

BOLTON PLANNING & ZONING COMMISSION
REGULAR MEETING
7:30 PM, WEDNESDAY, JULY 9, 2025
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD
In-Person and Via Zoom
MINUTES

PZC Members Present In-Person: Chairman Tom Manning, Vice-Chair James Cropley, Arlene Fiano, Marilee Manning, Thomas Robbins, Alternates Tom Crockett and Diane DeNunzio

PZC Members Absent: Jeremy Flick, Steven Clark, Alternate Kawan Gordon

Staff Present Via Zoom: Patrice Carson, AICP, Consulting Director of Community Development, Michael D'Amato, Zoning Enforcement Officer, Kacie Cannon, Recording Secretary

Others Present In-Person: Bryce Aaronson, Sylvia Ounpuu, Jim Adams, Barbara Amodio, Andrew Ladyga

Others Present Via Zoom: Ken Boynton, Jon Boynton

1. Call to Order: T. Manning called the meeting to order at 7:30 p.m. D. DeNunzio was seated for Steven Clark and T. Crockett was seated for J. Flick.

2. Approval of Minutes: June 11, 2025

T. Crockett MOVED to approve the minutes as written. J. Cropley SECONDED. MOTION CARRIED 5:0:2 (D. DeNunzio and T. Robbins Abstained).

3. Residents' Forum:

Bryce Aaronson, 149 Brandy Street, shared Bike Walk Bolton's interest in discussing a Complete Streets Plan with the Planning and Zoning Commission (PZC). He mentioned that the group has presented the plan to the Board of Selectmen and has been working with them to improve intersections throughout town.

Sylvia Ounpuu, 48 Stone Hedge Lane, explained that Bike Walk Bolton was formed in 2016, and their efforts have led to numerous safety improvements in town including safe access to bike lanes and trails, signage installation, and bike safety programs for children. She noted that the group is currently working on implementing a Complete Streets plan to enhance safety and accessibility for pedestrians, bicyclists, and motorists. She requested an opportunity to present the plan at a future PZC meeting.

Jim Adams, 48 Stone Hedge Lane, noted that the Complete Streets Plan aligns with Vision Zero, a statewide initiative to eliminate traffic fatalities and injuries, which is supported by recent legislation.

Barbara Amodio, 50 Volpi Road, highlighted Bike Walk Bolton's pledge campaign encouraging residents to observe speed limits. She stated that pledge forms are available at the library and invited PZC members to participate.

4. Staff Reports:

P. Carson highlighted recent meetings she participated in regarding a connectivity ride on Route 6, the Cider Mill property, and appraisals for a subdivision on French Road. She also shared updates on the Connecticut's Countryside website, noting a 50% increase in unique visitors, over 100% growth in page views, and a 10% decrease in the bounce rate. She asked the PZC to encourage any local business owners

they know to add their free listings and events to the website because it is getting a lot of traffic. A. Fiano asked if CTs Countryside is planning any events for the 250th Celebration. P. Carson stated that she will find out at the next meeting.

M. D'Amato stated that he and P. Carson are collaborating with the Capitol Regional Council of Governments (CRCOG) to update Bolton's municipal parcel data. He explained that the project is funded by the America Rescue Plan Act (ARPA), and there is no cost to the town. CRCOG's GIS manager is working with a vendor to compile parcel changes from the past nine years, which are currently stored in a large filing cabinet at the assessor's office. M. D'Amato also reported that permits have been issued for the building at 271 Hop River, and signage is expected to be installed soon.

5. Old Business

a. Other: There was no old business.

6. New Business

a. DISCUSSION/POSSIBLE DECISION: Site Plan Application for New House, 61 Vernon Road, Jon Boynton (#PL-25-5)

Jon and Ken Boynton of Boynton Construction presented the application on behalf of the property owner. Jon Boynton stated that they are seeking approval to build a single-family residence on an existing foundation 50 feet from the lake, and the Inland Wetlands Commission (IWC) has approved the application.

T. Crockett asked if the well would be shared and if the home will have a basement. J. Boynton stated that the well is not shared as it is located on the property, and the neighbors have their own well. He explained that the home will have a basement which will serve as the lower level of the home and provide lake access, due to the site's elevation. Ken Boynton added that the basement would be approximately six or seven feet above the lake.

