

**BOLTON PLANNING & ZONING COMMISSION  
REGULAR MEETING  
7:30 PM, WEDNESDAY, November 20, 2013  
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD**

**APPROVED MINUTES**

**Members Present:** Chairman Eric Luntta, Thomas Manning, Adam Teller, Arlene Fiano, Neal Kerr (Alternate), Nancy Silverstein (Alternate), Christopher Davey (Alternate –arrived 8:05 p.m.)

**Members Excused:** James Copley, Carl Preuss, and Jeffrey Scala

**Staff Present:** Patrice Carson, AICP, Interim Director of Community Development Jim Rupert, Zoning Enforcement Officer and Linda H. McDonald, Recording Secretary

**Others Present:** Milton Hathaway, David Roggi and one other person

**Call to Order:** Chairman E. Luntta called the meeting to order at 7:34 p.m.

N. Silverstein was seated for J. Copley and N. Kerr was seated for C. Preuss.

**Approval of Minutes:** Approval of the regular meeting minutes of October 16, 2013 was tabled as there was no voting quorum.

The regular meeting minutes of November 13, 2013 were amended as follows: Item 3: Old Business, paragraph 3: "Discussion followed on the amending the definition for "Solar Energy System, Small". The definition was amended to read: "Solar energy System, Small-Scale – An accessory solar energy collection system that may or may not be interconnected to the local utility electrical grid on the customer's side of the electric meter, generates electricity for the direct consumption on the subject property, **with** capacity ~~not~~ **no** greater than would be necessary to serve the primary **use** and any permitted accessory uses."

Adam Teller MOVED to APPROVE the special meeting minutes of November 13, 2013 as amended. T. Manning SECONDED. MOTION CARRIED 4:0:2 with N. Kerr and N. Silverstein abstaining.

**Residents' Forum (Public Comment):** No public comment.

**Report of the Zoning Enforcement Officer:** J. Rupert reported that there have been five zoning permits issued since the last report. He reported on ongoing zoning violations.

**Suspend Regular Meeting:** E. Luntta MOVED to suspend the regular meeting at 7:52 p.m. A. Teller SECONDED. MOTION CARRIED 6:0:0.

## **PUBLIC HEARING**

Application of Hathaway Sand and Gravel, LLC for possible amendments to Section 12 (Excavation and Filling or Removal of Earth Products) to allow for permit extensions

P. Carson read into the record the public hearing legal notice. (Exhibit 1)

Milton Hathaway read into the record correspondence he wrote to the Chairman of the Planning and Zoning Commission. (Exhibit 2)

M. Hathaway read into the record the current regulation and the suggested revision. (Exhibit 3)

T. Manning asked M. Hathaway if his intent was to permit one two-year extension or an indefinite number of two-year extensions.

M. Hathaway responded that the intent of the regulation is to go for just a two year extension. A. Teller asked M. Hathaway who would obtain the updated engineering plan and the updated bond calculation, the applicant or the Commission. M. Hathaway said engineering company associated with the project would provide the updated plan and the bond calculation is based on how much of the work is left to be done and could be updated in phases as the project proceeds.

Adam Teller asked what the applicant would do to establish conditions haven't changed at the site and why shouldn't the applicant have to provide the same kind of level of certainty that it provided with the original application. M. Hathaway said, as a condition of his original permit, a qualified person has to submit a monthly report of conditions to the ZEO once work has begun so the Commission would be updated by the ZEO.

Adam Teller said he is concerned that this is a regulation for all excavation operation permits in town and when approving such a permit, the Commission requires a lot of information about the state of the site and the surrounding areas around the excavation and maybe two years after issuing the special permit, conditions have changed whether or not work has begun.

Adam Teller said there is a reason for issuing a two year permit because during that time there is some expectation that there won't be a huge change in conditions and that the ZEO isn't necessarily qualified to determine that the conditions haven't substantially changed.

M. Hathaway responded that part of the language is that we can't do anything outside of the approved conditions. A. Teller said not every permit could require an engineer's report.

P. Carson said, per the suggested revision of Section 12, that the Commission could rightfully say that they not only want the Zoning Enforcement Officer to look at this but they want the town engineer to review the applicant's engineering plan and updated bond calculations.

T. Manning, as a point of order, said when the Commission makes a change to a regulation on its own application it can pretty much do what we want. However, when someone else requests a change do they have a right to an up or down vote on what they proposed or can the Commission talk with them about changing the wording of the regulation.

P. Carson said, in her experience, when the Commission has something they would like to change they can ask the applicant if he is willing to change or add as long as the change is not re-writing the regulation, in which case it would have to be brought back for a second hearing.

