

BOLTON PLANNING & ZONING COMMISSION
REGULAR MEETING
7:30 PM, Wednesday, July 12, 2017
Bolton Town Hall, 222 Bolton Center Road

Minutes & Motions

Members Present: Members Chairman Eric Luntta, Thomas Robbins (alternate), Carl Preuss, James Copley, Jeffrey Scala, Arlene Fiano, Adam Teller, Neal Kerr.

Members Excused: Christopher Davey (alternate) and Nancy Silverstein (alternate).

Staff Present: Patrice Carson, AICP, Director of Community Development, Jim Rupert, Zoning Enforcement Officer, Sarah Benitez, Recording Secretary.

Others Present: First Selectman Robert Morra, Selectman Sandra Pierog and Gwen Marrion (7:45), Administrative Officer Joyce Stille. Several members of the public were present.

1. Call to Order: Chairman Eric Luntta called the meeting to order at 7:30 p.m.

A. Teller moved to advance agenda item 7a to precede item 2. J. Scala seconded. Vote 7:0:0.

2. Public Hearing (7:45):

a. APPLICATION: Zoning Regulation Amendments to Section 2 Definitions and Section 11F. for Rear Lots (currently known as Irregular Lots), Bolton PZC

P. Carson read the notice of public hearing.

Staff comments:

P. Carson provided the background that, in the last three years, this PZC has received two subdivision applications with rear lots. In one, the PZC felt the rear lot did meet the spirit of the regulation though not the regulations itself; in the other, the opposite. As a result, the PZC felt the regulations did not give clear direction to applicants. They amended the regulations to achieve greater clarity and provide greater direction for a more predictable process. The regulation is nonbinding of the PZC. The regulations of multiple municipalities were reviewed in the course of discussion and the draft went through multiple revisions. E. Luntta added that the PZC has gathered information from many towns and spent many meetings on these amendments. The aim is to help clarify for all involved in an application, from the landowners to the engineers, better determine what can be done with the property. He thanked staff and the PZC for their work.

Public comments:

R. Morra, 15 Tinker Pond Road, discussed some sections with which he strongly disagreed. The language of #2, which states that no rear lots shall be created unless part of a 5-part subdivision, would have made both his previous subdivided lot and his current one impossible. It would have a financial impact

and prevent the option of selling or leaving such a lot to one of his kids. While he did not think the intent of the regulation was to impede the character of a neighborhood, he felt that is what it would do. He thought all of #2 should be abolished and that it would punish people who are currently able to do such a subdivision. R. Morra also questioned #3, the minimum distance of 1,000 feet between rear lots as measured along any public street. He did not understand what reasoning was behind it. He thought that should be determined in relation to topography and other land factors. He said that #4d would prevent a scenario where an abutting lot was 20 acres and someone wanted rear lots on opposite ends, even if all other parts of the regulation were met. He also asked as to the reasoning behind #5a and #5b.

A. Teller pointed out a section in the current irregular lots regulation which explains that rear lots are intended to be a last resort, used sparingly, and not as a design technique. He acknowledged that there have been past cases where decisions did not reflect that intent and said they are trying to add clarity and tangible limits to align with it.

R. Morra said he would be against that interpretation of the regulation as he felt that it was an overreach into property owners' rights. In light of A. Teller's reference, R. Morra said his response would be a written recommendation to change the regulation. He felt it was unfair to smaller landowners. A. Teller asked what thresholds he would find more acceptable. R. Morra will develop and submit written material to the PZC as a recommendation. E. Luntta noted that the intent is to protect abutter rights in addition to landowner rights. R. Morra understood but felt the regulation went in a different direction.

Will Anderson, 77 French Road, said he had understood that the regulation needed amendment to be made simpler. He referred to the level of simplicity in the 1990's, after which he said the paragraph which contains additional restrictions was added. He did not know why that was changed but said it has been a source of issues since then. It seemed to him that someone wanted to clamp down on rear lots. He cited an Enrico Road subdivision in which rear lot use was beneficial in giving relief from bends in the road. He also thought rear lots aid rural character, which the town values per the POCD. W. Anderson said the POCD also notes that the PZC is wary of max density limits as they may affect economic return for landowners who may subdivide, but he felt the amendment would have a similar effect. He pointed out instances where the rear lots are mentioned in other sections and asked how that language would align with these regulations. The PZC took note of the sections. He did not see how rear lots could affect safety or emergency access and thought that issue lay in signage, not zoning. He suggested a fix by an ordinance on signage, mailbox placement, and/or house numbers when a house is not visible from the street or is across the street from its mailbox. He thought also that people should be able to decide for themselves what risk they wish to take by living further from the road. He said there could be safety benefits to rear lots, such as less road proximity for children playing outside and less criminal targeting. If someone thought a location unsafe, they should buy elsewhere. He didn't think what one person does a property should affect what another does on theirs. He said the 500 foot driveway limit ran counter to the privacy concerns the PZC cited. He mentioned some other towns' regulations which he preferred and a Massachusetts program which provides detailed recommendations, of which the PZC took note. In general, he felt that the PZC should consider possible unintended consequences and that the zoning regulations had become exclusionary and overly restrictive.

E. Luntta explained that the Fire Department requests shorter driveways for their own safety during a response, to allow for EMS and water access.

