

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday October 16, 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 Lindyberg, John Gaddy, John Cushing, Ann Marie Somma, and Counsel Michael Muller.

**Absent:** Zoning Administrator, Pamela Kenyon

The meeting was called to order at 6:02 pm.

Herb Koster asked if there were any changes or corrections to the September 18, 2014 minutes.

**RESOLUTION:**

**Motion by** Gena Lindyberg to accept the September 18, 2014 minutes as presented with the following corrections:

Page 8 should read; Sandi Aldrich asked about the seating area near the road and if it would be screened by the plantings.

Page 9 should read “Mr. Adornato stated that Mitzi Stogsdill-Nittmann was going to double check it but he believes the house is at the correct elevation” only once as opposed to 3 times.

**Seconded by,** Kirk VanAuken. John Cushing abstained. **All others in Favor. Motion Carried.**

**REGULAR MEETING**

1. **V14-26 F.R. SMITH & SONS.** Represented by Atty. Frederick Killeen and Tom Jarrett, P.E. For the construction of *a total of three additional commercial boat storage buildings on a 4.92 acre parcel*, presently improved by an existing commercial boat storage building. *The proposed project will be completed in two phases.* In order for this parcel to be code compliant, *and have a total of four “principal buildings”, the site would require a total area of 20 acres (one “principal building” per each five acres).* Compliant density on *this 4.92 acre parcel may be achieved by a combination of density area variances and/or a transfer of density right(s) from a qualified parcel(s).* Applicant’s proposal is to develop the site by constructing *a total of three new “principal (storage) buildings”* on the site (which presently has one existing “principal building”). *The Applicant seeks one density variance for the construction of an additional 5,134 sq. ft. “principal (storage) building” in Phase I of the project. Applicant seeks a second density area variance for Phase II of the project that it proposes to combine with an additional principal building right to be obtained by the Applicant’s subsequent acquisition of a principal building right transferred from a qualified parcel, to allow the construction of*

*two additional “principal (storage) buildings” on the 4.92 acre parcel. Phase II of the project is contingent upon the Applicant’s subsequent acquisition by transfer of an additional density right from a qualified parcel. If both Phase I and Phase II of the project are completed, a total of four “principal (storage) buildings” [three(3) new and one(1) existing] could be located on the 4.92 acre parcel . An area variance is also required for a deficient side yard setback for building A1. 60’ is required, 43’ is proposed. Section 171.00, Block 1, Lot 10, zone RR5 & LC25. Property Location: 18 Edgecomb Pond Road. Subject to PB, LGPC, WCPS, DEC and APA. See V13-01 for previous approvals. See SPR14-15 associated with this project. **The Zoning Board seeks an advisory opinion from the Planning Board pertaining to questions 14-31 of the Lake George Park Commission letter dated July 18, 2014.***

Atty. Killeen stated the following:

- He explained reason they were before the Planning Board this evening was due to the request of the Zoning Board for recommendations in regard to certain stormwater issues raised in a letter from the LGPC.
- The project has an extensive stormwater management design on this project that has been reviewed and approved by the Town Engineer.
- He stated that Tom Jarrett of Jarrett Martin Engineers, was there this evening to answer any of the Board’s questions on stormwater management that the LGPC had.
- He stated that the two issues raised were stormwater and wastewater.
- He stated that there is no wastewater and the facility does not have a bathroom, nor is one required.
- He stated the only water on the site was from the boat washing area that does not generate wastewater.
- One of the benefits of this project is that they are expending a significant amount of resources to construct this project and taking the boat washing function that is presently performed by their marina on the lake and moving it to an area that is a substantial distance from the lake shore.
- This has a state of the art filtration system to accommodate the boat washing, and there is absolutely no wastewater generated.
- The applicant has a 100% approval rating from the EPA.
- It is the first marina on the lake to develop a stormwater management plan and to apply for a permit from NYS Environmental Conservation.
- They have 100% compliance record with respect to all of their field storage area facilities with NYS Environmental Conservation.
- This storage facility is not a maintenance facility or a marina per say, it is a storage facility with a boat washing station.
- All issues raised by the LGPC have been sufficiently answered.

John Gaddy asked if the Town Engineer had approved stormwater for both phase I and phase II. Tom Jarrett replied they do.

