

Minutes of the Town of Lake George Planning Board held on Tuesday, January 4, 2005 at the Town Center, Old Post Road, Lake George, New York.

Members Present: Chairman Scott Wood  
Keith Hanchett  
Erik Ghirarduzzi  
Dave Wick  
Charlie Portes

Absent: Tim Kissane  
Ed LaFerriere

Also Present: Patty McKinney, Clerk  
Robb Hickey  
Mark Schachner, Attorney  
Tom Jarrett  
Michael Phinney  
Claudia Spitzer  
Vincent Spitzer  
Drew Spitzer  
Jim Grey  
Joe Stanek  
Betty Spinelli  
Chris Navitsky, The Waterkeeper  
Fran Heinrich  
Gary Koncikowski  
Dawn Koncikowski  
Mary Alice Leary  
Kathleen Salvador  
John Salvador  
Naomi O'Reilly  
Peter Smith  
John Owen  
Dave Kenny  
Cheryl Kenny  
Jon Lapper, Esq.  
Glenda Howland  
Dean Howland  
Jake Howland  
James Rose  
Jeremy Bollam

Steve Miller  
Pat Mitchell  
David Jacobsen  
Scott Walton  
Terri Jacobsen  
Arthur G. Molle  
Kimberly Molle  
Gary Phillipelli  
Ed Lockhart  
Bob Brodie  
Andrew Liucci  
John Caffry

Chairman Scott Wood opened the meeting at 7:00 p.m.

A motion was made by Erik Ghirarduzzi and seconded by Keith Hanchett to accept the December 7, 2004 minutes.

All in favor.

Motion carried.

A motion was made by Keith Hanchett and seconded by Charlie Portes to elect Patty McKinney as Clerk of the Board.

A motion was made by Charlie Portes and seconded by Dave Wick to elect Keith Hanchett as Vice-Chairman of the Board.

A motion was made by Charlie Portes and seconded by Keith Hanchett to accept the 2005 Meeting Calendar.

### **PUBLIC HEARING**

1. Site Plan Application SP34-2004 submitted by Robert & Lynn Wood to rebuild seawall, build dock, install 2 x 2 high stonewall on property line, for property located at 2980 Lake Shore Drive.

Attorney John Caffry was present representing the applicant. Dean Howland was also present.

Attorney Caffry stated this is an application to modify the prior Site Plan. The three items being requested are:

- A dock – this no longer has a boathouse or roof on it
- Retaining wall – on the north boundary between this property and the Passarelli property.
- To rebuild part of the seawall. This plan has been revised in that the prior plan showed a step down between the seawall and the southwest corner of the pre-existing bathhouse and that has been eliminated. They are no longer proposing to rebuild the seawall all the way over to the Passarelli boundary. They will stop just to the northeast of the bathhouse.

Attorney Caffry stated that this hearing is not about the portion of the seawall to the southwest and the steps closest to the Koncikowski property. That is still subject to the Stop Work Order with the Town Board.

Attorney Caffry referred to a letter from Gary and Dawn Koncikowski which was sent out to several members of the community. He stated he felt there was some misleading information in this letter:

- It was said that the Wood's representatives asked that the legal notice limit what this application involved. He stated that was the board's request.
- The letter claims that the portion of the seawall nearest to the bathhouse has been dredged out and the shoreline relocated. As Mr. Howland will demonstrate, this is not true.
- There was never any dredging done in the lake.
- In the area near the bathhouse, no excavating equipment was used there.

Dean Howland spoke on behalf of the applicant. He presented pictures to the board and described each picture. He also showed an aerial photograph showing there has been no dredging done.

Dean Howland pointed out an inspection done by DEC on September 24, 2004. He stated there has been no work done there since September 20<sup>th</sup>. This states they are in full compliance with the permit.

Chairman Wood read a list of names of various people who submitted letters regarding this project. A copy of this list is available in the Planning and Zoning Office.

