted to show the worst case scenario and they could phase it. He stated that they could put into the clause that the septic system would be cleared only if necessary. He stated that they have updated the filtered view creation plan with regard to the building envelopes and the new language would be a part of all the deeds. He explained that they had included planting plans on the drawings. He stated that the applicant was adamant that the Board put as much restriction on the creation of the filtered views as they possibly can. He said the plan was as tight as they can make it. He said this is much more restrictive than anything he's ever seen in Bolton and they are willing to sit down with the Town and the Town Attorney in regards to enforcement and penalties.

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John Gaddy stated his concern is with the maintenance of the replacement trees and how they are going to be replacing dead and diseased trees that are removed. Mr. Loyola stated it was selective clearing of anything that was dead and dying. He stated that this was not clear-cutting by any means and if it needs to be more restrictive, they are fine with that. He stated that within the building envelope they have provided a planting plan that will soften the buildings. John Gaddy stated that he would hold this to a standard that the A.P.A would have for the language to keep this project essentially invisible. Mr. Loyola stated he believes there is a lot of mature vegetation here. He stated that they could get some of the view with just some limbing and pruning of the existing trees. He stated he would look at the A.P.A. language that Mr. Gaddy was talking about.

Sandi Aldrich asked if they would be clearing the building sites before they are sold. Mr. Loyola stated no, they would be marking out with the monuments of the allowable building envelope and the purchaser would have to go through the regular building permit process.

Sandi Aldrich asked if the planting was to be done by the former owner would be part of the conveyance and deeds. Mr. Loyola stated that it would be a requirement as part of the deed that planting would be done as part of the creation.

Herb Koster asked the Zoning Administrator if a septic system fails do they have enough time to clear the area and set up a septic plan. The Zoning Administrator stated that a new system gets put in as soon as possible. Herb Koster asked if it is reasonable to not allow them to be prepared with the reserved area. Atty. Muller stated it was up to the Board, but they had to make reasonable decisions with respect to this application. Mr. Loyola stated that he thinks a week is ample time to remove the trees and be ready.

John Gaddy asked if looking at driveway cross sections if they were just typical. Mr. Loyola stated that they are trying to show worst case scenario and depending on the size of the ponds they could show additional planting and tree maintenance once they get to the point of stormwater management. John Gaddy asked if the replanting's were with 2" caliper trees what would the height be. Mr. Loyola stated they would be about 15' to 20' and would have significant height.

Mr. Loyola stated he believes this was everything the Board had required.

Herb Koster asked if they had a time table for the replanting for the driveway. Mr. Loyola replied they would be trying to plant concurrent with the roadway and as they move up the road they would stabilize the grade and plant as they go.

Herb Koster asked if they had been able to size the underground tanks for water storage areas for fire. Mr. Loyola said they have not as of yet. He said he could give an approximate on the plans in terms of the gallons if they would like.

John Gaddy asked if there had been a determination at the Zoning Board of Appeals on the Zoning Administrator's interpretation. Atty. Muller stated that the Board had upheld her interpretation of specific sections of the Zoning Code and Subdivision Regulations as it applies. He stated that if the Planning Board makes the determination that it is a shared driveway, the Zoning Administrator's interpretation states the Planning Board has the discretion to do this, which they have already done.

John Gaddy asked if in terms of performance standards for the shared driveway he understands the roadway has very limited flexibility, does this give them more flexibility. Atty. Muller stated that it gives the Board a lot more flexibility, but ultimately the Subdivision Regulations state that a driveway shall not exceed 16' in width, so part of the interpretation stated that was the end result and not that the clearing must be no greater than 16' wide. John Gaddy asked if there is clearing on 35' and then it is tapered back to 16' it is only 16'. Atty. Muller stated that was a 16' driveway. Herb Koster asked if the swales on the side of the road were included in the size of the driveway. Atty. Muller stated that was up to the Board. He stated the Subdivision Regulations stated driveway up to 16' wide.

John Gaddy stated that he realizes that stormwater is not on the table and this is an unusual way to do this but he is wondering what additional amount of clearing would be necessary to do the stormwater or if they expected the stormwater to be maintained in the clearings shown. Mr. Loyola stated that as far as the swales are concerned he thinks that a couple of feet on the uphill side will be plenty to hold the water and provide the channels needed. He explained they can be vegetated. Scott Miller stated that the plans show the swales. Mr. Loyola stated that the canopy itself has a width to it and they can plant vegetation on the uphill side of the road so the canopy covers most of the driveway. He explained they would have a tree lined driveway with a very naturalized look and they do not need to go wider than 16'.

Herb Koster inquired if the Board had the power to clarify a definition. He believes 16' should be drivable surface so they were clear about it.

Kirk VanAuken asked if there were any plans or procedures that would put the runoff in place as they move forward with excavation. Mr. Loyola stated that as part of the stormwater management plan there is a construction sequence they have to detail out so all the controls that are your ultimate controls are built first. Kirk VanAuken asked if the plan was to put the driveways in to the monuments of the building lot. Mr. Loyola stated that the plan is to build the driveway and do the planting concurrently with the driveway to get it where it needs to be and the monuments would be placed for the allowable building envelope so people looking to buy a lot could come up and look at these lots.

