

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday November 19, 2020  
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:** John Cushing, John Gaddy, Gena Lindyberg, Ann Marie Scheidegger, Sandi Aldrich, Chairman; Herb Koster, Kirk VanAuken, Director of Zoning & Planning; Richard Miller P.E. & Town Counsel; Michael Muller

**Absent:** Jessica Rubin & Sandi Aldrich

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

**REGULAR MEETING**

Herb Koster asked if there were any changes or corrections to the October 15, 2020 minutes.

**RESOLUTION:**

**Motion by** Gena Lindyberg to approve the October 15, 2020 minutes as presented. **Seconded by** Kirk VanAuken. **All in Favor. Motion Carried.**

- 1. SPR20-13 DOUG JOHNSON.** Represented by Gary Hughes. Seeks Site Plan Review for demolition of a garage, re-construction of the garage incorporating an apartment and stormwater management. Section 171.15, Block 2, Lot 26, Zone RM1.3. Property location 42 Horicon Avenue. Subject to SEQR, WCPA and LWRP review.

**\*This application was tabled at the October 2020 meeting for additional information\***

Gary Hughes presented the following:

- The applicant would like to tear down an existing building and replace it with a new garage/cottage with a kitchenette.
- They had an issue with an easement but that has since been rectified.
- He has included a new map with the easement information.
- He has moved the new building out of the easement and has received approvals for the setbacks from the ZBA.
- They are moving the new building further off the line.
- The neighbor is ok with the adjustment from the easement now.

- He detailed the stormwater for the new building to the Board.

Gena Lindyberg wanted clarification on the property line. Mr. Hughes detailed the line on the new map. John Gaddy stated that the property to the north is about 30' away.

John Gaddy stated that on the eastern side of the property it is going from 6' to 4' away from the property line and he would like to know if the applicant will be able to maintain his new garage without getting on the neighbor's property. Mr. Hughes replied that he would. He detailed how the construction would occur on the applicant's property.

John Gaddy stated that all exterior lighting is to be downward facing and shielded. Mr. Hughes would put this on the construction plans.

Herb Koster asked if the variance approval was for 4' not 6'. Mr. Hughes replied yes, they needed the 2' so that they were out of the easement.

John Cushing said he had not received the stormwater signoff from the Director of Planning and Zoning. Mr. Miller replied that he had discussed it with Mr. Hughes, and it was fine. Mr. Hughes stated that the tank is over what is required and detailed the plan.

Kirk VanAuken asked if they would be a foundation or not. Mr. Hughes stated that there would be a 4' frost wall and footing down into the ground. No basement, just a slab.

Herb Koster asked if the 4' setback was from the overhang or the foundation. Mr. Hughes replied that it was from the foundation. Herb Koster stated that they usually get their variances from the overhang, not the foundation. He was wondering if the ZBA knew it was from the foundation and not the overhang. Mr. Hughes stated he did not know, but it is clearly shown on the maps that it is from the foundation. Atty. Muller stated the Board can give them the relief they seek by a waiver.

## **RESOLUTION:**

**Motion by** John Cushing to declare the Bolton Planning Board as lead agency for SPR20-13. **Seconded by** Gina Lindyberg. **All in Favor. Motion Carried.**

**Motion by** John Cushing to accept SPR20-13 as complete; waive the Public Hearing, having met the criteria set forth in the code, grant final approval of the project as presented. This motion includes a SEQR & LWRP analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented with the following conditions: 1) All exterior lighting is to be dark sky compliant and downward facing and shielded. 2). A 1'4" additional waiver is granted for the foundation to the property line. **Seconded by** John Gaddy. **All in Favor. Motion Carried.**

- 2. SPR20-14 RICHARD LARKIN.** Represented by Stefanie DiLallo Bitter. Seeks Site Plan Review for construction of a new campground/RV park, installation of new septic system, well and stormwater management. Section 184.02, Block 2, Lot 6.1, 6.2, 6.4, 6.5, 6.6 and 6.7, Zone RR5. Property location 863 East Schroon River Road. Subject to APA, SEQR, WCPA and LWRP review.

