

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday September 20, 2018
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 Gaddy, Gena Lindyberg, Ann Marie Scheidegger, Kirk VanAuken, Alternate; Jessica Rubin and Atty. Michael Muller.

Absent: Zoning Administrator, Pamela Kenyon, John Cushing & Sandi Aldrich

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

Herb Koster asked if there were any changes or corrections to the August 16, 2018 minutes.

RESOLUTION:

Motion by Gena Lindyberg to accept the August 16, 2018 minutes as presented. **Seconded by,** John Gaddy. **All in Favor. Motion Carried.**

REGULAR MEETING

1. **SPR18-12 MIRADA LLC.** Represented by Bartlett, Pontiff, Stewart & Rhodes. Seeks Type II Site Plan Review for a Marina. Section 171.20, Block 1, Lot 3, Zone RCH5000. Property Location: 21 Green Isle Lane. Subject to WCPS review. Subject to SEQR.

Jonathan Lapper of Bartlett, Pontiff, Stewart & Rhodes and Michael Chrys presented the following;

- They primarily talked about the pump out at the last meeting.
- There was a concern from the neighbor with a septic odor.
- This was a battery that burned out on a docked boat and caused a Sulphur smell.
- This was addressed by a Marine service and the boat was opened up to air out.
- He submitted the engineering specs of the pump and detailed them to the Board.
- This pump system is identical to the pump system at Norowal Marina and BLM.
- They maintain that this pump system on the property is a good thing for the lake because it can be done right there on the property instead of traveling to a marina to pump out.
- The pump itself is made to prevent any spillage.
- They would like a straight forward marina permit.
- They have LGPC approvals.

Gena Lindyberg asked if it was only 1 boat slip that gets rented out. Atty. Lapper said it is only 1 boat that is under the marina permit, the other 2 are people that rent the house. Gena Lindyberg inquired about the 4th boat. Atty. Lapper explained that it was the owners.

Herb Koster asked if the people that rent the dock space stay on the boat overnight. Atty. Lapper replied yes. Herb Koster stated that brought up a whole different issue. He asked Atty. Muller

for advice. Atty. Muller stated that the local land use ordinance in a shoreline community is preempted from having any jurisdiction over activities that are upon the waters and below the waters and from the shoreline out on Lake George because it is a sovereign lake. This jurisdiction is exclusive to the State of New York. To the extent that there are land impacts, they have jurisdiction. They do not have jurisdiction on people sleeping on their boats at the dock. Gena Lindyberg said she contacted the LGPC and they told her that the decision of overnight stays on the boats was the town's not theirs. Atty. Muller said that is incorrect and this was not embraced within the court decision. Gena Lindyberg said she was specific and Joe Johns of the LGPC assured her it was the town's decision not the LGPC's. Atty. Muller stated that he could assure her that when Judge Krogmann wrote the initial decision, it did not embrace that thought and the Appellate decision was unanimous that there was no reservation of jurisdiction for municipalities when this was appealed by the Town of Lake George. Atty. Lapper completely agreed. Atty. Muller said the town would like to have jurisdiction and it would certainly be important for the municipality to have jurisdiction, but they do not under the present status of the law.

John Gaddy asked if there was any operator training for the pump out station. He is concerned that there is some sort of provisions made in the eventuality of spillage. The connection is right next to the shore. Atty. Lapper said the pump was on land which is unique. The people that are there do know how to use the pump. Mr. Chrys said that Greg Meader, of Harris Bay Yacht Club, where they purchased the pump, came and trained the people that utilize it, unlike the young kids that are dock hands at the marinas, who are neophytes. The training for that specific use is better at his property than anywhere else.

Gena Lindyberg asked if he has the directions posted on how to pump the tank. Mr. Chrys said he has a laminated piece that addresses this. Gena Lindyberg asked if they put the nozzle with the open valve in a bucket of water for 15 seconds to rinse the hose. Mr. Chrys said they did, sometimes longer than that. It is a vacuum system so there is no flow back. Gena Lindyberg asked how many boats were pumped out. Mr. Chrys said 2 boats.

