BOLTON PLANNING & ZONING COMMISSION
REGULAR MEETING
7:30 PM, WEDNESDAY, OCTOBER 8, 2025
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD
In-Person and Via Zoom
MINUTES

PZC Members Present In-Person: Chairman Tom Manning, Arlene Fiano, Marilee Manning, Thomas Robbins, Alternate Diane DeNunzio
PZC Members Present Via Zoom: Vice-Chair James Cropley, Jeremy Flick, Alternate Kawan Gordon
PZC Members Absent: Steven Clark, Alternate Tom Crockett

Staff Present Via Zoom: Kacie Cannon, Recording Secretary

1. Call to Order: T. Manning called the meeting to order at 7:31 p.m. D. DeNunzio was seated for S. Clark, and K. Gordon was seated for J. Cropley. K. Gordon was later unseated upon J. Cropley's arrival at 7:33 p.m.

T. Manning moved Item No. 8 Correspondence to Item No. 5 and renumbered the order of Business.

2. Approval of Minutes: September 10, 2025
A Fiano MOVED to approve the September 10, 2025 minutes as written. D. DeNunzio SECONDED. MOTION CARRIED 5:0:2 (J. Cropley and J. Flick Abstained).

3. Residents' Forum: No residents wished to speak.

4. Staff Reports:
No staff reports were provided since P. Carson and M. D'Amato were absent.

5. Correspondence:
T. Manning shared correspondence from P. Carson stating that she emailed the sign regulations with staff comments to the PZC members. She also provided an update on K. Cannon's resignation status, and T. Manning noted that a letter of support on the matter will be discussed under Item No. 7(b) New Business.

The correspondence also highlighted comments from M. D'Amato regarding the update/elimination of sign definitions under Section 3 of the current sign regulations and requesting feedback from the PZC on how generators, LP tanks, and condenser units should be regulated. T. Manning suggested taking signs up under Item No. 8(a) and the Use Table under Item No. 8(b).

6. Old Business
a. Other: There was no other old business.

7. New Business
a. *DISCUSSION/DECISION:* Schedule of 2026 Regular Meeting Dates
T. Manning noted that the November meeting date falls on Veteran's Day. The PZC discussed alternative dates and agreed to meet on November 4, 2026 provided the meeting room was available which staff will check.

T. Manning MOVED to APPROVE the 2026 Planning and Zoning Commission Regular Meeting Dates Schedule as presented with the change to November 4, 2026, and to file the schedule with the Town Clerk's Office as required by statute. T. Robbins SECONDED. MOTION CARRIED 7:0:0.

b. Other: Letter of Support

The PZC asked K. Cannon if a letter of support would encourage her to withdraw her resignation. She affirmed that it would if a resolution can be reached at an upcoming meeting with the administration. The PZC agreed to provide a letter of support.

8. *ONGOING DISCUSSION:* Bolton Subdivision and Zoning Regulations

The PZC proposed the following changes to the draft Signage Regulations:

Section A: Purpose

- No changes were made

Section B: Applicability:

- No changes were made

Section C: Prohibited Signs

- The PZC discussed whether to prohibit internally illuminated signs, banners, and electronic flashing signs and noted various examples where they can be beneficial. They also discussed the review and approval process that is currently in place and agreed to leave Section C as written.

Section D: Permanent Signs Permitted in Commercial or Industrial Zones

1. **Attached Signs**

   Primary Attached Signs:

   - Staff to determine whether or not to include the ZEO under the Permit column
   - Replace the list under the Lighting column with a note stating, "as determined by staff."

   Secondary Wall Signs:

   - Add "as determined by staff" under the Lighting column
   - Allow canopy signs
   - Add a prohibition on roof signs as Item No. 8 under Section C
   - Change "Any sign not expressly permitted by these Regulations" to Item No. 9
   - Remove Roof Signs section from the table in Section D(1)

2. **Detached Signs**

   Freestanding

   - Change the Permit Column from Commission to Staff
   - Strike "if the Commission finds" from Row 2

   Freestanding Low Profile Signs

   - Change the Permit Column from Commission to Staff

3. Other Signs

Unified Development Sign:

- Add “industrial park” after business park and remove “a sign at each major entrance” since it is already stated in the Max. Number column
- Keep as Commission approval

Directional Device and Traffic Control Device Sections

- No changes

Window Signs:

- Hold for further discussion with staff

Section E: Permanent Signs Permitted in Residential Zones

No changes were made to the Primary Wall sign, Unified Development sign, or Directional Device. However, the PZC discussed whether it is appropriate to allow three signs at a residential business and recommended offering a choice between a Primary Sign or a Freestanding Sign.

Announcement Sign:

- Remove “Located within 10 feet of the building” under Announcement Sign
- Determine whether to increase the sign size

Freestanding Sign:

- Change Permit column from Commission to Staff

9. Adjournment

J. Cropley MOVED to ADJOURN the meeting at 8:55 p.m. D. DeNunzio 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.

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QUARTERLY NEWSLETTER

Fall 2025 Volume XXIX, Issue 4

STATUTORY AGGRIEVEMENT DETERMINED BY DISTANCE TO PROPERTY LINE

When a property owner appealed a decision of an inland wetlands commission to approve his neighbor's application to construct a pool within a regulated area, the issue of statutory aggrievement was raised. While the owner's property was within 90 feet of his neighbor's property line, it was unclear whether the owner's property was within 90 feet of the wetland area involved in the application.

