

Minutes of the Town of Lake George Planning Board held on Tuesday, September 7, 2010 at the Town Center, Old Post Road, Lake George, New York.

Members Present: Vice Chairman Charlie Portes  
Sean Quirk  
Jack Abrahams  
Linda Varley  
John Carr  
Joe Mastrodomenico  
Ed LaFerriere

Members Absent: Chairman Keith Hanchett

Also Present: Patty McKinney, Clerk  
Robb Hickey  
Melissa Vito  
Kathy Bozony  
Jon Lapper  
Jim Remington  
Patty Remington  
Ray Hudson  
Jack Fox  
Janice Fox  
James Chant  
Zack Monroe  
Salim Amersi  
Dennis MacElroy  
Theresa Romano  
Bernice McPhillips  
Mrs. Salim Amersi  
Dan Nearly  
And others

Charlie Portes opened the meeting at 6:00 p.m.

A motion was made by Jack Abrahams and seconded by Joe Mastrodomenico to accept the August 6, 2010 minutes as submitted.

## **PUBLIC HEARING**

- 1. Major Subdivision Application #1-2008 submitted by Robert Sternbach to subdivide approximately 39 acres into 6 residential lots and a road, for property located on Flat Rock Road (238.00-1-39).**

Dennis MacElroy is representing the applicant.

Charlie Portes reminds the public of the 3 minute rule for comments.

**Dennis Dickinson** - reviews the survey with the Board Members. The property is located on Flat Rock Road and it is just less than 40 acres. It is in two zones. The 10 acre zone is in the back of the property and it is very steep, the contours are very close together. There are 12 acres in the 10 acre zone and 27 acres in the R2 zone. Jack Abrahams asks how far up Flat Rock Road the property is and Dennis replies that it is by Keith Van Buskirk's house. There is a little house in the woods on lot 1 that was built by the applicant's father back in the 60s when he purchased the lot. The proposed subdivision is 6 lots plus the road. Most of the intensity and the road are in the front area since it is mostly flat. Dennis MacElroy proceeds to show the Board another map showing the sewers, water, houses, driveways and storm water which is indicated in red in order to show it clearly on the map. The road is about 1,100 feet long with a cul-de-sac which follows the requirements of the Town as per their submission to the Town's engineer which in this case was Tectonic Engineering. Charlie Portes asks if the engineers were satisfied with the submission. The answer is yes.

No questions from the Board.

Charlie Portes opens the public comments on this project.

**Kathy Bozony**, Office of the Lake George Water Keeper – she brings up a couple of issues which came up last month and was not sure if the Board was going to address. There is a very high infiltration rate with some of the ponds, a question was asked whether the ponds require liners and if so who will be responsible for the maintenance agreement. Her notes indicate that the Planning Board was going to wait for the SPEDE's permit to arrive but she is not sure if it did. In reference to the 1250 square foot footprint it seems small and they would prefer it if the Board requests a site plan review for each individual family dwelling. The clearing for the storm water appears to be twice as much as any of the house clearings; she would like to see this issue discussed.

Charlie Portes asks for any other comments, he then asks Dennis Dickinson to try to address Kathy Bozony's questions.

**Dennis Dickinson** - the percolation rates used for the ponds are based on actual percolation rates they took in the field; none of them are excessively fast or slow. They have 11 informational sheets with details for the ponds; the details for the liners are included on those sheets. He agrees that clearing for storm water is excessive because storm water is excessive. He refers to the map which shows how much storm water is present which is a lot. There will be a homeowner association for the road although they would like to turn the road to the Town, storm water though is an issue they need to deal with. The road will be paved and turned to the Town.

**Jack Abrahams** – asks if Tectonic addressed this issue. Robb Hickey replies that they were in agreement and there were no issues; it was all worked out between Tectonics and Dennis Dickinson.

**Charlie Portes** – brings up the stormwater issue and asks if the applicant has retentions for the road. Dennis replies that they do. He thinks that Hoddie told them that he did not want this. Dennis agrees that Hoddie does not want the infiltration issue and that the homeowner association will take care of its infrastructure, basically the Town will only take care of the road if indeed they take it.