Gena Lindyberg said the minutes from the last meeting said: "Herb Koster stated that as a Board, they have the authority to make a stipulation that there is to be no sleeping on the boat. Atty. Muller stated that is true, this Board has some jurisdiction with an advisory opinion and the ZBA has clear statutory jurisdiction." Herb Koster said that he had obviously researched this and changed his mind. Atty. Muller said he did not change his mind, the court did. He stated that the Board can make an advisory opinion, but ultimately, they do not have the ability to require that there will be no sleeping on the boat unless it has land impacts. If they can find reasonable construction of land based impacts such as noise or lighting they can address it.

Gena Lindyberg inquired about parking in the right of way. Mr. Chrys stated that there was no parking in the road. He has parking for probably 20 cars. He detailed the site plan showing her where the road was.

John Gaddy said he did not see the pump station at the lake on the plan. Mr. Chrys said there was not one. It is a 40' hose. John Gaddy asked about the grade from the pump out station to the lake. Mr. Chrys stated that it is a vacuum system and he has never heard of any accident,

leak or spillage from any of the 15 other systems like this on the lake, and they are at a much greater distance than his. Herb Koster asked how large the holding tank was. Mr. Chrys stated it did not have a holding tank, it pumped directly into the sewer system. Gena Lindyberg asked if there was a permit for this. Mr. Chrys said there was no permit required when he put this in. He had permission from Mr. French in the Town Sewer Department before he put the system in.

Kirk VanAuken asked if there was anything in the code for sewer pump outs. Atty. Muller stated it was not in there. He said in respect to this pump, they met 4 or 5 months ago to see if there was a permit process or regulation. There was no permit process or regulation. He was told that when Mr. French was asked, he said yes, it's ok, install it. It is true, however that this is a device that injects effluent into the municipal sewer system, so there is an issue as to whether this activity should be billed. This is something that needs to be addressed by the Town Board. Mr. Chrys is not the only one in Bolton with this system. Molly Gallagher of the LGPC said that they encourage this type of system.

Kirk VanAuken asked what the rationality of locating the system in this particular spot was. Mr. Chrys said it was picked to camouflage and conceal it in a neighborly respect. He can move it anywhere they want it. Herb Koster asked if they pump into a manhole and how far away it was. Mr. Chrys said they did, they had an engineer come and make sure it went into the manhole. The manhole is owned by the Sagamore and he talked to them and got permission. He explained which manhole it went into. Herb Koster asked if it connected to a sewer line first. Mr. Chrys said it did, outside of his house.

Gena Lindyberg inquired about page 4 of the warranty deed. Mr. Chrys said he would look for it. Atty. Lapper said he believed it was the signature page. Herb Koster stated that there was a continuation of the last sentence of page 3.

Gena Lindyberg asked if they considered this a business that he was running over there. Mr. Chrys replied no, his family lives there part of the time too.

Herb Koster asked if the approval was for a pump out station. Atty. Muller stated that the LGPC approved a Class B Marina. The Zoning Administrator accepted it, but indicated a marina is only permitted in this zone with site plan review. Imbedded within this issue about what is involved with this particular marina, is that there is a pump out. Many of the activities that used to be permitted as a matter of right, have within the last year or two, been presented as issues for compliance by the LGPC. In this case this has been totally permitted by the LGPC as a Class B Marina. The Zoning Administrator then deemed this to be a marina. Mr. Chrys is here to look for an approval, approval with conditions or denial from this Board upon some ascertainable criteria. He said that any conditions would need to be reasonable, they have to be addressing an issue that they perceive to be a concern. It may have some impacts on neighbors and/or the shoreline. He explained that the Board would need to decide what a marina was. Unfortunately, the LGPC deems a Class B Marina to be a combination of boats. It is not all that easy to determine what the combination and top number of boats should be permitted. The LGPC determines it to be a Class B Marina if slips are rented to a person who has no relationship or ownership to the land as an extra boat over and above the first one. Some of their requirements are that they have bathroom facilities. So if they are permitted by the LGPC in a zone that does

not permit a marina, the Zoning Administrator is telling them they can't have it. In the zones where a marina would be permitted, and is done by site plan review, the Zoning Administrator is sending them to the Planning Board to obtain it. This is why the applicant was before them tonight.