Attorney Jon Lapper was present on behalf of Gary and Dawn Koncikowski. He stated that in his opinion, this is the most egregious shoreline alteration

that he has ever seen. He showed the board a photograph of the trac hoe ripping up the shoreline next to the Koncikowski property without a permit. He stated that he doesn't believe that the approval can be granted without either a variance being granted by the Zoning Board because the shoreline has been altered or their agreement as a condition to restore the shoreline to where it was, which is all the Koncikowski's are looking for. He stated they also went to Dave Bolster who did the survey for Guido Passarelli on the north side of the lot and there has been a large alteration of the shoreline on that side as well. He stated that Robb has visited the site and measured and scaled off at the bathhouse that the shoreline has been moved from the Carroll Estate subdivision. Jon referred to Section 175-27 – Alteration to Shoreline. He stated that with reference to this section, the applicant would therefore require a variance. He stated that Robb went out to the site with a tape measure and he knows that the shoreline has been changed in front of the bathhouse now.

Robb Hickey stated that he did go down and see alterations to the shoreline. He didn't measure, but he did have the map and the shoreline has been moved.

Dawn Koncikowski presented pictures to the board. She went through each picture and described what they were. These pictures are available in the Planning and Zoning Office.

Dawn presented the board with a survey map done by David Bolster for the Passarelli property. She overlaid the David Bolster map on the map of the Wood's property and showed the board where the shoreline had been altered. David Bolster stated to Dawn that he felt they dredged over 3 feet.

Dawn then reviewed with the board another packet of photos and explained what each photo was. All of the photos and information stated is on file in the Planning and Zoning Office.

A letter and photographs were presented to the board from Gary Koncikowski. A copy of this is on file in the Planning and Zoning Office.

Dave Kenny stated he felt in listening to this argument, he didn't feel the Site Plan was being followed. There are no contours or elevations. There is no lighting plan. He felt there should be a total Site Plan submitted.

Chris Navitsky stated he didn't know how anyone could determine what is natural over there. He submitted two pictures which he took during his observations. These pictures are on file in the Planning and Zoning Office.

(Turned Tape)

Fran Heinrich asked the board to clarify how you can allow the applicant to segment this property and go forward while there is an apparent Stop Work Order and violation in front of the Town Board. She also asked why there has not been a fine assessed or if there has been, how much it was. She also asked the Chairman if the names he read in the beginning of the meeting were for or against the project. She thanked Mr. and Mrs. Koncikowski for bringing this apparent violation to the community's attention. In her opinion, if the new ordinance had been adhered to and site inspections performed more frequently, all of this could have been eliminated.

Chairman Wood responded that the names read were against the project. As far as segmentation, the Town Board put a Stop Work Order on the beginning of the property and gave them permission to come to the Planning Board on the rest of the property.

Attorney Caffry stated that this issue is still pending in front of the Town Board. He stated that he felt he showed in photographs that the wall was not moved by the Woods.

Dean Howland that Robb came out and measured and asked Robb what he measured.

Robb Hickey stated the pin is at about 153. Robb stated the pin that is on the corner is 153 from the other pin. It is not on the shoreline. It is not on the edge.

Chairman Wood stated that there are several items that he would like from the applicant:

- Application has to be changed to reflect that the seawall is not going to go from the entire front.
- An entire Site Plan showing the house, a planting plan, a lighting plan, topography on the shorefront at 2 foot increments and 75 feet from the lake.
- The Town will hire a surveyor with the applicant to be responsible for the fees.

A motion was made by Charlie Portes and seconded by Keith Hanchett to hold the Public Hearing open.

All in favor.

Motion carried.

2. Site Plan Application SP52-2004 submitted by Andrew & Susan Liucci to install a 6' high fence approximately 75 feet in length on westerly side of house; a 4 foot high chain link fence on south west side of house to tie into existing 4 foot chain link fence and to install a 65' long, 4' high chain link fence on northeast side of property to meet existing fence, for property located at 8 Morris Lane.

