

Minutes of the Town of Lake George Planning Board Meeting held on December 6, 2011 at the Town Center, Old Post Road, Lake George, New York, commencing at 6:00 p.m.

Members Present: Keith Hanchett, Chairman
Linda Varley
John Carr
Sean Quirk
Charlie Portes
Joe Mastrodomenico
Ed LaFerriere

Members Absent: Jack Abrahams

Also Present: Robb Hickey, Adele Behrmann, Attorney Michael O'Connor, Attorney Jon Lapper, Attorney Mark Schachner, Attorney Donald Boyajian, Tom Andress, Carol Longman, Tom Jarrett, Kathy Bozony, Rod Cornelius, Mike Ludwig, Chris Navitsky, Jim Grey, Kim Cornelius, Tom Barber and others.

Chairman Hanchett opens the meeting at 6:00 p.m.

A motion is introduced by Charlie Portes and seconded by Joe Mastrodomenico to accept the minutes of November 15, 2011.

All in favor, motion carried.

Chairman Hanchett announces that due to scheduling problems for some of the attorneys, the Public Hearing applications will be heard first followed by the Regular Meeting.

- 1. Application for Site Plan Review SPR37-2011 submitted by Rodney W. Cornelius to construct a 50' long, 76' wide wharf with rock filled timber cribs and a peaked roof over a portion of docks for property located at 4 Vandercar Lane. Tax Map #238.19-1-49. Lot size 11.99 acres. Zoning Classification RCH-LS.**

Rod Cornelius:

He states that he received the approvals from the Park Commission and there have been no changes to his application since the November's meeting.

Kathy Bozony:

She has had discussions with Rod Cornelius as well as other prospective boat house dock builders. Since there are a lot of crib docks in need of repairs in Lake George, she has done some research on them. The issue is when a crib dock is replaced the entire bottom is covered which impedes water flow. She has discussed it with Rod and has shared some information with the Board. She has also had discussions with the Park Commission and was told that most lakes do not allow crib docks and some of the comments she received, specifically from New Hampshire, where lakes also freeze in the winter, are that they are an environmental disaster and it is difficult to get a permit to build one. They recommend cantilever docks, floating docks, docks supported by posts or piles with crib docks permitted under certain circumstances only. She believes that in Lake George a discussion on crib docks should begin since they cover a large area of submerged ground which smothers everything underneath it.

John Carr informs Kathy Bozony that he read about the shading that crib docks cause in comparison to pole docks for certain species of fish in cold weather.

Kathy Bozony agrees that there are pros and cons however if one looks at the disturbance and destruction at the bottom of the lake there is a lot more of it with crib docks during the construction and also due to the fact that these docks sit at the bottom of the lake. Ed LaFerriere confirms that the area in question is 32 sq. ft. for each crib to which Kathy replies yes.

Charlie Portes states that he thought that crib docks would be favorable to the fish and vegetation around it. Kathy Bozony replies that in one sense she agrees that fish can live in old crib docks however the disturbance of the lake bottom is the real issue. Charlie Portes clarifies that the old crib docks were stationary whereas the newer ones are built so they move however Kathy states that they still impede the flow of the water. She is opening this issue up for discussion since there should be fewer disturbances for the lake.

Kim Cornelius:

She comments that the statement “environmentally destructive” is a harsh one to use for something that will provide a natural habitat for fish as well as the fact that their property is set in and these docks would not be impeding the flow of the water.

Carol Longman:

She resides across the street from the Corneliuses. Two years ago when the docks were replaced, the Association was told by dock builders that crib docks are preferred since they are less invasive to the bed of the lake in comparison to driving poles into the bottom.

Melissa Vito:

She would like the Board to pay special attention to the advice that Kathy Bozony, the Natural Resource Specialist is giving the Board since she is very concerned with the well being of the lake.

Rod Cornelius informs that the docks are eight feet apart allowing for the water to flow. John Carr adds that he believes there is a considerable amount of rock bed in this bay which would limit the amount of poles that can be installed.

A motion is introduced by Charlie Portes and seconded by John Carr to close the public hearing.

Linda Varley:	yes
John Carr:	yes
Sean Quirk:	yes
Charlie Portes:	yes
Joe Mastrodomenico:	yes
Ed LaFerriere:	yes
Keith Hanchett:	yes

All in favor, motion carried.

Robb Hickey confirms to Charlie Portes that the Planning and Zoning office has the Park Commission approval on file for this application.

A motion is introduced by Charlie Portes and seconded by Ed LaFerriere to approve application #SPR37-2011 as submitted.

Linda Varley:	yes
John Carr:	yes
Sean Quirk:	yes
Charlie Portes:	yes
Joe Mastrodomenico:	yes
Ed LaFerriere:	yes
Keith Hanchett:	yes

All in favor, motion carried.

2. **Application for Major Subdivision #12-2005 submitted by Landcrafters, Inc., Dennis Mac Elroy as agent to subdivide 18.92 acres into 9 building lots for property located at NYS Route 9N (north side). Tax Map #276.00-2-12.1. Zoning Classification RCM-S2.**

John Carr recues himself since this property is under an LLC he owns.

Dennis MacElroy:

He explains that this project was in front of the Board in February of 2006 and at that time the public hearing was left open. There had been discussions over the road that serves the 4 westerly lots which are served by a private road. The five more easterly lots are served by 3 driveways, two of which are shared and have common drives and one is an individual drive. In an effort by the applicant to minimize the curb cuts the access to the common drives was combined resulting in only 4 curb cuts along the road frontage. At the time they contacted the APA since this project would be under their jurisdiction and submitted an application in 2008 and the reason for the delay is simply an economic one. They responded to the APA comments and judging from discussions he has had with them, he is under the impression that they are satisfied with the project and their only request at this point is to be given stamped, signed plans that the septic systems would be approved as indicated on a final plan with stamped designs for each of those. As per the site plans they have provided designs for each of the lots with septic areas, well locations and stormwater management. He reminds the Board that this application is for the subdivision and that they have prepared a major stormwater report that was submitted to the Board as well as the APA. In 2006 the current Board concluded to submit this report to Tom Nace however he is not sure what the Board's desire would be currently.