Herb Koster said that Atty. Muller has said that they have no say about people sleeping on the boats and he has concerns what this is going to do down the line. Atty. Muller said this is a legitimate concern and it is not being regulated as of yet. Gena Lindyberg asked if the Town of Bolton should change their regulations to cover this. Atty. Muller explained that the town's jurisdiction ended at the shoreline. They could regulate it, if it had land based impacts, or if the State of New York shared jurisdiction. John Gaddy asked if noise constituted a land based impact. Atty. Muller stated that he believes that is a reasonable assumption.

Herb Koster asked if this would be taxable property for the town. Atty. Muller stated that it would not, it was personal property. It would be like taxing travel trailers.

John Gaddy asked how hard it would be to move the hose that is coiled down by the lake front. Mr. Chrys said it could be moved, but every facility has it right next to the dock which is the most convenient and safest place to have it. It is closer to the boats and less chance of having a problem. Herb Koster stated that they rinse the nozzle so there should not be a problem.

The Board discussed the different conditions that they would like added to any approvals.

Ann Marie Scheidegger stated that this pump was already installed before it came before them, would it be different if anyone came before them for a request to install one. Atty. Muller stated he did not foresee anyone coming to this Board for permission to install one. Mr. Chrys is the first one to be asked to talk about why he had the pump there. Norowal and BLM were never asked to seek permission for their pumps. Ann Marie Scheidegger stated that concern was that they would start popping up everywhere. Herb Koster stated that the LGPC first came into existence, they projected these pumps as the finest things that could happen. Atty. Muller stated he believes that they are still in that frame of mind and encourage the use and installation of them in any context. Ann Marie Scheidegger stated that they do impact the municipal sewer systems. Atty. Muller agreed saying if the effluent was introduced into the municipal sewer system it absolutely did. Herb Koster said if it was on private property, it would also influence the design of the septic system on the property. Atty. Muller agreed.

No County Impact

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR18-12.
Seconded by, Kirk VanAuken. **All in Favor. Motion Carried.**

Atty. Muller read through the submitted SEQR form.

Motion by John Gaddy for the Bolton Planning Board to declare as lead agency, that there will be little or no result in significant adverse environmental impacts in regard to SEQR for SPR18-12. **Seconded by,** Kirk VanAuken. Gena Lindyberg abstained. **All others in Favor. Motion Carried.**

Motion by John Gaddy to accept SPR18-12 as complete; 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. There is to be no operations of the pumps before 8:00am and after 8:00pm.
2. All exterior lighting must be downward facing and shielded.
3. Pumping and the use of the station is only for the docks and the boats berthed at the property.
4. A more secure and improved containment of the hose at the shoreline.
5. A sound curfew of 10:00pm for excessive noise from the boats.

It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by,** Kirk VanAuken. Gena Lindyberg abstained. **All others in Favor. Motion Carried.**

6. **SPR18-14 ANGLESON, JOHN & LISA.** Represented by Hutchins Engineering. To demolish a cabin and replace with a single-family dwelling, Seek Type II Site Plan Review for 1) the construction of a single-family dwelling in the LC45 zone; and 2) a major stormwater project to remove more than 15,000 square feet of vegetation. 17,000 sq. ft. is proposed. Section 107.00, Block 2, Lot 15, Zone LC45. Property Location: 887 Padanarum Road. Subject to SEQR.