Atty. Muller read the following paragraph from the Zoning Administrator interpretation that was upheld by the Zoning Board of Appeals to the Board:

In an effort to read both Code sections as "compatible," it is my determination that the Planning Board has the proper and sole discretionary authority to consider *all* criteria specified in stormwater regulations, zoning and subdivision regulations in determining *during construction* the required *limits of clearing* necessary for the proper installation of a shared

driveway in the proposed Oberer subdivision. Upon *completion* of the construction, the "shared" driveway, in accordance with Code Section 150-17 G(6) would be required to be *in final form* "...limited to a sixteen foot right of way." Atty. Muller stated that the Board does not interpret the size of a driveway, the Zoning Administrator does. He read the definition of a driveway in Bolton Code as follows:

Any area privately reserved on any lot, plot, site or parcel of land for the purpose of providing vehicular access from an access road or state, county or Town highway to a private dwelling or other private principal buildings located on said lot, plot, site or parcel of land, to certain portions of said dwellings or other principal buildings to accessory buildings or to private parking spaces, the use of said area being private to residents or owners of said dwellings, to the occupants or owners of such other private principal buildings and to such other persons as may be designated or permitted to use such private area by the owners thereof. Atty. Muller explained that it does not say the actual paved surface and the Zoning Administrator said it was the gravel or paved surface. John Gaddy stated a 16' driveway would max out the whole right of way. The Zoning Administrator stated that stormwater controls can be beyond the 16' and they are not considered part of the driveway.

Herb Koster asked if the right of way would be determined by metes and bounds. Mr. Loyola stated that this would be done as a description for a maintenance agreement. Herb Koster stated that to maintain stormwater management and the metes and bounds of the right-of-way need to be more than 16'. Atty. Muller Stated That the Zoning Administrator's interpretation is that the drivable surface cannot be more than 16'. He stated that stormwater devices are not driven over and are not part of the driveway. Atty. Muller stated that the Town has a standard stormwater management agreement that spells everything necessary out.

John Cushing asked if it would be a 50' right of way following that road. Atty. Muller said no. The Zoning Administrator explained it is a driveway. Atty. Muller to get to a stormwater device that may need some maintenance, the easement on paper, then defined on legal descriptions and then mentioned in covenants and restrictions and deed declarations can be as wide as necessary but that does not mean they are cleared. Herb Koster stated that he is not talking about clearing he is talking about access to.

Atty. Hill stated that they can specify very clearly that the driven portion of the driveway will be no wider than 16' and they can provide a very detailed metes and bounds description of the driveway once it is built. He stated they can separately have the easements for access and maintenance to any stormwater control issues. He stated that they could make sure that there are reciprocal easements so that all the lot owners can have access to clean and maintain the stormwater controls.

Atty. Muller stated that right out of the code section 200-51(B) and the Zoning Administrator's interpretation:

In review of the Oberer subdivision proposal, by application of Code Section 200-51(B) (1) it is specified that: "During construction , clearing shall be limited to the extent of grading only as approved by the Planning Board." More specifically, in reading of Section 200-51, the Code book makes reference in an Editor's note 18, "For clearing in regard to subdivisions, see

Ch. 150, Subdivision of Land §150-2 and 150-17 G." By direction of the Editor's note, "Code" Section 150-2 is mandated. This section provides that municipal board review and compliance with Town of Bolton Land Subdivision Regulation shall be required as a prerequisite to any land subdivision. Further, Code Section 150-17G, Tree Clearing also applies and more specifically Code Section 150-17 G(6) Driveways states : "Clearing for a driveway shall be limited to a sixteen foot right of way."

Based upon a thorough reading and a cumulative application of the Town of Bolton Land Use Ordinance (Chapter 125 Stormwater and Erosion Control; Chapter 150 Subdivision and Chapter 200 Zoning), I(the Zoning Administrator) find that Code Section 200-51 B(l) when read with Code Section 170-17 G(6) may reasonably be construed in conflict. On the one hand, Code Section 150-17 G(6) would appear to limit a driveway clearing width to no greater than sixteen feet; on the other hand, Code Section 200-51 B(l) specifies that "during construction," clearing shall be limited to the extent of grading only as approved by the Planning Board.

Atty. Muller stated they have gone through the whole analysis with an interpretation and an appeal and a decision of the ZBA that this supplies and it is back in the Planning Board's lap. He stated that the Board was supposed to figure out what the clearing requirements were. He stated that in the final analysis whatever the clearing expectations are it has to come back into compliance no greater than a 16' wide driveway, which they have determined is a drivable surface.

Atty. Muller stated that the Board needed to go over the procedural stipulation which was offered last month and read it into the minutes.

Herb Koster asked if the applicant brought in a stormwater management application within 90 days that fails to satisfy the Town Regulations or the Town Engineer's requirements, does that also rescind the application. Atty. Muller asked does it? Herb Koster said he would like it to and that part of it is not in there. Mr. Loyola stated that typically when they present stormwater projects to the Town Engineer there are questions and technicalities, and not necessarily failure to meet stormwater requirements, but a different way to look at different problems. If the Town Engineer takes exception with any part of it they would be able to come back with altered plans for whatever they may see that they would like differently. He stated they wanted to reserve the right to work with the Town Engineer to actually provide a completed plan. Herb Koster stated he was not looking for a time period; he wanted the verbiage stating that they are willing to rescind the subdivision if the stormwater management can't meet the design standards. He stated the original design of it has to be presented within the original 90 days. Atty. Hill stated that they know that they ultimately have to present the Board with a compliant stormwater management plan and the purpose of the stipulation was merely to indicate to the Board that they would submit a stormwater plan to the Town Engineer within the 90 day period after they receive conditional approval. He stated that ultimately if it is not possible for them to submit a compliant plan that meets the States requirements; it is obvious that they can't move forward.