Mr. Liucci stated there is an existing fence on the south side of the house that separates the Boulder's property and his property. It starts in the water and comes all the way up and it stops towards the top of the hill. There is an opening that many people walk through. He is trying to eliminate a lot of people from walking through the property.

Chairman Wood asked if there was anyone in the audience who wished to comment.

There was no public comment.

A motion was made by Dave Wick and seconded by Charlie Portes to close the Public Hearing.

All in favor.

Motion carried.

Chairman Wood stated that this has gone before the County and there was No County Impact.

The applicant stated he was going to have the property resurveyed prior to the construction of the fence. Robb Hickey suggested that he place the fence between 6 inches and 1 foot off the property line.

A motion was made by Dave Wick and seconded by Charlie Portes to approve SP52-2004.

Erik – Yes  
Keith – Yes  
Charlie – Yes  
Dave – Yes  
Scott – Yes

Motion carried.

3. Site Plan Application SP54-2004 submitted by John Weizenhofer to construct a 30 x 86, three bedroom, ranch style home with 12 x 26 porch for property located on Lot #1, Diamond Point Road.

Mr. Weizenhofer stated that he would like to build a one-family house on Diamond Point Road, approximately 350 feet off the road. He stated that at the last meeting, there was an issue with his stormwater plan. He then asked Pat Mitchell of North Country Engineering to update the board.

Pat Mitchell stated that at the last meeting there was a comment from the Town Engineer to show in the stormwater analysis the ponds that were added. This has been done and submitted to Tom Jarrett. They also added a note to the drawing that Robb Hickey be present for the deep test at the time the dry wells are put in.

Tom Jarrett stated he was fine with those conditions that Pat had mentioned.

Chairman Wood opened the comments up the audience.

There was no public comment.

A motion was made by Charlie Portes and seconded by Erik Ghirarduzzi to close the Public Hearing.

All in favor.

Motion carried.

This application has gone to Warren County and there is No County Impact.

A motion was made by Charlie Portes and seconded by Keith Hanchett to approve SP54-2004 with the condition that Tom Jarrett sign off on the final project.

Erik – Yes  
Keith – Yes  
Charlie – Yes  
Dave - Yes  
Scott – Yes

Motion carried.

### **REGULAR MEETING**

1. Site Plan Application SP45-2004 submitted by Vojac, Inc., to replace an existing twelve unit hotel with a three story timeshare building, containing 13 units and construct an indoor pool facility in an adjacent area, for property located at 3210 Lake Shore Drive.

This application has been tabled until the February 1, 2004 meeting at the applicant's request.

2. Site Plan Application SP55-2004 submitted by John Owen to construct a 32 x 29 two story professional real estate office for property located at 3873 Route 9L.

John Owen's was present. He stated that he is proposing to construct a 32 x 29 professional real estate office. He presented a parking plan to the board showing existing parking and where the new parking will be.

This application has gone to the County and there is No County Impact.

A motion was made by Keith Hanchett and seconded by Erik Ghirarduzzi to approve SP55-2004.

Erik – Yes  
Keith – Yes  
Charlie – Yes  
Dave – Yes  
Scott – Yes

Motion carried.

3. Site Plan Application SP23-2004 submitted by Adirondack Lodging, LLC, contact being Vincent Spitzer, to construct a four story, 96 room Wingate Inn hotel on a 3.546 acre lot located between Stanton Road and Route 9L.

Vincent Spitzer was present. He stated he was hoping for an approval based on the fact that he hopes they have satisfied all of the board's concerns.

Attorney Mark Schachner reviewed the SEQRA process. He stated that board reviewed the Long Environmental Assessment Form at great length. The board did identify at least one potentially large impact. This was then analyzed through a SEQRA Part III and as a result a Conditioned Negative Declaration was issued. This process has a 30 day public comment period built into it. The board has complied with all of these requirements. He stated that as the SEQRA Lead Agency, they do not have an obligation to respond to any of the comments made during that comment period however, if the board feels that any of the comments raised new information or new concerns, you can, if you wish, but are not obligated to, revisit any of the questions on the Environmental Assessment Form and see if they should be addressed any differently than they were initially.