M. Hathaway, 40 Quarry Road, recognized the work PZC put into the regulations. He supported allowing written comment after the meeting to allow more input. He recommended more flexibility built into the regulation such as waivers to allow for workarounds where merited.

John Treat, 87 Bolton Center Road, said he was familiar with the PZC and the ZBA, which is able to add some elasticity to PZC regulations. He liked and supported the regulation upon reading it. He said at one point, rear lots were not allowed at all, and he did not see any problem in Bolton resulting from that.

Sandra Pierog, 37 Brandy Street, noted that her current property, deeper than it is wide, currently allows for two lots in front and one large one in back. The amended regulation would only allow one in back and one in front, which she felt was not the result the PZC would want. She asked them to consider lowering the number of lots allowed, and pointed out that many owners who have 8-10 acres would now only be able to do a first cut.

Richard Treat, 8 Lyman Road, agreed with most comments that the regulation was very restrictive. He thought the short driveway argument in favor of emergency services access and safety was a good one. He would like the PZC to see if they could loosen up the regulations somewhat. It seemed that the underlying attitude was that rear lots are unacceptable. He disagreed and thought they can be nice, reasonable places to live. If there were reasons which the PZC had not given that make rear lots indefensible, such as in the case of longer driveways, he would like to be able to know and consider them.

C. Preuss and A. Teller further explained the driveway limit. It is in the regulation per the Fire Marshall's recommendation. Driveway length affects the department's ability to lay hose and they cannot be driving in and out for water. It is not only the occupants' safety, but the firefighters' safety, that depends on water and emergency access. If it is unknown whether someone is inside a burning house and water runs out while a firefighter is accessing it, the death or injury that may result is a significant risk and impact on their family, friends, the fire department, and town finances and liability. The town is not liable for occupants' or landowners' safety, but the town is responsible for the safety and risk of injury or death to town personnel.

A. Teller noted that unintended consequences can occur due to consecutive subdivision of land without planning for lot locations ahead of time. The PZC wishes to encourage the foresight that will prevent left over land being declared a rear lot due to lack of planning.

A. Teller moved to continue the Public Hearing to Wednesday, August 9, 2017, at 7:45 PM, Town Hall, 222 Bolton Center Road. J. Cropley seconded. Vote 7:0:0.

3. Approval of Minutes:

June 14, 2017 Regular Meeting Minutes: C. Preuss moved to approve. E. Luntta seconded. The following amendments were made: in item 6a, third paragraph, the correct acreage of the

Stangeland property should read 53.5 acres. In 6c, all instances of “Dr. Christina Elias” should read “Dr. Cristina Ilies.” Vote 6:0:1, J. Scala abstaining due to absence at that meeting.

4. **Residents’ Forum (Public Comment for items *NOT* on the agenda):** No comments.
5. **Report of the Zoning Enforcement Officer:** J. Rupert reported on several zoning enforcement actions. There were several administrative zoning permit applications.
6. **Old Business:**
 - a. **APPLICATIONS/POSSIBLE DECISION: Application for Zoning Regulation Amendments to Section 2 Definitions and Section 11F. for Rear Lots (currently known as Irregular Lots), Bolton PZC:** No action taken.

7. **New Business:**

- a. **APPLICATION/POSSIBLE DECISION: Site Plan Review for Home Occupation, Tattoo Studio, 822 Hop River Road, Kelly Green:**

Kelly Green presented her home occupation application for Stable Studio. The studio is to be located in a barn on her property after the interior is remodeled. The business will cause little foot traffic, have ample parking, and have handicapped accessibility. Lighting will be improved for safety. Operation will be Monday through Saturday, by appointment only. Hours are flexible but likely to be in the ballpark of 10 am to 6 pm. Both of her neighbors on either side have been notified and have signed letters that they are aware and have no objections to her plans. A small dumpster will be emptied twice a month and there will be sterile waste collection.

P. Carson and J. Rupert have been in discussion with K. Green. K. Green has followed all necessary steps. A letter was received from town sanitarian Holly Hood with the following conditions: 1) Plan review and permit to construct applications and fees (total \$325) will be due at time of construction. 2) Prior to any system construction the system must be field staked by a licensed surveyor. Upon completion of field staking and prior to septic permit approval, the LS must submit a completed and signed “Staking Verification Memo” (EHHD form) to the health district. 3) There is no guaranteed or implied perpetual approval for this plan. This subsurface sewage disposal system design and well location plan is approved based on the conditions depicted on the plan and the requirements of the Public Health Code and Technical Standards in effect at the time of our review. Plan revisions may be necessary if there are changes in Code requirements or the technical Standards prior to permit approval or changes to site conditions prior to system construction.

A. Teller moved that the PZC approve the application of Kelly Green for a special permit for home occupation in accordance with the application and drawing received July 6, 2017, and map dated June 27, 2017; with the conditions imposed by Holly Hood’s letter dated July 11, 2017. A. Fiano seconded. Vote 7:0:0.

Here the PZC returned to item #2.

8. Discussion: Plan of Conservation & Development: No action.

9. Correspondence: None.

10. Adjournment: J. Scala moved, seconded by J. Cropley. Vote 7:0:0. Meeting adjourned at 9:50 pm.

Respectfully submitted,

Sarah Benitez

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