

Minutes of the Town of Lake George Planning Board held on Tuesday, August 5, 2008 at the Town Center, Old Post Road, Lake George, New York.

Members Present: Keith Hanchett  
Jack Abrahams  
Charlie Portes  
Linda Varley  
John Carr  
Joe Mastrodomenico  
Ed LaFerriere

Also Present: Patty McKinney, Clerk  
Robb Hickey  
Jim Grey  
Joe Stanek  
Betty Spinelli  
Kathy Bozony  
Dana M. Seguljic  
Mike Seguljic  
Albert Brand  
John Salvador  
Randy Bardin  
Tony Abrantes  
Dennis MacElroy  
Bob Howard  
Councilman Scott Wood  
Chris Navitsky  
Ron Jones  
Mitzi Hayes  
Attorney Michael O'Connor  
Carol Anagnos  
Edward Anagnos  
John Hodgkins  
John Folino  
Sam Bennett  
Dan Bennett  
Dixon Ballard  
Kiley Merrett  
Attorney Mark Rehm  
Todd Patan  
Susan Reynolds  
Travis Mitchell

Chairman Hanchett opened the meeting at 5:00 p.m.

A motion was made by Jack Abrahams and seconded by Joe Mastrodomenico, to accept the July 1, 2008 minutes.

All in favor.

Motion carried.

### **REGULAR MEETING**

1. Boundary Line Adjustment #7-2008 submitted by Mid-Valley Oil, Inc./Lake George Association, to request a boundary line adjustment to acquire approximately 0.19 acres from a 0.86 acre lot of adjoining property owner (264.03-2-11).

Dennis Dickinson was present representing the applicant.

Dennis stated this is the Mobil Station property on Route 9N Luzerne Road. Dennis stated they would like to do a boundary line adjustment by transferring lot #12 to the Lake George Association and in return obtaining the triangular piece of property for the Mobil Station property.

Dennis stated that in the middle of this boundary line adjustment would be the basin for the Lake George Association's stormwater. The applicant has agreed to relocate this and it will be placed further back.

Jack Abrahams read the application into the record.

A motion was made by Charlie Portes and seconded by Jack Abrahams to accept the application as complete.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

A motion was made by Jack Abrahams and seconded by Charlie Portes to waive the Public Hearing.

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by John Carr to approve with the condition that the applicant show a temporary easement to the LGA for stormwater management until the next phase of the project has been completed.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

2. Major Subdivision Application #8-2008 submitted by BBD of Albany, LLC to subdivide approximately 31.2 +/- acres into 26 lots for a proposed townhouse project for property located at 328 Bloody Pond Road (264.12-1-27).

Attorney Jon Lapper, Bruce Boswell and Dominic Arico were present representing the applicant.

Attorney Lapper stated this had previously been submitted as a single family project which had vastly more disturbance to the site than what is proposed now. The additional curb cuts that were proposed for townhouses have been eliminated. Full engineering plans have been submitted.

Dominic Arico went over the details of the engineering plans. He stated there is a private drive to access 24 townhouse units. There is also a lot being taken out for a single family residence and the remaining lands will be kept in the Homeowner's Association. Utilities will all be in Bloody Pond Road. Public water and sewer will run up through the private drive with utility easements given back to the Town. The booster pump is proposed at the corner of Route 9L to increase the water pressure. Stormwater management will all be maintained on site.

There was a discussion regarding the sewer credits needed for this project.

Charlie Portes stated he felt they should not keep approving projects when there was a possibility that sewer credits would not be allowed.

Attorney Lapper stated that legally there has been no moratorium placed on the sewer capacity.

John Carr read the application into the record.

A motion was made by Jack Abrahams and seconded by Charlie Portes to accept Application MS8-2008 and SP18-2008 as complete.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – No  
Keith – Yes

Motion carried.

A motion was made by Jack Abrahams and seconded by John Carr to schedule a Public Hearing for Application MS8-2008 and SP18-2008 for September 2, 2008.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – No  
Keith – Yes

Motion carried.

3. Site Plan Application #28-2008 submitted by Angelo & Courtney Richichi to construct a two story, 4, 500 square foot, 4 bedroom single family dwelling with attached 2 car garage for property located at 78 Cotherman Drive (238.11-1-17).

Tom Hutchins was present representing the applicant.

Tom stated that the applicant's own Lot #5 which is part of an approved subdivision at 78 Cotherman Drive. This is a 2.75 acre parcel. This is a long, narrow lot and in order to get to the house location, upwards of 300 feet of driveway is necessary. This is a single story house. This is around 3,500 square foot of living space. The footprint of the roof is 4,600 square feet. The garage is incorporated into that.

Chairman Hanchett stated there was a letter from the Lake George Waterkeeper. A copy of this letter is on file in the Planning and Zoning Office.

Charlie Portes questioned the ground water. He asked where the ground water from the top was going. There was ground water at 12 inches and then they went down another 8 feet for the basement.

Tom Hutchins stated that was not supposed to be a basement. It was to be slab on grade.

Chairman Hanchett read the application into the record.

A motion was made by Joe Mastrodomenico and seconded by Charlie Portes to accept the application as complete.

All in favor.

Motion carried.

John Carr questioned if there was a reason why the house was positioned that way rather than rotating it approximately 90 degrees to fall more with the topography and reduce the length of the driveway.

Tom Hutchins stated they could probably reduce some of the cut and he would look into this.

A motion was made by Charlie Portes and seconded by Jack Abrahams to schedule a Public Hearing if the updated plans are submitted to the Town by August 19<sup>th</sup> at Noon.

All in favor.

Motion carried.

There was a discussion regarding changes that needed to be made to the plans. Tom stated he was not comfortable getting all this information in for a Public Hearing for next month.

A motion was made by Jack Abrahams and seconded by Ed LaFerriere to rescind the motion to schedule a Public Hearing at this time.

Tom Hutchins will make the necessary changes to the plans and bring them back next month for the board's review.

4. Site Plan Application #29-2008 submitted by John Desperito to place fill 17 feet high by 45 feet wide in recessed area between lots to act as a pathway. Walkway will be crushed stone with a split-rail fence for safety (264.04-1-39.21, 264.04-1-39.22).

Tom Hutchins was present representing the applicant.

Tom stated that applicant owns 147 and 149 Bloody Pond Road. This was part of an approved subdivision several years ago. Mr. Desperito lives at 147 Bloody Pond Road and his elderly mother lives at 149 Bloody Pond Road. Mr. Desperito wishes to provide some sort of safe access

between the two parcels. It is not possible to walk between the two houses without walking on the road due to the ravine between the two houses. The walkway would be a crushed stone surface with a fence or wall on either side. They will be disturbing just under 2,000 square feet total area.

Chairman Hanchett stated there was a letter received from the Lake George Waterkeeper. A copy of this letter is on file in the Planning and Zoning Office.

Linda Varley read the application into the record.

A motion was made by Charlie Portes and seconded by John Carr to accept the application as complete.

Linda – Yes  
John – Yes  
Jack – No  
Charlie – Yes  
Joe – No  
Ed – No  
Keith – No

Motion not carried.

The accepted was not accepted as complete.

The board requested that Tom Hutchins go back to his client and discuss alternate plans. They feel this is too excessive for what he is looking for.

5. Minor Subdivision Application #9-2008 submitted by Eugene Albright to subdivide approximately .87 acres into two lots for property located at 1 & 2 Park Street in Woodfin Park Association (251.20-1-30, 251.20-1-46).