Tom Jarrett discussed some possible conditions he felt were issues:

- A Stormwater Control Facility Maintenance Agreement shall be submitted.
- A Stormwater Security Deposit in the form of cash, performance bond or letter of credit. Tom suggested 50% of the stormwater management construction costs would be an acceptable number.
- The design engineer submit record documents of the system as it is constructed to the Town.
- NYSDEC weekly inspection reports submitted to the Town for their records.

Charlie Portes asked if 50% was consistent with other projects that the board has approved.

Tom Jarrett stated that 50% is specific with this job. In the past, he stated we have asked for more than 50%, but on this particular project and the type of design they submitted, he felt 50% was a reasonable number for the Town to have in case of system problems or system failures.

Vinnie Spitzer stated that this is a completely arbitrary number. As he is looking at it, this is \$28,000.

Mark Schachner stated that he would rather have a firm number, instead of saying 50%.

Charlie Portes asked Tom what was asked for on the Hampton Inn project.

Tom Jarrett stated this has not been completed. It is one of the issues that still remains outstanding.

Chairman Wood asked Vinnie Spitzer what figure he would be willing to use.

Vinnie Spitzer replied \$5,000 cash.

It was stated that the cost for stormwater improvements for the project is estimated at \$54,000; therefore 50% would be \$27,000.

The board discussed possible conditions to be placed on the project.

The attorney for the applicant stated that they did not feel it was appropriate to require the applicant to supply New York State Office of Parks, Recreation and Historic Preservation the Phase I A & B survey for their approval.

Vinnie Spitzer stated that he does not believe the Phase I A & B done for the Hampton Inn by the Town had any OPRHP approval.

There was a lengthy discussion between the board and the applicant and their representatives regarding the Phase I A & B study as to whether this should be presented to OPRHP for their approval or review.

The issue of the stormwater bond was again discussed.

Drew Spitzer stated he wished to respond to Mr. Portes' question of what's been required in the past of other projects. Drew stated that he does not know of any requirement on the proposed Hampton Inn project, which was approved already.

Chairman Wood stated they received approval conditioned to Tom's stormwater approval.

Drew Spitzer stated that the amount of the bond then needs to be reviewed.

Drew stated that when he did the Lake George Forum and the amount submitted was \$2,000. He stated that their stormwater system costs equal to or greater than the amount of money being discussed. He stated this is absurd to ask for half of the construction costs. This has not been what has been required as he personally put up a \$2,000 bond. He stated he was surprised why that amount was not brought to this board's attention and why did he have to stand up and say that.

A motion was made by Keith Hanchett and seconded by Charlie Portes to approve SP23-2004 with the following conditions:

- No further subdivision of the property.
- The Town Engineer shall sign off on all stormwater management and the final stormwater report shall be forwarded to the Planning and Zoning Office. Any and all changes as per conditions need to be shown on the Site Plan and to be signed off by Town Engineer.
- No construction vehicles will be using Stanton Road for the purpose of access to Wingate Hotel during construction, except for the tie-in to the sewer.
- Lighting shall comply with the following:
  - A. Parking lot lighting shall not exceed 2.5 horizontal luminance (foot candles)
  - B. Building exterior lighting shall not exceed 1.0 horizontal luminance (foot candles) except for the entrance which could be up to 5.0.
  - C. At the property line of the subject property illumination from the light fixtures shall not exceed 0.1 foot candles on adjacent residential property or 0.5 foot candles on adjacent commercial property measured in the vertical plane.
  - D. Light fixtures shall be shielded and have cut-offs to direct the light directly to the ground. This must be accomplished so that the light dispersion or glare does not shine above a 90 degree horizontal plane from the base of the fixtures.
  - E. Pole mounted light fixtures shall not exceed 20 feet in height.
  - F. High pressure sodium lights are preferred along with lexan lenses or similar low glare materials.

