

**APPROVED MINUTES
BOLTON PLANNING & ZONING COMMISSION
REGULAR MEETING
7:30 PM, WEDNESDAY, July 17, 2013
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD**

Members Present: Chairman Eric Luntta; Thomas Manning; James Cropley; Adam Teller; Carl Preuss (Alternate)

Members Excused: Loren Otter; Jeffrey Scala, Arlene Fiano, David Treadwell (Alternate)

Others Present: Jim Rupert, Zoning Enforcement Officer; Linda H. McDonald, Recording Secretary; David Minicucci; Charles Minicucci; Carol Minicucci; Peter Henry, L.L.S. of Holmes & Henry Associates; William Anderson; Nancy Varca; Milton Hathaway; Rosemary Hathaway; Bob Messier; Carole Stofko; Tom Paggioli; Kyle Paggioli; Ashley Baum; C. Peter Van Dine; Richard Treat and Paula Rose Varca

Chairman E. Luntta called the meeting to order at 7:40 p.m.

Alternate C. Preuss was seated for L. Otter.

1. APPROVAL OF MINUTES:
 - a. Special Meeting Minutes of June 12, 2013: T. Manning MOVED to APPROVE the Special Meeting Minutes of June 12, 2013 as presented. A. Teller SECONDED. MOTION CARRIED 4:0:1 with C. Preuss abstaining.
 - b. Regular Meeting Minutes of June 19, 2013: T. Manning MOVED to APPROVE the Regular Meeting Minutes of June 19, 2013 as presented. A. Teller SECONDED. MOTION CARRIED 5:0:0.
2. Residents' Forum (Public Comment): Richard Treat of 8 Lyman Road asked the status of the vacancy of the position of Town Planner. E. Luntta reported that an interim Town Planner has been hired and will start in a few weeks.

A. Teller said this is the first meeting since the Selectmen terminated the former Town Planner. The commission is left without a Planner for this meeting and possibly the next. A. Teller noted that the public has already been affected and anyone with an application before this commission may be affected. He explained that normally the commission would have some introductory information from the Town Planner familiarizing the board with the applications. He said because the Board of Selectmen (BOS) sought to terminate that person, the PZC does not have that information. He noted, normally, there would be materials available to the public

at the meeting and if there is a question about that, he said the public should talk to the First Selectman and the Town Administrator. A. Teller said the board may be slower to respond to the applicants' needs because they don't have the expertise available to them.

Speaking as a member of the public during the public forum, A. Teller wants the public present tonight to understand how deeply upset he is that the business of the commission and the interests of the public have been affected by a decision the public probably didn't even know was made because no member of the BOS saw fit to give a publically announced reason why they voted. A. Teller said that is not how the PZC usually works and it shouldn't be how the BOS works.

E. Luntta said the PZC will operate slower while the interim planner gets on board but the commission will work hard to stay on track.

Peter Van Dine said he would like to read a letter regarding an application on tonight's agenda. E. Luntta told him that could not be done during the public forum as only items not on the agenda this evening could be discussed during the public forum. A. Teller recommended that anyone with comments on any applications submit them to the Land Use Office during business hours to be stamped as received.

3. Report of the Zoning Enforcement Officer: J. Rupert reported that enforcement activities during the last month include going back to court for 35 Rocco Road. He has a tentative date of August 6 for a site visit and evaluation with Mr. Ansaldi at his gravel pit operation on Boston Turnpike to include Wetlands Agent Barbara Kelly and Town Engineer Joseph Dillon.

As Building Official he is unable to issue a certificate of occupancy for a home that had an addition put on and gravel driveway installed because they cannot conform to the LID regulations. Technically they haven't complied because the regulations say all driveways are impervious no matter what they are made of. They live in an area that is all sand and gravel and no water would make it to a rain garden off the gravel driveway. Consensus of the Commission is as ZEO, J. Rupert can recognize the Board's resolution of that conflict pending when the commission actually amends that regulation and as Building Official, he can consider that interpretation to be authoritative.

J. Rupert contacted the owner of the Valero station at 1135 Boston Turnpike Valero Station that there are issues with signage, the dumpster enclosure needed to be repaired which was a condition of approval from the PZC and the used cars on the adjacent lot had to be removed.

He reported that the Bolton Vet is installing LED pole lighting for their parking lot. The regulations require lighting changes to receive site plan review from the commission unless the commission waives that. Consensus of the Commission is to delegate to the staff the determination of whether the lighting would spill over the property line. If it is determined not to be a substantial change, it can be handled by staff as a minor site plan modification.