Stefanie DiLallo Bitter presented the following:

- As the chairman indicated they are seeking the construction of a new campground with 104 sites in total.
- There are 6 slots that are incorporated in this development plan that will all be merged and total 33.5 acres,
- The property is zoned RR5.
- They were given 14 points that they were asked to address at the October 2020 meeting.
  1. They will incorporate downward facing and shielded lighting that are dark sky compliant.
  2. They will put 2 leaf bearing trees on each site.
  3. They will incorporate rules and regulations as part of the campground and will be dictated to the guests. (The applicant has a draft that he is working with). Specifically, they indicate that seasonal use is only allowed and permitted.
  4. The adjacent neighbors have been indicated.
  5. The applicant intends to utilize a uniform color scheme which will match the existing barn.
  6. They are seeking a waiver relative to the road systems they are proposing. They have been designed so that there will be a main entrance point in the middle of this project which will be for entrance and exit and will circle the area that will be used for common use. The site roads will be one way and smaller than 20' in width. This will allow safe internal circulation.
  7. The chlorine used will be common household bleach.
  8. The two way roads have been identified on the plans. They will be 20' in width until they meet the one way road.
  9. They will be marking all the one way roads with signage during the development of the project.
  10. The applicant met with the fire department about a dry hydrant and the fire department determined that they would rather use the river. They decided it would be better for the applicant to widen the access road, incorporate stone and cut back the brush for easy access to the river.
  11. DOH regulations will be met.
  12. Staging has been identified at the entrance of this project to demonstrate that vehicles can be staged at the time of entrance.
  13. They have incorporated a check in building as requested.
  14. The dimensions of the lots will be 35' to 50' in width and the length will be 70'.
- Their goal tonight is to answer all the Board's questions so they can set the Public Hearing for January.

Herb Koster asked where the access to the river would be. Mr. Larkin detailed it on plan. The roadway is pre-existing. The fire department requested that he trim back the tree limbs. Herb

Koster asked if it was wide enough and if they asked for it to be graveled. Mr. Larkin replied that it had been there forever, and they were not asked to gravel it.

John Gaddy asked where the dump station would be located. Mr. Monroe replied yes. John Gaddy asked if this would be put in with the first phase. Mr. Monroe stated it could be. John Gaddy said that is a condition they would like to have. He said he believes this is a DOH requirement.

John Gaddy asked if the first phase was for 25 campsites. Mr. Larkin replied yes. The whole concept was to commit to 25 and hopefully get 50 in fairly promptly. John Gaddy stated he just wanted to make sure the dump station went in right away.

John Gaddy asked what the timeline was for the store that was proposed in the existing barn across the street and signage for pedestrian traffic. Gena Lindyberg said she had concerns with the safety of children crossing the road to get to the store. Mr. Larkin said that the garbage disposal would be across the road, but they are discussing using the house as a store instead of the barn across the road. Gena Lindyberg said that would be safer for families. Mr. Larkin stated that the store would only be for basic necessities and firewood. Gena Lindyberg asked if they would have ice cream, candy bars and soda. Mr. Larkin replied he is thinking no. His clientele is more of an older crowd that shop at bigger stores.

Kirk VanAuken asked about neighboring property owners. John Gaddy said they have a list. Kirk VanAuken stated that they are supposed to be on the maps. John Gaddy stated they can have them add them to the map. Atty. Bitter agreed that they could put them on the map.

