

MINUTES
BOLTON PLANNING & ZONING COMMISSION
REGULAR MEETING
7:30 PM, WEDNESDAY, MAY 15, 2013
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD

Members Present: Eric Luntta, Jeffrey Scala, Jim Cropley, Arlene Fiano, Adam Teller, Carl Preuss (Alternate)

Members Absent: Loren Otter, Tom Manning, David Treadwell (Alternate)

Others Present: John D. Pagini, AICP, Director of Community Development; Jim Rupert, Zoning Enforcement Officer; Karen Mills, Recording Secretary; Robert Morra, First Selectman; Matthew L. Hannon & Katie L. Hannon, 33 Lakeside Circle; Attorney Stephen Penny, Representing Matthew and Katie Hannon; David & Sandra Plummer, 17 & 21 Lakeside Circle; Jerry Lalancette, 1 Lakeside Circle; Gary Sweet, ADM Architects, Manchester; Kelli Hickey for Ruth Mensing, 35 Lakeside Circle; George Knoecklein, Northeast Aquatic Research, Mansfield

Chairman Luntta called the Regular Meeting to order at 7:37 p.m. Carl Preuss was appointed for Loren Otter.

- a. Approval of Minutes:
 - a. February 13, 2013 Special Meeting
Jim Cropley moved to table the acceptance the February 13, 2013 Special Meeting Minutes as there is no copy available for review tonight. The motion was seconded by Adam Teller and passed unanimously (6-0).
 - b. April 17, 2013 Regular Meeting
Adam Teller moved to accept the April 17, 2013 Regular Meeting Minutes with the following typos corrected: item 4, change “not” to “no;” and item 6, last sentence change “game” to “gave.” The motion was seconded by Jeffrey Scala and passed (4-0-2) with Eric Luntta and Arlene Fiano abstaining.
- b. Residents’ Forum (Public Comment)
None.
- c. Report of the Zoning Enforcement Officer
- d. Mr. Rupert said that his written report has been presented in writing to the Commission. He reviewed the report in which he said there have been four administrative zoning permits issued since the last report with two pending. He then updated the Commission on issues at the following addresses: 35 Rocco Road, 92 Tolland Road, 19 Box Mountain

Road, 152 Hebron Road, 33 Volpi Road, 63 Volpi Road, and 6 Notch Road. Mr. Rupert also mentioned that the Zoning Board of Appeals has received a request from Mountain Top Services looking for a variance on their special permit.

e.

a. Receipt of Application of Mountaintop Services to the ZBA re: variances for extension of time period and relief from certain Special Permit requirements issued by the PZC. Mr. Pagini explained that this item was simply to notify the Commission of the ZBA's receipt of the application for informational purposes. He recommended that there be no discussion of the pending application.

Jeffrey Scala made a motion to suspend the Regular Meeting at 7:47 p.m. and open the Public Hearing. Adam Teller seconded the motion and it passed unanimously (6-0).

Chairman Luntta reopened the Regular Meeting at 11:09 p.m.

Report of the Director of P&CD

Mr. Pagini said that he has nothing important to report at this time.

f. Old Business:

a. Request of Matthew and Katie Hannon for an exception to a prohibition against placement of a building or structure to be located at 33 Lakeside Circle within 50 feet of a lake, pond, marsh, or watercourse as set down in Section BZR, 3A.7
Mr. Luntta reminded everyone in attendance that the Public Hearing has been closed, so only Commission members can discuss and deliberate at this time. A discussion ensued among Commission members. Mr. Teller said that he has been convinced that the Commission should approve this application, and went on to talk about the conflict in the Regulations regarding the definitions of pervious/impervious surfaces. Also, the placement of the 2nd Rain Garden needs to be considered, and he suggests that it be moved 15 feet away from the lake. Jim Cropley agrees with Mr. Teller that the applicant has made great effort to do the right thing, and that the applicant has come up with a plan that the Commission can support. He said that he doesn't think it would be a big deal for us to require that the 2nd Rain Garden be moved further from the lake. Mr. Pagini read a proposed draft motion.

Adam Teller made the following motion: **MOVED:** that the Bolton Planning & Zoning Commission hereby approves a request of Matthew and Katie Hannon for an exception to a prohibition against placement of a building or structure to be located at 33 Lakeside Circle within 50 feet of a lake, pond, marsh, or watercourse as set down

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in the Zoning Regulations Section 3A.7 in accordance with the plan listed in Appendix B, with last revision date March 7, 2013, the exhibits listed in Appendix A to be incorporated in the motion, testimony received at the Public Hearing held May 15, 2013, Exhibits A through M submitted by the applicant (Appendix C), discussions at the Public Hearing and deliberation tonight of May 15, 2013 subject to the following conditions: The approval is in accordance with the plan with the specific revision date of March 7, 2013 except for the following modifications:

1. The plan to be amended to relocate the Rain Garden approximately 15 feet from the lake and to provide the detailed specifications for that Rain Garden.
2. The Rain Garden shall be installed before a Certificate of Occupancy is issued, unless seasonal conditions make construction not feasible as determined by the Zoning Enforcement Officer.
3. The applicant to provide a modified plan showing the locations and specifications of the Rain Garden.
4. Applicant to provide a modified plan showing that the driveway is to be constructed with an approved pervious surface, except for any paved apron required by the Town Ordinance.
5. Mylars to be filed with the appropriate signature block for the Commission's Chairman prior to the issuance of a building permit.