Chairman Hanchett confirms with Dennis MacElroy that he is prepared to give the Board a review of the subdivision as far as how the 9 lots will be broken up to which Dennis replies that this information is on the submittal they received however Chairman Hanchett states that in order for the audience to see it, it would be better indicated on a bigger plan.

Robb Hickey clarifies to the Board that he accompanied the APA, Dennis and John Carr and walked the whole site. He confirms that the APA is looking for a stamped set of plans as well as for the Board to grant a preliminary approval. These plans would have to be sent to DOH and DEC as well.

Ed LaFerriere confirms that from the letter from the APA he understands that they want a stamped plan for the septic tank and that the septic tank cannot be moved without APA approvals to which Robb Hickey replies yes.

Chris Navitsky:

He has some technical comments and supports the incorporation of the common driveways but believes that additional measures regarding low impact development should be implemented to reduce run off, improve water quality and density. He believes that steep slopes and wet lands should not be included in the density calculations since there is a 100 ft drop between the houses and this site has water front on Hidden Lake. On the private road servicing the four lots, asphalt gutter and piping is being used; their suggestion is for the applicant to use grass swales in order to reduce run off and allow more infiltration. Stormwater management should be moved closer to the source of the run off specifically to a pond on the western half and for the other lots there is another pond to service them. He also questions who is going to control these ponds and who will be responsible for their maintenance. Clearance and disturbance should be reduced specifically for some driveways. The soils for the upper areas of the stormwater ponds should be retained since this is the area where all the biological treatments are taking place and thereby reducing the stormwater treatment. The stormwater management report appears to be incomplete and does not have all the detail summaries for run off calculations and the impervious areas for the individual sub catchman. The site layout does not comply with the separation requirements to subservice waste water treatment for a major stormwater project. The separation should be 100 feet whereas for some of the lots the separation is 60 feet instead. He feels that the stormwater management agreement should be provided since there are several stormwater basins on properties that are not owned by the owner but yet these properties will be responsible for conveyance of stormwater management and maintenance that may become a problem in the future if there are not strong agreements and easements. He feels the application should be tabled for additional information and to have an engineer review it.

Joe Mastrodomenico asks Chris what type of water front property is he referring to. Chris Navitsky replies that there is a water body east of Hidden Lake and a defined pond which would constitute the shoreline.

Melissa Vito:

Low impact development is what is needed in this area. She believes that the unbuildable areas need to be taken off when density is being figured.

Robb Hickey:

He clarifies that low impact development does not mean taking away land but it means situating it in an area that is more compatible. Additionally, stormwater basins should be a minimum of 100 feet from the septic systems unless it is demonstrated that a lesser distance separation will not have adversely impact the functions which is what he believes Dennis MacElroy has done. There are two parts to the statement and only one was mentioned.

Dennis MacElroy:

In answer he states that they computed the density in accordance with the Lake George Zoning Ordinances. They sited the house sites and locations they feel are suitable for development which is what the numbers indicate. There are approximately 19 acres and 9 proposed lots and they are trying to keep the houses away from the road. The water bodies and wet lands have all been identified and reviewed by the APA as well.

A motion is introduced by Charlie Portes and seconded by Linda Varley to keep the Public Hearing open until such time Tom Jarrett review the project and the stormwater and provides a satisfactory report to the Board at which time the application can be put back on the agenda.

- Linda Varley:** yes
- John Carr:** yes
- Sean Quirk:** yes
- Charlie Portes:** yes
- Joe Mastrodomenico:** yes
- Ed LaFerriere:** yes
- Keith Hanchett:** yes

All in favor, motion carried.

Charlie Portes asks Robb Hickey to make sure that Tom Jarrett gets a copy of Chris Navitsky letter to which Robb replies yes.

- 3. Application for Site Plan Review SPR34-2011 submitted by Michael Ludwig to replace existing boat house and dock for property located at 34 Ledges Lane. Tax Map #251.16-1-21. Lot size 1.49 acres. Zoning Classification RS-1.**

Michael Ludwig:

He addresses the Board by showing them samples of the siding the homeowners have decided on which is Certainteed Green Cedar Impressions and the Timberline slate architectural shingles are a charcoal with a green touch. He was given a verbal approval by the Park Commission and as soon as they receive the appropriate paperwork a decision would be made.

Kathy Bozony:

She has not seen the property but would like to ask the Board to condition or request that the applicant buffer the shore line since the house is very close to the lake and would like to make sure that any stormwater coming off the house is treated with vegetation.

A motion is introduced by Charlie Portes and seconded by Ed LaFerriere to close the public hearing.

- Linda Varley:** yes

John Carr: yes
Sean Quirk: yes
Charlie Portes: yes
Joe Mastrodomenico: yes
Ed LaFerriere: yes
Keith Hanchett: yes

All in favor, motion carried.

Michael Ludwig states that nothing is changing on the shoreline as far as plantings are concerned; there may be some trimming back but no cutting down of trees either.

Robb Hickey adds that if the Board is concerned with the color of the boathouse and the house than the official names of the roofing material and vinyl siding can be included in the approval as a condition.

A motion is introduced by Charlie Portes and seconded by Joe Mastrodomenico to approve SPR34-2011 with conditions that the applicant shall obtain Park Commission approvals. The color of the boathouse shall be cedar blend spruce color or similar and that the roof shingle shall be architectural slate color or similar and there shall be no shoreline disturbance.

Linda Varley: yes
John Carr: yes
Sean Quirk: yes
Charlie Portes: yes
Joe Mastrodomenico: yes
Ed LaFerriere: yes
Keith Hanchett: yes

All in favor, motion carried.

Chairman Hanchett mentions that Site Plan Review SPR38-2011 Bear Pond Ranch LLC, has been tabled however the Public Hearing is still open therefore if anyone has any questions or would like to speak on this project they can do so at tonight's meeting.

