

MINUTES
BOLTON PLANNING & ZONING COMMISSION
SPECIAL MEETING
7:30 PM, WEDNESDAY, OCTOBER 10, 2012
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD

Members Present: Eric Luntta, Tom Manning, Jim Cropley,
Arlene Fiano, Adam Teller, Carl Preuss (Alternate),
Members Absent: Loren Otter, Jeffrey Scala, David Treadwell (Alternate)
Others Present: John D. Pagini, AICP, Director of Community Development;
Karen Mills, Recording Secretary; Dick Halloran; Barbara Gay
Halloran

Chairman Luntta called the meeting to order at 7:35 p.m. and opened the Public Hearing. The Special Meeting was reconvened at 8:39 p.m. Carl Preuss was appointed for Loren Otter.

1. Old Business

- a. Application of Barbara Gay Halloran for a one lot resubdivision at 21 Webster Lane in Bolton and Andover (Assessor's Map # 24, Lot 69).
For the record, Tom Manning and Arlene Fiano have listened to the tapes. Mr. Pagini reviewed the issue, and explained the potential deadlock that was a problem at the September 19 Meeting. Mr. Pagini did more research after that meeting and spoke with experts including Planners and Attorney Mark Branse on the procedural and policy matters related to the decision on fee-in-lieu. Mr. Pagini presented his findings via email to the Commission members and spoke about them again. Adam Teller has an issue with what the Statute and our Regulation states about fee in lieu in regards to subdivisions. Prolonged discussion ensued again about following the Statutes & Regulations vs. the opinions that the Commission has received.

Tom Manning made the following motion: MOVED, that the Bolton Planning & Zoning Commission does hereby approve an application of Barbara Gay Halloran for a resubdivision of land at 21 Webster Lane (Assessor's map 24, lot 69) in accordance with plans listed in Appendix A, exhibits listed in Appendix B and testimony presented at the public hearing held on August 15 2012; and continued to September 19, 2012; and closed on that date. The Commission finds that the dedication of open space in connection with the creation of one new lot is not desirable because of the size of the dedication which would not have connectivity to existing dedicated open space. For this reason, the Commission agrees with the applicant's choice to pay a fee in lieu of open space. The Commission hereby recognizes that certain sections of the subdivision regulations have

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no applicability to this subdivision on an existing road, and does hereby waive the requirements of these sections as documented in a checklist review by John D. Pagini, AICP, Director of Community Development, dated June 20, 2012. This approval is granted subject to meeting the following requirements:

1. All roof leaders, under drain/curtain drain outlets, and any runoff from driveways in connection with the development of Lot #2 shall be directed to LID measures in accordance with Section 16A.2.1. The plot plan associated with the issuance of a building permit for this lot shall contain a design and appropriate details. The deed for the lot shall contain a covenant or restriction for the perpetual maintenance of these LID measures, such language subject to review by the Town Attorney before recording. A note shall be added to the plans reflecting the above.
2. The existing barn on Lot #2 has no legal status as either a conforming or non-conforming structure under this subdivision, and must be removed, or moved to a conforming location, before or in connection with a Building Permit to develop lot #2. This note shall be added to the Mylar Plans.
3. A Fee-in-Lieu of Open Space in the amount of \$4,150 shall be secured by a lien on each lot in that amount, such lien against this lot to be recorded on the Bolton Land Records prior to, or simultaneous with, the filing of Mylar plans, such fee to be paid to the Town of Bolton for deposit in its dedicated Open Space fund upon transfer of each lot for consideration, or to a person other than a relative as described in CGS §8-25. The form of the lien is subject to prior review and approval of the Town Attorney.
4. The effective date from which the time period for filing of Mylar plans is calculated is November 3, 2012. The mylars shall be filed in the office of the Town Clerk no later than February 1, 2013, which is 90 days from the effective date.
5. The 5-year date for the completion of public improvements is October 10, 2017.