T. Manning would like to see a specific list of things that have to be filed with a request for extension.

E. Luntta said conditions were placed on the applicant's two prior applications. P. Carson said the applicant would still be required to meet those conditions in this proposed request for extension of time. Discussion followed regarding the number of renewals that this proposal would allow.

Discussion followed having a professional verify that the conditions remain the same.

Discussion followed on interpretation of the language for "up to an additional period of two years" in the suggested revision and if the permit could be issued for a shorter period of time. M. Hathaway commented on traffic study updates.

M. Hathaway stated that he is not asking for any changes to his original permit under this proposed extension of time amendment. E. Luntta said this revision to the zoning regulations would apply to the entire town.

A. Fiano asked P. Carson, with her experience, does she see any shortcomings or any way to improve the language that's drafted here so that all the concerns are taken care of so that the Commission can move this forward.

P. Carson responded with possible language changes including:

- a limit on the number of renewals
- clarify the language that the staff has the right to require an updated engineering plan and updated bond calculations

She said the Commission could make suggested changes regarding the language of the proposed regulation to the applicant who could decide whether to accept.

C. Davey, as a point of order, asked if the permit has expired. The most recent permit has expired.

Discussion followed on adding language to allow the Commission to change the bond when granting an extension of the original permit.

Discussion followed on whether a special exception renewal of time for an activity could be denied based on changes in surrounding conditions in the area.

David Roggi of 33 Quarry Road said he is the neighbor most affected by this gravel pit activity. He stated he totally supports M. Hathaway's expansion of his tree farm on his property. He

asked that the language changes be made at this meeting so the application could possibly be voted upon tonight.

J. Rupert commented that if he were ZEO at the time of a renewal, he would be looking to other town staff for assistance in writing a report on conditions at the site and surrounding area.

Adam Teller MOVED to CONTINUE the public hearing for the application of Hathaway Sand and Gravel, LLC for possible amendments to Section 12 (Excavation and Filling or Removal of Earth Products) to allow for permit extensions to December 11, 2013 at 7:45 p.m. in the Bolton Town Hall, 222 Bolton Center Road, Bolton, CT to allow the applicant to meet with P. Carson to review suggested language changes. T. Manning SECONDED. MOTION CARRIED 6:0:0.

**Resume Regular Meeting:** The regular meeting was resumed at 9:00 p.m.

**Old Business:**

- a. Discussion/Possible Decision: Application of Hathaway Sand and Gravel, LLC for possible amendments to Section 12 (Excavation and Filling or Removal of Earth Products) to allow for permit extensions.

A. Teller MOVED to table discussion on this item to the December 11, 2013 meeting. E. Luntta SECONDED. MOTION CARRIED 6:0:0.

- b. Discussion: FY 2014-2015 Budget: The Board reviewed the most recent figures for the FY 2013-2014 Land Use Budgets. Additional staff hours for work on the POCD would be reflected in the Land Use budget and would be included in the PZC budget narrative to the Board of Selectmen. J. Rupert and P. Carson will prepare a narrative for consideration by the Board for the first meeting in December. Discussion followed on line items for postage and legal fees. There will be an updated FY 2013-2014 budget for review at the next meeting.

**New Business:**

- a. Discussion/Possible Decision: Schedule of 2014 Regular Meeting Dates:

E. Luntta briefed the new alternate members on the definition of regular meetings and the possible alternative schedules for meeting dates in 2014. He explained there is no public input at a special meeting.

Discussion followed on the duties and participation of the alternates at the meetings and during public hearings. E. Luntta will provide the alternates with summary information about the operations of the Commission. J. Rupert said there may be training scheduled for the new members of ZBA that could also include the new members of the PZC. E. Luntta said the Commission is set up as a very transparent Board.

After discussion, T. Manning MOVED to designate the second Wednesday of each month in 2014 as the regular meeting dates for the Bolton Planning and Zoning Commission. A. Teller SECONDED. MOTION CARRIED 6:0:0.

- b. Election of Officers: The current slate of officers is as follows: Chair - Eric Luntta and Vice-Chair and Secretary - Jeffrey Scala. A. Teller MOVED to TABLE discussion and action on this item to the December 11, 2013 meeting. A. Fiano SECONDED. MOTION CARRIED 6:0:0.

**Other Business:** Update on the Fire Protection Committee's Findings: T. Manning reported that the committee was able to reach a majority to agree on language regarding cisterns for commercial properties. The goal of the committee is to have a completed report, draft regulation and executive summary to the PZC in January 2014.

**Correspondence:** No correspondence.

**Adjournment:** A. Teller MOVED to ADJOURN the meeting at 9:51 p.m. A. Fiano SECONDED. MOTION CARRIED 6:0:0.

Respectfully submitted by Linda H. McDonald, Recording Secretary