Chris Jefts:

He states that he does not know what the project is since the notice states that they will be constructing a year around attraction.

Chairman Hanchett:

He explains that the zip line is the attraction and the information should have been posted on the paper and the notices that went out.

Robb Hickey adds that the proposal is for a zip line and a festival area at the base of the existing ranch area.

Charlie Portes states that the application was table for this month however the applicant will have a full presentation of the project for the public at the next meeting.

Robb Hickey advises Mr. Jefts that he can go to the Planning and Zoning Office to view the file and the plans.

REGULAR MEETING

- 1. Application for Site Plan Review SPR40-2011 submitted by William, Peter and Jim Welch to conduct selective timber harvesting at property located west of Butler Pond. Tax Map #276.00-2-17 and 276.00-2-18. Lot Size 172 acres +/- . Zoning Classification LC25. Christian Gearwar is the applicant's agent.**

Chris Gearwar:

He begins by stating that the Welch's property has been in the family for many years and they have had an ongoing timber management program and the last one done was in 1973 and they are at the point where they would like to do some more work. The applicants have always been concerned with the forest and this application will be the same as the others they have done and it will improve the condition of the trees that will be left as well. The landing and skid road are all in place from past logging with the landing area being in the Town of Queensbury and the access area will be across the lands of the City of Glens Falls with whom they have a land use agreement however he has not approached the Town of Queensbury yet.

Robb Hickey is reminding the Board that recently the Board granted an approval to the City of Glens Falls for timber harvesting on their property which is east of Butler Pond and this site is on the West side of the pond.

John Carr asks about a road he sees on the map to which Chris replies that it is a road that comes off Butler Pond on the west side; at one time it was a common road used by the farms that were there. This road comes off Buckbee Road which dead ends by the City of Glens Falls watershed property with the landing being situated at the end of this road in the Town of Lake George. John Carr asks in what capacity Queensbury will be involved to which Chris replies that he believes that this year, the applicant may timber harvest their Queensbury property as well.

Charlie Portes asks how many acres are located in the Lake George side and Chris replies approximately 173 acres and the other 300 + are in the Town of Queensbury as well as confirming that the landing for the Lake George site is in Lake George. Charlie Portes and John Carr agree that they need a bigger map showing both the Lake George and Queensbury sites as well as the access road with the location of the landing.

Chairman Hanchett states that in lieu of the fact that not enough information was submitted, this application should be treated as a sketch plan.

Chris Gearwar:

He states that he will try to get the Board a more complete map however he proceeds to show them where the boundary line is between the Town of Lake George and Queensbury, the location of Buckbee Road and how will the trucks be traveling.

Charlie Portes confirms with Chris that there will be two landings, one in Queensbury and the other in Lake George.

Chairman Hanchett asks what the time frame would be for this harvest to which Chris replies in the winter months. Chairman Hanchett then adds that the Board needs more detailed information on the locations of the landing areas, where the trucks will be coming out or coming in etc.

Chris Geawar replies that the trucks will be coming in from the south in Queensbury; nothing is coming out of Lake George and all the timber will be coming down the road along the west side of Butler Pond and out on Buckbee Road.

Ed LaFerriere asks Chris if he has received approvals from Queensbury as well to which Chris replies that he has discussed the project with them and a decision was made to go through Lake George first and then continue with Queensbury. Charlie Portes asks about the size of the landing area to which Chris replies that it will be approximately half an acre.

John Carr adds that there are no neighbors with this project therefore the logging has no impact on anyone and adds that the City of Glens Falls presented the Board the same project and the Board moved forward with it. He is wondering if there might be SEQR problems as far as the lead agency is concerned with Queensbury.

Robb Hickey informs the Board that this is an unlisted action and does not have to be coordinated.

Charlie Portes adds that the conditions set for this project will be:

Receipt of a letter from the Town of Queensbury stating that they approve the transportation of the timber through their property.

Receipt of a letter of approval from Glens Falls

A letter of recommendation from Warren County Soil and Water

A detailed plan showing the size of the landing

A copy of the Land Use Agreement

Robb Hickey comments that these conditions were not imposed on the City of Glens Falls.

Chris Gearwar:

He explains that the applicant generally timber harvests in the winter when the ground is frozen on the watershed around the reservoir and believes that they may be using the same contractor as the one by the City of Glens Falls.

Charlie Portes adds that he does not have a problem with the timber harvest; he is concerned with the fact that in this case someone else's land is involved as well.

John Carr asks if the applicant obtained an easement for the Glens Falls land and Chris replies that there has never been a formal agreement between the Welch family and the City of Glens Falls however the family has used the road for many years, in fact they have a key to the gate to access the road. Charlie Portes adds that he does not believe the Board can give an approval to use someone else's property and just a letter from the City of Glens Falls giving the applicant permission to use the road is all the Board requires.

Chairman Hanchett reads a letter from the Glens Falls Water Department dated August 18, 2009 giving permission to the applicant to use the road as access to the property, requiring 5 days notice prior to access and it is signed by Steve Gertzler from the Water and Sewer Department.

Chris Gearwar:

He adds that his reason for not providing more detailed information is that he does not know how all of this will work out. It is entirely possible that the applicant will use the contractor that the City of Glens Falls used, in which case everything will change.

Robb Hickey adds that if the Board is agreeable to it he can withhold issuance of a land use and development permit until Queensbury provides the Board with a letter giving permission to timber harvest and that a plan for the land is received.

Ed LaFerriere states that he would like to see a copy of the executed land use agreement from Glens Falls which is attached to their letter.

Chairman Hanchett comments that since there is quite of bit of information missing, he would still like to treat this application as a sketch plan. He would like to have more information on the landing and the road as well as a copy of the permission letter from Glens Falls and its attachments, in addition to a plan showing the landing area and the letter from Soil and Water.

