

BOLTON PLANNING & ZONING COMMISSION
Regular Meeting
7:30 p.m., Wednesday, July 14, 2021
Virtual Meeting utilizing Zoom
Minutes & Motions

Members Present: Chairman Adam Teller, Vice Chairman James Cropley, Christopher Davey, Benjamin Davies, Arlene Fiano, Tom Manning, Thomas Robbins and Alternates Marilee Manning and Rodney Fournier

Members Excused: Alternate Jeremy Flick

Staff Present: Patrice Carson, AICP, Consulting Director of Community Development, Jim Rupert, Zoning Enforcement Officer, and Yvonne Filip, Recording Secretary.

Others Present: David M., Eric St. John, Stephen Penny, Michael Bugnacki, Michael D'Amato, Matt, Joyce Moran, Mark Reynolds, Andrew Bushnell, Sandra Pierog, Ed Grace.

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

2. Approval of Minutes: June 9, 2021 Regular Meeting Minutes

A. Fiano moved to approve the minutes of the June 9, 2021 regular meeting as written. **J. Cropley seconded.** Vote: 6-0-1(Davies). Motion passed.

3. Appointment of Interim Zoning Enforcement Officer – Michael D'Amato

This appointment is a recommendation from the Board of Selectman. M. D'Amato's resume was sent to the PZC. M. D'Amato will be helping Bolton with zoning matters on an interim basis to pull some of the weight off of J. Rupert as he serves as Interim Town Administrator. M. D'Amato is the Membership Director of CAZEO; his degree is in Urban Planning.

D'Amato said he is certified as a ZEO, a Planner, and a Wetlands Agent. He has been working for municipalities for 15 years as a consultant for the towns of Willington, Ashford, Tolland, East Windsor, and a few others.

A. Teller asked J. Rupert if it would make sense to make J. Rupert Deputy ZEO just in case M. D'Amato is not available? J. Rupert replied yes. J. Rupert has worked with M. D'Amato and highly recommends him. M. D'Amato is ready to jump in and help out.

A. Teller moved to appoint Michael D'Amato as Interim ZEO and simultaneously appoint James Rupert as Deputy ZEO. **J. Cropley seconded.** Vote: 7-0-0. Motion passed.

4. Resident's Forum (Public Comment for items not on the agenda): There were none.

5. Staff Reports:

P. Carson reported:

- T. Manning asked about some activity at Camp Meeting Road and I-384. The State is redoing some drainage under the highway and created temporary access. The access will be restored

once the work is completed. Most of the activity is taking place on State of Connecticut and Manchester Water Company property.

- She has had an inquiry about another business going into England's plaza. This would be a plumbing showroom going into the dentist's office space. There will be a redesign of the inside of the office space and a parking plan. Does the PZC want to review the parking plan or is this a Staff site plan review? A. Teller said that would be a continued use of retail space. That is a zoning permit with parking calculations. J. Rupert said the Town Engineer will weigh in on the parking calculations. A. Teller said Staff should get a narrative of what they are planning to do for that level of review.

J. Rupert reported:

- The building permits have slowed down with a couple of garages this month.
- He made a site visit for the violation at 255 Hebron Road. Nine unregistered cars have been disposed of. The dumpster has been removed. The owner will continue with the clean-up.
- A couple of items of pending litigation have been referred to the Town Attorney for action.
- A Building Permit application was received for 1100 Boston Turnpike for a Dollar General.

6. Old Business:

- a. Other:** There was none.

7. New Business

a. Request for Extension of Time to File Plans With Town Clerk Under Zoning Regulations Section 16B.5.b: Special Permit for Nursery and Value Added Agricultural Business, 1225 Boston Turnpike, Happy Town LLC (#PL-20-13)

Atty Stephen Penny was present for this matter. Atty Penny noticed there are inconsistencies between the Town's regulations and the State statutes. But since the regulations require an extension to file plans, he is requesting that extension.