- The three buffer locations as per plans be strictly adhered to.
- A breakaway gate or posts be installed between the Wingate Hotel and the Stanton Road office buildings and that there is shrubbery, fencing or curbing on either side of the gate to prevent vehicle access.
- No Certificate of Compliance will be issued until the hook up to the Sewage Treatment Plant is complete and the plant is capable of taking additional flows.
- The applicant shall waive any claim of liability or damages against the Town of Lake George and its officials and hold the Town harmless and indemnify it against any such claim that may occur if the plant is not upgraded in the time proposed by the 12/21/04 letter from Mayor Blais.
- Prior to construction, the Applicant shall conduct and submit a Phase I A & B survey of historic, archaeological and cultural resources prepared by a certified archaeological consultant. If this survey identifies significant resources, it shall be submitted to the New York State Office of Parks, Recreation and Historic Preservation for its determination as to whether any further investigation is needed. If this survey does not identify significant resources, no further review is required. This shall be completed prior to the issuance of a Land Use and Development Permit.
- The fence along Stanton Road shall be removed from the Site Plan.
- A Stormwater Control Facility Maintenance Agreement shall be submitted.
- A Stormwater Security Deposit in the form of cash, performance bond or letter of credit in the amount of \$27,000 shall be submitted.
- The design engineer shall submit and approve a record drawing documenting the stormwater system construction as in accordance with the approved plans.
- The NYSDEC inspection reports shall be submitted to the Town of Lake George.

Erik – Yes  
Keith – Yes  
Charlie – Yes  
Dave – Yes  
Scott – Yes

Motion carried.

4. Site Plan Application SP59-2004 submitted by Kimberly Molle to install a 6 foot high privacy fence along the southern property line within 100 feet of the shoreline, for property located at 3690 Lake Shore Drive.

Kimberly Molle was present. She stated they wanted to put a privacy fence along their southern border where they adjoin with Gilchrist Marina. She presented pictures to the board showing the debris on the Gilchrist property.

Chairman Wood read the application into the record.

A motion was made by Dave Wick and seconded by Erik Ghirarduzzi to accept the application as complete.

All in favor.

Motion carried.

A motion was made by Erik Ghirarduzzi and seconded by Keith Hanchett to waive the Public Hearing.

All in favor.

Motion carried.

A motion was made by Keith Hanchett and seconded by Erik Ghirarduzzi to approve SP59-2004.

Erik – Yes  
Keith – Yes  
Charlie – Yes  
Dave – Yes  
Scott – Yes

Motion carried.

5. Site Plan Application SP60-2004 submitted by Lake George Corner Properties to allow a 4 foot high split rail fence to remain within 75 feet of the shoreline, for property located at Lot #2 of the Carroll Estate Subdivision.

Attorney Jon Lapper was present representing the applicant. This is a split rail fence to mark the property line. This fence is already in place because Robb Hickey had issued a permit and then realized they needed a variance due to the 75 foot of the shoreline requirement.

Chairman Wood read the application into the record.

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

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by Dave Wick to waive the Public Hearing.

Chairman Wood reminded the board that they do have a letter on file requesting a Public Hearing. They did have a Public Hearing at the Zoning Board. The only person who spoke at the Zoning Board Hearing was Attorney Caffry.

The board allowed Attorney Caffry to express his concerns. He stated the fence is over the line by an inch or so and they would like the fence moved over. The end of the fence is in the lake in a white bucket filled with concrete. This should also be removed. If these two permit conditions are attached to any vote, he has no problem with this application.

Erik – Yes

Keith - Yes

Charlie – Yes

Dave – Yes

Scott – No

Motion carried.

The board discussed the two conditions. The applicant requested to table this application until after the survey has been completed.