2. Application for Site Plan Review SPR41-2011 submitted by Thomas and Natalie Barber and Christian Gearwar as agent to conduct selective timber harvesting at property located off Shaw Road. Tax Map #225.00-1-61 and 225.00-1-62. Lot size 48.91 acres. Zoning Classification RR7 and RR10.

Chris Gearwar:

He states this is the same situation as the Welches. The story is a little different since Mr. Barber purchased it to keep it in the family and conduct timber harvest. The property is different in the sense that from a timber standpoint the property was not treated well in the past and a lot of old, poor quality trees were left behind. This thinning is going to be concentrated on taking these trees out. There is a young forest in place which will take over.

Charlie Portes reminds the Board that this property was in front of the Board last year and recently they had problems with stormwater and erosion which was documented by a neighbor who complained about it and took pictures but was trespassing on the property.

Robb Hickey:

He adds that both he and Tom Barber walked the property and everything worked fine except for the lack of vegetation and stabilization however he has corrected this since then and as of now there are no issues with this property.

Charlie Portes comments that as for the landing will the house site be used? Chris Gearwar states that it will not be by the landing for the house since the thinning will be done in the winter time and the road that was put in is steep and twisty and could be hazardous; they would like to put it down next to Shaw Road but will not utilize the driveway as a skidder trail.

Ed LaFerriere confirms with Chris that the forestry work will be done on the left if one is looking up to the house however Chris corrects him and states that it will be up and to the right. Robb Hickey adds that there is a skidder road that comes down to the right that can be used instead of the driveway.

Members of the Board ask Chris to show them where the skidder road is on the map. A discussion ensues among the Members. Chris is asked if there are any streams on the property and if he contacted Warren County Soil and Water. Chris replies that there is a small brook which is seasonal and the only brook identified on the map is just outside the boundaries to the north. He contacted DEC and advised them that they will not be crossing the brook but will be approximately 100 feet from the brook.

Charlie Portes announces that he would like to get more details on the landing; however Robb Hickey reminds the Board that they have approved every other logging project except for McPhillips' which turned to be the only one where details of the landing were requested by the Board. The Town's ordinances do not require all the details and Chris Gearwar has submitted other applications that did not require this information.

John Carr responds that in order for the Board to make a decision, details on the landing and other pertinent information should be given by the applicant.

Chairman Hanchett states that he would like to treat this application as a sketch plan since more information is needed on the landing, where the trucks are going etc. The Board needs this info to get a better understanding and be able to make a decision.

Tom Barber:

He states that the nearest neighbor is about half a mile away; he and his wife would like to preserve the environment and recuperate some on their investment.

Charlie Portes reminds Tom Barber that one of the stipulations after logging a property is the fact that there cannot be any subdivisions or building within 7 years to which Mr. Barber replies that they do not intent to build.

John Carr addresses Chris Gearwar to advise him that since this is closer to a residential setting the Board needs to have information on hours of operation, number of trucks, the location of the landing, types of equipment just so he can assess how badly this operation will affect the neighborhood.

Chris Gearwar comments that they plan to log during winter months the best being between the middle of December and January. Had he been aware of the information the Board needed he would have come more prepared. He does not know how many trucks will be needed since it is the logger's operation.

John Carr responds that this information is important since the neighbors have a right to know how they will be impacted by it. The trucks will be traveling on Flat Rock Road, Middle Road etc. and it would be beneficial to know the number of trucks and hours of operation.

Chris Gearwar's response is that he does not have exact numbers however the maximum amount of trucks should be 2 per day and the project should be completed by March 31, 2012. He also adds that he will be following Best Management Practices.

Chairman Hanchett adds that if the applicant can come up with this additional information, the project can go on the January 3, 2012 agenda.

- 3. Application for Major Subdivision 4-2011 and Site Plan Review SPR29-2011 submitted by Cohold LLC. Owner Ken Collette and Jeff Holden to subdivide and create a 19 unit townhouse development for property located at Bloody Pond Road. Agent is Vision Engineering. Tax Map #264.08-2-33. Cross Reference is area Variance #2-2009. Lot Size 2.09 in the RCH zone and 1.06 acres in the RH zone. Zoning Classification RCH-RH.**

Jon Lapper:

Dan Ryan from Vision Engineering is also present at tonight's meeting. He begins by stating that they went to the Zoning Board with a lot of detailed engineering for stormwater as well as other issues. Tom Jarrett performed an exhausted review and recommended a few changes in order to get this project to an exceptional level. Dan Ryan made the appropriate changes to the stormwater management and they are submitting the full site plan with all the details and are hoping to move towards a public hearing. He expects that the Board will require that Tom Jarrett review it again.

Dan Ryan:

Dan is with Vision Engineering. Tonight's project has some minor modifications to the original one they presented the Board at the last meeting. The Board is in possession of a full set of drawings and included in the plans are sight development plans, a subdivision map, stormwater and erosion, landscaping plan, etc. These are extensive sets of plans which should address a lot of the questions.

Dan gives a brief overview of the projects highlighting the modifications. This is a redevelopment project; currently on the parcel there exists a motel and some rental units and a vast area of paved parking and gravel and the existing impervious area is approximately 25%, the rest of the parcel is sparsely vegetated with the upper most area to the east being predominantly with small vegetation and tree growth. The proposed project consists of 19 units in 4 buildings designed as per the Town codes and meeting the entire Town, DEC and DOH for stormwater, water and sewer improvements as well as the road meeting fire codes for fire apparatus access. As previously discussed this project will be private as far as the utilities are concerned. The Homeowners Association will maintain the private water and sewer systems on site. Each unit will have a garage and driveway with a permeable driveway in order to help promote infiltration on site. There will be a few light fixtures for general public safety throughout the subdivision but not many. On the plans stormwater ponds have been indicated, behind the units up the hill there will be retaining walls. The site is laid out so there are a lot of buffer areas around the units and the road.