A. Teller moved to grant an extension of time to August 16, 2021 to file plans with the Town Clerk's office in accordance with Section 16B.5.b. of the Bolton Zoning Regulations for Happy Town LLC's Special Permit application #PL-20-13 for Nursery and Value Added Agricultural Business at 1225 Boston Turnpike, which application and plans were approved by the Planning and Zoning Commission on April 14, 2021. The extension of time is to allow the applicant to get the plans signed by the Soil Scientist before they are filed. **T Manning seconded.** Vote: 7-0-0. Motion passed.

b. Informal Discussion: Possible Uses in the NB Zone, Mike Bugnacki

A. Teller stated for the record that this is an informal discussion. Nothing that is said by the PZC should be considered a binding decision or something the applicant can firmly rely on.

Mike Bugnacki was present. In 2015 he purchased lots on Loomis Road – one in the residential zone and three in the Neighborhood Business zone. He had advertised the potential of building a facility for the various uses allowed in that zone. Nothing much has come from that. He then explored and advertised a plan for an office/condominium building of five units. The public water source well has been approved with the State. This approved concept by Bolton has been advertised in MLS, on-site, and by word of mouth. This has not garnered any real interest. With the pandemic people have discovered they have less need for office space. Several residents in town have expressed interest over time of possibly having age restricted residential type housing.

There is a call for this type of housing and not a lot of supply. The current zone of NB does not allow for a residential use. Mr. Bugnacki is thinking this could provide for community needs if this type of use was allowed in this zone. His plan would have 5–6 one-bedroom apartments and no basements. Such construction may be good for the disabled. If it was an over 55 designation a burden would not be placed on the school system. M. Bugnacki wanted the PZC's thoughts on modifying the NB zone or creating a different zone to allow this type of construction.

A. Teller asked about a mixed-use concept? M. Bugnacki said this property does not offer a highly visible profile that a lot of businesses need.

J. Cropley asked the size of the property and if these units would be owned or rented? Mr. Bugnacki said the land is a little over an acre and he is open to either renting or ownership. He consulted his engineer and a septic system can support such a building.

A. Teller said Section 7A deals with multiple dwelling complexes but requires 10 acres. This type of housing is only currently allowed in R1 & R2 zones. It would be completely conflicting with R1, R2 if allowed in NB.

T. Manning asked if M. Bugnacki has thought about live/work units, such as studios for arts, photography, crafts combined with living space. The regulation would still have to be changed but that might be compatible with neighborhood business zone.

C. Davey said he has heard the constant drumbeat of people asking for senior housing. This is someone asking to create what has been asked for. It would behoove us to help this vision. Most of the businesses in a NB zone have been there for decades. C. Davey would support changing the zoning or adding a new use under special permit that would allow senior housing. J. Cropley said he agrees. He thinks over 55 housing would fit the area nicely and neighbors would not mind. A. Teller said he does not disagree in the thrust of it. But if we allow it here it would be on less stringent requirements than are part of the R2 zone.

P. Carson said the NB is a more recently created zone. It seems it would not be bad to add small scale senior housing which was identified as a need in the POCD. PZC could limit the numbers or let the property size limit the number. This would be like having added light manufacturing to the special permit use. The POCD supports the need and a regulation change.

R. Fournier said the reason senior housing projects have not worked is that it would be out of range of the locals that would buy. If a developer is expecting Bolton seniors to come forward it would not work. The housing would have to be offered to all.

A. Teller said if we will be accepting accessory housing on lots those accessory buildings would be for anyone, not just seniors. Senior housing has been requested for twenty years.

Mr. Bugnacki said his plan would have the living space on one level. The site is level so having the parking and bathroom handicapped accessible would not take much. He has heard from a number of residents repeatedly asking why not build for the elderly or over 55.

A. Teller asked how much of a septic system can a one acre lot support? M. Bugnacki had his engineer, Mark Reynolds, show the approved site plan showing the septic area when this was

approved for a 6,000 sq ft office building. Mr. Reynolds has analyzed a septic system expansion for six-bedroom capacity by decreasing the parking spots and amount of pavement. There is also the required reserve site. This is the maximum size system that would fit on the property. P. Carson said most of the lots in the NB zone are of this type; they are not huge lots.

J. Cropley asked if the one well would serve all units? M. Bugnacki said yes, the well has been approved as public water supply site. The well has not been drilled.

A. Teller said Mr. Bugnacki could ask for a zone change to R and apply for special permit for elderly housing or request a change to the NB zone that would then apply to any NB zone.

