

BOLTON PLANNING & ZONING COMMISSION
Regular Meeting
7:30 p.m., Wednesday, February 10, 2021
Virtual Meeting
Minutes & Motions

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

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: Attorney Stephen Penny, Sandy Pierog, Andrew Ladyga

1. **Call to Order:** Chairman A. Teller called the meeting to order at 7:33 p.m.

2. Approval of Minutes: January 13, 2021 Regular Meeting Minutes

Corrections:

Page 4, 5th paragraph – change the spelling of “Prestredo” to “Pistritto”.

C. Davey moved to approve the minutes of the December 9, 2020 regular meeting as amended.

A. Fiano seconded. Vote: 6-0-1 (Cropley). Motion passed.

3. Public Hearings (begin at 7:45 p.m.)

a. Application: Special Permit Application for Nursery and Value Added Agricultural Business, 1225 Boston Turnpike, Happy Town LLC (#PL-20-13)

The public hearing was opened at 7:45 p.m. The public hearing notice was read into the record.

Present were: Stephen Penny – Attorney for the owner/applicant; Andrew Ladyga, owner/applicant; Richard Mihok, engineer for the project; Mark Byam, All American Tree Care.

Attorney Penny detailed the proposed uses and how that fits into the regulations and the POCD. This property is located at 1225 Boston Turnpike and the application is filed under Section 8c2b in the Rural Mixed Use Zone. The owner/applicant is asking for an exception for the impervious parking area surface and is using gravel. The property is 4.93 acres with 575’ of frontage on Boston Turnpike. Public sewer and a private well serve the property. This used to be part of the much larger Giglio Farm. The barns and farm stand building are dedicated for the current uses. There is a manmade drainage ditch on the east side and a wetland meadow on the boundary to the south. This application must still be review by the Inland Wetlands Commission. No wetlands will be impacted. Two businesses, along with the farm stand, propose to use the site. They are All American Tree Care and Shamrock Tree and Landscaping. Each of those business with have an area to grow tree stock which fits under nursery/agricultural and process logs for lumber and for heating products or firewood and wood chips. There processes would fall under value-added agricultural. The processing will take place out of sight from the front of the property. Pesticides used by licensed arborists will be stored. There will be no additional lighting or signs. There will be no additional buildings or alterations. A 10’ high privacy fence

will be added at the back of the farm stand. Equipment will be stored overnight or when not in use in the buildings or outside behind the privacy fence. The two businesses will employ 6 people with 20 hours per week on the property. There are ten parking spaces for the employees and 25 for customers of the farm stand. There will be 10 trips per day for the tree businesses and 25 trips per day for the farm stand. The farm stand operation will continue as is. There are no specific provisions for pedestrians as the property will be accessed exclusively by vehicles.

Attorney Penny cited the applicable regulations and relevant case law for this application. This application also is compatible with the Plan of Conservation and Development pertaining to the focus on business development. Residents would like the Town to encourage more business development on Routes 6 and 44 as these are high traffic volume corridors. The proposed uses for the property promote economic development while maintaining the rural character of Bolton. The proposed use is more positive than the prior farming use. A multi-faceted approach may be necessary to maintain the farming use.

Richard Mihok, Engineer and Land Surveyor, has surveyed this property beginning 25 years ago. It is ~5 acres and he has never seen water ponding as the property is flat and water percolates into the ground. The applicant proposed pervious travel ways and preserving a majority of the grass. There will be no additional runoff than there is currently. There are three driveway cuts onto the property which will be preserved. The sight lines are good as Route 44 is flat and straight here. The wetlands will be preserved with no or little work in the 100' regulated area. There will be an area of gravel parking to the rear. The land to the south and east is proposed to remain in farmland. The tree service businesses will have access to the bunker buildings for storage. The plan is to preserve the character and use of the property.

Atty. Penny concluded by again stating that this application has not yet been to the IWC. That meeting will take place at the end of the month. Atty. Penny has not seen any Staff comments that would preclude approval. The proposed plan satisfies the elements of the mixed use goals of this zone. These factors suggest approval from the PZC.