Chairman Hanchett stated there has been a letter received from the Lake George Waterkeeper and from the Law Offices of Little & O'Connor, representing Ronald Jones. These letters are on file in the Planning and Zoning Office.

Attorney Jon Lapper was present representing the applicant. He stated this property has been in the family for 64 years and since his mother's passing, they have tried to sell the property for 7 years unsuccessfully. In order to make it more salable, the realtor has suggested removing the house in the back. They have received variances from the Zoning Board for the existing retaining wall and patio and one of the docks would not meet the setbacks after the subdivision. Attorney Lapper stated they have agreed with the Zoning Board that upon the conveyance of either of

these properties, the house in the back will be removed. They are expecting that after the subdivision is approved, they will be either to sell one or both of these parcels.

Charlie Portes asked if there was a variance granted to have a dock on a lot where there was no residence. If this lot was created, there would be a dock with no principle residence.

Chairman Hanchett read the application into the record.

A motion was made by Charlie Portes and seconded by Jack Abrahams to accept the application as complete with a note on the plan that the dock be removed.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – No  
Ed – Yes  
Keith – Yes

Motion carried.

A motion was made by Charlie Portes and seconded by Ed LaFerriere to schedule a Public Hearing.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

6. Site Plan Application #31-2007 submitted by Fred Vogel to modify stormwater management plan and request permission to dredge into the lake for property located at 27 Front Street (251.20-1-23).

Chairman Hanchett stated there was a letter received from Fred Vogel describing what happened on the site. A letter has been received from John Kearney, the neighbor and a New York State Department of Environmental Conservation Emergency Authorization. Copies of these letters are on file in the Planning and Zoning Office.

Dennis MacElroy was present representing the applicant.

Dennis stated this property is a single-family residence under construction with stormwater management in place. This was approved by the Planning Board last year. There has been an ongoing issue with drainage in the Front Street area. This property seems to receive the brunt of the drainage. The water comes down from the upland area and funnels down through there. During the last rain event, there was damage done to the Vogel property. What is being proposed is to remove some of the discharge that did get through the siltation barriers down by the lakeshore. Dennis submitted a sketch showing the original stormwater management plan supplemented by a proposed upland stormwater conveyance. As the water approaches the lot from the east, they are proposing the placement of three drywells which would have the initial ability to absorb a storm event. There is then an overflow pipe which would then head downhill and discharge at the shore front. This has been discussed with DEC and would approve that concept. They have met with Dave Wick and he shares in this as well as a way to deal with the upland water.

Chairman Hanchett stated that he had spoken with Tom Jarrett who had some suggestions regarding the stormwater management of the upland parcel.

A motion was made by Charlie Portes and seconded by Joe Mastrodomenico to approve the dredging to be started immediately and refer to Tom Jarrett to work out the stormwater management plan with the applicant's engineer.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

### **PUBLIC HEARINGS**

1. Site Plan Application #11-2008 submitted by Zdizislaw & Barbara Formus to construct a three bedroom single family dwelling with attached garage via a covered walkway for property located at 36A Schermerhorn Drive (251.10-1-21).

Attorney Mark Rehm was present representing the applicant.

Attorney Rehm stated that on March 4, 2008, they were here and discussed the general project. The board requested a major stormwater

plan. Dennis Dickinson submitted a major stormwater plan which Tectonic Engineering reviewed and signed off on as meeting all requirements of the Town of Lake George Stormwater Regulations on June 24, 2008.

Attorney Rehm discussed the screening from the road. The applicant wished to screen the house from the Northway and they have shown on the plan where 8 evergreen trees will be planted.

Chairman Hanchett stated they have received letters from Tectonic Engineering regarding this application. These letters are on file in the Planning and Zoning Office.

Chairman Hanchett opened the comments to the audience.

There was no public comment.

A motion was made by Jack Abrahams and seconded by Charlie Portes to close the Public Hearing.

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by Joe Mastrodomenico to approve as submitted.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

2. Site Plan Application #5-2008 submitted by John Campanella to construct a 2,250 square foot two story single family dwelling with attached 500 square foot garage, for property located on Lot #20 on Olde Coach Road in Diamond Point (225.08-1-32).

Chairman Hanchett stated there has been a letter received from the Lake George Waterkeeper. A copy of this letter is on file in the Planning and Zoning Office.

Shaun Rivers was present representing the applicant. This is a 2,250 square foot house on Old Coach Road. He stated from the last time he

was here there was a couple technical issues between him and Tom Jarrett, which have been resolved. He stated the amount of drainage area below the frost line of the stormwater system. The upper two drainage basins were increased to 24 inches in diameter. They put some crushed stone underneath them to effectively make that many drywells and then they added additional fill over the top of the infiltrators to increase the frost protection on that. This was acceptable to Tom Jarrett. The drawings do reflect these changes.

Shaun stated the wastewater disposal field was moved slightly down the hill. There was a concern that the slope was greater than 15%. Moving it down the hill, it brings the slope to 15% or less.

The major issue with this project is the view from the lake. They flew balloons. The upper balloon was two feet higher than the ridge line of the building.

Shaun plotted what parts of the lake you will see the house from. He stated you can't really see the house any closer than 1.75 miles from the lake. As you get closer than that, all the trees in the foreground and the natural topography obscure the house.

The plantings that are going to replace the trees being removed will be 20 to 22 feet tall sugar maple trees at about 20 foot apart. Shaun referred to a letter submitted by Richard Sipperly who also suggested planting white pines down below. Shaun also proposed adding a few white pine trees just to fill it out.

John Carr asked how much fill would be brought in to extend the plateau that is currently there.

Shaun stated that they will need to remove the fill that is there now because it is of suspect quality and they will have to bring fill back in to bring the site elevation up to the point where they can construct the house properly.

Chairman Hanchett opened the comments to the audience.

Kathy Bozony: "Lake George Waterkeeper. We had hoped that the balloons would have been flown at the distance of the structure as opposed to one balloon. I did see one deflated balloon on the site. One of my major concerns is the stream that runs below as you're looking at the lot to the right of it. It was running pretty good this last week. It has asphalt and rocks and cement dumped right into the stream. I'm curious whether or not when they bring in more fill if that stream is going to be more impacted or if there are plans to clean it up. One of the proposed trees that will remain on the site has a tree well specified around it and the tree well is over 8 feet high in height. I'm wondering if

all the other trees that are on that site are going to have tree wells as well or if they are drawn on the site map and they really are not going to exist in the future because without tree wells, they will not survive yet they are on the plan. One of my concerns also is the Japanese knot weed that is on that site and as you do remove the fill to replace it with others, if you can be very careful about where you put that contaminated soil. Anywhere where that is trucked, Japanese knot weed will spread. Even if you spread it around your site at some point you will be cleaning it up. We also support Tom Jarrett's recommendation about the geotechnical engineer being brought in for the site. We're once again talking about this house being too big for this site. When the subdivision was approved 32 years ago, it was not approved for a house this size on this small parcel of land. We're still looking that maybe the board can continue discussing that this house may not be the right house for this property. Thank you."

Mike Seguljic: "I'd like to mirror some of Kathy's comments. I substantially agree with what she was saying. Regarding the balloons, is that something that the public would be typically notified of?"

Chairman Hanchett: "No. It's for the board's purpose to get a location and see. It's part of our job."