6. Minor Subdivision Application MS7-2004 submitted by Tom Wright, to subdivide 10.57 acres into 2 lots; one lot being 5 acres and the other being 5.57 acres, for property located at 443 Truesdale Hill Road.

The applicant was not present. This application will be placed on the February 1, 2005 agenda.

7. Site Plan Application SP61-2004 submitted by Brodie Land Development to allow for outside boat storage for property located at 3578 Lake Shore Drive.

Bob Brodie was present. He stated that two years ago he applied to this board to build a structure for boating retail. They have had boats on display on the side and the rear of the building which were for sale. It was brought to his attention that he should have a boat storage permit so therefore, applied to the Planning Board.

Keith Hanchett read the application into the record.

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

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by Keith Hanchett to waive the Public Hearing.

All in favor.

Motion carried.

No decision can be made until Warren County Planning Board has reviewed this project.

This application will be placed on the February 1, 2005 agenda.

8. Site Plan Application SP57-2004 submitted by James Rose to excavate and remove unconsolidated fill material and buried rubble from a previously demolished building and refill and to deposit the excavated fill within 100 feet of a wetland, for property located at 3201 Lake Shore Drive.

Jim Rose was present. He stated that the “old mansion” is caving in. He will be digging the foundation bottom out and he wants to refill with sand. He wants to stockpile the foundation bottom in the back, which is within 100 feet of a wetland. The property is fairly flat.

Chairman Wood read the application into the record.

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

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by Keith Hanchett to waive the Public Hearing.

All in favor.

Motion carried.

No decision can be made until Warren County Planning Board has reviewed this project.

This application will be placed on the February 1, 2005 agenda.

9. Site Plan Application SP58-2004 submitted by Jack Gillette to construct 6 – 150 x 30 self storage buildings, for property located on Bloody Pond Road.

Jack Gillette stated he is doing away with the trailer park on Bloody Pond Road and wants to put self-storage units in.

Dave Wick read the application into the record.

Dave Wick asked if accepting this application as complete, would this include the stormwater plan.

There is currently no stormwater plan on file.

A motion was made by Charlie Portes and seconded by Keith Hanchett to not accept the application as complete.

All in favor.

Motion carried.

The board requested the applicant provide the following:

- Stormwater Plan
- Topo
- Lighting
- Landscaping – Type C Buffer
- Drainage
- Color of buildings
- Driveway
- Parking

10. Minor Subdivision Application MS6-2004 submitted by Ruth M. Rist, Trust, to subdivide 2.94 acres into two lots; one lot being 1.5 acres and the other being 1.4 acres, for property located at 43 Trinity Rock Road.

Ed Lockhart was present representing the applicant. He stated that North Country Engineering did a soil and perc test and determined that a septic system could be place on the property.

Erik Ghirarduzzi read the application into the record.

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

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by Dave Wick to waive the Public Hearing.

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by Erik Ghirarduzzi to approve Minor Subdivision MS6-2004 with the following conditions:

- Any structures constructed on this lot shall require Site Plan Approval due to the slopes and stormwater.
- The applicant shall submit to the Town of Lake George a copy of the deed and shall place the wording of “No Contractual Access” on the Mylar as per the Town of Lake George Zoning Board of Appeals decision dated October 12, 2004.

Erik – Yes

Keith – Yes

Charlie – Yes

Dave – Yes

Scott – Yes

Motion carried.

Chairman Wood reminded the board of the upcoming Saratoga County Planning Conference on January 27, 2005. The deadline for registering is January 14, 2005. He stated he would really like to see everyone attend this.

Keith Hanchett asked if the Basic Information Checklist is being used. He wanted to make sure it was being given to the applicants.

A motion was made by Erik Ghirarduzzi and seconded by Charlie Portes to adjourn the meeting at 11:45 p.m.

Respectfully submitted,

Patricia McKinney  
Planning & Zoning Clerk