A motion was made by Jack Abrahams and seconded by John Carr to close the Public Hearing.

All in favor.

Motion carried.

Jack Abrahams reads the Short Form SEQRA.

A motion was made by John Carr and seconded by Linda Varley to declare a Negative Declaration.

Linda - yes  
John - yes  
Jack - yes  
Sean - yes  
Joe - yes  
Ed - yes  
Charlie - yes

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by Joe Mastrodomenico to approve the application with the condition that the Homeowner's Association be responsible for stormwater; any changes to the original plan such as house locations or driveways shall require the applicant to come back for site plan review and the as-built shall be signed off and certified by the engineer.

Linda - yes  
John - yes  
Jack - yes  
Sean - yes  
Joe - yes  
Ed - yes  
Charlie - yes

All in favor.

Motion carried.

**2. Site Plan Application #19-2010 submitted by Frank Romano to construct a two story single family dwelling with detached garage and horse barn, for property located on Diamond Point Road (225.00-1-83).**

Zack Monroe is representing the applicant.

**Zack Monroe** – they are proposing a single family dwelling and 500 ft. driveway to access the house site, a horse barn and a fenced in area for the horses. The site is on Diamond Point Road, it is a little over 7 acres and it is part of an existing subdivision in a 10 acre zone. At the last meeting the Board had two concerns; one with the temporary manure storage and the location of the 4<sup>th</sup> bedroom. They have revised the plans to show the storage location for the temporary storage of the manure.

**Jack Abrahams** – adds that at the last meeting the Board was also concerned with the permanent removal of the manure.

**Zack Monroe** – replies that the final disposal will not be on site but will be disposed of to a certified dumping location that takes horse manure.

**John Carr** – asks how often they anticipate having to clean the area.

**Theresa Romano** – replies that she currently has horses and cleans the area weekly and disposes of it monthly.

**John Carr** – asks of the final outcome of the bedrooms.

**Zack Monroe** – replies that the 4<sup>th</sup> bedroom is in the basement. The room over the garage is a work or project area with a bathroom and it is not a bedroom. The bathroom is not a full bathroom but rather a half bathroom.

Charlie Portes asks for public comments.

**Melissa Vito** – from Diamond Point Road. She states that at the last meeting John Carr mentioned that it would be acceptable to create retention ponds to catch the run off from storm water. She recommends a better way to remove the nutrients and the pathogens from the storm water because the pathogens are removed by the soil but not all the nutrients. The best way to accomplish this is to require rain gardens with plants that have varying heights and root depths so that when the water passes through the soil under the rain garden, the nutrients are removed by the roots of the plants. It should be ground cover with shallow roots and shrubs with longer roots. There should be several storm gardens all over the property since this soil will be enriched by manure as well. We need to make sure that most of the nutrients are removed from the storm water that runs into the brooks and streams and ultimately into the lake.

**Kathy Bozony** – she is asking the Board to discuss the cautions for the stream crossings. It is not a designated stream by DEC however it flows downhill into the lake. As for the plans for the basement, she is not sure if the Board has received any. The square footage in the basement is 2500 sq. ft.; the applicant is indicating one bedroom in the basement but no indication as to how the remaining square footage will be utilized. She wants to make sure that there are no more than 4 bedrooms on this property because of the design of the on site waste water system. She also agrees with Melissa Vito about the rain gardens and having the storm water infiltration closer to the impervious area as opposed to having everything run down into retention basins.

**Zach Monroe** – he is asked by the Board to discuss the rain gardens. His first thought would be the retention area for the horses. It would not be practical since most of the storage is within the fenced in area and the horses will be walking in this area and therefore the plants would most likely not survive. The horse area will be cleaned regularly and it is the applicant's way to minimize it. As far as the bedrooms count, he agrees that there is a lot of extra space in the basement space and a question has arisen about a fifth bedroom. He has an alternative plan for a fifth bedroom in the basement if the additional bedroom is needed in the future. The plan indicates that if a fifth bedroom is built, there is enough room to do so, however they are still working on the plans which they will show to Robb Hickey and they will have to meet with the Consolidated Board of Health as well to have it reviewed.