Atty. Muller stated that it should not be a problem for the applicant to put in the language that basically states that their inability to submit an approvable stormwater plan is fatal to the

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application. Atty. Hill stated that he thinks they have understood that from the beginning. They must submit a plan that meets the State and Town standards or the subdivision can't move forward and he would be happy to work that out with the Town Attorney.

John Gaddy asked about the short form appendix B that has been submitted on part 1 section 3 if that information was calculated on based on using the 16' width of the roadway. Mr. Loyola stated it was everything that you see in the clearing limits. He stated they were very conservative with that number to show the maximum extent of disturbance. John Gaddy asked if they expect stormwater to be done within the 9.6 acres. Mr. Loyola said they were going to try to do that yes.

Herb Koster asked if they were going to supply the Board with a schedule of their procedure going up the road and what they would be doing before they move on. Mr. Loyola replied yes they would put together a detailed construction sequence detailing A to Z how they would be proceeding up the hill as part of the SWPPP. Herb Koster stated the replanting areas are included in the disturbed area. Mr. Loyola replied correct.

Herb Koster asked if they would go to Public Hearing next. Atty. Muller stated that the Zoning Administrator would like the Board to make a resolution to accept this as a sketch plan first.

Herb Koster asked if they can accept a sketch plan with conditions. The Zoning Administrator stated that they are accepting it as a sketch plan and then it would go to final. Atty. Muller asked what the Board wanted to see when the applicant is ready to be at the preliminary level. Herb Koster stated he wanted the additional language in the procedural stipulation, a preliminary construction sequence and replanting schedule, A SEQRA long form, and drawings reflecting additional capacity but not the clearing for additional leach fields.

John Gaddy stated he would like to see these things before a Public Hearing. Herb Koster asked what the time frame for a new packet would be. Pamela Kenyon stated 2 weeks prior to the meeting date. Atty. Muller stated that he is trying to get a clear resolution from the Board and if they decide they need to see all of this information before they can advance further they will call it a satisfactory sketch plan and then move on to a preliminary and deal with the issue of a Public Hearing.

Herb Koster asked if they could lump this all into one motion with the Public Hearing and the sketch plan. Atty. Muller asked the Board if they had enough information to move forward and feel comfortable with it. He stated if they were, then their resolution would be that they had a satisfactory submission lacking the four items they were looking for and it was a satisfactory sketch plan.

Herb Koster asked if they were asking for a SEQRA long form does the Town Attorney have any recommendations for this offer. Atty. Muller stated that they should have the long form to look at and he would like the Board to look at the minutes of the Appeal which had excellent testimony from Mr. Ulasewicz as part of the conditions.

John Gaddy stated he would like to see the documentation of the performance standard of “essentially invisible” that the A.P.A. uses. Herb Koster stated that essentially invisible is subjective. Atty. Muller stated that he thinks that the Board should ask the applicant for the best representation to show how the cleared areas, the driveway and the three dwellings are integrated with the site and then judge it when they see it.

Mr. Loyola asked what the next step was. Atty. Muller stated that they need to come back with all that was requested and then the Board would consider approving it as a sketch plan. Mr. Loyola asked if that meant the next step would be final. Atty. Muller stated that there is no requirement for preliminary. Mr. Loyola asked if they could schedule a Public Hearing or if they would have to wait another month. Atty. Muller stated they would have to wait. Mr. Loyola asked how the SWPPP plan would pertain to this motion. Herb Koster said they agreed to a generalized construction plan. Mr. Loyola stated that if they submit all of the information required if they could move to Public Hearing. Atty. Muller stated that he believed so. Mr. Loyola stated that once the Public Hearing is closed would they supply the SWPPP. Herb Koster stated the SWPPP would come with the stormwater design.

No County Impact.

Motion by John Gaddy to accept SD14-01 as a satisfactory sketch plan, with the following conditions:

1. Copies of the minutes and interpretations of the topics that are critical to this particular application prior to moving forward to the next step is to be reviewed by the Planning Board.
2. Revision of the stormwater language to include the discussed clause that would eliminate the liability of this application if the stormwater agreement was not submitted as stated in the procedural stipulation.
3. A construction sequence which includes the re-vegetation schedule.
4. A completed SEQRA long form.
5. The clearing for the septic areas is not to be allowed for the septic expansion.

Seconded by; Sandi Aldrich. Henry Caldwell and Gena Lindyburg recused themselves. **All others in Favor. Motion Carried**

2. **SD14-03 LAFFERTY, LAWRENCE.** Represented by Ralph Schissler III. Seeks to divide into two lots that parcel designated as Section 172.02, Block 1, Lot 7, Zone RR10. Property Location: Fourteen Mile Island. Minor Subdivision. Sketch Plan Review. Subject to SEQR. See V14-19 associated with the project.

This application was withdrawn

3. **SPR14-15 F.R. SMITH & SONS.** Represented by Chris Gabriels and Jarrett Engineers. Seek Type II Site Plan Review for 1) Commercial boat storage not visible from the public right-of-way; and 2) a major stormwater project involving more than 15,000 square feet of land disturbance. 70,851 square feet is proposed. Section 171.00, Block 1, Lot 10, Zones **RR5** and LC45. Subject to SEQR, LGPC, WCPS, DEC and APA review. *Notes: See SPR87-08 approved by the PB on 4/30/87 for commercial boat storage.*

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Henry Caldwell and Sandi Aldrich recused themselves.