J. Cropley asked about the tree removal at the Lake House. J. Rupert reported that the Wetlands Agent determined it was not a clear cut and the property owner is trying to clear up the property.

4. New Business

a. Informal Discussion: Property at 1266 Boston Turnpike (David and Charles Minicucci) located in a GMUIZ Zone:

J. Cropley recused himself from the discussion as he is an abutter to the property.

D. Minicucci briefly described the property.

Bob Messier said the property is split into two zones, commercial in front and residential in the back. He would like input as to if the property could be used as mixed use. T. Manning said the entire property is in the GMUIZ Zone and could be used for mixed use. The property cannot be split. A. Teller said his determination is that the commercial in the front would have to have a residential element on top and the residence in the back would remain as is. The property cannot be subdivided.

J. Rupert said part of the existing house could be turned into commercial as another possibility.

E. Luntta said the members have not had time to review the regulations and said B. Messier could contact the interim planner for guidance. J. Rupert said he and the interim town planner would meet with B. Messier to go over options. A. Teller said the more uses and flexibility with the plan for the parcel the more likely he is to get approval.

b. Informal Discussion: Proposed subdivision of Kyle Paggioli at 65 Birch Mountain Road, Assessor's map 13, Lot 45:

A. Teller recused himself from this discussion.

Peter Henry of Holmes & Henry Associates said the property is located on the west side of Birch Mountain Road and is approximately 25 acres. The property is entitled to a free cut which would be at the northeasterly corner of the property. The rear lot has 50' frontage but does not touch the front but is still behind it. He would like to get comments and opinions from the commission before proceeding with an application.

T. Manning commented that there is an 85' building line, the purpose of which is to get access to undeveloped property to still have the 50' roadway and 35' setback. He said this lot does not need to accommodate a 50' roadway. P. Henry said the commission can reduce one building line from 85' to 35' and that this proposed it. This location was picked because it has the least disturbance of the existing farming operation.

P. Henry said the free cut was made in 2007 but never recorded. Now the free cut will be moved down 50' to avoid wetlands. He is asking the commission if this is a viable option. It will still be a two lot subdivision as the first free cut did not count.

Consensus of the commission is that this is a viable solution, carving out a lot.

c. Informal Discussion: William Anderson regarding future use of Lot C of the Nancy Varca and Paula Rose Varca Subdivision on French Road:

A. Teller recused himself from this discussion.

E. Luntta said this is an informal discussion and anything that is said is not a decision by the commission and every comment made by members is their own personal comment on the proposal.

W. Anderson of 77 French Road presented a history of the parcel. He has written permission by the property owners to represent them. In 1994 Johnny Varca conveyed his interest in Parcel "A" to Nancy and John Varca Jr. This was considered a first cut. In 1996 another map was filed which he believes depicts an illegal subdivision of the property because the map filed does not depict lot "A" only the original parcel with a one lot cut off, giving the town the appearance that this was the first cut. It also received a variance from ZBA for minimal building area.

W. Anderson said his interest is in the rear acreage called lot "C". He asked if the current situation was to go before PZC for a subdivision how many lot subdivision would the commission call it.

E. Luntta said it would be hard for the commission to do and W. Anderson would have to go before the Wetlands Commission first. W. Anderson said he is on the agenda for the next wetlands meeting but plans not to use any wetlands crossings as depicted on the map. He would prefer to come up his own driveway on abutting property to access the rear acreage.

E. Luntta asked which lots on the parcel are lots of record. W. Anderson responded parcel "A" is the only lot of record. The rear lot is 5.6 acres. He does not know if the seconded parcel cut out in 1996 with a house on it is a legal lot of record. E. Luntta said it would seem not.

W. Anderson suggested a solution that he owns three lots of record on 40 acres of which one his personal residence is on. All three lots of record pre-date zoning and subdivision regulations. He asked if he drew a boundary line shift and absorbed the 5.6 acre rear lot into one of his own existing lots, does that alleviate the town's problem. He would purchase the rear acreage, apply for a building permit, come up his existing driveway to get to the rear acreage, build a house septic and well and then go back and apply for all the geometric standards for all the offsets and shrink the lot to what size it needs to be and allow the excess acreage to be moved into his third lot of record. This way no new lots of record are created.