John Gaddy asked if a boat washing water was not considered wastewater, what it was considered. Mr. Nace stated that DEC does not classify it as wastewater in the context of

sanitary wastewater. He said they may consider it industrial stormwater which they have a permit for.

John Gaddy asked about the industrial pollutants and how they were being considered brought up in question 16. Atty. Killeen stated that particular question relates to the new requirement for marinas to have a DEC Industrial Stormwater permit. He stated they are the first marina to have this permit.

Mr. Jarrett stated that the LGPC maintains boat washing guidelines and they wanted the boat washing and the stormwater separated with a wider barrier which they have done. He stated that the LGPC stated that they like it. Gena Lindyberg asked if they had anything from the LGPC supporting that. Mr. Jarrett replied only orally. He said they had never seen the detail for organic filter they are providing under the boat washing area and they really liked it and said they may include it in their guidelines. He provided a curtesy copy of the responses they had made to the LGPC to the Board. He also handed out the drawings and details to the Board.

Herb Koster asked if there were any significant changes to the stormwater. Mr. Jarret replied there were not. He elaborated that the sheer number of comments that the Zoning Board saw may have intimidated them and they may have asked the Planning Board for an opinion based on the number of comments they saw from the LGPC. He stated it is not unusual for the LGPC to generate a lot of comments, but when you boil it down they don't take issue with the basic design or the calculations, they want to make sure it is being protected and maintained later on so it does not silt in or clog up. He stated he met with the LGPC and the drawings he submitted reflect the change in detail. He explained some of these changes.

Herb Koster asked how they planned on maintaining this. Mr. Jarrett stated the marina permit is renewed every 5 years and they have agreed to submit a maintenance report to the LGPC at that time and upgrade and clean out the service if it is clogged.

John Cushing asked if the size of the infiltration system had been increased. Mr. Jarrett replied no, and detailed the plans for Mr. Cushing stating they now had the system 4 times the size it actually needs to be to by reducing the infiltration rate in the functional chamber by 50%, but they did not physically change the dimensions of anything. John Cushing asked how they did this. Mr. Jarrett detailed it out for him. John Cushing asked if they would be driving on the infiltration system. Mr. Jarrett replied it was structurally designed to be driven on. John Cushing stated that this would then be considered a permeable surface. Mr. Jarrett replied yes and that is why it was topped with gravel and it would be maintained as permeable.

John Gaddy inquired about the mixture of organic materials on the plans. Mr. Jarrett stated it was only for the boat wash area, it was an attempt to treat the water and it was mimicking some of the Federal and State guidelines for stormwater management. John Gaddy stated that they should be encouraging these types of alternative systems and he was wondering what the maintenance schedule was on that. Mr. Jarrett replied it was hard to predict and it may have to be cleaned every couple of years but he believes it will be obvious.

Herb Koster stated that the Board normally calls itself lead agency on every project that comes before them and asked if the cleansing mechanism requires a five year maintenance program with the LGPC, would this Board be involved in it. Atty. Muller stated that in terms of checking it, it depends on how the Board leaves that issue after this whole project returns to this Board for purpose of actually getting into stormwater and site plan review. He explained that right now they were here on the advisory aspect of considering, not necessarily deciding, and then advising the ZBA.

Tom Jarrett stated that they would be submitting an executed maintenance agreement to the Town of Bolton for maintenance in general for a stormwater system. He said they would prefer to have that maintenance schedule that the LGPC is suggesting built into the Town of Bolton stormwater maintenance agreement and provide a courtesy copy to the LGPC every time this permit is renewed. Atty. Muller stated that would be fine.

Herb Koster asked what no significant changes meant. Mr. Jarrett replied that they did not have to change the size of the system at all. He said they added some protection in the driveway. He stated that they discussed putting in a geo grid under the driving surface to add to the structural support overall. He explained that this would spread the load out. He stated that if they plug up, it does not affect the environment it only affects the operations.

Herb Koster stated that the Board is not qualified to critique Mr. Jarrett's design and his feeling is that this has already been reviewed by the Town Engineer and this Board and these questions are more statements from the LGPC and have already been reviewed. He stated this Board has already reviewed this and voted on it and his recommendation to the ZBA is that they have their job to do deciding whether they want to give it a variance or not. He also stated that he did not want to keep bouncing the applicant back and forth from Board to Board, which seems like it keeps happening. He feels this town is basically a resort community on one of the most beautiful lakes in the United States and to not have boat storage only means that these boats will be stored on individual properties throughout the town and his opinion is that general boat storage is the only way to go.