**Joe Mastrodomenico** - asks if the horse will be walking through the water retention area.

**Zack Monroe** – replies that essentially the retention will create a berm and holding it. The berm will be placed along the fence line so it is not in the horse pen or just outside of the pen. It will be right underneath the fence line so it catches everything within the fenced in area thus it will be out of the way and not a nuisance.

**Joe Mastrodomenico** – suggests to possibly plant some of the shrubs in this outside area. Zack agrees that it is a possibility.

A motion was made by Jack Abrahams and seconded by Ed LaFerriere to close the Public Hearing.

All in favor.

Motion carried.

A motion was made by Joe Mastrodomenico and seconded by Jack Abrahams to approve the application with the conditions that the engineer signs off on the stormwater management plan and the as-built. Consolidated Board of Health approval shall be granted and the applicant shall apply for and receive a Land Use and Development Permit prior to construction.

Linda - yes  
John - yes  
Jack - yes  
Sean - yes  
Joe - yes  
Ed - yes  
Charlie - yes

All in favor.

Motion carried.

### **REGULAR MEETING**

- 1. Site Plan Application #23-2010 submitted by McPhillips Properties, LLC to construct a sun deck over existing dock and boat slip, for property located at 7 Old Lake Road (252.09-1-5).**

Bernice McPhillips was present.

This application was awaiting a Warren County Planning Board recommendation. The recommendation was No County Impact.

A motion was made by Jack Abrahams and seconded by Ed LaFerriere to approve the application pending Lake George Park Commission's approval and to follow the approved plan.

Linda - yes  
John - yes  
Jack - yes  
Sean - yes  
Joe - yes  
Ed - yes  
Charlie - yes

All in favor.

Motion carried.

- 2. Modification to Site Plan Application #5-2007 and Subdivision Application #13-2007 submitted by Brookside Estates to construct 19 two story townhouses for property located on State Route 9L, ½ mile north of the Route 9 intersection (264.11-1-31 and 264.11-1-33).**

Attorney Jon Lapper representing the applicant.

**Jon Lapper** – states that Dennis MacElroy is the project engineer and Joe and Chris Vitale are the applicants. They have been working with the APA and have received a draft permit that was just issued and submitted to the Planning Board. As part of the APA review they asked for a minor modification to move a unit located on the west side of the project as far away from the wetlands as possible. This requires relocating the road a little up the hill driveway.

**Jack Abrahams** – asks to be shown which unit is in question and its relation to the waterway and also where this building was originally located.

**Jon Lapper** – replies that the waterway is not the beach but a stream channel. A few buildings are being slightly moved as per APA to keep them as far away from wetlands as possible. Even though the applicant met the separation distances the APA asked that the buildings be moved farther away because they are up hill of the wetlands. In order to do that they had to move one of the buildings from the west side of the project and relocate those two units. The modified plan is the one that the APA asked the applicant to come up with and asks the Planning Board if they would pass it with those changes which will satisfy the APA as well.

**Dennis MacElroy** – shows the Board the changes. He asks the Board to look at drawing C1. This drawing will show the outline in lighter print of the old road and the outline in lighter print of the old buildings locations. In the case of 1, 2, 3, 4, 5, 6, 7 & 8 there is a slight revision. In answer to Charlie Portes’ question he states that the revision is about 25 feet further back from the wetlands. Although the building never had direct occupation in the wetlands area, this modification pushes it back a little further thus the road as well.

Robb Hickey and Dennis MacElroy remind the Board that last year they appeared in front of the Board to update them on the fact that these changes were forthcoming. Now, a year later, it is official, in fact the draft APA permit is in the files.

Jack Abrahams makes a motion to approve the application with modifications as submitted with the condition that the Town gets a copy of the approved final APA permit and he reads the SEQRA. “The proposed modifications do not involve any or significantly different potential environmental impacts in the project as originally approved therefore the previously issued negative SEQRA declaration is reaffirmed and no further SEQRA review is required.” John Carr seconds the motion.

