

**Bolton Zoning Board of Appeals  
Regular Meeting Minutes  
November 8, 2022 7:00 p.m.  
Bolton Town Hall, 222 Bolton Center Road  
Hybrid Meeting-In person and virtual via Zoom**

**Members Present:** Chairman Mark Altermatt, Morris Silverstein and Jonathan Treat and Alternates William Anderson (seated for William Pike) and Joshua Machnik (seated for Anne Decker)

**Staff Present:** None

**Regular Meeting**

1. **Call to Order:** Chairman M. Altermatt called the meeting to order at 7:20 p.m.
2. **Public Comment:** No public comment

**Public Hearing**

**3. *PUBLIC HEARING* - Application #ZBA-22-3 Nathaniel Fleming, on behalf of Asif Choudhry – 271 Hop River Rd – variance from zoning regulations 18.D.4 & 18.G.1.a.ii.**

The application was reviewed along with a one page staff report that was received this evening from interim Zoning Enforcement Officer Michael D'Amato. The staff report stated incorrectly that the signage had been removed.

Gregg Fedus of Fedus Engineering spoke on behalf of the applicant. The former owner of the property operated a gas station and an oil delivery business that was open for many years. There was a lot of junk stored on the site. The majority has been removed. New tanks have been installed. The site will be scraped and a new building will be erected along with a proposed canopy. The existing canopy is too close to the road. The proposed new canopy will be perpendicular to the road to make better use of the site. They expect final approval of the building at the Planning and Zoning meeting that is being held tomorrow night. M. Altermatt asked if the issue of signage has been raised with P&Z. Mr. Fedus replied no. The proposed signage is on the drawings but P&Z has not looked at it.

M. Silverstein stated that the applicant didn't make a formal request to put signage on the canopy. Mr. Fedus replied that the ZEO directed them to the ZBA. Current zoning regulations do not allow signage on a canopy. Mr. Fedus also noted that the signage has been painted over on the existing canopy and if it was to remain, there doesn't seem that there would be the need to apply for a variance. There is also free-standing signage existing where the pricing information would be posted. The Bolton signage regulations allow more signage area than what they are proposing (184 sq. ft. proposed as opposed to the 250 sq. ft allowed).

Canopies have signage for safety reasons. Drivers can see them from a safe distance to make a turn. The speed limit in that stretch of road is 45 miles per hour. The reality is that speeds average 57-58 mph.

M. Altermatt noted that if there is a nonconforming preexisting structure, it can't be torn down and rebuilt with the same nonconforming status without ZBA approval.

The applicant, Asif Choudhry of Old Lyme, was present and spoke on his own behalf. He is the owner of 271 Hop River Road, Bolton. It was previously a junkyard. The site has been cleaned up with the removal of tanks, sheds, trailers and vehicles. In April 2022, P&Z approved the new building plans. It is less expensive to build a new structure and canopy that will present well. The existing building and canopy are too old to feasibly remodel. The signage on the canopy was painted over nearly ten years ago to cover the CITGO designation. P&Z has no issues with the coloring of the sign. There were no votes against the project. Mr. Choudhry owns a station in Old Lyme that required nine variances. It was an existing building that was replaced. He would appreciate the ZBA's approval on this project. He feels that the improvements on the site are already very noticeable.

Nathaniel Fleming of Fedus Engineering spoke on behalf of the applicant. He reiterated that the canopy is a matter of safety.

Mr. Fedus wanted to submit a traffic safety plan this evening that talks about the line of sight along with the speed factor but there were technical difficulties. He will be presenting the traffic study at the P&Z meeting tomorrow night.

B. Anderson asked to clear up the terminology in Section 18O mentioning removal of sign faces after termination of use. That was written based on current regulations. Structural canopy signs are not allowed. He also read Section 3 of the General Provisions about the termination of nonconforming use. He did not feel that there was termination of the use. In his opinion, the nonconforming use still applies. The nonconforming use belongs to the land, not the owner. He feels that the nonconforming use exists and they can put up another nonconforming canopy. He also feels that the State of Connecticut regulations contradict the Bolton regulations.

M. Altermatt replied that if there is a nonconforming use, how can they build another nonconforming structure a different location? There is intent to abandon the nonconforming use.

B. Anderson replied that CITGO wanted their name off of the sign. It should not affect the property owner adversely.

M. Silverstein said that if the canopy is there, that is okay but if you tear it down and rebuild, that is that allowed. If the law doesn't state it, it is not permitted.

Mr. Fedus stated that the existing canopy is too close to the road. They are trying to be proactive in their removal and reinstallation of the canopy. The existing sign will be placed on the new canopy. B. Anderson noted that there is an existing variance in the file for the canopy to be less than the required distance from the road.

J. Treat said that part of the backbone of zoning regulations is to get rid of nonconformity where possible. The ZEO should not have said that the signage was gone, nor should they be formulating an opinion.

M. Altermatt stated that 18D of the zoning regulations prohibits signage on structural canopies. The sign on the existing canopy cannot be moved. If the sign was to be repainted it would be a different story but you cannot swap one nonconformity with another.

M. Silverstein said that the applicant would be better off to withdraw the application, put the canopy in place, and ask to put the sign on the canopy. He thinks they are premature in their application.

M. Altermatt suggested that the applicant try to convince the P&Z to add a special variance for safety. The role of the ZBA is limited to the statutes of the state. A hardship has to be shown that separates you from the rest of the population. If it is safety, the P&Z is more involved with that. He suggests that they present a traffic engineer study to P&Z if possible. Mr. Fedus agreed that it might be a good idea to see if P&Z will approve the canopy.

M. Altermatt told the applicant that if they want to withdraw their application they should consider it before the issue goes to a vote. P&Z may not like that fact that they backdoored the canopy by going to the ZBA. To get a variance granted, four out of five votes are needed.

Mr. Fedus requested a continuance of the public hearing until December or January.

### **Other Business**

#### **4. Approval of Minutes: June 14, 2022**

B. Anderson made a motion to table the approval of the minutes until the next meeting. J. Machnik seconded. The motion passed unanimously 5:0:0.

#### **5. Election of Officers**

This was tabled until the next meeting.

#### **6. Set 2023 meeting dates**

M. Silverstein made a motion to set the 2023 meeting dates for the second Tuesday of each month as follows:

January 10, 2023

February 14, 2023

March 14, 2023

April 11, 2023

May 9, 2023

June 13, 2023

July 11, 2023

August 8, 2023

September 12, 2023  
October 10, 2023  
November 14, 2023  
December 12, 2023

All regular meetings will take place at 7:00 p.m. at the Bolton Town Hall, 222 Bolton Center Road, Bolton, CT and/or utilizing Zoom if COVID-19 restrictions necessitate.

J. Treat seconded. The motion passed unanimously 5:0:0.

**7. Correspondence-None**

**8. Other-None**

**9. Adjournment**

B. Anderson made a motion to adjourn at 8:37 p.m. J. Machnik seconded. The motion passed unanimously 5:0:0.

Respectfully submitted,

*Leslie J. Brand*

Leslie J. Brand

Please see minutes of subsequent meetings for corrections to these minutes and any corrections hereto.