P. Carson said the Highway Supervisor and the town Engineer have some concerns about the sight lines from the third driveway and how vehicles cross in front of Old Coventry Road and behind a telephone pole. J. Rupert added another concern is that there has been a lot of use of going on behind the driveway onto Old Coventry Road. The Engineer suggests the use of that gets abandoned because it is an unsafe practice. Also, per the definition in the regulations gravel is not considered a pervious surface. T. Manning has an objection to what is happening off Old Coventry Road. M. Manning said it could be confusing for other drivers to know what the tree vehicles may be doing. R. Fournier thinks access from Old Coventry Road may be safer than cutting across Route 44. Atty. Penny said these issues can be addressed. P. Carson said no lighting plan was submitted. Atty. Penny said there is no change in the lighting than what is currently there and that predates Ladyga's ownership of the property. R. Mihok said the lights shown on the plan have 100-watt bulbs. A. Teller said a lighting plan is required even if it is pre-existing. T. Manning asked if the lights are full cut-off fixtures and if there is sufficient lighting for the tree activities? R. Mihok said they will check on that.

P. Carson asked if the PZC wants to see a landscaping plan for the nursery parking area to see that it complies with the regulations? The applicant proposes putting up fences so nothing behind the farm stand can be seen from the road. The dumpster has been relocated away from

the buildings. The regulations require that the fencing around the dumpster be vinyl. P. Carson said there is product from the composting pile at the two silos that is going onto the neighboring residential property. How does the applicant propose to contain the product? Is buffering being considered here or at the property line?

The narrative references storage of company equipment on the site. The bunker silos are marked for firewood and other product. Where will the equipment be stored? A. Ladyga said one of the silage bins will be used for wood processing and the other for storage of miscellaneous equipment. Parts of those bins are in a residential zone. What is proposed for buffering as a house could be built there? Atty. Penny said that is a wetlands meadow. A. Teller said there could be houses or a development there some time in the future. The PZC has to think of the future use of the land behind this property. The silos must call out vehicle storage and product storage so the PZC knows what the conflicts may be. Atty. Penny said the map will also show where the logs processing area is to be. A. Teller said one purpose of a multi-use zone is to reduce the number of curb cuts to have a defined entrance for coordinated traffic flow among the uses. R. Mihok said the plan is trying to keep the existing traffic for the farm stand at the first two driveways and have the tree services use the third driveway to segregate customers to the farm stand and the industrial uses. A. Teller asked if there is proposed signage that indicates that?

A. Teller is concerned that landscaping services and arborists services are not the same thing. The special permitted uses do not allow for landscaping services. Landscaping equipment might be disqualified from being stored here. It is not value-added forestry or agricultural and is not a farming use. Atty. Penney said the equipment may be used for all of these services. Lawn mowers would not be used for a tree service. A. Teller said it could start to look like a yard for storage and maintenance of equipment for use elsewhere and that is not allowed under a special permit. A. Teller is struggling with this aspect. Atty. Penny said the applicant would provide a better definition of how the landscaping fits into the special permit uses.

M. Manning said the privacy fences are in opposite corners. Is there access to the parking or the driveway? There will need to be a gate in the fencing. T. Manning asked how high are the walls on the silage bunkers? A. Ladyga said there will be a gate in the fencing between the two buildings and the walls are 9' – 10' high.

No one from the audience wished to speak.

T. Manning moved to continue the public hearing to Wednesday, March 10, 2021 at 7:45 p.m. via Zoom for Special Permit Application for Nursery and Value Added Agricultural Business, 1225 Boston Turnpike, Happy Town LLC (#PL-20-13). **B. Davies seconded.** Vote: 6-0-0 (Cropley did not vote). Motion passed.

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

5. Staff Reports:

J. Rupert reported the following enforcement action

- A complaint was received for 100 Birch Mountain Road of auto repair happening at the location. The person made the same complaint to the CT DOT. They found the complaint to be unfounded. The vehicles are ones that he owns. He does have more than one unregistered

vehicle. The remedy found was to move them to a friend's shop until he can register them. The person is considering doing welding work; he is a professional welder. The person was told if he does the work for others that has to be approved. If he is not having non-residence employees or customers coming to his home he falls under use-of-right. This person has been cooperative.