Lucas Dobie of Hutchins Engineering presented the following:

- This is an old dilapidated hunting camp they wish to demolish and rebuild a 26' x 32' chalet style off the grid home.
- This is located 2 or 3 miles off of Trout Fall Road.
- This is a major stormwater project and he detailed the plan.
- The home will be constructed on piers as it is majorly ledge in this area.
- It is a 21 acre parcel.
- Total disturbance is 18,000 sq. ft. for all required grading and filling.
- They are proposing a stabilized fill waste water system.
- They have worked with the Town Engineer on this system.

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR18-14. **Seconded by,** John Gaddy. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR18-14 as complete; 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. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by, Gena Lindyberg. All in Favor. Motion Carried.**

Motion by John Gaddy that based upon the materials submitted by Hutchins Engineering and the correspondence from Nace Engineers on the stormwater project and accepted as part of the record he would like to add the following:

1. The project meets the design requirements and performance standards set forth in the Code.
2. The project will not have an undue adverse impact regarding the criteria set forth in the Code.
3. That the stormwater control measures proposed will function as designed and constitute the best possible methods feasible and practicable for the project site.
4. Adequate and sufficient provisions are presented, as part of the plan to assure future function or responsibility in the event of failure.
5. The project will not contribute to flooding, siltation or streambank erosion and will not pollute Lake George, its tributaries or streams with stormwater runoff.

Seconded by, Gena Lindyberg. All in Favor. Motion Carried.

7. **SPR18-15 LUND, MARTIN & TINA.** Represented by Hutchins Engineering. To demolish and rebuild single family dwelling and construct a proposed guest cottage, seek Type II Site Plan Review for 1) a major stormwater project to remove more than 15,000 square feet of vegetation. 23,000 square feet is proposed; and 2) an accessory structure greater than 1,500 square feet of floor space. 2,405 square feet is proposed. Section 186.15, Block 1, Lot 39, Zone RM1.3. Property Location: 178 Homer Point Road. Subject to WCPS review. Subject to SEQR. See V18-21 approved by the ZBA on August 14, 2018 associated with this project.

Lucas Dobie of Hutchins Engineering presented the following:

- They purchased this property in 2009 with a 1 story camp on it.
- They would like to build a 2 bay garage/one bedroom carriage house.
- The house will be 4 bedrooms.
- He detailed the placement on the plans.
- They will be using a presby enhanced septic system that will be sized for 5 bedrooms.
- The lot is 0.8 acres with 123' of shoreline frontage.
- They received an area variance for the setback to the right of way.
- They meet all of the other setbacks.
- The driveway is gravel.
- They have stormwater management implements and he detailed them to the Board.

John Gaddy asked if this lot would have a dock on it at some point. Mr. Lund stated that there is a permit for the dock that existed on the property. They took the existing dock out as it was in poor shape. They plan on putting a dock back.

Gena Lindyberg asked if it was going to be a 2 bay or 3 bay garage. Mr. Dobie said he considered it a 2 bay garage, he believes it is a misprint on the plans. He said it will be corrected.

Gena Lindyberg asked if this is a guest cottage it can not have kitchen facilities. Mr. Dobie said that is correct, and it is his understanding that as long as there is not a range in the kitchen, it is fine. Ann Marie Scheidegger stated this is her recollection as well. Herb Koster agreed. Atty. Muller stated that this is the Zoning Administrators interpretation.

Kirk VanAuken said his concern is the number of trees that appear to need to be removed for this project. He asked what they planned on replanting at the completion of the project. Mr. Dobie replied that the garage area was fairly dense with very small evergreen vegetation. Kirk VanAuken said the trees were fairly large in the area where the house would be constructed. Mr. Lund stated that they would be trying to save whatever vegetation they possibly could on this project. They would also be replanting vegetation after the project was done in accordance with the stormwater management plan.

Gena Lindyberg inquired about the placement of the driveway. Mr. Dobie detailed it on the site plan for her.