## **RESOLUTION:**

**Motion by** John Gaddy to declare the Bolton Planning Board as lead agency for SPR20-14.  
**Seconded by** Kirk VanAuken. **All in Favor. Motion Carried.**

**Motion by** John Gaddy to schedule a Public Hearing for the January 2021 Planning Board meeting. **Seconded by** Ann Marie Scheidegger. **All in Favor. Motion Carried.**

- 3. SPR20-11 Twin Bolton LLC** Represented by Studio A Landscape Architecture & Engineering, DPC. Seeks Review PUD and an advisory opinion to the Town Board to build 30 townhouses and 5 single family residence plus subdivision of Sembrich Residence on a ½+/- acre lot. Section 186.6 Block 1, Lot 14, Zone RM 1.3 & RL-3 and 186.7 Block 1, Lot 13, Zone RM 1.3. Property Location: 4804 Lake Shore Drive. Subject to APA, WCPS and LWRP review.

Atty. Lapper presented the following:

- At the September meeting they were given a list of issues that needed responses and they wanted a site visit which has occurred.
- They have been working with the Water Keeper to address the low impact development standards.

John Cushing asked what the price points would be for the townhouse and houses would be. Atty. Lapper responded that this had not been determined yet as they do not know all of the costs as of yet. Herb Koster asked if they can get into this yet. Atty. Muller stated the question comes back to relevancy. Even if the applicant can answer the question, why is it important? The answer is, it is important if Bolton's goal is to put lower moderate income housing in that area, that however would be a brand new goal as far as he knows. Herb Koster said as of now it is not relevant. Atty. Muller agreed. John Gaddy stated that there was a clause in the language of the PUD looking for housing across all different income levels. He said this is a stated issue in town and they do need to discuss it. Atty. Lapper said that the language of the PUD says they should have different levels of pricing and they do. They have 3 different prices between the town houses, single family lots and the Sembrich house. None of them are low income, this project doesn't work that way due to development costs.

John Cushing asked if all the town homes and homes would be owned individually. Atty. Lapper replied yes. Gena Lindyberg inquired if they would own the land too. Atty. Lapper stated the land would be a HOA.

Kirk VanAuken asked if the Board had any concerns of the visibility from the lake of the proposed structures. John Gaddy stated he did, and he thinks that in the past they have not done a good job of trying to conceal homes on the hillsides. They are not here to discourage development, but he does want to see these structures screened as much as possible with any vegetation that they can get on this project. When walking through the site, it appeared to be good use of land in terms of where the buildings were sited, and it seemed to be taking advantage of the landscape. He is concerned with the amount of disturbance that will occur with the number of structures here. He is sure the applicants are willing to work with the Board. Atty. Lapper stated that they were. Jeff Anthony said that he understood the Board's concerns, but they do have a good deal of vegetation on the site and the areas that are going to be removed for construction will still have a good deal of vegetation remaining between the lake and the buildings and roads. They will not be developing any panoramic views. They will only be doing filtered views in strict compliance with the APA filtered view procedures. He detailed how this would occur and the types they were looking to create. He is confident that there will be enough vegetation in place to screen the buildings, and they will only be trimming branches for the filtered views. They have a good stock of vegetation to work with. John Gaddy stated that the Board's problem is, is that in spite of all of their attempts to keep vegetation up there, he would like it to stay up there. Too often people take these trees down at a later date and he would like to make sure to have plantings in the future to screen these things while maintaining the view for the owners. Jeff Anthony stated that they have proposed plantings to fill in gaps where there is no vegetation now. He believes the key is more in the operational phase of the project whereas the HOA documents will say that cutting trees will not be allowed by the residents. Atty. Lapper said that it would be a condition of the HOA.

Gena Lindyberg inquired about the proposed hiking trails and the parking for these. Atty. Lapper stated that was their response to the public benefit. There would be trails going up the mountain with hopes that it would eventually connect to the next piece of property,

which would be a project for the town to do. There will be a parking in area for the public in the upper area. Jeff Anthony said they were committed to developing some sort of recreation component for residents of the community itself, so they will be developing a trail system in the upper regions of the property with signage which will also be open to the public. Connections to future trails beyond this property will be up to adjacent property owners and the town.