Charlie Portes asks what the percentage of grade is for the units on top of the hill to which the answer is approximately 40% however a plateau will be created and in the end there will be approximately 4 feet of grade difference between one end and the other. Dan continues by stating that they kept the road design from Bloody Pond Road all the way to the end of the site ending with a 10% grade. They provided a layout of the buildings and floor plans for each unit themselves as well as a schematic. The water and sewer systems are private; the water system will be connected to the existing 6" water main on Bloody Pond Road and which point there will be a shut off valve and it will go directly into an underground vault which will have a master meter for the entire development for billing purposes. The Water Department has also asked them to provide individual meter readings for billing purposes. Back flow preventers will be included in the vault to ensure that the system can receive maintenance and integrate into the current system without any problems. Two fire hydrants will be installed and the fire testing they have conducted showed that there is adequate pressure and flows to service the facility.

The sewer system will be private as well and will be connecting to the existing one on Bloody Pond Rd through pipe reaches and manholes. A detailed erosion and sediment control plan has been incorporated in the package as well as a full storm water report showing compliance with the Town Codes and DEC regulations. A generalized landscaping

plan has also been provided showing the re-establishment of a buffer with the adjoining properties and extensive landscaping along the front property line.

Joe Mastrodomenico asks about the fire zone area and he is informed that it is an open road which will allow fire apparatus to access and exit the facility as it is mandated by NYS Fire Codes. No dumpsters or parking are allowed in this area.

John Carr asks if their intent is to reduce the amount of impervious space and Dan replies that they were trying to do that but in the end they will be increasing it due to the fire codes' road widths and adding the hammerheads, the impervious surface will be approximately 32% with 25% being the existing one.

Robb Hickey adds that in the plans of 2010 the fire codes requirements were not included. Charlie Portes comments that the 40% grade area is pretty steep and John Carr responds that what currently exists on the site is 40% slope with scruffy grass etc. with no stormwater management; he then asks if the upper units are on a municipal treatment to which Dan replies that he believes everything is on a municipal water and sewer system.

Robb Hickey asks the Board if there is any more information they need. John Carr replies that he believes that Dan did a great job adding more trees especially on the side where the neighboring houses are.

Charlie Portes asks Dan to make sure that when the plans are submitted to Tom Jarrett that a copy is also submitted to the Planning and Zoning office.

A motion is introduced by Charlie Portes and seconded by Linda Varley to have Tom Jarrett review the project including the stormwater and provide a satisfactory report to the Board at which time the application can be put back on the agenda.

Linda Varley: yes
John Carr: yes
Sean Quirk: yes
Charlie Portes: yes
Joe Mastrodomenico: yes
Ed LaFerriere: yes
Keith Hanchett: yes

All in favor, motion carried.

John Lapper asks if it would be possible to set the public hearing a couple of months up in order to give Tom Jarrett time to review it to which Charlie Portes responds no.

John Carr is wondering if it would be an advantage to scheduling the public hearing for February 2012 and if Tom Jarrett is 90% done at least the Board can get comments from the neighbors.

Chairman Hanchett asks Tom Jarrett if he could give the Board a report on this project at the January meeting so that it can be scheduled for the February's public hearings.

- 5. Application for Site Plan Review SPR39-2011 submitted by Barry Feinman, VanGuard and Fine. Agent is ABD Engineering and Surveyors. To construct a one story 30,500+/- square foot grocery store, a 10,580 +- sq. ft. retail, 2,200+/- retail building and 2,400+/- sq. ft. bank with drive through windows. 229 parking spaces have been provided. Tax Map #211.03-1-5, 211.03-1-8, 211.03-1-9, 211.03-1-10, 211.03-1-11 and 211.03-1-12. Lot size is 13.1 +/- acres. Zoning classification RCH.**

Attorney Michael O'Connor is representing the applicant along with Joe Bianchine, engineer on this project, Barry Feinman, Principal and Chuck Chisholm from Price Chopper.

Michael O'Connor:

They have appeared in front of the Board previously with a preliminary plan and have now worked out some details. They have received a sign off by SHIPO and DEC and expect to have a sign off from the APA declaring the project non-jurisdictional and they are looking for a confirmation from the Board that Lake George will be the leading agency.

Joe Bianchine reviews with the Board where the proposed structure will be on a map. Six parcels are being consolidated with 3 existing homes on these parcels which will be removed from the sites. It is about 12.6 acres of land which slopes quite a bit from Baker's Crossing down to the wetlands (1.3 acres) which have been delineated as per APA's recommendations; the proposed wall was changed from 10' away from the wetlands to 25' away. In answering Chairman Hanchett, the wall will not be terraced but will be straight instead since they now don't have enough room.

The entrance will be from Route 9 and it will be a two-way entrance at a grade of approximately 6%. The parking spaces increased from 229 to 233 and are proposing to build 200 spaces instead and give the bank some additional spaces in the back. The second entrance will be off Prosser Road and the third one will for trucks only going to loading docks.

A traffic study was submitted to the Board and DOT as well. DOT has not come to any final conclusions as of yet however a light will be needed at the intersections and re-striping on the road to delineate a left turn only lane going north and coming from Warrensburg it will be a striped median. The recommendation was that in the future the MacDonald's entrance could be moved to line up with the grocery store's entrance at the light.

Since the site does not have sewers, a pump station is being proposed big enough to pick up the Mobile Station and other businesses on Route 9. The sewage will be pumped to a manhole across the bridge into Warrensburg. They would like to form a sewer district on the site since they will have to work with Lake George and Warrensburg. As for water, they are proposing to build a new 8" line that would go to the fire hydrant which will have to be worked out with Warrensburg as well.

The site is mostly sand and gravel with some demolition material. They are proposing an underground infiltration system with the rooftop and pavement drainage going into a stormwater system with a pre-treatment unit in order to separate any oil, sand and grit with the purified water being percolated into the ground. The system is being designed as a 100 year stormwater however should there be an overflow it would go to the DOT system in a catch basin and pipe and then go into the Schroon River.