P. Carson confirmed the Inland Wetlands Commission approved the application saying that the plans are followed and E&S controls are properly installed and maintained, there will not be a detrimental impact on the lake as a result of this application.

T. Manning MOVED that the Planning and Zoning Commission approves the new house proposed by Jon Boynton for 61 Vernon Road in the Site Plan application #PL-25-4 and finds that it is in compliance with the requirements of section 450-3.7 Wetland conservation of the Bolton Zoning Regulations. J. Cropley SECONDED. MOTION CARRIED 7:0:0.

b. Other: There was no other new business.

7. ONGOING DISCUSSION: Bolton Subdivision and Zoning Regulations

T. Manning noted that he reached out to Thad King of the Eastern Highlands Health District and learned that the Subsurface Sewage Disposal Systems (SSDS) are proprietary systems approved by the Health District. The systems have several advantages, and T. Manning recommended considering them for affordable housing projects. P. Carson e-mailed the correspondence between T. Manning and T. King to the PZC members, and T. Manning encouraged them to review the website links on SSDS and Geomatrix systems.

T. Manning asked where he can find the Table of Uses for all zones. M. D'Amato noted that the table was created by staff but has not yet been codified. P. Carson stated that she will send the updated version to the Commission.

P. Carson explained that staff reviewed the 13-page Sign Code Regulations and had challenges reaching the same answer when attempting to calculate the size requirements due to their complexity. She recommended shortening and simplifying the regulations. M. D'Amato agreed and noted that the current method of calculation is unusually complicated. He suggested establishing more consistent and uniform regulations since there is not much disparity between the average buildings, and he has not received any signage complaints during his tenure with the Town.

M. Manning inquired about the possibility of enhancing the lighting or visibility of the driveway to the Dollar General as it is difficult to see the entrance at night. P. Carson stated that she can ask the property owner to consider improving the area but cannot enforce any changes. She added that it may be easier to negotiate when an application is made for the last lot on the back area of the property.

8. Correspondence: There was no correspondence.

9. Adjournment

J. Cropley MOVED to ADJOURN the meeting at 8:29 p.m. A. Fiano SECONDED. MOTION CARRIED 7:0:0.

Respectfully submitted by Kacie Cannon

Kacie Cannon

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

CONNECTICUT FEDERATION OF PLANNING & ZONING AGENCIES QUARTERLY NEWSLETTER

Summer 2025

Volume XXIX, Issue 3

SUPREME COURT RULES HOOPHOUSE EXPANDS NONCONFORMING USE

The State Supreme Court has overruled an opinion issued by the Appellate Court on the issue of what is an illegal expansion of a nonconforming use. The Appellate Court decision appeared in Vol. 28, Issue 2 of this newsletter. The case concerned an application by the operator of a residential treatment facility to erect a hoop house on farm property it owned. The residential treatment facility was located on 2 parcels. One parcel housed the residential treatment buildings while the other parcel was an operating farm used to provide food to the residents and staff of the facility as well as to offer therapy programs for the residents. While the existence of the treatment facility predated the adoption of zoning in the town and was a nonconforming use, the farm parcel use by the treatment facility had been approved by special permit and site plan approval.

The commission denied the application stating that since the farm operation had been approved as a special permit and site plan use, the use of the farm could not deviate in any way from these approvals, including the addition of a hoop house. The applicant disagreed, stating that all nonconforming uses must be treated the same and allowed to intensify. The appellate court agreed ruling that no matter how they are created, all nonconforming uses can

intensify, which is often defined as being more of the same.

The State Supreme Court focused on the nature of the nonconforming use and whether the erection of a hoop house would be an expansion of it. In this case, the nonconforming use was the therapy program associated with the farming of fruits and vegetables.

The operator of the treatment center had stated numerous times that the hoop house would allow for an extended growing season and thus extend the therapy program associated with it. It is well established that changing a seasonal nonconforming use to a year-round nonconforming use constitutes an impermissible expansion. Such was the case here where the hoop house would allow for an impermissible expansion in the amount of time when the nonconforming use would be active. *High watch Recovery Center Inc. v. Planning & Zoning Commission*, 352 Conn. 1 (2025).