Linda - yes  
John - yes  
Jack - yes  
Sean - yes  
Joe - yes  
Ed - yes  
Charlie - yes

All in favor.

Motion carried.

**3. Modification to Subdivision #4-1981 submitted by Village Estates Condominiums to allow expansion of existing cabins, for property located at Christiana Court (238.20-1-27).**

Attorney Jon Lapper is representing the applicants along with a number of condominium owners in the audience.

**Jon Lapper** - This project was originally approved in 1982. This is lot 1 of 11 condominiums which is part of the homeowner association. It is located on the right side of the road driving towards the lake and the condos are all on one lot. In the early years of the last decade, the applicant was in front of the Board to request that the condominiums be winterized so they can be used year around and in order for the Board to approve this, the water system had to be dug 4 feet in the ground and at the same time the septic system was completely redesigned and some work was done to the road as well. This was all part of the site plan that the Board approved in 2006 for the units to be year around. The remaining condition is the one part of the original 1982 approval which stated that the condo units were not to be expanded. In 2006 a discussion ensued about coming back to request for these units to possibly be expanded. Today all 11 owners have gotten together and an application has been submitted proposing the expansion of the units along with a list of conditions. The conditions were drafted because they understand that the size of the property is limited and that this Board would want to impose limitations therefore they proposed a list of very specific conditions that they have imposed on themselves. They voted on it to amend the bylaws to say that the expansion of the units cannot surpass 2000 square feet among other conditions. Currently the units are between 700 to 800 square feet in addition to being old and inadequate.

Jack Abrahams asks if this is an association. Jon Lapper replies it is actually a condominium association with officers. There are 11 members. Jack asks if there is enough space to expand these units.

**Robb Hickey** – replies that as far as lot space there is enough since the lot is 5 acres. He has discussed this with Jon Lapper and they agree that they would not want the Board to be a referee as far as which side can be expanded. The condo owners made the decisions.

**Jack Abrahams** – states that any changes in size or otherwise to the individual condominiums need to be presented and approved by the association first.

**Jon Lapper** - he shows the Board the plan. The association owns all the land with is 5.7 acres. Delineated on the plan are exclusive use areas which indicate the maximum area to be used for expansions.

**John Carr** – while reviewing the plan he questions cabin #4, if the proposal is to increase the living space to 2,000 square feet and the usable space is 3700 square feet to which set backs would apply, without knowing the bylaws, how would these bylaws apply to this example?

**Jon Lapper** – this is included with what they submitted and there are two aspects. Lot 4 backs up onto the property next door which would be considered a side set back under the Town's codes and therefore there would be a 20 ft side set back requirement in addition to a 15 ft set back requirement according to State's codes. The 4 cabins that back up have very limited space. These cabins may want to be only 10 ft from the property line and would have to go to the Zoning Board and get their approvals before they can come to the Planning Board. However they have to maintain the 15 ft separation between cabins as required by the State because it is a fire code issue. All the units need to get approvals from the association first by providing the other homeowners, location, design and view sheds because there is an issue about not blocking others' views.

Charlie Portes asks why the condition that the cabins may not be expanded was put in.

Robb Hickey and Jack Abrahams answer that originally they were designed to be seasonal cabins not year around. Jon Lapper adds that the site did not have year around water lines and septic systems. However he also

states that there could be a condition added that each expansion would have to be brought to the Planning Board as well.

Charlie Portes asks if the Board would receive a proposal to increase the square footage to 2,000 square feet would it meet the Board's conditions.

A discussion follows between the Board members. The applicant would not be increasing the amount of units on the parcel but rather the size of each unit therefore the 1 acre condition would not apply. Jon Lapper also explains that this parcel is not divided by separate lots; it is all one lot because these units are condominiums.

John Carr is concerned specifically with lots 3, 4 and 5 because they are very close to the neighbor's house. He feels that if these units were to add a garage or a shed in addition to increasing the living space to 2,000 square feet there would be a lot of building in the 3700 sq. ft. available to them.