E. Luntta recommended that W. Anderson have an engineer look at the plan and talk to an attorney because of the lot issue.

J. Cropley said, in his opinion, this would have to be a subdivision. He doesn't think W. Anderson could shift five acres into another parcel. E. Luntta said that's not a minimum lot line adjustment.

C. Preuss said he would have to have a subdivision plan for this.

T. Manning's opinion is that this is a two lot subdivision. The parcel predates the zoning regulations. J. Rupert said the issue of the non-lot (B) could be more easily resolved if it was a two lot subdivision. Discussion followed on the location of the driveway.

E. Luntta said that the regulations will drive the commission and encouraged W. Anderson to take this first to the Wetlands Commission.

d. Application of Bolton Planning and Zoning Commission for amendments to Section 16B of the Bolton Zoning Regulations concerning the change in the state statute concerning bonding. Under the new statute, the town can bond for special permit and site plan review.

Discussion followed on when to set the public hearing. Consensus of the Board is not to set the public hearing date tonight as the language is incomplete and more discussion is necessary.

A. Teller MOVED to TABLE discussion to consider amendments to Section 16A.4 (Procedures When Commission Action on Site Plan is Required) and Section 16B.6 (Financial Guarantees in Connection with Special Permits) to the August 21, 2013 meeting. T. Manning SECONDED. MOTION CARRIED 5:0:0.

e. Application of Milton and Rosemary Hathaway for a Special Permit for excavation and removal of earth products at 40 Quarry Road pursuant to Section 12 of the Bolton Zoning Regulations (Excavation and Filling or Removal of Earth products):

Milton Hathaway said for the record he brought this application for an expansion of his gravel operation before the ZBA and it was not approved. He said he was told by the Town Planner that he had to go before the PZC before the expiration of his current permit on 7/17/13 to ask for an extension. M. Hathaway is asking for guidance from the Board and said he has not been able to meet with staff to discuss this application before the start of the public hearing. E. Luntta said the PZC was left high and dry regarding this application by not having a Town Planner. M. Hathaway said he is a victim of these circumstances. J. Rupert said he will ensure that M. Hathaway has the opportunity for staff review of his application before the start of the public hearing.

T. Manning MOVED to ACCEPT the application of Hathaway Sand & Gravel, LLC for expansion of existing gravel operation at 40 Quarry Road, Bolton, CT under Section 12 of the Town of Bolton Zoning Regulations (Excavation and Filling or Removal of Earth products) and to set the public hearing date for Wednesday, September 18, 2013 at 7:45 p.m. at the Bolton Town Hall, 222 Bolton Center Road, Bolton, CT. J. Cropley SECONDED.

For the record A. Teller stated, "In my view, this application is being delayed by thirty days by the absence of the Town Planner caused by the specific and precipitous action of the BOS under the leadership of the First Selectman to terminate our perfectly acceptable and competent existing Town Planner."

MOTION CARRIED 4:0:1 with C. Preuss abstaining.

Peter Van Dine commented that the Board, under the leadership of E. Luntta, removed his ability to share his letter concerning the application for the proposed expansion of existing gravel operation during the public forum at this meeting and said he does not understand why he could not comment on the application in the public forum. E. Luntta responded only items not on the agenda can be addressed during the public forum and explained the public hearing process for the application. E. Luntta said that his comments would be better heard for the record at the public hearing and written text would be in the appendix on this application.

5. Other Business: E. Luntta said he will add discussion of proposed amendments to the Bolton Zoning Regulations establishing a New Section 3D entitled "Solar Energy Systems to the August 21, 2013 agenda.
6. Correspondence: E. Luntta reported that Patrice Carlson has been hired as the Interim Planner for the Town. She is a certified Planner. Her office hours have not yet been set. J. Scala and E. Luntta will meet with the Town Administrator on August 2, 2013 to discuss qualifications for the permanent position and what the commission expects, etc. E. Luntta or J. Scala will be present during the interview process for the permanent hire of the Director of Community Development/Planner. A. Teller requested that the commission receive a copy of the posting of the permanent position, copy of the job description, and a copy of the proposed contract for the permanent position of Director of Community Development/Planner.
7. Adjournment: J. Cropley MOVED to ADJOURN the meeting at 9:45 p.m. A. Teller SECONDED. MOTION CARRIED 5:0:0.

Respectfully submitted by Linda H. McDonald, Recording Secretary