The Commission finding:

1. That the Regulations' definitions of impervious coverage and pervious coverage appear to be in conflict, and the Commission resolves that conflict by reading the Regulations as a whole in a rational way to provide that a driveway which is in fact constructed of proper pervious materials should not be counted toward the impervious coverage limitations.
2. That the Commission determines that the proper method of measuring the impervious coverage of a building is at the dripline.
3. That taking into account the interpretations of the Regulations, the request with the conditions modified will comply with the Bolton Zoning Regulation requirements that no more than 20% of the property be impervious coverage.

Jim Cropley seconded the motion.

Adam Teller then added the following finding to the motion:

4. The Commission finding that the lots have been legally merged by the intent and actions of the applicant in submitting this application.

Jim Cropley agreed to this amendment to the motion.

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Discussion: Arlene Fiano requested that the Rain Garden in the motion be labeled as Rain Garden #2, and that both Rain Gardens should be completed before the CO is issued.

Adam Teller AMENDED the motion to refer to Rain Garden #2 as shown on the plan to be in close proximity to the lake, and that both Rain Gardens should be completed before a Certificate of Occupancy is issued. James Cropley agreed to this amendment.

Further discussion: Jeffrey Scala suggested that the Commission needs to make a finding that the encroachment of the 50 foot lake setback, based on expert testimony, will have no detrimental effect.

Adam Teller further AMENDED the motion to add the following finding:

5. The Commission finding that the building and plan will not cause pollution or compromise the ecology of the lake.

Jim Cropley accepted this amendment to the motion.

Further discussion: Jeffrey Scala mentioned that there was testimony that the building was worse than the lawn but that the effect was mitigated by the design of the Rain Gardens.

Adam Teller further AMENDED the motion (finding #5) to read:

5. The Commission finding that the project as planned, including the Rain Gardens, will not cause increased pollution or compromise the ecology of the lake.

Jim Cropley accepted this amendment to the motion.

The motion passed unanimously (6-0).

b. Report on Status of Fire Prevention Regulations Advisory Committee

Mr. Cropley made a motion to table items 5b through 7. The motion was seconded by Jeffrey Scala and passed unanimously (6-0).

g. New Business

- a. Discussion concerning Bolton Lake zoning analysis
Tabled.

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h. Other Business
Tabled.

i. Correspondence
Tabled.

j. Adjournment
A motion to adjourn was made by Adam Teller and seconded by Jim Cropley. The motion passed unanimously (6-0) and the meeting was adjourned at 11:40 p.m.

Respectfully Submitted:

A handwritten signature in cursive script that reads "Karen Mills". The signature is written in black ink and is positioned below the "Respectfully Submitted:" text.

Karen Mills
Planning & Zoning Board Clerk

Appendix "A"

Request of Matthew L. and Katie L. Hannon

Exhibits

1. Variance granted by the Bolton Zoning Board of Appeals dated September 13, 2012
2. October 23, 2012 Inland Wetlands Permit #2012-12 issued to Matthew and Katie Hannon
3. Request packet with cover letter dated November 29, 2012 including:
 - a. Reduced Site Map by Messier and Associates (See Appendix "B")
 - b. Warranty Deed for property (vol. 130, p. 13)
 - c. Warranty Deed , Vol. 476, p. 255
 - d. Warranty Deed, Vol. 28, p. 332
 - e. Warranty Deed, Vol. 25, p. 547
 - f. Second reduced map showing alternative location for house
 - g. Architectural rendering of Hannon residence, ADM Architects, dated July 12, 2012, sheet 4 of 4
 - h. Site sketch of Hannon residence, ADM Architects, Sheet 1 of 4
 - i. First Floor Plan of Hannon residence, ADM Architects, Sheet 2 of 4
 - j. Second Floor Plan of Hannon residence, ADM Architects, Sheet 3 of 4
 - k. Zoning Board of Appeals Application of Matthew L. and Katie L. Hannon with reduced Site Plan and narrative entitled "Hannon Statement of Hardship".
 - l. June 20, 2013 Report by REMA addressed to Inland Wetlands Commissioners from George T. Logan, MS, PWS, CE, with USGS topo map, aerial photo, and two photos of rear of property at shoreline / seawall
4. October 23, 2012 Report (supplemental) with aerial photo of viewscape, including pp. 37 - 40 of DEEP's Method for the Evaluation of Inland Wetlands in Connecticut (1991), Bulletin #9
5. December 15 draft of legal opinion to Richard Barger re: lot merger issue and Section 3A5.
6. January 3, 2013 e-mail to Richard Barger from John Pagini re: supplementary question for legal opinion request on lot merger issue
7. January 15, 2013 Opinion # 184 from Richard L. Barger to John D. Pagini concerning merger of lots comprising Hannon property.