John Gaddy said one of his big concerns is development of pedestrian access. There was no mention of going north toward town. He would like to see the proposed woodlands down by 9N be able to be sculpted to incorporate a sidewalk access across their project that could be, in the future, connected to any other town projects that would lead to that. The LWRP is looking for a greater pedestrian influence in the design. Atty. Lapper stated they are committed to doing this. Jeff Anthony said the swimming pool would be removed and give them the opportunity to cut the slope down and get some flat ground adjacent to 9N. John Gaddy said his goal is that at the end of the project they have a sidewalk there that would be able to be connected to the north and the south to meet the town goals. Jeff Anthony said they would make the land available and graded to accommodate that.

Atty. Lapper went through previous questions to the Board.

1. The only parcel where the density is increasing is in the hamlet, and the APA has already provided a non-jurisdictional letter. They are not increasing the density on the parcel on top that is not in the hamlet, so they don't see this as a concern.
2. They are committed to provide the pedestrian access.
3. Based upon the traffic report and the study of off lake boats, they are only talking about storage of 16 boats. They have relocated this area up by the septic system after walking the site with Mr. Navitsky out of the way of the Sembrich house. Jeff Anthony said that they moved it to maintain and preserve the stream corridor and wetland. This will not be visible from anywhere off the site. Gena Lindyberg asked if this will only be for 16 boats. Mr. Anthony replied yes, for now, but if things change, they can accommodate many more boats in this area.
4. They have added a cul-de-sac and hammerheads for emergency vehicles.
5. They have modified the plans for a pull off for public transportation with the seasonal trolley for the south bound route.
6. They understand the town is discussing regulations on Airbnb's so this issue is really up to the town.
7. They staked the center line of the road for the site visit. John Gaddy stated it was a good visit and he thought it was a pretty good use of the property.
8. There are 3 different types of housing available: town houses, single family dwellings and the Sembrich residence.
9. The public benefits would be the trolley stop and the trails open to the public with a parking area.
10. They have confirmed with the Water Department that there is adequate capacity for volume and pressure. Matt Huntington stated they had confirmed the capacity, but they still need to do flow tests on the hydrants. They may find that they have to install a pump system further up the hill to meet the flow capacity demand.

11. They have provided 4 parking spaces for each of the town homes: 2 on the driveways and 2 in the garages. They are also proposing to add an area for 2 to 4 spaces for overflow parking.
12. 25' radius for driveway connections will be done.
13. They have not done the balloons because it was determined that they would not be effective because of the large trees.

Atty. Lapper stated that these were the comments that they asked them to respond to. Their goal is that the Board will make a positive recommendation on the preliminary PUD so they can get to the Town Board and get going with the understanding that they will back before the Planning Board to deal with all of the design and engineering issues.

John Gaddy asked what the advantage to the town would be for them to look at this as a PUD. Atty. Muller said it was up to the Town Board and the Planning Board to determine what advantages would be derived from allowing this property to be developed as a PUD. He said Looking at the zoning code on its face it says that the area that would be typically set aside for a PUD would be 50 acres or greater. However, there is language in there that also indicates that if there is an attractive advantage to the town to allow this development to proceed as a PUD Parcels of lesser size may be considered. The Planning Board and Town Board would have to come to the conclusions that it would be advantageous for the town, that it is the type of development that they would like to see on that parcel, that this is the gateway to the community, that it satisfies some perceived need. These decisions are all up to the Boards.

John Cushing asked if they would be sitting with the Town Board. Atty. Muller stated that it says if and when the Board comes to some level of conclusion, they will meet with the Town Board with or without the applicant. He suggests that they would want the applicant to participate in every stage of this proceeding. It appears that the Planning Board and Town Board get together and have a discussion and then there will be a referral of a more concrete plan to the Town Board. If the Town Board then makes a decision that this is the right place and the right fit for a PUD, they will send it back to the Planning Board for all the hard work. Once that is done, they will send it back to the Town Board where they will create a district and call it a Planned Unit Development. This is really creating a new zoning district.