Atty. Killeen stated:

- FR. Smith is the oldest continually operating marina on Lake George.
- It has been in existence since 1921 and has the oldest Johnson outdoor motor franchise in the world.
- Part of this business is the storage of boats.
- It is imperative that they expand their storage facilities.
- They are one of the larger employers in the Town of Bolton.
- They are a significant economic player and contributor to the Town of Bolton.
- The application tonight proposes a two phase expansion to the site.
- The first phase involves the construction of an additional storage building adjacent to the existing storage building.
- It will involve the installation of a boat hoist and a boat washing station.
- This will enable them to wash boats away from the Lake pre and post storage.
- The second phase involves two additional buildings which will be contingent and conditioned upon them obtaining density rights.
- This matter was previously considered by the ZBA and variances were approved but the A.P.A. intervened and they have an application for permit amending with them.
- The second phase will not be built without the transfer of density rights, which is allowed under town law and the town zoning ordinance.
- Limited outdoor storage on the flat area of the parcel adjacent to the existing storage building would be another aspect of phase one.
- All of the storage facilities would be screened by the screening plan that has been presented.
- This plan is not the transfer of the marina from Sagamore Rd. to Edgecomb Pond.
- It is not a quick launch facility or a service or maintenance facility.
- It is not a facility that is open to the public nor will it attract public traffic or be used for sales.
- It is a storage facility that will be used for activities that are ancillary and necessary as part of the storage process which is a permissible use of this site.

Tom Jarrett of Jarrett Engineering stated the following:

- The two phases involve two buildings, four structures.
- There is a structure existing in the northwest corner of the site.
- In phase one a structure would be built opposite of that just east of it along with a boat washing station in between them.
- A new entrance at the north end would be built, which is critical to the operation of the site.
- Trailered boats would enter at the north end and pass through the boat washing operation and be transferred into storage.
- The stormwater is contained in the footprint of the site.

- For phase one on the south end of the site is open storage, which they have provided a phased stormwater plan for with an open swale.
- If and when phase II is built the same kind of stormwater management plan that is constructed for phase one will be added to phase two.
- They have tried to maximize the separation from the stream and minimize disturbance between the stream and the storage structures.
- They are trying to limit the visibility of the site from all the public access points, essentially the roadways and the Conservation Club.

John Cushing asked where all the pollutants and chemicals would go off the boat at the boat washing station and be captured. Mr. Jarrett replied that they were trying to minimize what they use for washing and it would be mainly a water pressure washing operation. They have proposed an infiltration system through an organic filter underneath the boat wash station. The contaminants will come off the boats and be trapped in the organic filters. John Cushing asked how long the filters were good for. Tom Jarrett replied that depends on how contaminated the boats were, but they expect it to be good for at least 5 years.

John Cushing asked how many boats they planned on washing. Mr. Andersen replied anywhere from 150 to 200 on the high side. John Cushing asked if they normally used oxalic acid to clean the. Mr. Andersen stated years ago they used those products on the boats but in recent years most marinas are using a product that which is supposed to be nontoxic.

The Zoning Administrator asked the size of the parcel. Atty. Killeen replied slightly under 5 acres 4.96 he believes. The Zoning Administrator asked why they would not need a density variance if they have two separate buildings. Atty. Killeen stated that the density variance was discussed extensively and was granted by the ZBA, but then the APA came to them and to the Town and stated that they did not want them to proceed with that variance. Their discussions with the A.P.A. state that the existing building and the new building are for their purposes one building because they do not exceed the permissible square footage of the original permit that allowed them to build a building 12,000 sq. ft. The A.P.A. is going to consider it one building even though it is not technically connected. Atty. Muller asked about the density variance granted here that the A.P.A shot down, and if they were to apply for the density variance for the extra building the Zoning Administrator sees on the 5.9 acre parcel it is likely to be granted here because the ZBA certainly gave them more than what they are now looking for and the A.P.A. will not tamper with it. Atty. Killeen replied that was correct. Atty. Muller stated that what was missing was the approval of the density variance for this second building that the A.P.A. deems one building. Atty. Killeen stated that when Atty. Muller says “what’s missing” it is a discussion that they have had with the Zoning Administrator, the A.P.A. representatives and Atty. Muller. Atty. Muller stated that he knew what the A.P.A. said and it is good news for the applicant, but the Zoning Administrator is asking about the variance granted by the ZBA to allow 4 buildings. Atty. Killeen stated the variance granted by the ZBA was to allow all of the buildings in both phase one and phase two. Atty. Muller asked if in the original version if it was a total of 4 buildings, which was shot down so this applicant needs a variance. Atty. Muller asked did the A.P.A. shoot them all down. Atty. Killeen replied they only shot the one down. Atty. Muller stated that the A.P.A. said no density variance is granted. Atty. Killeen stated the A.P.A.’s

interpretation of the Town's Ordinance is that the two buildings are essentially the same building. Atty. Muller stated he is not arguing with that, but Brian Grisi can't bind the Zoning Administrator.