**Jon Lapper** – in answer to John Carr he adds that these homeowners would either have to maintain the 20 ft. setback or they would have to get a variance from the 20 ft.

Jack Abrahams asks if in the past someone built a garage. Robb Hickey replies that the garage was built by the homeowner association located across the street from this parcel. The single family homes are part of the homeowner association and then there are condo units which are part of the condo association.

**Charlie Portes** – remembers that there may have been a law suit from this association against the Town because of a Planning Board denial. Robb says that this happened many years ago. Mr. Caputo was the owner at that time and he proposed a plan to accomplish what is being asked for today. The Town won the lawsuit because the homeowners did not upgrade the septic and the water system.

**Jon Lapper** – adds that when he came back to the project, the septic and water systems were upgraded and the Planning Board ultimately approved the project. However, the existing cabins are not adequate and they are trying to propose something that is modest.

**Charlie Portes** – asks the square footage of Green Harbor just to put it in proper perspective. Robb Hickey replies that they are approximately 2500 square feet and Cannon Point are between 1500 square feet to 2000 square feet.

**Jon Lapper** – when he reviewed the project with Robb Hickey, they were asked to tighten it up. The current proposed square footage includes porches, garages etc., it is not 2000 square feet plus.

**Charlie Portes** – believes that the applicant should submit another application since the original one has been modified and a public hearing should be held. Jon Lapper asks why the new application. Charlie replies that for one thing the square footage has increased.

**Jack Abrahams** – clarifies that each condominium owner will have to present the new plan to the Planning Board after it is approved by the condominium association. This is part of the association by laws.

**John Carr** – agrees with Charlie Portes about the public meeting. He feels that the neighbors should have an opportunity to comment. He asks Jon Lapper about the septic system. Jon replies that it was designed for at least three bedrooms. It was designed for a total of 80 bedrooms and the actual number of bedrooms will be 75, the conditions state that each cabin cannot have more than three bedrooms. John Carr then asks if this modification needs to be submitted to the Attorney General's Office. Jon Lapper replies that it would not have to since the condominiums owners are modifying the by laws themselves; it is not a sponsor offering it to the

public. John then asks if the association has considered moving, modifying or increasing the use area deeded to the cabins in question. Jon Lapper replies that some of them have been jockeyed around a little but because of the view shed, the locations of the water lines, septic lines and roads, there was no room to move these four cabins. Jon adds that these cabins may not end with 2,000 square feet.

Someone from the audience adds that cabin #6 was given a new property line and an exclusive rights line so that it can be moved to the west and to the south which would then free up room for cabin #5. The only cabins that are close would be # 3 and #4 but they have made some considerations for these also.

**John Carr** – realizes that the association has already given some consideration to the use space for these cabins.

**Ed LaFerriere** – agrees with a new public hearing since at the last meeting held for this association, the Board said “no more expansions” and currently they are asking to triple the size. As a review, currently there are three cabins with two bedrooms while the remainders have one bedroom. Three units are 600 square feet while the rest are smaller.

Charlie Portes states that since there is a lot of history with this property he feels a public hearing should be scheduled. Ed LaFerriere agrees with Charlie. Jack Abrahams adds that when the individuals come in with their plans at that point a public hearing can be scheduled since they have to come back to the Planning Board for approval anyhow.

John Carr feels that the cabins are most likely nearing the end of their functionality. They were not designed to go 60 years. Some upgrades have been done with the septic system but he feels that maybe some good ideas may come out of the public hearing. He does not want big mansions to replace these 11 cabins which would be 14 to 15 feet apart from each other; the density in this space would certainly change substantially. It would look quite a bit different than it currently looks. Only two cabins are visible from the lake.

A motion was made by John Carr and seconded by Ed LaFerriere to schedule a Public Hearing.

|           |     |
|-----------|-----|
| Linda -   | yes |
| John -    | yes |
| Jack -    | no  |
| Sean -    | yes |
| Joe -     | no  |
| Ed -      | yes |
| Charlie - | yes |

Motion carried.