Mike Seguljic: "I just wasn't sure because I would have liked to have been out there myself. Regarding this cluster subdivision as Kathy had mentioned it is 32 years old. It seems to reiterate and echoing all of our concerns that are going on currently with the way clustering is being used in the Town. This lot is placed on extremely constrained land and you guys, and the board and the applicant and his architect/engineer are having difficulties placing the house on this land. Maybe this lot should not have even been created 32 years ago. That's something we ask the board to keep in mind for the future. You talked about the fill being low grade and I understand the stream may not be on this property, but I keep walking to the back of the property and you can hear that stream running behind that fill bank. The material is falling into the stream. If it is to be removed, I heard it was the Town who put it there to begin with, it seems to me that the Town should get that material removed and while it is being removed and being replaced that stream needs to be protected. Regarding the Diamond Point Dock, that dock is clearly demarked for no boats, no docking, it is a safety issue and I'm just not sure if moving forward if that's going to be a common practice for the Town to be using it for people going off of that dock. There are other places that the Town can use that are not posted. Thank you."

A motion was made by Charlie Portes and seconded by Jack Abrahams to close the Public Hearing.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

Shaun Rivers stated that although it seems this house is too big for the lot, it fits in with all the other houses in the neighborhood.

There was a lengthy discussion regarding the planting plan, the color of the house, the color of the roof and the fact that there needs to be non-reflective glass.

A motion was made by Jack Abrahams and seconded by Charlie Portes to approve with the conditions that the all plantings as suggested by the board be shown on the plan; that the color of the roof and the house be of natural colors; that all vegetation that is planted shall be maintained; and that any and all tree cutting after the approval require Site Plan Review.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – No  
Keith – Yes

Motion carried.

3. Major Subdivision Application #4-2008 submitted by CEG Developers, LLC, owner being Allen King to subdivide approximately 84.59 acres into 37 lots for property located on the north side of Route 9N (Luzerne Road) immediately west of I-87 (264.03-1-75).

Travis Mitchell of Environmental Designs was present representing the applicant. This is an 85 acre site located on Route 9N west of the I-87 interchange. 14 acres of the site are in RR-5, 12 acres are zoned TC-A and 15 acres of the site are zoned RCH.

This works out to 117 lots. They are proposing 37 lots in total; 36 residential lots and one commercial lot.

There is a single boulevard entrance with two east/west cul-de-sacs. This design has been reviewed with Hoddy Ovitt, the Highway Superintendent.

These will all be on private individual well and septic systems.

This layout provides significant buffering along the Interstate. They have also reduced the clearing and grading down 40% from where they originally started. With 37 lots, they have 34 acres of clearing and grading involved. The layout includes the minimum clearing and grading through the commercial parcel enough to construct the boulevard entrance and the stormwater maintenance for the roadway. They have put in a temporary stormwater management area at the project entrance to handle the stormwater that comes off the boulevard. The residential lots will include individual stormwater management on each lot and the road right-of-way will be managed in three common stormwater areas.

Travis stated they have received a letter from Tom Jarrett and provided some response comments to him.

Jack Abrahams asked about the most northerly two lots and asked if the County had any right-of-ways through those lots.

Dennis MacElroy stated that there are no formal written agreements for the snowmobile trail. He stated he spoke with Pat Beland from the County and he stated a lot of times it is done through a third party witness in just a verbal agreement. This is part of the discussion that has been initiated with the Town Board.

Chairman Hanchett stated there was some discussion about the driveway coming out across from Goggins Road. Travis Mitchell stated he spoke with DOT who said they would only allow them one entrance.

Chairman Hanchett stated we have received a letter from Tom Jarrett and Glen Vidnasky. Copies of these letters are on file in the Planning & Zoning Office.

Chairman Hanchett opened the comments to the audience.

Kathy Bozony: "Lake George Waterkeeper. I wanted to first talk about some of the potential low impact development concepts that could be utilized with this subdivision proposal. One is the width of the roads. It was just stated they are 16 foot roads with 10 foot median and an additional 16 foot driving lane. We're looking at use of asphalt, gutters and curbs as something that we would like to suggest. Other things I think you were alluding to is a depression between to get some sort of a swale where we could get some sort of natural infiltration on site as opposed to guttering everything to the end. We're asking whether or not

the traffic volume would support these 12 foot wide roads. The cul-de-sac at the end does it need to be designed for two lane traffic; again, trying to reduce the impermeable surfaces. Reduction of stormwater, minimize the area of disturbance to maintain and mimic the predevelopment and hydrologic conditions. These are very infiltrative soils and so the amount of clearing and significant cut and fill should be limited. The development is proposed right now with 53% of the surface area for lots 1-34 as well as the entire roadway and the future commercial lot to be disturbed and cleared. We should recommend that the developer incorporate open channel conveyance implementing bioswales to provide treatment and flow reduction. We're looking at treating the water close to the source using vegetation for infiltration for cleansing of the water as opposed to running it directly down the road to catch basin #1. The intent of Low Impact Development is to mimic the pre-existing hydrologic patterns. The pre-existing condition of the proposed development is a forest with open conveyance over established vegetative terrain. The use of curbs and gutters completely changes the hydrologic pattern, reduces time of concentration (time of flow) which significantly increases flow volumes and pollutant loading. The use of bioswales would reduce project cost by eliminating materials and basin volume size and increase water quality treatment through contact with vegetation and infiltration into soils. The Stormwater Management Report calculations contain examples that may not accurately reflect actual post-development conditions. One of the most influential factors in determining stormwater runoff is the land classifications and associated runoff coefficients. In our opinion, the most conservative values are not applied which result in less runoff than actual field conditions as noted in the following: Under post-development conditions, Catchments 2S and 13S is classified as "Woods, Good" with a runoff coefficient of 30, when pre-development conditions are "Woods, Fair" with a runoff coefficient of 36. This would indicate less runoff in post-development conditions and a change in forest cover. How is this possible? In general, areas outside the roads in pre-development conditions are classified as "Woods, Fair" with a runoff coefficient of 36 and in post-development conditions, the areas are classified as "Grass, Good" with a runoff coefficient of 39. This is a rather insignificant change for area that will be cleared of native mature vegetation, have the soil structure completely altered with construction activity as well as existing grades altered with up to 15 feet of fill or cut. A more conservative post-development value should be incorporated. The calculations for Catchments 5S and 9S appear to underestimate the impervious coverage associated with the paved cul-de-sac. The areas proposed for stormwater management should be considered as impervious. Catchments 3S, 8S and 21S contain the proposed stormwater management basins. These areas according to the New York State Stormwater Design Manual (NYSSDM) as well as TR-55 models should be considered as impervious since these will be filled with runoff during rain events and will not be infiltrative surfaces. Calculations should be modified. There has been no