Herb Koster asked how many residences would be allowed on this property if it was not a PUD. Jeff Anthony stated in the RM1.3 it would be 16 units and in the RL3 it would be 5. They are proposing 5 in the RL3, but in the RM1.3 they are proposing 30 plus the existing Sembrich house. So, in taking a total across the whole site, they are allowed 21 and they are asking for 36. Atty. Lapper stated that part of the justification for this is that they have a horrible motel at the entrance of the town which needs to be redeveloped and they can do a nice job of camouflaging the units, but it is an expensive piece of property to develop. Herb Koster said they were saving a lot of land on the hill. Jeff Anthony stated that of the 31 wooded acres roughly 23 acres would remain undisturbed. Approximately  $\frac{3}{4}$  of the site is not being touched. Atty. Lapper stated that if this was a single family development there would be a lot more clearing to put a bunch of big houses in.

Atty. Mullers said that when you read §200-89 of the code, it states that the establishment of a PUD by the Town Board in essence amounts to a rezoning. In this respect, the land use intensities of the particular zone(s) listed in Article IV of the Zoning Chapter that are most like

the proposed intensities of the PUD should be used, except that the overall intensity of the project cannot exceed the amount of available development potential of the individual APA-LUDP Land Use Intensity Zone(s) within which the proposed PUD is located. So quickly you will come to the conclusion that 31 is greater than 16. Mathematically you would be right, but because those 16 are in the hamlet, the APA says they are not involved. He asked if the APA if they would be involved in this or not. The APA sent him a letter stating they were not involved in any hamlet development. John Cushing said that it is an APA regulation, not a Bolton regulation which is 16 units for 1.3 acres per townhouse. He does not care about the APA being involved. Atty. Muller said that when you create a PUD in essence it amounts to a rezoning. If Mr. Cushing's concept of rezoning is that he is going to stick to the requirements of the current zone, it would not be rezoning. John Cushing said that is why he is against the PUD. Herb Koster stated that he has seen the APA change their mind on a lot of things over the years. Jeff Anthony said that according to the APA there is no density restriction in the hamlet. The practical matter is that if you exceed 99 units in the hamlet you invoke APA jurisdiction, which they are not. John Cushing said they are building in Bolton, so they need to go by the Bolton rules. Atty. Lapper stated that the reason they are asking for a PUD is because they have a horrible motel parcel on the side of a hill, and the idea of putting in a lot of big homes with the a smaller density but probably the same number of bedrooms would be worse for the town and the mountain. This way they feel they are preserving the Sembrich and camouflaging what they have because they are not big units. John Cushing said they knew this when they bought the property. Atty. Lapper said to remember that on the other side of the street, someone could have come in and put in or kept the motel, but the put in a single family residence which is rare in Bolton. John Cushing stated that this was happening up and down the 9N. They are buying up all the old motels and building trophy homes. Atty. Lapper said yeah, but it would have been denser and looked a lot different if somebody kept it the way it was here. Herb Koster said there was arguments both ways on this. The town is losing all of the motel units which add people back to the businesses of the town.

Gena Lindyberg asked what the next step would be. Atty. Muller stated that the code says that The Board shall determine the sufficiency and completeness of the material and if satisfactory shall forward it to the Town Board at least two weeks prior to the regular meeting date of said Town Board. It then says: The Planning Board and Town Board shall meet, with or without the applicant, to discuss the proposed PUD, its relationship to the Town Plan(s) and other aspects of the proposal, including proposed public common open and recreation space.