Charlie Portes asks Jon to submit the new septic plans. Jon answers that it has already been done and that they are in the file. They want to work this through; they have tried to come up with reasonable conditions as well.

**John Carr** – his concern is that the neighbor from the north currently is looking at a small cabin; he anticipates these homes to be two story high which add mass to the property. It would be a better project if there is any modification or movement away from this property line.

**4. Site Plan Application #27-2010 submitted by Larry Clute to convert an existing one family dwelling into a duplex, for property located at 377 Bloody Pond Road (264.08-1-3).**

Jon Lapper representing the applicant.

**Jon Lapper** – he believes everyone is familiar with this property. The property has frontage on both roads and the Zoning Board granted a variance on this site last month. The outside of this dwelling will not change the renovations will all be done internally.

**Robb Hickey** – says that the history on this property is that about 2 years ago, the applicant obtained a variance. Last month he received another variance from the Zoning Board.

**Ed LaFerriere** – comments that this applicant originally received approvals to build a single family dwelling which he built as a duplex. Jon Lapper came in front of the Board to offer an apology from Larry Clute for having built a duplex which he then converted into a single family. He is now requesting to re convert the single family dwelling back into a duplex.

**Charlie Portes** – reminds the Board that the neighbor who originally opposed this project was just issued a variance to convert his home into a two family dwelling.

**Ed LaFerriere** – is concern is the site's proximity to Bloody Pond Road, a duplex will add an additional family driving out onto this intersection from the circular driveway. Jon Lapper adds that it is safe because of the circular driveway; there is no need for tenants to back up onto Bloody Pond Road. Ed disagrees since there is only room for two cars.

**Jon Lapper** – explains that there is a two car garage and a parking area in front of the garage. Mr. Clute is recognizing that the area has changed and there are several other two family homes.

John Carr asks about the number of bedrooms for each unit to which Jon answers two bedrooms per unit. He also informs the Board that the variance the applicant just received is an area variance. He is allowed to have a multi family unit but the area is short approximately 30,000 square feet.

John Carr reads the application into the record.

A motion was made by Jack Abrahams and seconded by Sean Quirk to accept the motion as complete.

Ed LaFerriere not in favor.

Motion carried.

**John Carr** – says that the Town's comprehensive plan encourages this type of development although on larger lots. This particular property is what it is and how it got there may not be the best way.

**Jack Abrahams** – since the adjoining property was approved for a multi family unit he feels that by not approving this application the Board would be discriminating against it. Both properties have the potential to increase traffic.

Jack Abrahams makes a motion to waive the public hearing. No Board member seconds this motion.

A motion was made by Ed LaFerriere and seconded by Linda Varley to schedule a Public Hearing.

Linda - yes  
John - yes  
Jack - no  
Sean - yes  
Joe - no  
Ed - yes  
Charlie - yes

**Charlie Portes** – asks Jon Lapper to submit copies of the plans before the public hearing deadline. Jon replies that the current plan on file is for one bedroom. He will provide the plans for the two bedrooms. Charlie wants the public to see what is being done.

**5. Site Plan Application #26-2010 submitted by Salim Amersi to remove existing single family residence and construct single family residence with new wastewater system and storm water management devices, for property located at 3072 Lake Shore Drive (251.07-1-52).**

Dennis MacElroy is representing the applicant.

**Dennis MacElroy** – as indicated Salim and Dan Nearly, the project architect, were in front of the Board last month for discussion purposes. They were able to submit materials for site plan review which are part of the package given to the Board Members. They now have a completed application for site plan review for a single family residence with demolition and replacement of an existing structure on Rock Ledge property which is a 14 acre parcel. This dwelling will be the applicant’s residence. They have provided the site plan design, the footprint of the new building, information on elevation drawings in addition to photos of the site and an architectural rendering. In addition to the site plan for the house location, the packets include storm water management system incorporated into the new design and a new waste water system that would serve the new residence as well as the pre existing boat house structure.

**Charlie Portes** – asks Dennis if he submitted the storm water management.

**Dennis MacElroy** – replies that they followed the steps for a minor storm water project. They designed it based on new impervious areas following the minor permit process. This information is on sheet 3 of 3 in the packet. This information provides areas and computations for run off based on the minor process primarily dealing with storm water through the use of rain gardens.