incorporation of stormwater for the proposed commercial lot which appears to be segmentation. General calculations should be provided for approximating the size of the facilities required and potential discharges. This could be based on an assumed general layout. How can the public comment on the existing proposal without this information? The tributary areas significantly exceed the recommended areas by the New York State Stormwater Design Manual (NYSSDM). The NYSSDM recommends a 5.0 acre maximum tributary area to infiltration basins. The areas proposed are 18.5 for Basin 1 and 12.2 acres for Basin 2. In addition, the tributary area for Basin 3 will also include the 11.4 acre future commercial lot as well as 2.5 acres of road. The reduction of the tributary drainage areas would also mimic the natural hydrologic patterns which would keep the runoff closer to the source, a goal of Low Impact Development. There should be pre-treatment fore bays provided for the removal of sediment for the stormwater basins. The subsurface soil investigations are inadequate. There is no information provided for Basin 1 where 10 foot cuts are proposed and Basin 2. An 8' deep test pit was provided for Basin 3, however, the basin is proposed to have an 8' cut and the investigation is required to be deeper. The on-site wastewater treatment systems (OWTS) for Lots 10 and 35 are shown without the proper separation to the Basin 1. With the extremely high infiltrative capacity of the soils, soil amendments should be required to provide treatment. The majority of treatment for stormwater occurs with the contact of runoff with the soils particles through adsorption and microbial interaction. When soils have high infiltration rates, the contact time with the soils is greatly reduced along with the level of treatment. Therefore, compost/organic material should be added to the soils to raise the treatment potential and moisture capacity of the soils. We would be glad to provide soil recommendations. The lack of information provided for the future commercial phase of the project would appear to create a segmentation issue. Without any information for the potential future layout of the commercial lot, how can the public, or the Planning Board, make an assessment of the potential impacts of the project? The current layout would appear to encourage the removal of a 60-foot hill to accommodate the future development. This would have significant impacts to the adjoining neighborhood, aesthetics, and to the environment. It is understood that any concept could be changed in the future when an actual contract is signed, but the developer must provide some level of development potential for public comment. Will there be a requirement for the import of fill for the project? Based on the significant fills required for the project, will the earthwork on the site be balanced or is it necessary to import fill? The source of the fill could result in significant potential impacts to the site. Thank you.”

Bob Howard: “I reside in Prospect Mountain Estates. The Comprehensive Plan for the Town of Lake George is a working part of the Town’s development program. It should be consulted just as the Town might consult the public, their engineer, counsel or others. Page 36

refers to lands that are suitable for development. It says that if it is suitable, there should be no mature natural resource constraints. Coincidentally on that same page it says that pockets outside of the hamlet areas that contain substantial land that is suitable for development are located as follows and as you can see, it refers to near Exit 21 of the Northway. Map 10 from the Comprehensive Plan shows suitable for development and the area of this project is considered suitable for development according to the Town's Comprehensive Plan. That being the case, I would say that these people have an excellent area for development. It's a great area for housing; easy access to I-87. You've got Prospect Mountain as a back yard for hiking, snowmobiling. The State has plans for a mountain bike trail within the Prospect Mountain range and the project is also close to the Rec Center. This project is not going to detract from the scenic beauty of this region. I've been to a lot of your meetings and here reference to projects up on the vistas and the mountainsides. This is not going to be a problem as far as I can see in that regard. It's one of the few large tracts of land left in the Town that is suitable for development. As far as the commercial piece, personally I don't see a problem with somebody who wants to clear some trees and take out a hill. It's private property. It's on a State road. I personally feel that the owner should be entitled to develop it. If the hill isn't excavated and the trees aren't removed, this property isn't marketable. I was trying to use my imagination and think if they didn't take the hill out and they didn't remove the trees, what could the parcel be used for? The first thing that came to mind was a cell tower on the top of the hill. Can you imagine the uproar that would cause? Or perhaps since you've got a hill, maybe a waterslide, but we've already got one of them. These are people of integrity in my own opinion. They live and work in this area and some of them will probably eventually live within the development. I'm certain that they are going to do a quality job and the whole project will be an asset to this area. These people built 4 houses in Prospect Mountain Estates. These people don't cut corners when they build homes. They will build according to their plans that they submit. I am confident of that. If the plans call for certain stormwater drainage, not only will it be installed, but it will be installed properly. These people have done work for DEC so they know what it is like to work in environmentally sensitive areas. They are not eco-villains as some people make think. They have shown willingness to compromise over the past year by modifying their plans at the suggestion of the Planning Board members, the Town engineer, the Town Highway Superintendent. I just think it's a win, win, win situation for the Town. They're developing land that is considered suitable for development per the Town's Comprehensive Plan. It's a reputable, local developer and they are going to take vacant land and convert it to a property that is going to be worth millions of dollars on the tax rolls and provide quality single family dwelling residences, I'm sure. Obviously an urging recommendation of this project."

Mike Seguljic: “Just regarding the Master Plan, we do feel that it is intertwined with the codes of Lake George and it should be referenced on an ongoing basis, not just for lands that are suitable for development, but as we have mentioned a number of times, that plan also indicates large portions of the Lake George area are unsuitable for development. There are areas that are suitable for development and can retain the character of the areas in which they are built and he’s probably right it might be an attribute to the area. With that being said, please keep the Master Plan in mind in its full entirety especially for lands that are considered unsuitable for development. Especially considering some of the development that is occurring is out of character within areas that it is being proposed. Thank you.”

Susan Reynolds: “I live in Prospect Mountain Estates. CEG Development did build my home 2 years ago. I have built 12 homes across the United States. I am conscious of environmental issues. I happened upon the parcel in Prospect Mountain Estates. I worked with them. We conserved as much as we could. The integrity of his building was phenomenal. He worked within the constraints that I suggested. He was timely. He is someone with integrity. You can stand by his projects and if he says he’s going to do it, then he’s going to do it. I don’t think he compromises. I’m very pleased and very happy with where I am and I really do not see having these homes, as long as they are built according to what they have not, I do not see them as a detriment to Prospect Mountain itself. Thank you.”

Jack Abrahams asked if Travis Mitchell had met with Tom Jarrett regarding the latest memo of July 29<sup>th</sup>.

Travis stated that Tom had not had a chance to review it yet however, he feels they satisfactorily addressed the issues.

A motion was made by Jack Abrahams and seconded by Charlie Portes to hold the Public Hearing open until Tom Jarrett notifies the clerk that the application is ready to be placed back on the agenda.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

4. Site Plan Application #22-2008 submitted by Randy Bardin, owner being Lina Brand Estate to request permission to conduct selective timber harvesting for property located at 752 Diamond Point Road (225.00-1-5).

Randy Bardin was present representing the applicant.

Randy stated that he had met with Warren County Soil and Water and they have submitted a letter to the Town. A copy of this letter is on file in the Planning and Zoning Office.

He stated they contacted DEC who advised him that this was out of their jurisdiction because there were no wetlands, no stream crossings, etc.

Chairman Hanchett stated letters have been received from Joe Russo and Kathy Parker. Copies of these letters are on file in the Planning and Zoning Office.

Albert Brand stated the last time this property was logged was in 1978. They will be using existing logging trails.

Chairman Hanchett opened the comments to the audience.

Margaret Nelson: "I live in the white house on the Lina Brand Family Trust. Last summer when we had the high winds, there is a tree behind the house where my bedroom is located. It has three trunks. The one trunk came down and went through the first layer of my thermal pane windows. That tree has to come down. What they plan to do is to reforest the trees afterwards, to put in new plantings, which wasn't mentioned yet."