Zoning Administrator, Pamela Kenyon asked how many sq. ft. both buildings combined were. Atty. Killeen replied a little more than 11,000 sq. ft. The Zoning Administrator stated that in the Ordinance under principle buildings each 11,000 sq. ft. of floor space constitutes a principle building. Atty. Muller stated this is where we started but Brian Grisi stated that they were reading it wrong. He said that Mr. Grisi said you can't combine 1, 2, 3, 4, 5, 6, 18 buildings if they are all under 11,000 sq. ft. and call it one principle building. One principle building has four sides and a roof which set them off in a whole different direction. Now Mr. Grisi is saying that if the applicant adds another building for the purposes of the A.P.A., they will consider it one building, which is a 180 degrees from where he had them start. Atty. Killeen stated that he appreciates Mr. Grisi's position is different then what it was a year ago. Atty. Muller stated that it was favorable to the applicant but it leaves the Zoning Administrator in a bad spot as she has already determined that there is enough room for one principle building and if they want to put up another building she has to either come up with the Brian Grisi theory that the two buildings are really one, which is a pretty big stretch or go get a density variance for the second variance, which he thinks the ZBA will give them because they gave them one before and Brian Grisi is not going to tamper with it because he determined the two buildings were really one. Atty. Killeen stated that if you go back and look at the original subdivision approval, there was a 12,000 sq. ft. building approved for this site. Atty. Muller agreed and said the Zoning Administrator is not headed back to reading the section and thinking if you can bunch up the group of buildings under the 11,000 sq. ft. umbrella, which is where they started and got shot down by Mr. Grisi. The Zoning Administrator asked if it was two separate structures in the original approvals. Atty. Killeen stated that it was structures up to 12,000 sq. ft. and the building that was constructed was approximately 6,000 sq. ft. The Zoning Administrator stated it was two separate structures. Atty. Killeen stated that he does not think it was defined as 2 or 1, it defined storage facilities up to 12,000 sq. ft.

Gena Lindyburg stated that the information she was given from 1987 does not indicate the square footage of any building.

The Zoning Administrator stated that she believes they still need a density variance. Atty. Killeen said they have been through this process and they came tonight expecting to present a site plan and it would have been helpful to have known that the Zoning Administrator was going to make that interpretation was going to come up at the meeting so they could address it. He stated that the plans were submitted prior to the meeting for review. He said it was a semantic discussion about whether it is changing between one building and two buildings if the structure they are talking about is being used for the same purpose. The A.P.A. interpretation is they're consistent uses and therefore not deemed separate buildings.

The Zoning Administrator asked the Chairman to table the application so she could do more research. Atty. Muller said he thinks that they are headed in the direction that they honor the A.P.A.'s position which sounds very favorable to the applicant but it's a pretty unique stretch of

concept. He thinks that the Zoning Administrator will come down square on it. They had a density variance and the A.P.A. took it away from them. Come back and get the density variance they need and his guess is that the ZBA will grant them the variance they need and his better guess is the A.P.A. is not going to take it away it can't possibly with Mr. Grisi's theory. Atty. Killeen stated it was not Mr. Grisi's theory it was the agency's theory. Atty. Muller stated that Mr. Grisi came up with it first.

John Gaddy asked if the density variance would be for buildings A1 and A2. The Zoning Administrator replied it would be for the additional buildings. John Gaddy asked if A1 and A2 would be considered one additional building. Herb Koster replied A1 is there already. Atty. Killeen replied it already exists. John Gaddy said B1 exists and B2 will be combined. Herb Koster stated that the Zoning Administrator is worried because our town writes this up differently and she has to interpret our ordinance irregardless of the A.P.A. Atty. Killeen stated that the applicant is somewhat confused at this point because they have already been through this process. Atty. Muller agreed and stated it is not a comfortable place for he and the Zoning Administrator to be here to see this. Atty. Killeen stated that he had a discussion with them about whether or not this application would have to go back to the ZBA for any reason. Atty. Muller stated that he did not see the plan but if they had one building or an expanded building and he probably heard them say one building. He stated they probably gave him the Brian Grisi version of what one building was and he is looking out for the Town of Bolton and he likes the math of the Kenyon version better. He stated the Zoning Administrator is right.

The Zoning Administrator told the Chairman she thinks they should table the application tonight. Herb Koster stated that he wanted to make sure this Board has enough information so that they do not have to table it again. Atty. Muller told them to tell them what they want, but they could not take action on it.

Atty. Killeen asked if they could connect the buildings using the boat hoist to satisfy the Zoning Administrators concerns. Atty. Muller said her answer would be yes it would be one structure if it was connected. Tom Jarrett stated that the A.P.A. said not to bother. The Zoning Administrator said they still had the 11,000 sq. ft. issue. Herb Koster stated that the original 1987 approval stated a 12,000 sq. ft. building. Atty. Killeen asked if connecting the two buildings using the boat hoist would satisfy the Town's position and alleviate to redundantly go back to the ZBA for a variance they already granted. Atty. Muller stated that if the Zoning Administrator is satisfied with that solution, they do not need a density variance. Herb Koster asked if it just needed a roof and not sides. The Zoning Administrator replied correct it just needs to be connected. Atty. Killeen asked if they build a roof over the boat hoist if it would work. Atty. Muller stated she would be satisfied. The Zoning Administrator stated she was still going to research the 11,000 sq. ft. issue compared to what the approvals were in 1987. Herb Koster stated item 3 of those approvals read one all metal building, 60' x 200' x 25' high as shown on proposal on with double stacking to accommodate 60 boats, will adhere to all required setbacks and the color to be the darker earthen tones and will conform to all building codes. The Zoning Administrator stated that this applied to a specific building which is different than what this is. Atty. Muller stated that if the applicant wanted to make it into one building, the Zoning

Administrator says she will accept it but the alarm goes off if it exceeds the 11,000 sq. ft. and if they would like to go for a density variance and they will not lose with the A.P.A.