As for landscaping and lighting, they are proposing some landscaping in the islands with some lighting as well with street trees on Prosser Road and foundation plantings around the building.

As for grade, they are cutting the site from Baker's Crossing Road there will be a cut and will be using the rock to build a retaining wall which will be approximately 12' tall and the rock wall is about 20'. The lighting will be box lighting in the parking lot with some wall packs in the dumpster area and the loading dock area.

John Carr states that some neighbors have commented about the lighting and they may want to consider using a different type.

Joe adds that he spoke with a lady last week who was concerned about the view from her home and after a review of their plans they determined that she will not be able to see the building except for maybe the tip of it due to the location of her house and since they added a 6' foot stockade fence. He agrees with John Carr about adding trees in front of the fence so eventually when the trees are grown the fence will not be visible as well.

Charlie Portes is concerned that a snow plow may knock down the stockade fence to which Joe adds that they may be able to move it somewhat. As far as the other house is concerned they did the same and will be installing a stockade fence however in this case there are some heavier trees to screen the view.

Ed LaFerriere asks Joe if he has the length of the stockade fence to which he replies that it will be approximately 80 to 100 feet; it is designed so the building will not be visible in any directions. He then asks about the possibility of installing a noise area wall and Joe replies that it would be very expensive to do so.

Charlie Portes asks Robb if there is a difference between parking for a grocery store and retain and after checking the codes Robb replies that there is no difference.

Joe continues to show the Board how the building will look. The bottom of it will be an Adirondack type of stone with cedar shingles on the top with the sides and the back being clapboard. The rendition of the building did not print quite as well as they wanted it however the Board Members should have a copy of it in the package.

Barry Feinman informs the Board that one of the things they took into consideration after the last meeting was the fact that the Board is very particular and is looking for an Adirondack look to the building. In response they took a lot of time and effort to come up with a design that everyone can be comfortable with.

John Carr reads the application into the record with a notation that on the second page of the application has a list of 6 neighboring parcel owners attached. Second notation is that the application indicates the parcels as being vacant which needs to be correct to read "vacant and some single home residences." On page 3 the correct size of the retail building is 3,000 sq. ft. The number of parking spaces should be corrected from 229 to 233 including 33 bank spaces.

A motion is introduced by Charlie Portes and seconded by Joe Mastrodomenico to accept the application as read.

Linda Varley: yes
John Carr: yes
Sean Quirk: yes
Charlie Portes: yes
Joe Mastrodomenico: yes
Ed LaFerriere: yes
Keith Hanchett: yes

All in favor, motion carried.

A motion is introduced by Charlie Portes and seconded by John Carr to declare Lake George as the leading agency on this project.

Linda Varley: yes
John Carr: yes
Sean Quirk: yes
Charlie Portes: yes
Joe Mastrodomenico: yes
Ed LaFerriere: yes
Keith Hanchett: yes

All in favor, motion carried.

Charlie Portes asks if architecturally will the three buildings be the same since he is trying to finalize the project without having the applicant come back to the Board.

Barry Fienman replies that they have not designed the other buildings yet but one of the things they have taken into consideration is that the design used for Price Chopper will most likely be incorporated throughout the plaza. Joe adds that each retailer may want to have their own identity to some extent and may change the shape but he agrees with John Carr that since the project will be staged they will come back to the Board for review.

A discussion ensues with an agreement by the Board Members, the applicant and Tom Jarrett to have Tom Jarrett start reviewing the project.

Mike O'Connor adds that the APA engineers are also reviewing the stormwater which is the last thing they need to do before issuing a no jurisdiction letter and as for the wetlands, they are looking to have it signed off at 25 ft. as oppose to 10 ft. and he should get this by the end of the week. As for sewer and water, they need to go to both Town Boards and since several Board Members will change on both Boards he prefers to wait until the beginning of the new year.

He continues by stating that the lead agency notices need to be sent to both the Lake George and Warrensburg Town Boards, NYS DOT, NYS DEC and NYS DOH; Robb will make sure that Patty McKinney gets a copy of the lists.

Chairman Hanchett's reply to Mike O'Connor is that the Board is not in position to schedule a public hearing yet and that he would rather wait for Tom Jarrett's review of the project first however one may be able to be scheduled for the February meeting.

Joe Mastrodomenico is questioning the fact that the plan shows the colors in one part but not of the retail stores to which Joe replies that most likely the tenants will pick their own colors.

Mike O'Connor adds that he hopes the Board will approve the entire project with conditions pertaining to the exterior coming back to the Board from the individual retail tenants.

John Carr reiterates that since there are neighbors around the plaza he would like to see the pole lights down lighting in fact in this area they may have to illuminate it as bright as other areas.

6. Application for modification to Site Plan Application #33-2007 submitted by Anthony Casale to remove two blocks from existing retaining wall as recommended by the Planning Board for property located at Hubbell Lane Extension. Agent is ABD Engineers. Tax Map #251.10-1-28. Lot size 1800 sq. ft. Zoning classification RM-2.

John Carr makes a statement for the record that on October 4, 2011, he or the Planning Board no formal recommendations were made that the applicant remove blocks from the wall.

Tom Andress with ABD Engineers is representing the applicant.

Tom Andress:

At the last meeting a number of issues came up with this application which, contrary to what the notice states, pertained to more than just removing blocks from the wall however for this meeting they are coming back with a different plan since the Board did not take any actions on the previous plan. The original application was approved however Mr. Casale modified the location of the house from the approved one and they are now back in front of the Board.

Chairman Hanchett:

He would like to qualify that there are a couple of modification that the Board asked for and not just one.

Tom Andress:

He agrees with Chairman Hanchett's statement and states that there is a general list but they are asking the Board for consideration for just one modification at this point. The retaining wall is the issue at hand; the retaining walls adjacent to the parking lot and the parking lot itself were slightly twisted. The original plan showed them as "U" shaped however they were built "L" shaped.