Carl Preuss seconded the motion. More discussion ensued. Mr. Pagini restated that he and the experts with whom he spoke on this issue were adamant about their opinions concerning the exclusion of a developed lot. Arlene Fiano spoke in favor of not putting the fee on the 2-acre house site in respect to the barn preservation on the site which is highly prized by the State (the barn was converted into a house but has preserved its character). Jim Cropley thinks the fee should be paid on the new lot and not the old one. Carl Preuss referred back to the Fish subdivision. In that case, the Commission did bypass the Statutes and Regulations and assessed the fee on the one lot. He doesn't see consistency here. Mr. Pagini said that he stresses that their needs to be a consistent policy on this fee in lieu issue. Mr. Luntta thinks that if we put in a scale for the lot, the Commission can use its discretion anyway on each application, so the scale becomes meaningless. He thinks the point of fee in lieu is not to ease the pain of the applicants, but to allow the town to deposit funds for Open Space. Mr. Pagini stressed that the experts said that in this case they would consider one existing lot and one new lot. He said we could declare the fee in lieu for Lot 1 at 0% and therefore stay within the Regulations. The Commission held a vote on this motion and the result was (3-3) and did not pass (Adam Teller, Tom Manning and Chairman Luntta voted for the motion; Carl Preuss, Jim Cropley and Arlene Fiano voted against).

6. Mr. Pagini stated that Roberts' Rules states that in the case of a tie the motion is defeated, but one of the votes against can make a motion to reconsider on the same day, and amend the motion.

Arlene Fiano moved to reconsider the vote. Mr. Cropley seconded the motion. The motion passed unanimously (6-0).

Mr. Manning offered the following amended motion: Section 3 of the prior motion to read as follows: "A Fee-in-Lieu of Open Space in the amount of \$4,150 shall be secured by a lien on Lot #2 in that amount, such lien against this lot to be recorded on the Bolton Land Records prior to, or simultaneous with, the filing of Mylar plans, such fee to be paid to the Town of Bolton for deposit in its dedicated Open Space fund upon transfer of Lot #2 for consideration, or to a person other than a relative as described in CGS §8-25. The form of the lien is subject to prior review and approval of the Town Attorney." Carl Preuss seconded the amended motion and it passed (4-1-1) with Chairman Luntta voting against and Adam Teller abstaining.

2. New Business

- a. Application of the Bolton Planning and Zoning Commission in connection with amendments to Section 16 A of the Bolton Zoning Regulations concerning Financial Guarantees for public Improvements Associated with site plans, as authorized by Public Act 12-182

A motion to table this item (Application of the Bolton Planning and Zoning Commission in connection with amendments to Section 16 A of the Bolton Zoning Regulations concerning Financial Guarantees for public Improvements Associated with site plans, as authorized by Public Act 12-182) was made by Tom Manning and seconded by Eric Luntta. The motion passes unanimously (6-0).

- b. Application of the Bolton Planning and Zoning Commission in connection with amendments to Sections 14 and 15 of the Bolton Subdivision Regulations concerning Financial Guarantees for public Improvements, Maintenance of Public Improvements, and Erosion and Sedimentation Control Concerning Financial Guarantees for Public Improvements Associated with Subdivisions, as authorized by Public Act 12-182.

A motion to table this item (Application of the Bolton Planning and Zoning Commission in connection with amendments to Sections 14 and 15 of the Bolton Subdivision Regulations concerning Financial Guarantees for public Improvements, Maintenance of Public Improvements, and Erosion and Sedimentation Control Concerning Financial Guarantees for Public Improvements Associated with Subdivisions, as authorized by Public Act 12-182.) was made by

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Adam Teller and seconded by Arlene Fiano. The motion passes 6-1 with Luntta opposed.

3. Adjournment

A motion to adjourn was made by Jim Cropley and seconded by Tom Manning. The motion passed unanimously (6-0) and the meeting was adjourned at 9:45 p.m.

Respectfully Submitted:

A handwritten signature in cursive script that reads "Karen Mills".

Karen Mills
Planning & Zoning Board Clerk