The Zoning Administrator stated that she thought they should table the item so she could research some of the old stuff.

Atty. Killeen asked what other concerns the Board would have so they could have everything addressed the next time they came back. Herb Koster asked the Zoning Administrator if she was concerned with the square footage under the roof and if she was adding that square footage to the other two buildings. She replied she would think so, why? Herb Koster replied this would definitely make it need a variance. Tom Jarrett stated hypothetically if they expanded the building and made it 12,000 sq. ft. it would be in compliance with the 1987 approval. Atty. Muller agreed. Tom Jarrett stated they are asking to expand it in a different direction still less than the 12,000 sq. ft. Herb Koster stated that the ZA stated that she was counting the sq. footage under the roof. Tom Jarrett said if they keep the roof 596 sq. ft. they are under the 12,000 sq. ft. Atty. Muller stated that he would recommend that the applicant has that vested right with the old permit.

Gena Lindyburg read a condition of approval from the 1987 approval. She asked if there is not to be any outside boat storage based on the previous approval. Atty. Killeen replied that is correct they are proposing that they screen the site on all sides of the road and the back side and there is already existing tree foliage there. Gena Lindyburg asked if they had that plan. Tom Jarrett replied that it was the vegetative screening plan and part of the packet submitted to the Board. He explained that the ZBA had imposed new conditions on it that have now been incorporated into this plan. John Cushing stated that if he has this straight, all the years since 1987 there were not supposed to be any boats parked outside. Gena Lindyburg replied that is correct, not permanently parked outside.

Gena Lindyburg asked if they were moving the driveway. Tom Jarrett stated adding a driveway. Gena Lindyburg asked if there would be any removal of trees. Tom Jarrett they would need to remove trees for the location of building B2 but no additional vegetation is to be removed from the southern portion of the site in phase one. Gena Lindyburg asked if the vegetative screen plan would be done immediately. Tom Jarrett replied yes. Herb Koster asked if they were only interested in the Board reviewing is phase one of the plan tonight. Tom Jarrett replied both phases were to be reviewed, but phase two would be conditioned on any kind of a density variance or transfer needed. Kirk VanAuken asked if this would be a separate application for phase two. Atty. Muller asked Atty. Killeen what their discussion was that afternoon. Atty. Killeen replied that the discussion was that phase two was reviewable at this point subject to the applicant obtaining the transfer of density rights if it was to be constructed. Atty. Muller stated the plan was to obtain a transfer of density from a qualified parcel to this parcel and the Board could conceptually approve this with the condition that they meet the requirement of the transfer of density from a qualified parcel.

John Cushing asked if on the proposed boat wash area how far away the Town garden was from it. Tom Jarrett stated approximately 200' or so. Gena Lindyburg asked if Edgecomb Pond was.

Tom Jarrett replied no, it was not indicated on the survey. She asked if there were any streams on the parcel. Tom Jarrett replied that there was a stream east of the proposed storage facility on the border of the site plan. He explained that is why they tried to maximize the vegetation in that area. John Cushing asked how far the stream was from the boat wash station. Tom Jarrett replied that in the diagram C3 it shows that the boat wash area is well outside the 100' setback from the stream, it is about 140' or so. John Cushing asked if it an uphill grade. Tom Jarrett replied the entire site is at an uphill grade from the stream. He stated that the intention and the design including the boat wash area, is to all be infiltrated on the site and not run off into the stream

John Gaddy how the stormwater was being handled on proposed building B2, as it looks like a 10' grade on the east side of the building. Tom Jarrett replied they are guttering both of the proposed buildings and routing the stormwater into the floor of the building itself into the gravel to maximize the setback from the stream.

John Gaddy asked if the proposed buildings A1 and A2 would be considered as one building. Tom Jarrett stated that under the A.P.A. standards yes. Atty. Killeen stated that up until tonight he thinks the answer to the question would have been yes even though they are two separate buildings, it is his understanding that the A.P.A.'s interpretation is that because they are because they are the same use they are effectively one building and the combined area is around 11,000 sq. ft. John Gaddy asked if they would still need a variance for the density to expand to the building of A1 and A2. Atty. Killeen stated that they would need a transfer of sufficient density rights to construct that project. Whether that would need a further application to the ZBA seems a little over the top to him, but again whatever is required is what has to happen and phase two does not happen without a transfer of density rights.

Herb Koster asked if the Board had to go with the Zoning Administrator's decision. Atty. Muller replied yes, he understands how Mr. Grisi has worked it out for the applicant but he does not bind the Zoning Administrator and she is in a tough spot in trying to accept two separate buildings with a common use as one, which will set a tough precedent for a whole bunch of other applications. Herb Koster stated that the connecting roof is a great idea but when considering the space underneath the applicant is way over the 12,000 sq. ft. Atty. Muller stated that they are willing to extend to the applicant the argument that they have 12,000 sq. ft. of prior approval and if they can get all of that and the connecting roof inside 12,000 sq. ft. they already have approval for it. He stated this comes about because they already started on it years ago. Atty. Killeen asked if he was saying that if the connecting buildings with the connecting roof don't exceed 12,000 sq. ft. they would be considered one building and would not require a density variance from the ZBA with respect to phase one. The Zoning Administrator stated that her concern is that when they were originally approved in 1987 it was for a very specific building that has now changed. Atty. Killeen asked if this would be a determination made by the Planning Board. Atty. Muller stated that the Planning Board does not do any interpreting. Tom Jarrett stated that just the configuration has changed. The Zoning Administrator stated she wanted to research the minutes of a previous appeal as to how to determine the square footage of floor space as certain thing were excluded and others were not. Herb Koster asked if a breeze way between a house

and a garage if it was considered square footage. Atty. Muller replied that it is in that they consider it cumulatively to the size of the house.