Ann McGarry: "I live at 792 Diamond Point Road. My property adjoins their property in the back. There is a stream that runs year-round all the way down into the lake. We are very concerned about stormwater. We already have a serious runoff problem from Diamond Point Road. In fact, this last storm that just happened, the runoff was so bad that it went all the way down across Route 9N down to our beach and eroded about a quarter of our beach. The last thing that should be happening on a steep slope is to lose more trees. I don't think it's such a great idea environmentally and I would really like to see that more studies are being done on this before they go ahead and do logging. The second thing I want to say is I don't know that property except what is right behind my house. What is right behind my house is not cleared and there are no logging roads. I would really be interested to know where they are talking about in terms of where it has been cleared already. There is no map. We don't know as residents in terms of where they are actually doing this logging. We also want to make sure that this is not going to impact the beauty of the area. Are we going to see this when we are

driving up the road? The other thing is if they are actually going to be permitted to do this, which we still object to, we'd like to know what kind of considerations will be given to the residents. You're talking logging in our back yard. We're talking logging trucks up and down the road. My front door is not even 40 feet from Diamond Point Road, which is already over trafficked. You're not even supposed to have tractor trailers on that road, although nobody seems to be policing that, but that's a fact, it's against the law. Now we have logging trucks going up and down our road, hours after hours."

Melissa Vito: "I live at 790 Diamond Point Road, right on the brook also. My land actually crosses the brook. I'm quite worried what might happen to the brook. I wish to go on record as being greatly opposed to this proposed project. My objections have to do with the possibility of enormous damage to the land being logged as well as stormwater damage to adjacent lands, Smith Brook, and Lake George and the loss of the quality of landscape by the loss of trees. As the land now exists, the leaves and roots of the trees and the leaf debris and mosses on the forest floor create the stability of the hillsides even in the event of severe storms. Once disturbed by the logging activity, the stability will be lost and nothing will hold back the soil from being washed down the hill and onto the lands and into the streams and roads and the lake below it. A buffer zone of a hundred feet between the work and a stream could be considered something of a joke where erosion control during a severe storm is needed. I would like to ask if the board members have walked the land with a consulting forester and learned just how steep the slopes are. The neighbors can't walk the land without trespassing, but the board members accompanied with professionals would be able to see first hand just what the conditions are. If you'll recall the tremendous washout of June 13, 2005, that closed the Northway in both directions for several days and cost the county millions to repair, you could easily imagine what could happen at this site. The washout of that date was linked directly to the development that had been going on near the top of the mountain where it occurred. A washout of Smith Brook would ruin its distinctive beauty with broken granite replacing the completely natural stream bed and stream banks we enjoy today. As for my house, whose corner is only 5 feet from the stream banks, it would be in jeopardy of serious damage if the brook washed out. Wouldn't we feel stupid not to take the warning from that event and stop such activities before they start? This project is proposed to continue its land disturbance for three long years. How many severe storms will we certainly get over all that time? Such a long period for the permit to apply also makes enforcement of the permit restrictions very burdensome on the town's resources. Though the application states that the work will comply with conservation statutes and acceptable timber harvesting guidelines, how does the board propose to enforce these provisions? The wrong trees cut down and serious erosion having taken place cannot be undone if discovered after the fact. Enforcement visits would have to be

frequent and constant if the Town were to ensure that the permit restrictions were observed. I would like to ask if the Town has such resources for such a massive and long-term project as this one? If not, it would seem improper to grant a permit you have no way of enforcing. The application states that at the completion of small operations all work areas will be stabilized. I hate to think of what will happen over three years if no disturbed land is stabilized until the logging is complete. I would also like to ask how the board can approve an operation that requires the illegal driving of heavy trucks up and down Diamond Point Road? A sign on its westbound side near the intersection of Route 9N says "trucks over 5 tons use truck routes". That means that big trucks aren't supposed to be driven on Diamond Point Road, I think. For these and the many other reasons presented here tonight, I am respectfully requesting the board deny this application. Thank you very much."

Lyle Champagne: "780 Diamond Point Road. My wife and I have lived there since 2001. I don't know if you people are familiar, but the bank between the brook and their land is very steep. We're concerned mainly about the 100 feet because I would say it's pretty close to 200 feet from the brook up to the level portion of the land, so if you approve it, can you give some consideration to making it go to the top of the level, instead of the 100 feet. Thank you."

Randy Bardin: I did meet with Soil and Water last month. We walked the job together. I have a note from him stating there are numerous skid roads on the property that were established back in 1978 when the property was logged before. Basically, we'll be going in the property owner's driveway. Most of the logging operation from that point would be from the yard going in and up the side of the mountain. The left side of the road, which borders the property and the brook, I did not intend on doing very little logging down in there at all. Going down over the steep bank near the brook, I didn't plan on going in there at all. I've been around this property boundaries several different times and while I'm walking the property boundaries, I've never seen anybody's house. The proposed logging is from the driveway back up toward where the Town of Lake George owns for the watershed. The left side which borders these people's properties I don't plan on going near at all. I understand people's concerns, there are loggers who go in there and rape the land and don't care what the consequences are. I'm not one of those loggers. With regard to the three year term, the reason for that is to try to work around the adverse conditions and work with the market. It's not a beautification job. There is going to be damage, but with regard to seeing the logging operation from the houses or from the road, I don't think you'll see any of that."

Chairman Hanchett asked Robb Hickey regarding the trucks going up the hill.

Robb Hickey stated they have to notify the County that they are going to use the roads and if they are posted, they have to stay off the roads.

John Carr asked what route he would take leaving the site?

Randy Bardin stated he would come out and go down the hill to Lakeshore Drive.

Joe Mastrodomenico asked how many times a day he would be on the road.

Randy stated probably 4 to 5 times per week.

John Carr asked on the steep bank that goes down toward the stream, if there would be any cutting.

Randy Bardin stated there would be none. He does not plan on going down over the bank at all.

John Carr asked if he would be willing to work with the hours of the trucking.

Randy Bardin stated he was willing to do whatever it takes to keep everyone happy.

Betty Spinelli: "He was talking about the route and going down the hill. Actually, I know it is shorter from where he is to come down the hill, but actually when you think about it, it is the steepest part of that road and also the most populated and comes to a very dangerous intersection. It might be smarter for all three of those reasons to go the other way."

Randy Bardin stated he was not the one who does the trucking, but he can talk to the driver and get his opinion.

Ann McGarry: "He said that our border is not on your border. The back of my property is bordering your property. We're a little bit upset understandably; the lumber people are getting all the rights here. We are not tourist, we are residents. As far as the trucks goes, if it is an inconvenience to the truckers, I'm sorry, but they shouldn't be on that road. My house is less than 40 feet from that road. You can imagine the kind of noise it is. It's not just going to be the trucks; it will be the logging on top of the trucks. It comes right down now, anything they do on that property, we here immediately. It comes right down that stream into our back yards. This is constant noise. I don't understand why on a 50 acre lot, you should allow three years of logging."

Mike Seguljic: "My wife and I had the unique pleasure of meeting the Brands and Ms. Nelson several months ago. From what I understand

this property has been in their family for 60 years. I don't like seeing trees cut down, but at the same time, having met them, having visited with them, they love their property. They love the area. I don't think they would do anything intentionally do to any harm and obviously that's why they are here trying to do the right thing. I understand your concerns as well. I live on Diamond Point Road myself. I'm not thrilled with the trucks on the road. As I've mentioned a number of times, we have approached the Town Board with minimal success trying to work on the speed limit on Diamond Point Road and the intersection of Diamond Point Road and Route 9N. I will reiterate needs to be placquarded with high visibility green signs with 20 to 25 mile per hour speed limit. A stop light won't work there. I don't believe the folks here would do anything to harm the land. Obviously, it's the job that you are charged to make sure it is done properly. There is a concern with trucks on the road. I'm not sure how that is handled. I don't know about the wisdom of trying to take a logging truck from a dead stop up the grade of Diamond Point Road and then again, I don't know about taking a logging truck down the grade of Diamond Point Road with that intersection. I think it's something that we have to trust the driving ability of the logger and maybe there should be consideration of access to Diamond Point Road and having a flag man being out in the road when that truck is about to leave that driveway because I believe that driveway is on a relatively sharp corner."