J. Cropley said there is a need for senior housing in town. The parcel where the drive-in was would have been so overpriced that it would never have worked. Seniors are looking for a place to stay in Bolton. An over 55 or senior complex would be a great idea for this town.

M. Manning said we will have to build affordable housing. This location is safer for driving than having it on Routes 44 or 6 and it is closer to the center of town. R. Fournier said this property is not on a bus route. No one said it was going to be an affordable housing project. A. Teller said this would be cheaper than accessory dwelling units. A. Teller said it sounds like the PZC would entertain an application to modify the regulations to allow elderly restricted housing as a permitted use. There is a clamor for this type of project so the need has been identified. And a change would not affect too many places in town.

c. Informal Discussion: Proposed New Bolton Vet Site, 233 Boston Turnpike, Andrew Bushnell

Andrew Bushnell was present, as were David Madden and Ed Grace. A. Bushnell presented the plan for the 3.5-acre site at the corner of Williams Road and Route 44. The property now is a mix of wooded and cleared area. Bolton Vet wants to stay in Bolton and expand the business by constructing a new 17,000 sq. ft building with 100–120 parking spaces. Part of the building will have a basement. The proposed access point is on Williams Roads because of sight line issues. This recommendation came from DOT, a traffic engineer, and Joe Dillon. A detention basin will be on the south side of the site to tie into the catch basins for overflow. Two well locations will have to be approved as a community water source. Cars are now using Williams Road to get to Bolton Vet so the traffic pattern will be the same. This is a 24-hour, 7 day operation. Some buffer will be on Route 44 to add some curb appeal softening the view from Route 44. The building is across from the Simonize complex and there is 25' to the abutter. Topography issues have dictated where the building is sited. Parking is supposed to be behind the building. A waiver will be needed for both sides because this is a corner lot.

A. Teller asked about the emergency entrance being on Route 44. Mr. Bushnell said they are trying to avoid that because of sight line issues. Sight lines are affected by the posted speed limit and the actual speed. Cars are barreling through this area. A. Bushnell is waiting to receive the turning radius of the fire truck to see how that would perform in the parking circle area. But Cape Cod curbs will be used that can be ridden over by the rear wheels of tractor trailers if needed. There is some room to possibly push the parking toward Route 44. C. Davey said big trucks coming in with inventory would be driving through the entirety of the parking area which could be a hazard for pedestrians getting in and out of vehicles. Mr. Bushnell said they are

trying to keep the client parking area near the building and the employee parking to the exterior of the lot. Mr. Bushnell confirmed that the Pet Store will also be located on this lot.

J. Cropley said he would prefer the entrance to be farther down on Williams Road than closer to Route 44 to avoid conflict with Simonize.

C. Davey said his wife owns a veterinarian practice; he can recuse himself from any hearings if that is preferred.

Ed Grace, an owner of the practice, said this veterinary clinic supports fifty practices in the area. It is overrun with clients. They feel their new location has to be close to where they are now and have easy access. Mr. Grace says the plan may be shoe horned into this site but it is a business zone site that has been lying fallow for a long time. P. Carson said the town is glad they have chosen to stay in Bolton. A. Teller concurred.

d. Informal Discussion: Bolton RV, 17 Howard Road, Eric St. John

Eric St. John was present to discuss the project narrative that he has been working on and having some problems with. For the parking area the intent was to remove trees, install a fence, and create a pervious parking area for RVs. The best use for the yard would be for this to be a pervious surface. The roadside fence was extended to the north to the upper driveway to close in the parking area. Mr. St. John has installed arborvitae for screening but that is slow to grow. He would like to discuss some ideas for buffers with the PZC. There is a concern where the building line is and the 25'–30' of fence in front of that building line for storing of equipment. Construction beyond the building line is not allowed. He would like to use a commercial, engineered permeable paver in the parking area so the project can be buttoned up.

Andrew Bushnell showed the site plan. The shaded area is the permeable paver parking area for RVs. There is an existing chain link fence and arborvitae on Howard Road. The plan calls for extending the fencing and arborvitae toward Route 44.