Atty. Killeen asked the same question again and if they could advise the applicant and their attorney what the rules are and where they are going to be found in the context of the ordinance so they can try to comply with them. Atty. Muller stated that the Zoning Administrator would not be giving an answer tonight as she needs to check on something, but his advice to her would be that he accepts proposition that by prior approval there is 12,000 sq. ft. in an umbrella of an approval and a partially built by prior permit and by architectural integration of two enclosed spaces there will be one unified roof, he believes that will comply with being one building. Atty. Muller explained he does not interpret the code and that the Zoning Administrator wants to research a different interpretation on a different piece of property and how it was cumulatively calculated so that she is consistent.

Atty. Killeen asked if there were any other matters the Board would like to see addressed. Herb Koster stated that any course they take could have them back before this Board next month.

John Gaddy asked what the state of the art treatment methods for the chemicals being discharged from the boats. Atty. Killeen stated that if constructed this will be the most state of the art boat washing station on Lake George. He said that it will exceed the LGPC guidelines and they will comply with any requirements that the LGPC has uses in terms of those contaminants. He stated that in terms of the filtration process there is no other boat washing station on the lake that would not even approach this system.

Gena Lindyburg asked if they wanted the Board to approve both phases at this time. Herb Koster stated that Atty. Muller stated that if the Board desires, they can approve phase two with stipulations on it, so when it comes up the Board can do one or both. Gena Lindyburg asked if they would have to go back to the ZBA for approval. Atty. Killeen stated that phase two would be specifically with the condition that they obtain from some other property, the required density transfer in accordance with the Town Ordinance and the Town Law. He explained if they never obtained it, they could never build it. They have already gone through the whole process and received approvals from the ZBA only to be turned down by the A.P.A. so they have discussed it with them and they were told if they could obtain a satisfactory transfer density rights they could build the two buildings. He said they are asking the Board to look at those buildings and say that they are ok as long as they get their density.

John Gaddy asked if there would be any change of the volume of boat traffic going back and forth. Atty. Killeen stated that the alternative site they had used in the short term to address the problem created by the inability to get this developed was to lease space in another location, but the traffic pattern was the same. He stated that there will be no impact at all.

John Cushing asked how they would capture all the invasive species. Atty. Killeen stated that this was not a decontamination facility and any boat with contaminants under the LGPC regulations must go before the LGA boat washing stations before they would ever accept it for

storage. Scott Andersen stated that decontamination is 100% different from cleaning and the only agency licensed to do this at this point is the LGPC. John Cushing stated that the invasives are already in Lake George. Scott Andersen stated legally any boat coming off Lake George has to be tagged even before it is washed saying it is ok and can go back in Lake George. Herb Koster asked how contaminants would survive up there. John Cushing stated that they could get washed into the stream 140' away. Tom Jarrett stated that essentially all the boats get washed right next to lake at all of the marina's now and they are moving it up the hill to a sand and organic filter which is far superior to anything anyone else is proposing or operating. Atty. Killeen stated that most of the stuff on the boats from Lake George is just algae. John Gaddy stated that he sees this as a big improvement having the washing at a remote location. Atty. Killeen stated it was far superior to any other marina on the lake and is being completed at considerable cost to the applicant.

Herb Koster stated that the Board's dilemma is that the Zoning Administrator would like to have time to research. Atty. Killeen stated that they have the same dilemma and they have to give Pam the time to do her research and hope that she will share it with them so they can move forward in one of two paths.

No County Impact

RESOLUTION:

Motion by John Gaddy to table SPR14-15 at the request of the Zoning Administrator. Seconded by Kirk VanAuken. All in Favor. Motion Carried.

- 4. SPR14-16 HARVEY, JENNIFER.** Represented by Kurt Koskinen. Seeks Type II Site Plan Review to timber harvest an area greater than 1 acre on one parcel in the RL3 zone. Section 140.00, Block 1, Lot 53, Zones RL3, LC25 & RCL3. Property Location: North Bolton Road and Padanarum Road. Subject to WCPS and SEQR review.

Kurt Koskinen stated:

- They are looking to gain a permit to harvest within the town.
- They are looking to maintain a 60 sq. ft. or more of basal area per acre.
- Thinning of trees 14" or larger.
- Some lesser trees may be harvested to make skidder trails.
- Harvesting is mostly to be done during the winter
- No harvesting will be done within 75' of the Town road and Rt. 9N.
- Post-harvest cleanup procedures to be followed are listed in NYS DEC best forest management handbook.
- Proper water and stormwater controls will be implemented before leaving the site as per DEC basic requirements.
- They do not have to cross the stream.

Herb asked when the cutting was to be done. Mr. Koskinen said only in the winter.

