

BOLTON PLANNING & ZONING COMMISSION
Regular Meeting
7:30 p.m., Wednesday, August 11, 2021
Virtual Meeting utilizing Zoom
Minutes & Motions

Members Present: Chairman Adam Teller, Vice Chairman James Cropley, Christopher Davey, Arlene Fiano, Tom Manning and Alternates Marilee Manning, and Jeremy Flick

Members Excused: Benjamin Davies, Thomas Robbins, Alternate Rodney Fournier

Staff Present: Patrice Carson, AICP, Consulting Director of Community Development, Jim Rupert, Deputy Zoning Enforcement Officer, Yvonne Filip, Recording Secretary, Mike D'Amato, Interim Zoning Enforcement Officer.

Others Present: Rhea Klein, Kawan Gordon, Sandy Pierog, Will Avery, Jeff Scala, Barbara Knight.

1. Call to Order: Chairman A. Teller called the meeting to order at 7:39 p.m. M. Manning was seated for B. Davies and J. Flick was seated for T. Robbins.

2. Approval of Minutes: July 14, 2021 Regular Meeting Minutes

J. Cropley moved to approve the minutes of the July 14, 2021 regular meeting as written. **A. Fiano seconded.** Vote: 7-0-0. Motion passed.

3. Resident's Forum (Public Comment for items not on the agenda)

Barbara Knight, 43 Clark Road was present to say 'hi' and to get a feel for how things are going. She has been diligently reading from the list of items A. Teller gave her. She is running for a position on the board this fall.

4. Staff Reports:

P. Carson reported that she has been working on the items that are included on this agenda.

J. Rupert reported that M. D'Amato has hit the ground running. He has been working and collaborating with P. Carson. His presence has been a godsend for J. Rupert.

5. Old Business:

a. Discussion/Possible Decision: Request to Withdraw without prejudice Site Plan Application for Fruit & Vegetable Stand, 199 Hop River Road, Robert Sherwood/Ted Moran (#PL-21-20)

P. Carson said the applicants spoke to the ZEO to make a determination if the pre-existing conditions were met. This was the course of action the PZC suggested at its previous meeting. The permit was left in place until a determination was made. Now the applicants are asking the permit be withdrawn without prejudice and the fee for that will go toward the other permits that are needed. The office received an email asking for the permit withdrawal. J. Rupert responded in the affirmative when A. Teller asked if a written narrative had been provided.

A. Teller moved to approve the requested withdrawal of Site Plan Application #PL-21-10 for a fruit and vegetable stand at 199 Hop River Road without prejudice based on the submission of pre-existing non-conforming use which revealed that a Site Plan application is not required. The Commission has determined that the application fee has been applied to other permits the applicant may need and any excess may be returned to the applicant. **J. Cropley seconded.**

Discussion: A. Teller said the applicant has a non-conforming pre-existing use that continues until it changes. The ZEO finds the applicant to be in good faith when stating the use existed in the past and has not been abandoned. Therefore, they are allowed to do that and no more. The PZC needs to accept this. J. Cropley asked if there is a procedure to inform the owner that the Town will say the use is abandoned if it looks abandoned for a time. A. Teller said there are a lot of ways to abandon a use. People do not lose their rights if they cannot continue the use without saying they are abandoning the use.

Vote: 7-0-0. Motion passed.

b. Update: Bolton RV, 17 Howard Road, Eric St. John

M. D'Amato has not received additional information from Eric St. John. A. Teller said there is not an actual application pending but there is an enforcement action pending. This is a formal action. P. Carson said an email asking for a report and timeline was sent to E. St. John but no response was received. J. Rupert said if he does not respond in a timely fashion he will have M. D'Amato continue with enforcement action. A. Teller said the PZC gave Mr. St. John a clear direction and reasonable options to make use of the site without it being obnoxious. This is something that ought to be pursued. PZC cannot let people go into the setbacks; there is also the issue of the pervious surface. The PZC can talk about the importance of adhering to zoning regulations but the Board of Selectmen has to authorize enforcement moving to the courts.

c. Other

P. Carson said an issue has been raised by Dr. Ilies' dental office. The general sign for the three properties has been relocated and she is complaining about that move. She says there was some agreement between her and Rosenlicht who owns the other property where the sign was to be placed of the placement and who gets first billing. P. Carson went through the records and found Ilies' only has an easement for use of the sign. The PZC cannot control agreements between properties owners. The easement on the approved plans was for access and utilities. The two different sign locations that have been approved were both on property owned by Rosenlicht, not Dr. Ilies. The sign was shown on the approved plan. The next application shows the sign moved. Dr. Ilies' building does have a sign on it and one common directory sign for all three properties is allowed under the Unified Village regulation for these properties.