John Gaddy stated that he agreed with Herb Koster about relying on Mr. Nace as their Engineer, but he has a question about the stream that a variance is being sought for the new proposed buildings on the east side is closer by a few feet and cuts into the stream setback a little bit. Mr. Jarrett replied that it was not part of the current review of the ZBA but it is slightly closer than building A. John Gaddy stated that he has concern with the additional input into the waterways and wants to make sure that there are no additional nutrient or chemical load on the stream that is already bringing Town material down into the bays. Mr. Jarrett replied that he is confident that the storage buildings themselves would not impose any of these issues. He stated that he believes that it is far more preferable to have the boat washing area here than it is to have it on the lake shore. He stated that they are infiltrating all of the stormwater and they are not clearing any more than they have to.

John Gaddy asked about the question of entering the south entrance. Mr. Jarrett showed what they have decided was the most efficient way to enter the site.

Gena Lindyberg asked if the LGPC has responded to the answers by the applicant. Mr. Jarrett replied he had met with them many times but he did not have a response at this time. Herb Koster stated that this Board has to deal with the Town Ordinance, and if the applicant does not get approval from other agencies, it is not the Board's duty to enforce the rules of all the other agencies. Gena Lindyberg asked if the Town Engineer should be looking at it if there are any changes. Herb Koster stated if there are any changes in the stormwater design the Town Engineer should absolutely be looking at them. Gena Lindyberg asked if they had anything from him. Atty. Muller stated they would not at this early juncture. He stated they will when the applicant is back before the Board for stormwater review. Mr. Jarrett stated that substantively they have not changed the design, the configuration of the design has not changed at all, they have just added protective detail.

Atty. Killeen stated that they will back presumably in November and at that point they should have the responses from all the agencies that pertain to the project.

John Gaddy stated that one of things that contribute to the awkward position is the high intensity use and the transfer of development rights from another spot, as opposed to finding additional location for a greater boat storage capacity. He stated that would ease the minds and he is encouraged by the use of technology and the innovative way of using the stormwater but he can appreciate the neighbors concern for the higher density usage in a location that has had a history of concerns. Mr. Jarrett stated that was a zoning question and they had designed the site to handle the stormwater for the full build out. He stated they have designed the site to show that it can handle the stormwater. John Cushing said that basically they have just shown them that on paper and none of them are engineers. He said they are almost quadrupling the amount of boats that are there that were never washed there before and there is a doubt in his mind that the parcel can sustain that. Mr. Jarrett replied that certainly the boat washing is new, but the number of boats to be stored had not increased at all or marginally. Atty. Killeen stated that up until a year or two ago there were approximately 125 or 130 boats stored on this site. He said if this project is approved, the amount will remain about the same which has been the case for 20 years. He stated they are proposing a better facility and in conjunction with that the marina is developing a state of the art boat washing station at significant cost. He stated they need to consider the tremendous benefit this will have for the lake.

Anne Marie Soma asked if the original 1987 approval was for only 60 boats at this site, and she is concerned that for several years they have been storing 125 boats. Atty. Killeen stated that for a number of years there were boats stored at the time with outdoor storage. He stated that nobody was aware of the fact until a couple of years ago that this was not permitted so they decided to go back and do it right. He stated that with respect to prior approvals of the variance for this project that were given, there were conditions of approval such as screening that they had agreed to. John Cushing asked if the prior condition was that no boats were to be seen from outside and only 60 boats were supposed to be stored on the site. Atty. Killeen said he believes that was part of the original A.P.A. approval. Gena Lindyberg said she believes it was supposed to be all inside storage. Atty. Killeen said they need to keep in mind that the site was also approved for a 12,000 sq. ft. building which would have accommodated more than 60 boats which was never built.

Mr. Jarrett stated that there were screening requirements in 1987 but they have proposed extensive screening along the south quadrants of the site.

Anne Marie Somma asked about the need for a well and if this Board would need to approve it. Herb Koster replied no, that was up to the Zoning Administrator. Mr. Jarrett stated the well was for boat washing only and not for sanitary use. Gena Lindyberg asked if this was industrial stormwater and if it would have to meet those standards. Mr. Jarrett stated he believed that is how DEC would classify it and they now have a permit for that.

