

BOLTON PLANNING & ZONING COMMISSION
REGULAR MEETING
7:30 PM, Wednesday, October 14, 2015
Bolton Town Hall, 222 Bolton Center Road

Minutes & Motions

Members Present: Chairman Eric Luntta, Jeffrey Scala, Carl Preuss, James Copley, Arlene Fiano, Adam Teller, Thomas Manning (by phone), Nancy Silverstein (alternate), Christopher Davey (alternate), Neal Kerr (alternate)

Members Excused: None

Staff Present: Patrice Carson, AICP, Director of Community Development, Sarah Benitez, Recording Secretary

Others Present: Several members of the public.

1. Call to Order: Chairman Eric Luntta called the meeting to order at 7:34 p.m, noting a full commission with T. Manning by phone.

2. Approval of Minutes:

August 6, 2015: A. Teller moved to approve as written. C. Preuss seconded. Motion carried 5:0:1, J. Copley abstaining.

August 12, 2015: J. Copley moved to approve with the correction of "Regular Meeting to "Special Meeting." J. Scala seconded. Motion carried 6:0:0.

September 9, 2015: J. Scala moved to approve with the correction of "Regular Meeting to "Special Meeting." J. Copley seconded. Motion carried 4:0:2, E. Luntta and A. Fiano abstaining.

3. PUBLIC HEARINGS:

a. CONTINUATION: *ReSUBDIVISION APPLICATION: 1-Lot, 61 French Road, William Anderson/Nancy Varca*

A. Teller recused himself from the Commission at 7:44. E. Luntta continued the public hearing at 7:45. E. Luntta, A. Fiano, and N. Kerr stated for the record that they were absent for the previous portion of the public hearing but had listened to the tape recording in full. N. Kerr was seated for A. Teller.

Attorney Stephen Penney provided documents previously requested by the Commission, which were made part of the record beginning with Exhibit R. He said the presentation was fundamentally complete but added some points. Maps of the lots under 1978 regulations and 1990 regulations were added to the recorded as Exhibits S and T. He also addressed the language on irregular lots, which the Commission held to be focused on residual land. He said there have been broader applications of the provision, such as towards rear or "back" lots.

PZC Comments and Questions:

C. Preuss asked why the 1990 regulations and map were relevant since neither the 1978 regulations nor the current regulations include the reason “not practical for shape or topography” for irregular lots. S. Penny said it was to show that the lots remained the same. C. Davey asked whether S. Penny was suggesting the PZC was bound by past regulations and noted the language changes pointed to the PZC becoming stricter. S. Penny said no, the intent was to show land history and precedence for allowing an irregular lot due to impracticality of shape or topography.

A. Fiano asked if there was precedence for giving 50 feet of frontage to a lot and thereby creating a non-conforming lot as requested in the application. S. Penney said it would not be non-conforming if the irregular lot provision were applied. E. Luntta asked if there would be designated open space or a fee in lieu. W. Anderson was seeking to pay a fee in lieu. S. Penny likened the purpose of the irregular lot provision to the purpose of the Zoning Board of Appeals – a tool in acknowledgement that strict, uniformly applied land use laws may lead to results that aren’t beneficial to the town. J. Scala pointed out that a southerly access has not been tried yet. S. Penney believed that, due to their experience with the ZBA and Inland Wetlands Commission, it would fail.

A. Fiano asked about the build out capacity of the lots. S. Penny said they are at capacity. A. Fiano said the fact the lot was larger than others in the area was therefore not remarkable because there was no corresponding greater build capacity. S. Penny said the intended context of that fact was for comparison to the others in size and frontage. He also said the lot could be a residual lot because it is 5 acres of land remaining from an original 10 acre parcel.

E. Luntta said the Varca design proposal favored by the Wetlands Commission was void since there was no actual submission or approval. S. Penny said it was not submitted as an official document, but to show the attempt through the Wetlands Commission. P. Carson noted the minutes of the 2014 ZBA meeting (Exhibit U) showed that a variance was denied because there was not enough evidence of hardship. E. Luntta said the Commission did not have the ZBA denial. He also said that in theory, the Wetlands Commission is supposed to go by land use approved by ZBA and PZC.

J. Cropley asked A. Bushnell, Engineer for the applicant, about water runoff. A. Bushnell confirmed that rain gardens are 50% of the water control methods as they would be in place for one of the two watersheds on the lot. J. Cropley asked who would design and approve the rain gardens. The engineer on site would design the gardens according to the land and the designs would go through town staff for approval.

Public Comments & Questions:

Kim Gondor, 57 French Road, voiced concern that water flow into her property would worsen with building houses on neighboring lot. She said the property line is one foot from one of her curtain drains and the other is two feet from the curtain drain on ledge. She questioned how the

gardens would be maintained and enforced, and what recourse she would have if flooding does affect her property. Construction would have to address the ledge due to its location.

P. Carson said that the requested information on drainage had been received. The calculations and methodology were reviewed by the town engineer, who agreed with the findings.

A. Fiano asked if there was indeed another, less convenient, way to access the property. W. Anderson answered that they were approaching the project through this application because it was expected to be the most cost effective way and the ZBA denied the variance. He said that in order to access the back of the property, the only current driveway (his residential one) would have to be pulled up and there would be additional construction. He argued that to say another way existed was a false argument because enough money would make any alternative possible, such as buying neighboring land to build a separate access. He did affirm that he owns the property rights to adjacent properties which could have access buildability. S. Penny said that there is no existing access on that land, so there is not another way to access the property.

K. Gondor, 57 French Rd., said that the use of the land was not to be for profit, and if costlier options were available then those were the ones she thought should be pursued.