J. Cropley asked about the pavers. Mr. Bushnell said these are a plastic-like mat in an octagon shape. The capacity is in the subgrade below the mat. There is some capacity in the mats and the stones that are there. This is considered pervious as opposed to impervious. P. Carson asked what maintenance is needed on the pavers? Mr. St. John said it should have a 20+ year life span that is virtually maintenance free. They are made from recycled plastic and designed for heavy commercial use. True Grid Pro Plus works in all climates and all soils.

A. Teller said when it comes to pervious surfaces PZC defers to the ZEO and the Town Engineer to determine its use. J. Rupert said this is defined as a pervious surface.

J. Rupert said the history of the project was that E. St. John was told to remove the impervious surface to restore the area to a turf situation and to screen the storage area with a fence and plantings. Mr. St. John is trying to figure out a way to expand his business and meet the regulations. Storage should be screened from street view and not be in front of the building line. This site is very low compared to Route 44. The tops of all the stored RVs can still be seen from Route 44. The site fronts on both Route 44 and Howard Road and is visible from both roads.

R. Fournier said all is visible in the winter so are we only talking about screening during summer? Mr. St. John said the area of concern is not so much from Route 44 but from Howard Road. One suggestion was to park the shorter trailers or pop-ups there with nothing in front of the building line. E. St. John said the RVs parked there now are behind the front building line. The RVs are in and out now because of vacation time. Where there is generally 20–25 RVs in this area there are 6 right now. That lot is a service lot so RV storage is not there in the winter. That is where he puts vehicles being serviced.

J. Rupert said enforcement activity has started. E. St. John was cited for not coming to the PZC before doing this work. Mr. St. John said the fence has been installed running up Howard Road. The pavers are not installed yet; the trees have been removed and the stumps and topsoil removed. He was in the process of leveling off this area for a gravel parking area with hay bales in place when he received the phone call telling him to hold off from doing any further work. How to get rid of stormwater is an issue. A. Teller said he has to convince the Town Engineer and the ZEO that creating a pervious surface is a solution for the stormwater issue. E. St. John said this site is off the beaten path and if the neighbors are agreeable he could put in enough screening to use some of the space in front of the building line. If it can't be used he would not use that 20'-25' area up to the fence with a guidewire to prevent the storing of vehicles past that area. If True Grid is not used it will just be a yard. A. Teller said he can ask for a modification of the site plan or ask for a waiver. J. Rupert said this is possibly a minor modification. If J. Rupert and Mr. Dillon are comfortable with approving the modification they can make that determination, otherwise it would come before the PZC. A violation for using the front yard has to come to the PZC. The burden is always on the property owner to show to the ZEO that you are eliminating the violation. The existing house is on the front yard line but that is not part of the business. J. Rupert said the regulations do not permit storage in front of a building. J. Rupert said the current conditions have been there since the pandemic with and no complaints received.

A. Teller said storage is shown to be from the building back. The shaded area was not shown as storage in the Holmes & Henry plans. The shaded area was added without PZC approval. He does not believe this was malicious or trying to skirt the regulations. Mr. St. John is trying to work with Staff and the PZC to correct an issue where he backed himself into a corner. A. Teller said there is no rational reason that we would restrict the shaded area that was wooded at the time. RV storage was existing farther along Howard Road to Route 44, although he does have some responsibility to provide a buffer from the residential area.

J. Cropley said it sounds like the ZEO can take care of this with the guidance PZC provided unless the ZEO is uncomfortable doing so.

e. Discussion/Possible Decision: Site Plan Application for Fruit & Vegetable Stand, 199 Hop River Road, Robert Sherwood/Ted Moran (#PL-21-10)

Mr. Moran said this fruit stand has been there for 37 years although he has never run it. It was always rented. Now T. Moran is selling fruit and some baked goods from the stand that is open 8:30 a.m. until 7:00 p.m.

Staff said the stand is in a business zone. The front of the property is zoned GB with Industrial zone in the back. J. Rupert said while the fruit stand has been operation it was never considered permanent in nature. It was intended to be removed at the end of each season but has morphed into a more permanent structure. Therefore, a site plan review is needed so Mr. Moran and the

person operating it are working within the regulations. P. Carson said the stand is not sitting on the farm where the products are grown. The items being sold are being brought in. Operation is seasonal and the structure is permanent. The person does sell Christmas trees.