John Cushing asked if they had a number of how many boats they are proposing to put on the site. Atty. Killeen stated they have asked for 125 total boats to be stored at this site. John Cushing asked if that is what they had been storing up there all along. Atty. Killeen replied yes up until about two years ago. John Cushing stated that makes it appear that F.R. Smith Marina has been like a scofflaw at the town. Atty. Killeen stated that was the practice that was going on and it was unbeknownst to the marina operators that it was wrong. He stated in all that period of time there was never a complaint filed and when it came to their attention they corrected it.

Gena Lindyberg inquired about quick launch. Atty. Killeen replied there was to be no quick launch from this facility.

Kirk VanAuken stated they were here tonight to look at the questions in the LGPC letter and make a recommendation; they have already reviewed the project. Herb Koster agreed and stated they have can't review this as a project right now; they are only here to make a recommendation on the LGPC letter to the Zoning Board.

Gena Lindyberg stated that there is a letter of changes from DEC and she is wondered if they should be checked by the Town Engineer. Kirk VanAuken said if there are any changes he is sure the Town Engineer will report back to the Board about them and they will deal with at the time they are reviewing this portion of the project. Herb Koster stated again they are only here to make a recommendation to the Zoning Board. Atty. Killeen stated that when the Zoning Board of Appeals grants a variance, it still has to come back to the Planning Board for review of the stormwater.

Gena Lindyberg stated she did not know if replies in the October 14, letter were appropriate answers. Atty. Muller replied that is correct and they must rely on Tom Nace to let the Board know if these responses pass the test. He said Tom has not had time to respond to this as of yet. Gena Lindyberg said the Town needs this response. Atty. Muller explained that the Town would get a response from Tom Nace and should there be any deficiencies the applicant will have to address them long before they come back before this Board. Atty. Muller stated it needs to go back to the ZBA and when it comes back to the Planning Board all the engineering questions will already have answers. Atty. Muller stated that if the Town gets a response from the Town Engineer it will be presented to the Zoning Board as a courtesy.

Gena Lindyberg stated she recommends they get the answers before it goes back to the Zoning Board. Atty. Muller stated that he is not going to challenge the applicants engineer, but he is

certainly going to have the Town's Engineer review it, and when the Board gets the finished product, both engineers have agreed on it.

Atty. Killeen stated that ultimately it will come back to the Planning Board for their review.

**RESOLUTION:**

**Motion by** Kirk VanAuken to advise the Zoning Board of Appeals of the following:

1. That it is apparent and evident that on Questions 14 and 15, as stated in the LGPC letter dated July 2014, the applicant has adequately and affirmatively demonstrated that there are no waste water issues.
2. That regarding issues of erosion control & stormwater management, as stated in Questions 16 through 31 in the LGPC letter dated July 2014, each are adequately responded to in the reply letter from the applicant's expert, Jarrett Engineers PLLC., dated October 14, 2014.
3. That the applicant's stormwater management plan previously provided to the town's engineering consultant, Thomas Nace has, to date, been favorably reviewed and commented upon and remains a continuing application process which will be further subject to additional Planning Board review upon the continuing advice of Mr. Nace.
4. That it remains appropriate and it is the advice of this Planning Board that the applicant should be allowed to proceed before the ZBA on its pending variance application and the ZBA is encouraged to review the applicant's requests for variance on its merits.
5. Those issues pertaining to stormwater management and site plan review which both remain within the exclusive jurisdiction of this Planning Board will not be impaired nor limited in any manner should the ZBA choose to approve the requested variances as this Planning Board continues to reserve all rights that are appropriate and subsequent to any variance approval such right would include but not be limited to: a complete and thorough SEQR Review, a complete Site Plan Review and a thorough stormwater and erosion control review with public hearings and public comments, all of which may result in Planning Board approval or Planning Board approval with conditions or denial of the application for site plan approval and stormwater management approval as the facts are independently determined upon return to this Board.

**Seconded by;** John Gaddy. Gena Lindyberg opposed. Henry Caldwell & Sandi Aldrich recused themselves. **All others in Favor. Motion Carried.**

The meeting was adjourned at 7:56.

Minutes respectfully submitted by Kate Persons.