J. Scala moved to close the public hearing. J. Copley seconded. Motion carried 6:0:0. A. Teller rejoined the Commission at 9:28 pm.

b. APPLICATION: Zoning Regulation Amendments to allow Drive-thru Regulations on a case-by-case basis, Ted & Joyce Moran

P. Carson read the public hearing notice. Milton Hathaway, 44 Quarry Rd., represented Ted & Joyce Moran and disclosed that they had property which could be used for this purpose. He presented research on other towns' drive-through regulations and suggested language for the amendment. He reviewed towns suggested by the PZC (Woodstock, Litchfield, Ridgefield, and Washington), and other towns in the area with comparable size and traffic flow (Hebron, Columbia, Coventry, and Andover).

PZC Comments & Questions:

The PZC discussed points such as the need for appropriate traffic control methods, the benefits and disadvantages of a multiuse facility versus a free-standing building.

J. Scala noted the importance of good design to prevent vehicles stacking into the road.

N. Kerr thought it best to be less restrictive rather than more. He advised the PZC to consider that a large company would be the most likely to have the resources and motivation to follow through on opening such a business, and the best place in town for it would be in a business zone and gateway area with high traffic. He said they need to consider that there may be other necessary stipulations for a site to make it viable, the prohibition of which could prevent its building in the first place.

Public Comments & Questions:

R. Morra, 15 Tinker Pond Rd, First Selectman, said an amendment would be good, with some language editing. It would provide an opportunity to open a coffee or restaurant type business in the community, which is needed. He thought obstacles could be overcome by good design, and believed such a business would belong in a highway or major traffic area rather than a neighborhood business area.

G. Marrion, 38 Maple Valley Road, Selectman, favored the PZC looking at a highway and major traffic area for location possibilities. She also noted a point from the Economic Development Commission: the Route 44 Corridor Study advises against a drive-through in order to encourage pedestrian traffic. Scott Rich of the EDC suggested looking at restrictions such as building only in the context of other developments to encourage pedestrian traffic, or space restrictions.

S. Pierog, 37 Brandy Street, strongly urged the PZC to consider the amendment to the regulation. She agreed with N. Kerr that when you stop for a business, you are more likely to make other stops, and this will make it more attractive for business to develop in Bolton.

Gary Bergeron, owner of Bolton Motors & Trailers at 99 New Bolton Road, said he was not a resident but spoke as a business owner. He believed an amendment would be good, provided that it was on a case by case basis. He thought that drive-through restrictions have prevented business development and the amendment will make Bolton more business friendly. He said that a drive-through has a lot of pros, such as flexibility for parents with children, accessibility for elderly or disabled people, and basic convenience.

Scott Rich, 105 French Road, spoke as a member of the Economic Development Commission. He said they support changing the language for the proposal. While EDC has also discussed what such a development might look like, he suggested that the town refrain from getting into business models at this point and leave that to the business. The PZC will be able to approve or deny a business' application when that point comes.

Chris Bolduc, 41 Castlerock Lane, was in favor of less restrictive regulations as well. He said that if a business isn't allowed in Bolton, it will go somewhere else. Then we may end up in a situation where a nice development goes in another town that would have been good for Bolton.

Mary Terhune, 40 School Road, expressed concern that a drive-through would raise issues of lighting and proximity of residences. She thought it would be better to attract other businesses. Regarding what others said about adding to the tax base, she said that even if a big business came into town, in her experience working in an Assessor's office they are the first to sue a town via tax appeal.

William Anderson, 77 French Road, Chairman of the Economic Development Commission, spoke in response to the possibility of tax appeal. By way of example, he stated the following assessments: Tolland \$656,000 for Dunkin' Donuts, Milford \$3.5 million, and Walgreens in Coventry \$2.8 million. The CVS in Coventry pays \$2.7 million. Even if reduced via appeal, they would bring in considerable revenue. Also there are so many people doing their daily business out of town either because those businesses are not in Bolton or it's not convenient to go out of your way in town when you can get that service more conveniently somewhere else.

P. Carson read letters into the record. A. Teller MOVED to continue the public hearing to Wednesday, November 18, 2015 at 7:45 pm at Bolton Town Hall, 222 Bolton Center Road. J. Scala SECONDED. MOTION CARRIED 7:0:0.

4. **Residents' Forum (Public Comment for items NOT on the agenda):** None.
5. **Old Business:**
 - a. **DISCUSSION/POSSIBLE DECISION: ReSubdivision Application, 1-lot, 61 French Road, William Anderson/Nancy Varca:**
No action taken.
 - b. **DISCUSSION/POSSIBLE DECISION: Application for Zoning Regulation Amendments to allow Drive-thru Regulations on a case-by-case basis, Ted & Joyce Moran:**
Public hearing continued to November 18, 2015 at 7:45 pm; no action taken.
6. **New Business:**
The PZC discussed meeting dates for the year 2016. J. Scala MOVED to approve changing the April 13th meeting to April 20th, and the October 12th meeting to OctoberNovember 19th. A. Teller SECONDED. MOTION CARRIED 7:0:0.
7. **Plan of Conservation & Development Discussion:** Public hearing will be at 7:00 PM, October 21, 2015, at Bolton Center School.
8. **Correspondence:** The DOT is going forward with working on a fix for the Route 6 & 44 interchange following a letter of recommendation from CRCOG.
9. **Adjournment:** J. Scala MOVED to adjourn. J. Cropley SECONDED. Meeting adjourned 11:15.

Respectfully submitted,

Sarah Benitez

PLEASE SEE MINUTES OF SUBSEQUENT MEETINGS FOR APPROVAL OF THESE MINUTES AND ANY CORRECTIONS HERETO.