WETLANDS BOARD DECIDES WHICH EXPERT TO BELIEVE

An application to construct a housing complex on land surrounded by wetlands was denied by the inland wetlands board on the basis that the proposed development would have an adverse impact on the wetlands. The applicant had retained various experts who were all of the opinion that no adverse impacts would take place and, even if they did, there were no feasible

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Summer 2025

Volume XXIX, Issue 3

and prudent alternatives. The expert retained by the board came to the opposite conclusion, finding that the intensity of the development as well as the steep slopes on the property adjacent to wetlands and the removal of the tree canopy would lead to adverse impacts. In addition, by relocating certain stormwater controls and reducing the scale of the project, feasible and prudent alternatives existed.

The denial was appealed and presented the court with the issue of whether the expert testimony amounted to substantial evidence to support the board's decision. The court found that it did. The authority to decide which expert to believe rests solely with the board. A commission is not required to believe any witness, including an expert. What is required is that the proceedings be fundamentally fair which includes, in part, providing the expert with the opportunity to address the board and the board members expressing their opinions on the expert's testimony during the public hearing. *Ridgefield Professional Office Complex LLC v. Inland Wetlands Board*, DBD-CV-23-6047606 (10.29.24)

MAN FACES SUBSTANTIAL FINE FOR CUTTING TREES

A town was awarded \$598,476.00 under Connecticut General Statutes Sec. 52-560a when it successfully sued an individual for cutting down trees on land owned by the town as open space. The guilty person

owned land abutting the town property. He allegedly cut down the trees in order to improve his view of a lake.

The aforementioned state statute provides a useful tool for land trusts, conservation commissions and towns to protect their lands from harm. The statute not only authorizes the recovery of costs for restoring the damaged land, it also allows for up to five times the restoration costs in punitive damages as well as the payment of its attorney fees. Prior to the enactment of this law, only the value of the removed trees, calculated as lumber or firewood, could be recovered. *Town of Southbury v. Salzman*, UWY-CV-19-6049516 (4.17.25)

CLIMATE CONCERNS INSUFFICIENT BASIS FOR DENIAL

The owner of a two-lot subdivision originally approved for single family use sought to develop the property for apartments. The existing sewer line had been upgraded 10 years before to accommodate multi-family use on the two lots. An application was filed with the WPCA to modify the existing connection approval as well as for a determination of adequacy. After several meetings, the WPCA denied the application for two reasons: that the federal government stated that current rainfall models are inaccurate and that without a sewer plan, the WPCA is in no position to approve the application.

On appeal, the court found these reasons insufficient to support a denial

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Volume XXIX, Issue 3

finding that there was no evidence in the record to support a denial based upon proper reasons, such as a lack of capacity at the sewage treatment plant. Instead, nearly all of the evidence demonstrated there was sufficient capacity to handle the planned multi-family use and that the WPCA's concerns amounted to speculation.

In defense of the WPCA, it was concerned about climate change and that increased rainfall was causing infiltration of rainwater runoff into the sewage system which could cause capacity issues. However, no evidence, other than commission member's concerns, was in the record. *Hill Street 72 LLC v. Water Pollution Control Authority*, HHD-CV-23-6168031 (4.17.2025)

EVIDENCE OF NO ADVERSE IMPACTS NECESSARY

A commission's decision to approve a barn and accessory apartment for a horse farm was reversed by a court on appeal. The basis for the court's decision was that the commission's decision was not supported by substantial evidence in the record. The property involved in the application was almost entirely wetlands and substantial amounts of topsoil had been removed from the property in the past. This left the water table exposed to possible adverse impacts from the proposed agricultural activity. Since there was no evidence in the record that addressed the

issue of possible adverse impacts to wetlands, the Commission's decision was found to be unsupported by any evidence in the record. *Ucciardo v. Warren CWC*, LLI-CV-21-6029304 (3.3.23)

ANNOUNCEMENTS

Membership Dues

Notices for this year's annual membership dues were mailed March 1, 2025. The Federation operates solely on the funds provided by its members. So that we can continue to offer the services you enjoy, please pay promptly.

Workshops

Four hours of Commissioner training must be completed once every four years or once each term of a commissioner. At the price of \$185.00 per session for each agency attending, our workshops are an affordable way for your board to 'stay legal'. **Email us at contact.cfpza@gmail.com to schedule a workshop.**

ABOUT THE EDITOR

Steven Byrne is an attorney with an office in Farmington, Connecticut. A principal in the law firm of Byrne & Byrne LLC, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.

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