- The shed constructed on a vacant parcel at the end of Mt. Sumner Road was not removed by February 1, 2021 per previous violation action. This has been referred to the Town Attorney.
- There have been complaints about 255 Hebron Road with several motor vehicles making the property have junk yard like conditions. Before the snow fall four vehicles were removed from the property. The owner has been in regular communication and is working on progress.
- J. Rupert was asked to look into the firearms business on Hop River Road. As of now he does not have retail items on his website. A. Teller said the PZC did not approve retail. The permit application/narrative did include having retail items. P. Carson added the application said he anticipated 2 -3 firearms transfers per month including what he purchases and then transfers to an individual. Firearms would have to be shipped to a person with a FFL. The buyer would have to go to this business to do the ownership transfers. One to two customers were expected each week. He is allowed to use 25% of his residence. There are parking spaces for only two customers at a time. The PZC did not regulate volume with the approval.

6. Old Business:

a. Discussion/Possible Decision: Special Permit Application for Nursery and Value Added Agricultural Business, 1225 Boston Turnpike, Happy Town LLC (#PL-20-13)

There was no further action on this agenda item since the public hearing was continued.

b. Discussion of Accessory Dwelling Units/Living Space

T. Manning sent his preferences of the draft ADU regulations which were discussed.

- A. Teller feels the ADU size being 35% of the principal building size could be too much for those properties with large primary dwellings. Change the 35% to 25%. R. Fournier said maybe cap it at 750 sq. feet to quantify it and the size of the original residence will not come into play.
- Are there standards for how close or far apart buildings can be? There are not in the single family residential zone. They would have to be served by the same septic system. That may be the limiting factor.
- Regulations allow for three dwellings on a shared driveway. This could allow driveways for three buildings all over town. That could be an unintended consequence of going from one ADU to two ADUs.
- The limitations on the number of individuals will be the septic and the numbers of bedrooms. It would be an enforcement issue if someone is cramming people into a building or having too many people will cause the septic system to fail at some point. If the point is to create housing why limit how many people can live in an ADU?
- A. Fiano asked if an ADU is added can you enlarge the septic system? What happens if the property is on the sewer line which only allows so many units? J. Rupert said the expansion of living space triggers an application to the EHHD. Their approval is based on a code compliant system for the number of bedrooms; typically they don't require changes to the existing system but does require the property have space to build another system if the current one fails.
- A. Teller said if we are talking about an ADU there is already an established use on the property. Does the owner have to show that a septic system can be located on the property with an addition? J. Rupert said that has not been the case. The person does have to comply with the zoning regulations and there are not many opportunities for that to happen on lake properties.

The question would go to the Sewer Authority about requiring the additions of EDUs with the addition of an ADU. C. Davey asked if the draft regulations are requiring a certain lot size for allowing an ADU? J. Rupert said lot sizes would be different in the different zones and lake lots are pretty small.

- Item 6: T. Manning is rethinking his suggestion – he thinks that can be scratched.
- Item 7: It seems to add an undue burden to add parking for an ADU.
- J. Crolley said some smaller lots on the lake could not be built on because they could not get a sewer system in. Someone could purchase one of these smaller lots to put an ADU on. A. Teller said if they are combined into one lot it could qualify for an ADU. Do we not allow ADUs in the lake zone? One reason for the sewer line is to preserve nutrients from going into the lake; it was not meant to bolster residential development around the lake. J. Rupert suggested setting minimum lot sizes in those zones or not allow freestanding ADUs for those lots. The ADU would be within the existing building.

P. Carson will make the changes spoken about and update the draft.

c. **Other:** There was none.

7. New Business

a. **Other:** P. Carson received two responses to attend the law review in March. If anyone else wants to attend please contact her.

8. Correspondence

a. **Report on Statewide Planning Conversation – Racism, Planning, Zoning:** Nothing new.

9. Adjournment: J. Crolley moved to adjourn the meeting at 9:37 p.m. B. Davies seconded.

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.