To arrive at an answer to this question, the court looked to Section 8-1(1) of the Connecticut General Statutes and how courts have applied its statutory aggrievement provision. In so doing, the court applied what is known as the 'bright line' rule which states that the land involved in the decision is the entire parcel and not just the wetland area of the property. Thus, since the neighbor's property was within 90 feet of the subject property, he was aggrieved. *Schulz v. Conservation Commission,* FBT-CV-24-5054401 (1.30.25).

HEALTH CONCERNS BASED UPON SPECULATION

A decision to deny an affordable housing application was reversed by a court because the reason for denying the application did not outweigh the need for affordable housing within the town. The application proposed to construct 42 residential units on a 1.7-acre site. While the property was located in a residential zone, an abutting parcel was located in an industrial zone and was the location for a business which stored and sold rock and stone. This use tended to emit dust, which had led to complaints from neighboring residents.

The commission denied the application for the sole reason that the location of the proposed affordable housing next to the stone and rock business would potentially expose residents to harmful dust. The court found this reason to be an insufficient reason to deny the application. The concern was speculative at best and based upon unfounded concerns of commission members. In addition, the stone and rock business was subject to conditions when it was approved, which included the installation of a sprinkler system to suppress dust. The ZEO had testified at the commission's hearing that when the sprinkler system was used, dust was not a concern. *Saunders v. Planning & Zoning Commission*, LND-CV-23-6176868 (6.6.25).

SOCIAL MEDIA USE BY GOVERNMENT OFFICIALS

When a city manager started to use his personal facebook page to announce city government actions and promote his own activities as city manager, did he transform his facebook page into a public forum? The question arose when the city manager blocked a

Written and Edited by
Attorney Steven E. Byrne
P.O. Box 1065, Farmington CT 06034-1065
Tel. (860) 677-7355
attysbyrne@gmail.com
contact.cfpza@gmail.com

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person from commenting on his facebook posts. That citizen filed a lawsuit claiming that by blocking him, his first amendment rights were violated.

The U.S. Supreme Court found no violation of the First Amendment because the action of blocking comments on the facebook page in question did not involve a government action. In determining whether social media activity, such as having a facebook page, constitutes government action, the court applied the following test: if the text of state law requires an officeholder to maintain a social-media account, the official uses state resources or government staff to run the account, or the account belongs to an office, rather than an individual officeholder. These situations, make an official's social-media activity fairly attributable to the State and thus a state action. *Lindke v. Freed,* 144 S. Ct 756 (2024).

WHAT IS LIVESTOCK

A cease-and-desist order was issued to a property owner in regard to his two pygmy goats. While his lot was nearly one acre in size, the ZEO had determined that the two goats fell under the large animal category and that 2 acres of land were necessary to comply with the zoning regulations. The property owner disagreed, saying that his goats came within the small animal category and was thus in compliance. An appeal to the zoning board of appeals resulted in the affirmance of the order. An appeal to court followed.

The court found that the zoning board of appeals decision affirming the ZEO's order that the keeping of the pygmy goats violated the zoning regulations was correct. The regulations defined a large animal in part by referencing some examples, such as horses, sheep and pigs. The same was done for defining small animals, stating they were similar to rabbits. The court found that while size was one factor to consider, so was the manner of keeping the animals and the effect on neighbors. Evidence in the record showed that the goats were kept within a fenced enclosure similar to what would be used for a horse, and that accumulated manure produced offensive orders and attracted flies. *Weljkovic v. Zoning Board of Appeals*, NNH-CV-24-6142987 (4.16.24).

LAND INVOLVED IN AN APPLICATION

When certain developers were on the verge of seeing their planned distribution center approved by the required land use agencies, the State legislature intervened and enacted Connecticut General Statutes Sec. 8-3m. This law prohibited the approval of warehouse facilities under certain circumstances, such as that the parcel or parcels of land upon which the facility would be constructed could not have 5 acres or more of wetlands within them.

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Attorney Steven E. Byrne
P.O. Box 1065, Farmington CT 06034-1065
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The developers' initial plan was to build a distribution center on 2 pieces of land, both of which contained wetlands and would be affected by the new law. Upon the passage of the new law, the developers amended their plans, adjusting the property line shared by both parcels so that most of the wetlands were shifted to one parcel with the buildings shifted entirely to the other parcel which now had far less than 5 acres of wetlands.

Invoking the legal principle of improper segmentation, the court ruled that Sec. 8-3m still applied to this proposed distribution project as the two parcels were still intimately involved. While one parcel was free of buildings, it would still contain drainage and utility structures and an emergency driveway access connected to these buildings. Thus, this parcel, which contained over 5 acres of wetlands, was part of the project and within the reach of Sec. 8-3m. *Middlebury Small Town Alliance LLC v. Planning & Zoning Commission,* UWY-CV-24-6075302 (1.31.25).

REPAIR BEFORE REPLACEMENT

Without obtaining the necessary certificate of appropriateness, a homeowner replaced the windows in his historic home. In support of his decision to replace his windows without the necessary certificate, the homeowner submitted a letter from the fire marshal ordering him to repair or replace his windows so that his home would have secondary exits. The historic district commission interpreted this order to mean that the homeowner either was to repair the existing windows and only if repair was not possible, replace them. The application for the replacement was denied.

The decision was upheld by the court on appeal. The purpose of the order was to make the windows of the house usable as a secondary exit. This could be done either by repairing them so they could be opened and if repair was not possible, the replacement. *Roy v. Historic District Commission,* LLI-CV-6034650 (6.5.23).

ANNOUNCEMENTS

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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Attorney Steven E. Byrne
P.O. Box 1065, Farmington CT 06034-1065
Tel. (860) 677-7355
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