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Gena Lindyburg stated that there was another stream on the property that crosses 9N, other than what is depicted on the map. Mr. Koskinen stated that he could not find it on the Soil and Water Conservation Commission map he has. Gena Lindyburg stated that the culvert for it goes under 9N. John Gaddy stated that it is not a classified stream. Gena Lindyburg stated that it may not be but it is still very much a stream and it is flowing today. Mr. Koskinen replied they always keep a 35' buffer from any of the streams on the property.

John Cushing asked who inspects these timber harvesting sites to make sure they follow all the procedures properly. Mr. Koskinen replied that the DEC did and he also said they count on neighbors and he personally checks the site weekly. John Cushing stated that basically there are a whole bunch of guys rampaging around with chain saws and Mr. Koskinen comes in once and a while to check in. Mr. Koskinen stated that it is usually when DEC gets a complaint that they come in. The Zoning Administrator said that the Code Enforcement Officer checks it too. John Cushing asked how viable that would be on a 1000 acre lot.

Sandi Aldrich asked if the property is visible to the lake. Mr. Koskinen said he would think in maybe a 5 degree window, but he will maintain a 60 sq. ft. basal area so it would not be obvious.

Gena Lindyburg asked how many acres they would be clearing. Mr. Koskinen said they would be thinning about 180 acres. He stated that they would only be taking trees 14" or bigger and they would be maintaining the basal area. Herb Koster stated that they work on a basal area and it actually makes the forest healthier. Gena Lindyburg asked if they realized that it had been timber harvested about 20 years ago. Mr. Koskinen, Herb Koster and Kirk VanAuken stated that was about right. Herb Koster said it is about 15 to 20 years and it depends upon the size of trees harvested. He said this makes for a healthier forest.

Gena Lindyburg asked about the setbacks from the boundaries to the neighbor. Mr. Koskinen stated that he tries to have the boundaries all marked and tries to keep the men away from them within reason. He stated that he does not believe there is any town law as to how close you can cut to a neighbor. The Board replied that there is not. Herb Koster asked if Mr. Koskinen marked the whole property himself before the cutting started. Mr. Koskinen replied that he does.

Kirk VanAuken asked what the time frame was. Mr. Koskinen stated about 2 winters. Kirk VanAuken asked what equipment they would be using to harvest. Mr. Koskinen replied with skidders, chainsaws and cables.

John Gaddy asked how you would delineate a buffer on the ground. Mr. Koskinen replied by flagging and he usually uses 35'.

Sandi asked what they did with tops of the trees. Mr. Koskinen stated they are either brought out for firewood and the small tops are good as nutrients for the forest floor. Sandi Aldrich asked if they chip them up and he said no they run over them with the skidders and they rot into the ground.

Henry Caldwell asked if they were using a feller buncher. Mr. Koskinen stated they were not they would be using skidders.

Jim Ashley neighbor to the property stated he had a concern with the loggers crossing onto his property which had been done the last time it was logged. Mr. Koskinen gave him his card and said to please call with any problems or concerns.

Gena Lindyburg asked which way they would be entering the property. Mr. Koskinen replied that they would use both existing entrances; the basic premise is to use existing roads which will create less disturbance to the property.

Gena Lindyburg asked what the dates for harvesting looked like. Mr. Koskinen stated at least 2 successive winters. He explained the frozen ground was better to work on, and timber prices were better in the winter.

John Gaddy asked about the patches of chestnut oak forest. Mr. Koskinen replied that there would not be any eradication of any particular species.

Herb Koster asked if they found any Beech trees. Mr. Koskinen stated there were some scattered throughout.

No County Impact with a stipulation provided that the recommendations of New York State Soil and Water are followed.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR14-16.
Seconded by Sandi Aldrich. **All in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR14-16 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 conditions: 1) That the stipulations stated in the letter dated September 6, 2013 from Warren County Soil and Water are followed; 2) that all logging is to be done in the winter period 2014-2015 and 2015-2016 when the ground is frozen; and 3) that a stream that is not recognized that follows road and goes under 9N is included on the map. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

5. **SPR14-17 KINCAID, BARRY.** In accordance with Section 200-47G3 (Regulations of mobile homes outside of transient mobile home courts or campgrounds), seeks Type II Site Plan Review to place a construction trailer on that parcel designated as 186.00-1-40.11. Zone RL3. Property Location: Brookside Parkway. Subject to WCPS and SEQR review.

Barry Kincaid stated:

- He is in the middle of selling lot 4 and the purchasers need a place to stay while they are constructing their new project on the weekends.
- They would like to place a camper there temporarily.

John Gaddy asked how long it would be there for. Barry Kincaid stated it would be for 1 year to 1.5 years.

Herb Koster asked if they would have to renew it every year. Henry Caldwell asked if the new owners would have a problem with coming back to the Board in a year. Barry Kincaid stated he did not think so.

Sandi Aldrich asked about the water and sewer. Barry Kincaid stated they would be pumped and the intention right now is to drill a well which will then be used for the house after it is built.

RESOLUTION:

Motion by Henry Caldwell to declare the Bolton Planning Board as lead agency for SPR14-17. **Seconded by** Kirk VanAuken. All in Favor. Motion Carried.

Motion by Henry Caldwell to accept SPR14-17 as complete, waive a public hearing, and having met the criteria set forth in the code, grant final approval of the project with the condition that it is good for 1 year and if it stays they must come back. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. All in Favor. Motion Carried.

The meeting was adjourned at 9:01 pm.

Minutes respectfully submitted by Kate Persons.