6. New Business

a. Discussion: New Legislative Changes – Staff Memo

P. Carson went through the staff memo with the PZC.

- Outdoor dining – the suggestion by Staff is to make changes to the regulations that are not in compliance with the new changes. There are five areas of the regulations to be modified. M. D'Amato said this will allow outdoor dining to be a permanent fixture of a restaurant by right but it does not allow the taking of a town sidewalk. A. Teller said a restaurant should document what they are doing to submit to the ZEO to make sure it is what is allowed. If they go outside of that narrative creep occurs. T. Manning said he does not want this to wait for the grand redo

of the regulations. He would like to see some proposed language from Staff to get this into compliance. C. Davey asked if the new legislative changes apply to fast food and food stands? P. Carson said by right they have the ability to have outside seating. M. D'Amato added that any establishment that serves food and wants to serve food outside is covered by this change. It provides a method for people serving food to earn money without being inside. A. Teller said there was a serious accident on Route 85 near the farm stand that sells flowers. One person was almost killed where people would have been standing. The owner moved the farm stand behind the stone wall to make it a safer location. M. D'Amato said the changes are not meant to create a free for all. Public safety can review the documentation and determine if they feel the plan is proper. A site plan to verify compliance and staff review will still be required.

- Family child care allowed by right – Staff feels we are in compliance. M. D'Amato said there has been language on the books that towns cannot treat in home daycare of less than six kids as anything other than a single family home.
- Mobile manufactured homes – discussion and consideration was suggested by Staff and referenced section 5A. T. Manning said it looks like we are already in compliance. We are not being any more restrictive than the changes allow.
- Cottage food in residential zones – P. Carson said we are in compliance with this.
- Minimum floor area in dwellings – P. Carson said we have to correct the parts of the regulations that reference minimum floor areas as those are no longer allowed in the zoning regulations. There are requirements in building codes. M. D'Amato said requiring a size in the zoning regulations makes a house more expensive. C. Davey asked if Bolton would have to allow tiny houses? M. D'Amato said the difference is that they are on wheels. We have to allow accessory dwellings. M. D'Amato does not know if the change goes as far as saying it is on wheels. P. Carson said this is for permanent accessory housing. J. Cropley asked about a developer saying houses have to be of a certain size. P. Carson said the Town does not police such covenants or homeowner's association rules. Landowners can decide on having a certain size house; the Town cannot by way of regulations.
- Minimum parking space – P. Carson said Bolton is in compliance.
- Cap in the number of multi-family units – P. Carson said we are in compliance.
- Character – P. Carson said she does not yet have a good handle on what is intended on this matter. We do not want to deny a plan based on not meeting the character of the neighborhood. Character is talked about a lot in the Design Guidelines. A. Teller said we use scenic character meaning scenic views, not the neighborhood. M. D'Amato said the intent is that you cannot deny an application that is not in harmony with the neighborhood. C. Davey said section 16.B.4.d. has a paragraph titled "Character" – and landscaping is in character. A. Teller asked Staff to put together a list of where character is mentioned for cleaning up later and to make it clear that it is done on the basis of objective criteria.
- Accessory dwelling units – P. Carson said we are not in compliance. The Town can opt out on this with 2/3 votes of the PZC, having a public meeting, and the Board of Selectmen voting by 2/3 to opt out. We have until January 2023 to make that decision. T. Manning said we already have accessory dwellings in the regulations. Those have to be changed to comply with the changes. It was the consensus that there is no reason for Bolton to opt out of this change.
- Maximum floor area has already been discussed.
- Affordable housing plan – M. D'Amato said the statute does not specify if this is to be done by the PZC or the legislative body. A. Teller said he does not think this is the PZC's job. J. Rupert said Bolton has a plan to get this done. The intention is to incorporate it into the POCD. A. Fiano asked how this plan differs from the incentive housing overlay done years ago? P. Carson said we do not know the answer to that. Bolton submitted a draft to OPM although J.

Rupert said it never went to OPM for approval. T. Manning said back then if an incentive housing plan was adopted the State would give the Town some money and then the money ran out. Now this change does not include the offer of money from the State. The incentive housing overlay plan may still be relevant.

- Technical review fees – P. Carson said the town has an ordinance which allows for the collection of technical and legal review fees and segregates the money by project. If the fees are not enough the applicant replenishes the account. When the job is finished any remaining funds are reimbursed to the applicant.
- Adult use cannabis – P. Carson said only one cannabis store will be allowed because we are under 5,000 in population. T. Manning said it is one per 25,000 in population. Bolton can have one retail location and one production location. S. Pierog said locations will be determined by State lottery and towns can opt out of participation in the program. T. Manning said he has no use for adult cannabis but people have rights and Bolton ought to allow them. Package stores have the same kinds of limits, such as allowed zones and distance restrictions. M. D’Amato said in June 2024 the caps go away; this is meant to not inundate towns with cannabis locations. A. Teller said there is no rational reason to distinguish between package stores and this use. Quick regulation changes can be made where package stores are mentioned. A. Fiano asked what if people argue that it is medical and they want access the same as pharmacies? A. Teller said this is not for medical marijuana. This is for recreational cannabis and should be treated as recreational as alcohol use is. Package stores are allowed in business and neighborhood business zones. There should be the same kind of application a package store needs to do. C. Davey agrees with A. Teller. P. Carson said we should take a different tack on the production side of cannabis. M. Manning asked about treating the odor of manufacturing cannabis? A. Teller said the odor can be treated from escaping. Production could be in the general business and industrial zones. M. D’Amato said regulations call out cannabis as not being an agriculture product.

b. Other: There was none.

7. Correspondence:

P. Carson said the CFPZA quarterly newsletter was distributed.

M. D’Amato will be on a call next week with State agencies to figure out how to deal with the future training requirements for PZC members.

8. Adjournment:

J. Cropley moved to adjourn the meeting at 9:18 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.