**Robb Hickey** – informs the Board that on a re development one gets to use the pre existing and only the new post impervious surfaces get counted. The only other requirement is that the new impervious surface does not run off one’s property onto someone else’s land. For this reason he suggested to Dennis to put in a minor plan.

**John Carr** – is concerned with the storm water plan because there is another application floating around that would increase the impervious space. The application in question is a marina. If the Board approves this application they will require parking for 18 spaces which would then increase the impervious surface. He does not want to segment this project with the other on the issue of storm water legalities. He understands that the applicant has not made a formal decision on what he is planning to do but a bathroom is being proposed for the marina. These two projects could have some linking.

**Robb Hickey** – states that being that the case, it will involve septic water not storm water.

John Carr and Jack Abrahams reply that it will still create impervious space which will put it over the required 15,000 square feet.

**Charlie Porters** – asks Dennis if he would have any problems running a major storm water plan.

**Dennis MacElroy** – answers that he knows there are individuals who believe major storm water is an important designation. It does require the applicant to provide more computations however he believes that the end result between minor and major is very similar. He agrees with Charlie Portes that the set backs are different. The major difference between the two is that on a major project the run off, even on a roof area, the infiltration of that needs to be at least 100 feet from the lake and in this case the rain gardens are very close to 100 feet.

**John Carr** – states that all this can be engineered and it can be worked with. His concern is that the applicant owns the property and would be submitting both applications. The comment was made that there will be a restroom in this house for the marina. The feeling is that they may end up with a segmentation question because the intent is to do something to facilitate the marina in this project. We need to be aware that we may end up in dangerous territory on a legal front.

**Salim Amersi** – says that this application is for this project only.

**Charlie Portes** – replies to Salim that for the Board not to segment they would have to put a condition on this application of no further expansion for seven years, would he be OK with this?

**Salim Amersi** – replies no, he would not be OK with it.

**John Carr** – asks if Salim foresees coming back in the near future. Salim replies that as soon as this application is approved he will come back for the marina. John wants to make sure that if this application is approved on a minor storm water basis and the applicant starts construction, when he comes back for the marina there may be problems.

**Salim Amersi** – says that as far as the marina is concerned all is looking for is to put in docks.

**John Carr** – states that the docks are not the issue. He is wondering whether it would make sense to show the impervious surface for the parking lot in addition to the house, the walkways, the driveways and whatever else. The docks are a separate thing. As far as the storm water is concerned would it be better to treat this as one project and staging it so to avoid a segmentation issue down the road.

**Robb Hickey** – calculates that there are 11 docks which would require 18 parking spaces. Dennis MacElroy adds that the parking lot will tip the impervious space over the 15,000 square feet.

**Sean Quirk** – asks what type of marina it will be.

**John Carr** – replies that it is a commercial, type A marina. He suggests that a major storm water plan be submitted showing the parking lot, once approved the applicant can choose to do whatever he wants with the parking lot.

**Salim Amersi** – says that he was planning on using some of the road by the carriage house and a paved basketball court. The parking will not be near the lake. There is also the restaurant which already has parking.

**John Carr** – adds that the problem with this project is that the applicant is the same person for both applications and controls both projects which opens the door for segmentation issues.

**Charlie Portes** – reminds everyone that the applicant submitted the marina project in the past and had problems with it, he suggests the applicant present a major storm water plan so it will take care of both projects.

**Robb Hickey** – asks Dennis MacElroy if the rain gardens in the front would trigger variances.

**John Carr** – adds that it is very close in fact he is not sure that the applicant is within the 100 feet.

**Dennis MacElroy** – replies that one of the rain gardens is very close but it can be re positioned in order to satisfy the major storm water requirement without having to get a variance.

**John Carr** – says that the infiltration device can be moved to the south and be far enough away. He adds that the segmentation issue can be tricky and he would hate to see the house project approved and then have problems with the marina. There could be litigation problems, it is easy to sue on this issue and he might be in litigation for two years which would hold up building the house and the marina.