Kirk VanAuken asked what the driveway would be constructed with. Mr. Dobie replied a pea stone gravel. Herb Koster asked what they would be using for a subbase. Mr. Dobie said it would be approximately 8" item 4 subbase and surfaced with the pea stone.

Ann Marie Scheidegger asked if the basement would remain unfinished. Mr. Dobie replied it was a slab on grade construction, no basement due to the low elevation.

No County Impact.

RESOLUTION:

Motion by John Gaddy to declare the Bolton Planning Board as lead agency for SPR18-15. **Seconded by,** Kirk VanAuken. **All in Favor. Motion Carried.**

John Gaddy read through the submitted SEQR form.

Motion by John Gaddy to declare as lead agency, that there will be no result in significant adverse environmental impacts in regard to SEQR for SPR18-15. **Seconded by,** Kirk VanAuken. **All in Favor. Motion Carried.**

Motion by John Gaddy that based upon the materials submitted by the Hutchins Engineering and the correspondence from Nace Engineers on the stormwater project and accepted as part of the record he would like to add the following:

1. The project meets the design requirements and performance standards set forth in the Code.

2. The project will not have an undue adverse impact regarding the criteria set forth in the Code.
3. That the stormwater control measures proposed will function as designed and constitute the best possible methods feasible and practicable for the project site.
4. Adequate and sufficient provisions are presented, as part of the plan to assure future function or responsibility in the event of failure.
5. The project will not contribute to flooding, siltation or streambank erosion and will not pollute Lake George, its tributaries or streams with stormwater runoff.

Seconded by, Gena Lindyberg. All in Favor. Motion Carried.

Motion by John Gaddy to accept SPR18-15 as complete; 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 project is constructed to the letter of the plans submitted. 2) Lighting is to be downward facing and shielded. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by, Gena Lindyberg. All in Favor. Motion Carried.**

1. **SPR18-16 R & RC TRUST.** Represented by Gary Hughes. Seeks Type II Site Plan Review for a marina, specifically to demolish and rebuild office building. Section 186.06, Block 1, Lot 3, Zone RCH5000. Property location: 4782 Lake Shore Drive known as Chic's Marina. Subject to WCPS review. Subject to SEQR. To be heard only if a successful variance is granted V18-15.

Gary Hughes presented the following:

- The plan is to demolish an existing sales office and replace it with a new 2 story building.
- The existing building is structurally in bad shape.
- They are trying to reduce the shoreline area by reducing the new building.
- They have plans for stormwater.
- They will be using existing holding tanks for the septic.

John Gaddy said his first concern was the change of height in the new building, but Mr. Depace is the neighbor and would only be blocking his own view. Mr. DePace stated the change in height would only be about 8' to 9'.

John Gaddy said he wanted the lights to be downward facing and shielded.

Gena Lindyberg asked for clarifications on the plan and if they were building in the same footprint. Mr. Hughes said they would be, just smaller. He detailed it on the plan for her.

Gena Lindyberg inquired about public restrooms. Mr. DePace explained that they were porta johns located across the street.

Ann Marie Scheidegger asked if the area labeled beach area already exists. Mr. DePace stated it currently was black top, which they would be removing. She asked if there was any annual maintenance involved with the pavers. Mr. Hughes replied that there was not.

RESOLUTION:

Motion by Kirk VanAuken to declare the Bolton Planning Board as lead agency for SPR18-16. **Seconded by,** Gena Lindyberg. **All in Favor. Motion Carried.**

Atty. Muller read through the submitted SEQR form.

Motion by Kirk VanAuken to declare as lead agency, that there will be no result in significant adverse environmental impacts in regard to SEQR for SPR18-16. **Seconded by,** John Gaddy. **All in Favor. Motion Carried.**

Motion by Kirk VanAuken to accept SPR18-16 as complete; 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) Lighting is to be downward facing and shielded. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **Seconded by,** Gena Lindyberg. **All in Favor. Motion Carried.**

The meeting was adjourned at 7:58

Minutes respectfully submitted by Kate Persons.