Charlie Portes informs the applicant that the original application did not have a retaining wall; the reason for the current retaining wall is due to the fact that the location of the house was changed. Tom Andress agrees however he was referring to a different retaining wall which was on the original application and was built around the parking area but it was built in a different configuration.

Charlie Portes voices his concerns with the whole project. He does not believe that the house location was a mistake, he is now speaking for himself and not the Board; the current location is where he wanted the house and when the Board suggested it be moved, Mr. Casale moved it on paper in order to make the Board happy and then he built it where he wanted it to begin with. Then he built the wall and he is certain Mr. Casale knows how the Board feels about the wall and no effort has been made to change the wall. He has been on the Board since 1995 and he does not recall looking at another house more that he did on this project. From an engineering stand point he is not satisfied with the wall; he understands that the house cannot be moved however they need to come up with a plan to do something with

this wall since among other things it is an eyesore. He suggests that the wall be removed and be rebuilt as a terraced wall so that shrubs can be added as it goes back and ultimately it will not be visible. The base of the wall should stay at the same location but step it back and add trees and shrubs.

Tom Andress replies that they went through a lot of the issues with Tom Jarrett some of them about the wall. He states that it would be extremely difficult to remove the wall at this point since it is supporting the earth behind it as well as not having a platform to work from.

John Carr disagrees with these comments since it took Mr. Casale 1 ½ days to put up the wall and obviously if he figured out how to put it up he should be able to figure out how to take it down. Currently the wall has stumps under it and is not built to manufacturer's specs therefore it needs to be removed and rebuilt to the correct specifications.

Tom Andress replies that he not aware of the stumps underneath the wall.

Tom Jarrett's response to Charlie Porter is that Mr. Casale and he came to a conceptual agreement as to how things should be handled but none of the details have been finalized yet.

John Carr's view on the wall is that it is not built to Town's codes; it is not in keeping to the character of the neighborhood and believes it to be a detriment to the visual appearance of this area of the Town; he does not believe that a 20 foot jersey barriers wall fits the Town of Lake George and he will not approve. There may be other things the applicant can do with the wall but then he questions why it is there in the first place since the Town's engineer feels that it is not needed.

Tom Andress replies that the wall is not a jersey barriers wall and he does not believe that the Town's engineer has ever said that the wall is not necessary.

Chairman Hanchett adds that the applicant authorized Tectonic Engineering to review the wall and a full report was generated. Tectonic recommended that the wall come down and that an engineered wall be built. Tom Andress replies that they are not in agreement with this recommendation in fact they dispute many of the facts that were brought up in that report.

Robb Hickey clarifies that the applicant asked for a second opinion and Tectonic was called in.

Charlie Portes asks Tom Andress if he sees a problem with his request to which Tom replies that he does. It is so difficult to work with the wall in the condition it is in because of the slopes; he is concerned with the house since the stability of the earth will be lost if the wall is removed; in addition he believes it will be cost prohibitive.

John Carr adds that Mr. Casale built the house without the wall and in fact the house sat there without it for almost 8 months; Tom Andress states that he came on the project after the wall was built and is not aware of what occurred before. John Carr states that the applicant should be getting a good indication on how the Board feels about the wall and in the end he can choose what he wants to do. The Board can only do three things, approve it, approve it with conditions or deny it. The wall is now getting bigger since they added two sections and are in the process of adding about 30 feet of cement block. Tom Andress clarifies that indeed there was a removal of 30 feet of reinforced block to which John adds that they are removing something that was not on the original plan and then add back to it to which Tom Andress states that John's statement is correct.

Tom Andress adds that the reason for the additional wall is in order to tie into the distance grades; they are transitional walls to get back into the distance grades.

Chairman Hanchett comments that as per an April 15, 2011 memo submitted by Tom Jarrett after some discussions with Fred Dante, the applicant's consultant, his conclusion states "the long term stability of the wall is unknown and in order to improve the stability some reduction in the height of the wall should be considered. That is the conclusion in keeping with the long standing position of this office but apparently the applicant does not agree with his own

consultant and does not wish to reduce the height of the wall.” This is the second time that the applicant has not agreed with Fred Dante and Tectonic.

Tom Andress replies that Fred Dante was never hired by Tony Casale, it was only a discussion between he, Tom Jarrett and Fred Dante however he would like to point out that on that same response of April 15th the final conclusion for the wall reads “that the structural analysis of the wall considered loading such as house and deck behind be performed by a qualified Geotechnical Engineer and be submitted or that the wall factor of safety be improved by lowering the height by at least two courses.”

Tom Jarrett states that the conclusion which Tom Andress is reading and referring to is pre-dating both Fred Dente and Tectonic. It was an early conclusion from his office that the wall be reviewed fully, thoroughly or at a minimum the reduction of the height should be considered; subsequently the applicant brought in Fred Dente who in turn presented his conclusion that the wall is unstable; then Tectonic was retained by the applicant and after a full review they concluded that the wall needed to be removed. Tom Jarrett’s final conclusion is that after review by two engineers the wall is either totally unstable or its stability is unknown.

Chairman Hanchett asks the applicant what kind of proof he can show the Board verifying that he is right and the two engineers are wrong to which Tom Andress replies that there are not two engineers. Chairman Hanchett adds that Tom Jarrett and Tectonic are the two engineers. Tom Andress replies that in that case the Board has to take action based on the information they received from the engineers.

Donald Boyajian:

He is the attorney representing the applicant. He comments that he is familiar with the memo as well. Tectonic performed an inspection and not testing on the wall and neither Tectonic nor Mr. Dante concluded that the wall is unsafe; they concluded that they did not know or could not confirm the safety of the wall. He read the documents thoroughly and none of them state that the wall is unsafe.

John Carr asks Mr. Boyajian if he read the manufacturer’s recommendations as to how the wall should be constructed; the wall has not been built that way.

Don Boyajian comments that they know they are in an un-perfect situation however they are looking for a solution and believe that reducing the wall by two courses would be a reasonable compromise although there is no 100% assurance that nothing will ever happen and that there are no risks. He feels the wall must be pretty strong since it survived tropical storm Irene considering the damage that some of the other areas have suffered.