John Gaddy asked if this meant they should set up with the Town Board next. Atty. Muller said that it will go to the Town Board if they determine that the submission is sufficient and complete, and the material is satisfactory to move forward. If there is something lacking, or it is insufficient or incomplete they would not move it forward. John Gaddy inquired about the engineering and the stormwater. Atty. Muller stated they would address this when and if it came back to them from the Town Board. Atty. Muller said the code allows the Board, in a cooperative and collaborative effort with the applicant, to hire an expert to help with this. John Gaddy said he was looking for outside advice for the engineering and stormwater on this large project. Jeff Anthony said that at this moment the project is only conceptual. If this goes to the Town Board and they give them the go ahead to move forward, this is when they would have all the engineering done. That would be the next phase. Director of Planning and Zoning, Richard Miller stated that the town has an engineering firm on hand that they can use if this gets to that

point. Ann Marie Scheidegger stated that they have regulations that help guide them in their decision making. In this case they are talking about creating something brand new and she does not know what to compare this against. When they ask herself question of if what they have been provided is sufficient and complete, she is struggling with the answer because she feels like does not know, what she doesn't know. She asked if the Town could hire an expert or consultant in the decision of the PUD. Atty. Muller replied yes. The code states that they can hire experts at the applicant's expense, but it must be reasonable.

Kirk VanAuken for clarification with the creation of a PUD. Atty. Muller explained how a PUD is created and said that they could use a planner and/or engineer to get their expert advice to answer any of their questions so they could make an informed vote of yes or no. They are voting for the details of a PUD. The Town Board decides whether or not to approve the PUD and they can add any ideas to it that they would like to see too. If the Planning Board decides not to give a favorable recommendation to the Town Board, the applicant can still move forward to the Town Board because the final decision as to whether or not this becomes a PUD is a Town Board legislative act. Herb Koster asked if the Town Board grants the PUD would the project come back to the Planning Board for review. Atty. Muller replied yes, and it would be one of the most complex site plan reviews this board has ever done. They will be taking residential property and turning it into a residential PUD. Kirk VanAuken inquired if it was conceivable that the plans before them now could change and multiple units could be added to it. Do they have the legal means to limit the amount of development? Atty. Lapper stated they were not looking for more. Herb Koster asked if the PUD is approved by the Town Board, would the Planning Board have the ability to cut down the amount of buildings allowed on the lot if they found that what was proposed would not work. Atty. Muller replied yes.

Gena Lindyberg said she believes they need more information to feel more comfortable. John Cushing said he has huge concerns with the density and feels that the proposed plan is over development of the land with no provisions but high income housing. He would consider increases in dwelling units if there were some moderate income units available for families and seniors. Gena Lindyberg said she believes that they should hire somebody to help them with the development of the PUD. John Cushing said they would have no control of the project if the PUD was approved. John Gaddy said that was incorrect, it is the Planning Boards job. Atty. Muller replied that they could hire an expert to help the Planning Board with the PUD before it is sent to the Town Board. John Gaddy said it would be important to see if the Town Board and the Planning Board are in concurrence with what they are looking for. Ann Marie Scheidegger stated that she would like to meet with them before they make the referral. Atty. Muller recommended that they use Jim Martin from the L.A. Group. Atty. Lapper suggested they use an engineer instead of a planner. Atty. Muller stated they are not at the point where they need an engineer. He believes there are a fair amount of questions that they need to answer. Gena Lindyberg said she would like to move forward with hiring a planner for expertise. Atty. Muller suggested they table the application and get a planner to assist the Board further.

Atty. Lapper said that before the Board tables this and if they are not in favor of a PUD the alternative is for the applicant to keep it as a motel or turn it into mansion lots which would be easier for them. Herb Koster stated this was up to the applicant but the Board has to proceed with what they feel comfortable with.

**RESOLUTION:**

**Motion by** John Gaddy to table SPR20-11 for professional advice on the pros and cons of developing a PUD for the Twin Bay project and to authorize the Town Attorney to retain the expert. **Seconded by** Gena Lindyberg. **All in Favor. Motion Carried.**

The meeting was adjourned at 8:29PM

Minutes respectfully submitted by Kate Persons.