John Salvador: "I'd just like to say that Randy Bardin has done commercial timber harvesting for us in the Town of Lake George and the Town of Queensbury and I can assure you that there has never been any problems with complaints from neighbors, time of work, the intensity of loading on roads. In fact, in the Town of Lake George, he was forced to negotiate Shaw Road. He's done a wonderful job for us. Thank you."

A motion was made by Ed LaFerriere and seconded by Joe Mastrodomenico to close the Public Hearing.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – Yes  
Ed – Yes  
Keith – Yes

Motion carried.

The board discussed the option of hiring a forester to go in and mark the trees that will be cut.

Chairman Hanchett requested that Chris Gearwar walk the property with the applicant and report back to the board. This report will need to be in the Planning and Zoning Office by August 19, 2008 at Noon in order to be placed on the September agenda.

5. Site Plan Application #20-2008 submitted by Green Harbour Homeowner's Association to restore dock space to a safe and navigable waterway by dredging to a 4 foot depth for property located at 3014 Lakeshore Drive (238.8-1-48).

Chairman Hanchett stated a Stop Work Order and Violation had been issued. Copies of these violations are on file in the Planning and Zoning Office.

Dave Wick spoke representing the Green Harbour Homeowner's Association.

Dave Wick: "Back in November 2007, Green Harbour Homeowner's Association approached us to assist them with a deepening of their dock spaces at Green Harbour. Warren County Soil and Water Conservation District provides this assistance to anybody. What we ended up doing is saying you're going to need these types of permits, and they contacted us a couple of days later and said it was beyond their ability is this something you can do as a contract job. I brought it before the board and we took it on as a contract job and that was to do the permitting work for the project and to the sediment samples to make sure that the sediment that was going to be dredged out of the lake was clean, and essentially to oversee the construction. We signed the contract with Green Harbour Associates to do that work. We moved forward with the sediment sampling which was undertaken in late November. It was sent to DEC. All the labs came back and everything was clear. We worked on the permit process through the winter and through the spring. With DEC, we got through the Article 15 permit process. The Adirondack Park Agency came down on site and said there was no jurisdiction. The Corp of Engineers was notified and they said there was no jurisdiction. We worked with Robb Hickey in March. I believe on March 19<sup>th</sup> we e-mailed some information to Robb. The reason why this is here at this stage as opposed to having come before Site Plan Review which I explained at a previous Planning Board Meeting is that there was a misunderstanding between Robb Hickey and our office. As we described the project, we said this was going to be a dredging project to deepen the dock spaces which have filled in with organic material over time and to get it down to a four foot depth, which will keep the boats from churning up all the organics. The dock spaces were in need of deepening as per what Green Harbour Associates said they wanted deepened. In our discussions with Robb, he had mentioned that the only permit jurisdiction from the Town was where are the spoils going to go? We said they are going to go on Jack Gillette's property. Dean Moore worked on the permitting and the

designs for the project; had the authority from Jack Gillette to put it over there. Robb went over to the site and said yes this meets our needs and intents and didn't need to see any information on what the actual dredging project was because as he understood it there was going to be no impact that the Town would have jurisdiction over. We went forward with the project. Ellsworth Construction got the bid and signed the contract with Green Harbour in May. The project started on May 13<sup>th</sup> and on Thursday Robb came out and said that there was a problem with the Town codes that this actually did need to go before Site Plan Review and the project needed to be stopped because there was a shoreline disturbance. We didn't understand what that would be. Basically, Robb wasn't understanding that we were going to be taking dredged materials and putting them on the ground so they could dewater before we put them in trucks to haul them off site. That's something we should talk about because if we stop the project, we will have financial implications and what is really the issue, this job will be done in three hours and the material will be hauled off site tomorrow. The site will look the same when we finished as it did when we started. We don't see that as a shoreline modification. Basically, the Town allowed us to finish the project. There was still a Stop Work Order on that. We did the restoration which essentially consisted of raking out the remaining soil out of the grass, reseeding it, putting some mulch down and that was the project. We came before the Planning Board two months ago and presented the project. I apologize for any misunderstanding. We are a conservation agency and we would have no reason to go around anybody's permit jurisdictions. It was clearly a misunderstanding. If there was any issue with the Town, we are more than happy to take that up and move forward as it is today. I do have pictures. I can leave these with the board. Our staff went out today to take pictures today and we have pictures of what it looked like in November before we started. There was no expansion of docks. There was no shoreline modification in terms of addition to the shoreline or detracting from the shoreline. There was no work on that property except for essentially removing sediment from the lake to get the boat dock space back to what it originally was."

Ed LaFerriere asked what happened to the trees.

Dave Wick: "To excavate three of the dock slips, we had to take some of the stems out of the tag alder shrubs that were out there. We took the stems out that needed to be removed so the operator could see. That being the case, we've gone in and replaced with some clump birch which are some very nice landscape trees adjacent to the site where the tag alder shrubs were."

John Carr asked if he had seen the first trees that they replaced recently.

Dave Wick stated that they were removed by beavers. They have pictures of the stems up close and the beaver chews.

Jack Abrahams: “I was up there when Gregg Sherry was talking to Ellsworth. That was way before you got there and those boats were not allowed to park there because there was too much sediment in there. There was no room for them. I feel that you went through the back door and you dug all those out to make room for the boats and when I was up there a week ago, I counted 10 boats up there. We requested boat assignments and Mr. Hobb’s wanted to know under what rule were we requesting this. Under the 1987 approval of Green Harbour there was no expansion of the docks so I feel personally you went around the back door to get those boats in there and use dredging as a means to get those boats in there. I have in front of me from the US Army Corp of Engineers; you never contacted them to tell them what you were doing. Also, from Chris Navitsky, he says this contradicts the information contained in the Warren County GIS system which indicates APA regulated wetlands along the shoreline. That stream was designated by APA as a wetland. How could you within 24 hours change it to a non-wetland?”

Dave Wick: “If you’d like to call Mark Rooks and have him come down. I can’t tell you that APA said something that they didn’t.”

Jack Abrahams: “In the 1987 approval of Green Harbour there is no expansion of the docks.”

Dave Wick: “If there is a dock in there Jack, how was it expanded? Did somebody add material to that dock? The purpose was to dock a boat. The dock was there. They obviously used that at some point. The purpose of this project was to regain the depth at those docks.”

Jack Abrahams: “They should have come to us before they came to you. This letter from Mark Schachner to Mr. Hobbs was July 3<sup>rd</sup>. Today is August 5<sup>th</sup> and we don’t have an answer back yet.”

Dave Wick: “I’m not sure how that relates. There is no construction of new docks out there.”

John Carr stated there were obviously a considerable amount of trees that were cut and it may pre-date the project however, are there any proposals to replace the trees that are more expansive than the birch trees that are there.

Dave Wick: “When I came in two months ago to discuss this, there were some strong feelings on this board that trees had been cut down. I offered everyone on this board to please meet me at 8:00 a.m., the next morning to show me where these trees had been removed and there was a comment by either Mr. Hanchett or Mr. Abrahams that said those holes have been dug up and covered with dirt from the dredging activity.