Charlie Portes and John Carr both add that the issue is not just about the safety of the wall but also the aesthetic; it is a major eyesore since it is visible from the Exit 22 ramp. Charlie states that he feels as though the applicant built the house in the wrong place, put up a wall that was not approved and by taking two courses of the wall down believes that everything should be rosy. In fact no engineer was involved in the building of the wall and there is no way of knowing if it was done correctly.

Don Boyajian understands but believes that the wall is safe having gone through some rough weather situations and in response to John Carr he knows that this fact does not make it all right however it addresses some of the risks that the Board is concerned about. He would like to see other options that would help minimize the risk that would not be financially prohibitive such as taking the whole wall down. John Carr reiterates that it only took Mr. Casale 1 day to put it up therefore it should not be very difficult to take it down.

Charlie Portes states that he does not believe taking down the wall would present a financial burden to Mr. Casale in lieu of the fact that he is spending so much money on lawyers and engineers fees, no pun intended of course. He believes that his suggestion of terracing it is the most practical one and recommends that the applicant come back to the Board with such a plan and see how the rest of the Board feels about it.

John Carr:

He comments that with this project the house, the parking lot, the wall and the upper wall are wrong in addition to the fact that trees were removed that were not suppose to be. The elevation of the house is wrong and there were changes to the house plan; basically there are a lot of things with this project that were not approved and were not minor oversights but rather major changes. He believes that the applicant needs to do some soul searching and see how many of the things done wrong he can make right. He needs to bring forth a proposal that might be agreeable. He continues to list the numerous issues with this project and the fact that it has been going on since 2007 which is the reason why the Board is so frustrated along with some of the neighbors who attended the public hearings and made suggestions with the end result being different.

A discussion ensues among the Board Members and Mr. Boyajian.

Chairman Hanchett announces that what the Board would like to see is more of a good faith movement from Mr. Casale. The Board has received reports on the wall from two engineers; does Mr. Boyajian expect the Board to vote against these reports?

Don Boyajian responds that based on conversations they had about the wall with the engineers, Robb Hickey etc., their understanding was that taking down two courses of the wall would be a reasonable compromise which is the reason why there are approaching the Board tonight.

Robb Hickey comments that what he told the applicant is to come in with all the modifications that they would like to see done and never used the word acceptable.

Mark Schachner advises Robb that Mr. Boyajian's statement is correct.

Don Boyajian continues by stating that after a number of discussions they believe that lowering the wall is a reasonable compromise to see the project finalized. He believes that if Mr. Casale learned from his mistakes assuming he made them.

Chairman Hanchett asks Tom Andress and Don Boyajian if they know what is behind the wall. Don replies that Mr. Casale knows what is behind the wall. Chairman Hanchett makes them aware that English Brook, which is a major tributary to Lake George, is beyond the wall and if something goes wrong with the wall including the septic, which is another unknown, it would be a serious issue.

Don Boyajian states that they need some direction to which John Carr replies that he should be getting a good feel as to how the Board feels and that they do not create solutions.

Mark Schachner:

He would like to advise Board not to get wrapped up on how everyone got to where they are at since he does not believe it is important in fact it is legally irrelevant as to what the applicant's motivation was. Secondly he agrees to what John Carr just stated about the applicant getting some direction from the Board. He agrees with this to an extent but in an effort to move the process along he believes that Charlie has given semi-detailed feed back and put in a "concrete" suggestion for a possible revision of the plan. He asks the Board if there is a general better feeling about what Charlie has suggested knowing that they are not bound to answer the question nor bound by the answer. If the Board is not comfortable with Charlie's suggestion they need to make the applicant aware of it before he spends six months exploring it. Basically he is asking the Board if there some degree of comfort with the suggestion.

Tom Jarrett comments that the terracing of the wall should be reviewed by an engineer to determine how it would work.

Charlie Portes adds that his suggestion is to bring the wall to the ground re-design it but not any closer to English Brook and leave enough space between the blocks and the slopes to plant shrubs.

Mark Schachner comments that Tom Jarrett's comment is very important. The wall needs to be an engineered wall. Tom adds that the reason for his comment is that the applicant is suggesting that taking two courses off the wall is acceptable however after all the information they collected over many months, the removal of just two blocks is not acceptable in his mind.

John Carr states that he believes that a lot of other issues can be worked with and maybe agreed upon however the wall is a major problem for him. He believes that the wall should come down and questions if it needs to go back in and if it has to in what kind of configuration as well as it absolutely needing to be engineered.

Charlie Portes states that the Board has made some suggestions and it is up to the applicant what step to take next.

Don Boyajin adds that they are getting mixed messages from some of the Board Members. Charlie believes that the Board should give the applicant some direction and his suggestion can be used as a preliminary step.

Mark Schachner agrees with Charlie Portes and feels that there have been pretty significant misunderstandings. Don Boyajin states that the message he is getting from John Carr is that he does not want a wall at all. John Carr replies that although he does not agree with this wall, the applicant's engineer can submit a proposal for a new wall that fits the Town's codes; it is conforming to the character of the neighborhood and similar to other walls in Lake George. He states that he is reserving judgment to Charlie's wall design until the applicant presents it to the Board.

Charlie Portes reminds Tom Andress that in addition to the wall there are some other issues that need to be addressed with this project as well.

Robb Hickey adds that another thing which was not on the original plan and it is being proposed now is to put two jersey barriers with rocks on the Hubbel Lane wall which is one of the outstanding issues.

Tom Andress informs the Board that the soils for the septic system have already been retested by the APA.

Robb Hickey comments that the APA determined this as a Class A project and are looking for the Town's input in order to settle their Class A project.

A motion is introduced by John Carr and seconded by Sean Quirk to adjourn the meeting at 9:30 p.m.

Minutes typed by Adele Behrmann.

Respectfully Submitted,

Patty McKinney
Planning and Zoning Clerk