A. Teller said this is not an accessory to a farm. J. Rupert said it is similar to the hot dog stand. It was an existing non-conforming use that required a site plan review. This was vacant for a while for what may be an existing non-conforming use. A. Teller said it is in the footprint of what he was doing, so if it was never abandoned it can carry on. J. Rupert said it recently became occupied. The building has open partitions and a small building that can be locked up as the area to secure product overnight. It has a walk-in refrigerator for storage. The building has been empty but it recently re-opened. The people thought they could just move in and open again. Is a building that is lockable and provides storage really a temporary structure? There have been no complaints and it has adequate parking. J. Rupert said he does not think it a problem saying it is an existing non-conforming use.

A. Teller said the application does not have the narrative for the Site Plan approval. The narrative would help determine if it has been existing as a valid pre-existing use Staff could approve the application. If there is a change or expansion to the use the applicant would have to come back to PZC. In the form it is in A. Teller could not approve this application because the application does not show that the use fits within a regulation.

C. Davey asked if a possible avenue would be to withdraw the application and work with ZEO to develop a narrative. A. Teller said the narrative has to specify what he is doing now and has been doing long enough as a pre-existing use before this regulation was written. Then the ZEO can give a zoning permit. The application fee can be refunded if the application is withdrawn.

Mr. Moran will speak with the ZEO and explain this stand was installed before zoning. J. Rupert will look at the records to see if that's what was being done was before the regulations came in. J. Rupert believes that the approval that exists in the file is limited to what was approved. There is no cease and desist on this property. Mr. Moran is still able to operate the stand.

This matter will be put on the agenda for the next meeting if needed. If the matter is resolved the application can be withdrawn. No action is being taken on this matter this evening.

f. Informal discussion: New Legislative Changes

A. Teller proposed this be deferred until the next meeting. P. Carson said provided the August meeting agenda does not fill up again the matter can be taken up then.

g. Other – Change in meetings

P. Carson asked if the PZC wants to continue meeting remotely or meet in person which will require a hybrid meeting. To meet in person, two Commissioners have to be trained to work the equipment in Town Hall in the event Staff is not available to run the equipment.

T. Manning prefers to meet in person but would prefer that when we are not required to provide the hybrid meeting.

A. Teller said it may be difficult to get two people trained on the equipment for the next meeting. We have to provide a way to attend in person or through the hybrid approach.

P. Carson said applicants have enjoyed not having to pay for their engineer's drive times to/from Town Hall with the virtual meetings. Only one person expressed concern about not being in person until he found out he would not have to pay for his engineer's drive time. And some design professionals have been able to attend a meeting they might not have been able to get to.

J. Cropley prefers to meet via Zoom. C. Davey can meet either way; he is happy to be trained on the equipment but he will not be on the PZC after November.

Sandy Pierog said to T. Manning point of not needing to offer the hybrid approach – the current state law requires the hybrid offering until June 30, 2022. A change to the Town Charter would be required to have hybrid meetings going forward – the meetings could be accessible remotely, if practical, but would not be mandatory. A. Teller said the August meeting of PZC will be a remote meeting. Training can be held between now and the September meeting to allow a hybrid meeting.

J. Cropley asked if research has been done do see if there has been more participation in the Zoom meetings than had been for the in-person meetings. J. Rupert said the participation in remote meetings has been much better than in meetings not offered virtually.

8. Correspondence: There was none.

9. Adjournment:

J. Cropley moved to adjourn the meeting at 10:24 p.m. A. Teller adjourned by acclamation.

Respectfully Submitted,

Yvonne B. Filip

Yvonne B. Filip, Planning & Zoning Commission Recording Secretary

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



TOWN OF BOLTON

Planning & Zoning Commission

222 Bolton Center Road, Bolton, CT 06043

Tel.: (860) 649-8066 x 6105

MEMORANDUM

TO: Bolton Planning & Zoning Commission
 FROM: Patrice Carson, Consulting Director of Community Development, Mike D'Amato, Interim ZEO, Jim Rupert, Interim Administrative Officer/Deputy ZEO
 DATE: August 9, 2021
 SUBJECT: **New Requirements following 2021 Legislative Session**

Summary

Following the close of the Legislative session in June, there were many changes that were made to the Statutes that pertain to Planning and Zoning Commissions. The table below outlines each new change, indicates if our current regulations and/or policies comply with the changes or not and recommended actions.