We have pictures that show there was green grass before, during and after the dredging activity that no trees could have been removed because there is solid sod along the lawn.”

Chairman Hanchett: “You also stated Dave that you put rock in there. You stated that the excavator was going to tip over in the lake, which is a little hard to believe, because he was going down the opposite way instead of facing into the lake, which made the momentum of that small bucket that he was taking out. You had to stabilize that there. You had to put rock there. You did state that at the Planning Board.”

Dave Wick: “You lost me on your logistics. The corner of that property that was excavated, when he started to excavate the corner of that out that arm on that machine is almost as much as the counter weight in the excavator. He was concerned that as he reached out to get the far part of that that he may actually end up tipping into the lake so he asked if he could put a little bit of stone in there to stabilize the front of the tracks. He said he only needs them in there for a few hours. They were removed the next day. Is there a few small rocks in there? Yes there are. There are a few rocks of baseball size left in there. We didn’t see that as a big implication.”

Chairman Hanchett opened the comments to the audience.

Frank Thomas: “Chairman of the Warren County Soil and Water Conservation District. First off, I thought this was a Public Hearing and it looks like an inquisition. According to District Law, the Conservation District does have the authority to enter into contracts with private entities because they are a quasi governmental agency. Dave brought this before our board. The board trusted in his confidence and has faith in his confidence and staff and voted to enter into this contract. It’s something we have done in the past with other projects. When the Stop Work Order was issued, I went up with Dave and took a look at the project. I thought the project was done well. The docks were cleaned up. The track marks from the excavator was cleaned up. I really didn’t see what the big fuss was. If there was permits required, the inquiry was made to your Zoning Office, he should have told him he needed a permit and obviously he would have gotten the permits. The folks from DEC were down at the site nearly every day bringing their staff to show their staff that this is the proper way to do a dredging project to educate them on how dredging projects were done. I feel that they did a fine job. The fact that they made some money on this job helps go a long ways towards the operation of Soil and Water. It keeps your taxes down and it keeps the professional staff that we have at Soil and Water on the payroll.”

Betty Spinelli: “I’m usually here talking about impacts to the environment and I’m passionate about that. I’m more passionate about

what I believe is behavior that borders on injustice. Let me say up front that I am almost always anti-dredging. Dave Wick knows that I probably would have disagreed with doing this project right from the get go. With that said, I attended the June meeting of the Planning Board and I was appalled. I was shocked. I was confused and I was disappointed regarding the behavior and actions of the Planning Board members. I was ashamed as a citizen of the Town of Lake George. I am a member of the Lake George Watershed Conference. With that said, I am very familiar with many projects that Dave Wick has been involved in. Ironically, and please here me now because there has been a lot of things that have been said that you are not opening your ears to. Ironically, Dave Wick has always been the number one voice that speaks up when it comes to ensuring that everyone is duly diligent about paperwork, process and permits. I think that Dave was more than generous when he referred to his communications with our Code Enforcement Officer as a miscommunication. The board's requirement for a Public Hearing after the fact, after the work was done and most especially after the discussion two months ago and explanations was just ludicrous. It certainly wasn't commensurate with the infraction after the discussion and explanation nor anywhere near consistent with many other actions that I've seen this board take over the last several years. I was confused about your requirement and need for a Public Hearing then, I am more confused now. I don't know the name of the gentleman who spoke before me, but when he said quite honestly and frankly and candidly that it sounded more like an inquisition, it certainly did. I don't think that you gentlemen and ladies have heard yourselves. We have a Planning Board that started tonight at 5:00 and some of you check your time, and the last thing we need are unnecessary Public Hearings. I don't know why we are having this Public Hearing, but I thank you for letting me speak candidly and honestly to you. Thank you."

Mike Seguljic: "I'm not even going to try to get into the technicalities of dredging. I don't have the expertise. I heard the word inquisition; I was back there thinking public lynching. Almost to the point where it seems like, I don't know where it's coming from, almost a neighbor involved, a personal vendetta. If there is a neighbor involved, he or she ought to be recused from the board during this Public Hearing. Conflict of interest, incompatibility; call it as you might, but it's a little bizarre to myself and I'm sure other members of the public. Thank you."

David Colomb: "I live at 38 Sagamore Street. I keep my boat at Green Harbour. As far as I'm concerned there are too many boats in the bay as it is. It is overused. The docks take up almost all of the shoreline. There is no more shoreline left in that bay. I think being designated wetlands that the unnecessary dredging just to accommodate a larger boat is harmful to the lake and I'm opposed to any more dredging."

Joe Stanek: “I worked with Dave for a number of years on some engineering projects and as far as I’m concerned Dave is number one on integrity. He follows the process. He knows what permits to get and he’s always helpful in proceeding with any of the engineering projects that we have with either the Watershed or Westbrook. I’m a little confused over where we go from the Public Hearing. I know there’s a Stop Work Order and I know the public has given some input on some of their feelings and I’m not too sure on where we go after the Public Hearing and what we’re trying to accomplish. I know we’re trying to get all the facts out on the table so we can understand what to do. Once that is done maybe we could explain what is the next step and where do we go from here in going forward since the project has already been completed.”

Kathy Bozony: “I want to just use this opportunity as a chance that when we do work on the shoreline and disturb the shoreline in any way, we should try to return it to a better state than what it was. I would support any type of berming and/or vegetation including not disturbing the existing grass, but adding additional plants and buffering on the shoreline. We’ve got an algae issue going on this year in the Lake George. We’re investigating it right now. Everywhere I’ve been called in the past two weeks is ramped with algae growth and we need to understand the benefits of plants and vegetation on the shoreline and what it can do to clean our water.”

Mark Schachner: “I think the board is likely not to look favorably on my advice, but here’s my advice. If I understand the facts correctly, there has not been any application made to physically change any of the docks themselves. If that’s true and if it’s true that the docks have not physically been changed in any respect than I think that, I supported the board and I will continue to support the board, in asking the question about dock assignments and for that information from the Green Harbour Homeowner’s Association. My understanding that the board’s desire to ask for that information was tied to confirming or not confirming whether there was or was not any physical alteration of the docks. I will support the board and make sure that that answer is forthcoming. From what I understand the applicant’s agent to be saying is that at least the Warren County Soil and Water Conservation District made no physical alteration of the docks whatsoever and I haven’t heard anybody, Public Hearing or even board member’s suggest that there have been physical alterations of the dock by the Warren County Soil and Water Conservation District. I think that you’re correct Jack in part and I’m disagreeing in part. As I understand the purpose of this Public Hearing for this application it has nothing to do with the docks themselves it is solely seeking after-the-fact Planning Board approval of the dredging operation. If that is true, than as opposed to whatever it is in terms of gathering information about dock assignments, then to my way of thinking, it’s somewhat apples and oranges and the purpose of this proceeding is to focus on the dredging. If that’s true, then I think

that is a separate issue that the Green Harbour Homeowner's Association should be forced to deal with, but I don't think it's germane to the Warren County Soil and Water Conservation District application."

Jack Abrahams: "I think the dredging that was done allowed the boats to be docked at the docks that were there. There was so much sediment and everything in that bay that they couldn't use the docks."

Mark Schachner: "I'm guessing that was the purpose of the dredging, to facilitate docking of the boats. The purpose of the dredging as I understand it was to facilitate docking of the boats more akin to what was originally available for docking at the facility, as I understand it."

Jack Abrahams: "Under the 1987 agreement of Site Plan, which states no further expansion of the docks or moorings, they would have to come before us."