**Joe Mastrodomenico** – confirms that what the applicant is stating is that the parking will be by the restaurant and not near the lake.

**John Carr** – replies that it does not matter where the parking is or whether is by the lake, it is considered new impervious surface.

**Dennis MacElroy** – is stating that the Board is suggesting or recommending that the two projects become one.

The Board replies just for the storm water. Dennis adds that even if this is treated as a major storm water for the house component of the project, there still should be some designation of the parking associated with the marina.

**John Carr** – informs Dennis that the problem with the marina application was that the applicant needed 18 parking spaces and that he proposed to use a knoll and a hard rock area that he wanted to use for parking. He remembers that the Board asked for this parking area to be more defined.

Charlie Portes and Jack Abrahams confirm with Dennis that only the storm water needs to be rolled into this application. Charlie suggests not tying the projects together just in case the applicant does not pursue the marina project.

**Robb Hickey** – confirms that Dennis needs to show 18 parking spaces between now and next meeting. Some may be on new impervious surfaces, some may be on existing impervious surface and possibly some on grassy areas.

The Board Members re confirm to Dennis MacElroy that they would not be approving the marina; they would be acknowledging a component of it thus avoiding segmentation.

**Dennis MacElroy** – confirms with the Board that once they address the parking either by displacement, by previous existing or totally new impervious surfaces with the associated storm water or some mix of both it should make this application complete. Is there any other situation that would make this application inappropriate? Does the Board feel that this project might qualify as minor storm water?

**John Carr** – replies that he does not believe so.

**Charlie Portes** – informs Dennis MacElroy that he would be more comfortable treating this application as a major storm water.

**Dennis MacElroy** – asks that if they modify the application incorporating major storm water, does this eliminate the possibility that it will be deemed complete and schedule a public hearing?

The Board asks Salim Amersi what his time frame is; Mr. Amersi replies that he would like to pour the foundation for the house by the fall. Dennis MacElroy is also asked if he would be able to submit the major storm water report by the deadline for the next meeting, he replies yes.

Jack Abrahams reads the application into the record.

**Charlie Portes** – asks if the boat house is being expanded to two bedrooms.

**Dennis MacElroy** – clarifies that the capacity was based on 4 bedrooms in the proposed residence, one bedroom capacity for the pre existing boat house and one bedroom capacity for the marina use.

**Charlie Portes** – confirms that the bathroom for the marina will be in the boat house.

The applicant replies that the bathroom is not currently in the boat house they are proposing the capacity for a bathroom. The applicant wants to be in compliance so if in the future he decides to put a bathroom he can do so.

John Carr makes a motion to accept the application as complete. Ed LaFerriere seconds the motion.

All in favor.

Motion carried.

**John Carr** – adds than in order to help expedite the process, since he is a strong believer in screening, asks the applicant to submit the proposed screening at the next meeting.

**Dan Nearly** – informs the Board that they have plans for rain gardens however they can specify certain plants they will be using in these rain gardens. John Carr advises him to indicate this information on the type of plants, how many and the height. He would like to see some type of buffer.

**Dennis MacElroy** – understands the request, however they ran into the same situation with another property. The ability to screen a two story structure on a property that drops off to the lake is difficult. 20 foot trees could be added at the base of the shoreline but they still may not provide that screening.

**John Carr** – responds that he is a big proponent of screening and buffering. Over time the 20 foot trees will grow to 40 feet and will provide an attractive screening which will increase the value of the property. He is mentioning this fact so when they come back next month the application can move forwarded and faster. In fact the Town's codes require screening and buffering.

John Carr makes a motion to schedule a public hearing with the condition that a major storm water plan be prepared including the parking for the future marina.

Sean Quirk seconds the motion.

All in favor.

Motion carried.

Jack Abrahams makes a motion to adjourn the meeting at 7:45 p.m. Sean Quirk seconds the motion.

All in favor.

Motion carried.

Minutes type by Adele Behrmann.

Respectfully,

Patricia McKinney  
Planning and Zoning Clerk