Staff Comments:

Requirement/Provision	Compliance	Notes and Recommendation
Outdoor Dining by Site Plan Approval	No	<p>Article 3B4.f.—Added in September 2020 pursuant to Executive Orders in place at the time which will need to be amended.</p> <p>Article 3B.4.a.—Says there shall be no outdoor seating or eating but then allows the PZC to approve outdoor “café service”.</p> <p>Article 8B.2.b. and 8A.2.b. currently reference Article 3B.4 so when modified, it will comply.</p> <p>Article 8C.2.b.6.—Requires SUP in RMUZ and will need to be amended to reference Article 3B.4 so when modified, it will comply.</p> <p>9B.2.b and 9B.2.b (4) will need to be modified to reference 3B.4</p> <p>Staff suggests the PZC Modify Regulations to allow as an as of right accessory use to be clarified in Article 3B.4</p>
Family Child Care allowed by Right (We presume this is for home day care of six children or less.)	Yes	<p>6A.12</p> <p>8A.2.b.21. for large day care centers</p> <p>8B.2.b.16. which are not meant to be</p> <p>8C2.b.21. allowed by right</p> <p>9B2.b.30</p>

Cannot Regulate Mobile/Manufactured Homes substantially different than other types of housing.	?	Needs consideration/discussion. See Article 5A
Shall Not Prohibit Cottage Food in Residential Zones	Yes	6.A.8. permits customary Home Occupations by right under certain circumstances. 8C.2.b.15. permits Home Occupations by Special Permit. 9B.2.b.32. permits Home Occupations by Special Permit.
Establish a minimum floor area for dwellings greater than that contained in building, housing or other codes	No	Remove reference to Min Floor Area in Article 11B and Article 16A.14(f)
Cannot require parking minimums beyond one space for a 1 BR unit or 2 spaces for larger units. (can opt out by October 1, 2021 with a 2/3 vote of the legislative body and a 2/3 vote of the PZC) Municipal opt-out process: PZC by 2/3 vote opts out provided: 1) Public Hearing has been held. 2) Affirmatively decides to opt out within statutory time period. 3) States on the record the reasons for the decision to opt out. 4) Publishes notice in the newspaper. Subsequently must be approved by 2/3 vote of legislative body or Selectmen in town meeting towns.	Yes	Article 150 currently requires 1 space with a max of 2 per apartment. Commission can opt out of this provision by October 1, 2021 but staff does not recommend opting out.
Shall not place a cap (in number or percentage) on multi-family units	Yes	We do not cap the total number of multi-family currently.
Shall not cite a districts “character” as approval/denial criteria	?	At minimum, remove “scenic character” as an evaluation criterion as listed in Article 7.A.3.5. There may be other areas that need to comply but this should be discussed.
Shall allow Accessory Dwelling Unit by right (can opt out by January 1, 2023 with a 2/3 vote of the legislative body and a 2/3 vote of the PZC – see process above)	No	Accessory Apartment definition will need to be modified to clarify it can also be detached. Section 6.A.3 currently allows an accessory apartment by right subject to 3 conditions. Need to modify to allow detached units. Section 8C.2b(13) will need to be modified to remove the SUP requirement for accessory apartments. Commission can opt out of this provision

		by January 1, 2023 but staff does not recommend opting out.
Max Floor Area of ADU can be less of 30% or 1000SF	Yes	Current ADU size requirements of 6.A.3 are compliant.
Shall Adopt Affordable Housing Plan	No	Staff has submitted for a Technical Assistance Grant to obtain funding to develop this plan and a UConn intern will be leading this project. In Fall of 2021, the Town should begin the process to draft and adopt an Affordable Housing Plan.
Technical Review Fees	Yes	Ordinance already in place.
Adult Use Cannabis	No	The Commission should discuss the retail and production regulations and decide what they can and wish to allow and under what type of regulation.