Mark Schachner: "From what I'm understanding, there has been no expansion of the dock facilities. At best case from the applicant's standpoint and worst case from your standpoint, what happened is that over time sedimentation and silt gathered rendering at least some of the dock slips useless or less useful and that Green Harbour Homeowner's Association approached the Warren County Soil and Water Conservation District to assist by dredging at least some of that material to render the dock spaces more usable as they used to be. If that's true, then I'm not hearing that docks have been expanded and I'm not hearing a requirement that kicks in expansion of docks. If Green Harbour wants to expand its docks there is no question in my mind legally that Green Harbour has to come back to this board and seek a modification of the previous Site Plan Approval for expansion of docks, but I'm not hearing that."

Charlie Portes: "I'm confused about the whole situation and I brought this up last month. The only thing I saw happen was a misunderstanding between Robb and the applicant. The only thing I see as being done here is doing work within 300 feet of the lake. I think from my understanding, it was just a misunderstanding because Robb knew they were doing something."

Robb Hickey: "I knew they were doing something and I was of the assumption there would be no shoreline disturbance. That was what I was led to believe and so when I said, you're going to pull that trackscavator up and you're not going to disturb any shoreline and he said no, we're going to go in, we're going to reach in, take it out and take it down to Jack Gillette's. When I saw it on Thursday, to me, there was a lot of area around the shoreline disturbed."

Mark Schachner: “The way I would characterize what I understand of the misunderstanding is that our Zoning Officer was under the impression of shoreline disturbance and the Director of the Warren County Soil and Water Conservation District was more focused on shoreline alteration. I think that the Director of the Warren County Soil and Water Conservation District was saying in good faith that in his view that there was no shoreline alteration because the shoreline before and the shoreline after would be substantially identical. I think our Zoning Officer was focused on there could be massive shoreline disturbance that would require Site Plan Review by this board even if the shoreline disturbance ultimately is mitigated by not altering the shoreline and by placing it right back where it started essentially. If that’s an accurate characterization of the misunderstanding and I totally understand the misunderstanding.”

Scott Wood: “The information that was asked of Green Harbour. The research I was trying to do is gather when the last time the docks were used. Sometimes when you try to get into deep water you’ll put a walkway of 50 to 60 foot in the water. The law says you cannot exceed 100 foot from mean low. All I was trying to show at some point were those docks ever used or was that a gang plank or walkway to get to docks that were in deep enough water. If they were never used, then it is an expansion. I hit a cement wall with my research and Green Harbour didn’t want to answer that question. By not answering that question, it shows that maybe it wasn’t used for that purpose. It was a simple question.”

Mark Schachner: “I’m not so sure that the book is closed on that. I would be hopeful that the information will be forthcoming.”

Gary Hobbs: “I’m the attorney for the Green Harbour Homeowner’s Association. When I was asking questions about why you needed the dock assignments, I was trying to figure out what that purpose was. Now I’m getting the full response as to why you need those dock assignments. Those docks have been assigned and our property manager could probably tell you for how long a period of time they have been assigned, but for the last 3 years he has given me the dock assignments. There were 27 slips that were affected by the dredging project. There are 27 assignments for those slips. Those are assigned docks. As you’ve heard before, not one dock has been extended. There has not been a finger added to the dock. There are not new boards on the docks. There is nothing new on these docks. It was merely a cleaning out around the docks of the silt in that area. This is not an extension of any docks. We have exactly what we had when it was permitted. As you heard, there was not any removal of any trees taken during this period of time. I would like to say something on behalf of Mr. Wick. I was also present at a meeting with Mr. Schachner and also present were representatives from DEC and from the APA who indicated

on Mr. Wick's behalf that not only was this a text book dredging project, but it was one that should be used as an example of how to go about doing a dredging project. I think you had the top quality person doing the work on this job. With respect to the misunderstanding, I was not involved at that point in time, but I believe as Mr. Schachner indicated that was a fair assessment of what the parties were trying to say to each other. I think it really was just a misunderstanding."

John Folino: "I'm the President of the Green Harbour Homeowner's Association. I just want to answer you personally Jack and Mr. Wood. Those boats were parked there. I'm telling you that and I don't know where you're getting this from, but you're wrong. We didn't expand anything. We didn't do anything. This is nonsense and you know that Scott. This is absolute nonsense."

Scott Wood: "I asked for the information and I didn't get the information to try to prove it the right way."

John Folino: "An allegation was made that we have somehow done something to create more docks. I am here to tell you now that that did not happen. It did not happen. I don't know who is making the allegation. It did not happen. I thank you for your time."

John Carr: "Along the shoreline, I did go up and view the site, I spoke with several people who are very familiar with that site, there were obviously good 6 to 7 inch trunks, I don't know when they were cut, but obviously it was within the past few years at the longest. Were there trees that were there that were cut down recently?"

John Folino: "I think there was a lot of scrub stuff that has been removed at various times, but there were no trees cut."

John Carr: "The other question I had is my understanding is that there were some improvement plans that you guys have been working with to improve that water front to keep that road surface water from running off the lake on that side of the lake. When that runs off, it creates another dredging problem 30 years down the road. Does this plan exist? I guess the question of what is next to me the dredging problem happened because of sediment into the lake and if anything can be done to prevent sediment into the lake, 20 to 30 years from now you won't be back here looking for another dredging permit. It would seem to me that some of that soil could have been retained on the site instead of the expense of removing it and used to create or restore the buffers that I believe were there or cut out. Are you looking at replacing any of the buffers that were there or increasing any kind of berm or anything to prevent that water from going in and creating a problem 20 years from now?"

John Folino: "I don't think that site has been changed. You're saying it was changed and from what I understand by Dave, it has not been changed."

John Carr: "What I'm proposing now is let's replace what was removed whether it was now, in November of 2002."

There was a lengthy discussion regarding the plantings and vegetation along the shoreline and what should be replaced.

Dave Wick: "That area doesn't need a stormwater management plan in my estimation. I've never seen any road material in that grass vegetated buffer. If it's the intention of the Planning Board to create a better situation than what was pre-existing, that's not my issue. My issue is with the fact that there is the word, the feeling out there that somehow we modified that site and didn't bring it back or that vegetation was removed as a part of this project and I take exception to that. That is not the case. If you feel that that site should be better than prior to the project than that's an issue between Green Harbour and this Planning Board. I don't want it left here that we don't believe Warren County Soil and Water Conservation District and we think they took out trees for whatever possible purpose that would be and that's the feeling I'm getting."

Chairman Hanchett thanked everyone for coming here and adding to this discussion.

A motion was made by Charlie Portes and seconded by Linda Varley to close the Public Hearing.

Linda – Yes  
John – Yes  
Jack – Yes  
Charlie – Yes  
Joe – No  
Ed – No  
Keith – Yes

Motion carried.

The board was looking to the applicant to create a buffer area along the shoreline. They were hopeful that the applicant would provide a planting plan.

Chairman Hanchett will advise the clerk when this item will be placed back on the agenda.

A motion was made by Jack Abrahams and seconded by Charlie Portes to move to Executive Session to discuss pending litigation at 10:20 p.m.

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by John Carr to move back to Regular Session at 10:45 p.m.

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by John Carr to adjourn the meeting at 10:45 p.m.

All in favor.

Motion carried.

Respectfully submitted,

Patricia McKinney  
Planning & Zoning Clerk