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8. January 15, 2013 e-mail to Stephen T. Penny from John Pagini concerning lot merger opinion and possibility of optional public hearing.
9. January 17, 2013 e-mail to Joyce Stille re: request to retain George Knoecklein
10. January 25, 2013 e-mail from Joyce Stille to George Knoecklein re: scope of services, background of application. Rec'd for first time by staff on March 5, 2013 .
11. January 30, 2013 e-mail from John Pagini to George Knoecklein re: background information he requested
12. Abutters' notice of hearing and Assessors cards for owners within 500 feet
13. February 13, 2013 e-mail from Eric Luntta to Joyce Stille re: retention of consultant
14. February 16, 2013 e-mail to Joyce Stille re: request for scope of Work for G. Knoecklein services.
15. February 26, 2013 e-mail to Richard Barger re: opinion re: notice to abutters.
16. March 1, 2013 e-mail from John Pagini to Joyce Stille re: informal notice to abutters.
17. March 1, 2013 e-mail from Joyce Stille to John Pagini re: no need for notice to abutters
18. March 1, 2013 e-mail from Joyce Stille to John Pagini re: town payment
19. Staff Report dated March 4, 2013 by John D. Pagini, AICP
20. Scope of Work for George Knoecklein, Eric Luntta, attachment to e-mail to Joyce Stille, March 5, 2013
21. March 6, 2013 e-mail to Stephen T. Penny concerning non-compliance of plan with impervious coverage requirement of the Zoning Regulations
22. March 6, 2013 e-mail from John Pagini to Stephen T. Penny re: Mr. Knoecklein's scope of work issue.
23. March 6, 2013 e-mail from Stephen T. Penny to John Pagini re: forwarding my analysis on impervious surfaces to consultant.
24. March 6, 2013 e-mail from Joyce Stille to John Pagini re: Question re: contact with George Knoecklein.
25. March 7, 2013 e-mail from Stephen Penny to John Pagini re: initial reaction of Mr. Messier, consultant to Hannons and initial discussion of alternative layouts and surfaces.
26. March 7, 2013 e-mail from John Pagini to Stephen T. Penny re: request for Messier worksheet.
27. March 8, 2013 e-mail from Stephen T. Penny to John Pagini conveying Dave Simler report that modified plan complies with impervious coverage requirement.
28. About March 9, 2013 - Receipt of modified site plan
29. March 10, 2013 e-mail from John Pagini to Steven T. Penny re; review of revised plan finding it not in compliance and transmission of a "compliant plan" and aerial photo overlain to show houses and lots on Lakeside Circle
30. March 12, 2013 memo to Joe Dillon conveying new site plan
31. March 12, 2013 e-mail to Joe Dillon conveying impervious coverage compliance sketch, Lakeside Cir. Aerial.

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32. March 12, 2013 e-mail to Joe Dillon re: Review of plans to confirm (or not) impervious coverage definition.
33. March 12, 2013 e-mail from Joe Dillon to John Pagini re: possible use of pervious pavers.
34. March 12, 2013 e-mail from John Pagini to George Knoecklein re: impervious coverage issues and alternative layouts.
35. March 12, 2013 e-mail from George Knoecklein to John Pagini concerning lack of current plan (his dated 8/13/12)
36. March 12, 2013 e-mail from Jim Rupert to John Pagini concerning accuracy of information provided to Mr. Knoecklein
37. March 12, 2013 e-mail from John Pagini to George Knoecklein re: reasonable alternatives to present house location.
38. March 12, 2013 e-mail to Joe Dillon re: request to hold review due to admission by applicant's engineer that they have assumed all along that impervious coverage was footprint.
39. March 12, 2013 e-mail to Stephen T. Penny from John Pagini re: compliant site plan, scheduling of on-site with G. Knoecklein
40. March 12, 2013 e-mail from Stephen T. Penny to John Pagini re: confirmation of compliance with impervious coverage.
41. Undated (believed to be March 12, 2013) e-mail from John Pagini to Stephen T. Penny re: impervious coverage issue and interpretation of the Zoning Regulations.
42. March 12, 2013 e-mail from Stephen T. Penny to John Pagini re: technical difficulties experienced by engineer re: impervious surface coverage issue
43. March 13, 2013 e-mail from Joyce Stille to John Pagini re: accuracy and completeness of information given to George Knoecklein by staff.
44. March 13, 2013 e-mail from Joyce Stille to John Pagini re: conveyance of outdated site plan to G. Knoecklein.
45. March 13, 2013 e-mail from Joyce Stille to John Pagini re: scope of Knoecklein services issue.
46. March 13, 2013 e-mail from George Knoecklein to John Pagini and Joyce Stille re: Review of earlier plan and analysis
47. March 13, 2013 e-mail from Stephen T. Penny to John D. Pagini AICP re: extension of time and materials for our consultant Dr. Knoecklein.
48. March 13, 2013 Letter to Eric M. Luntta from Atty. Stephen T. Penny re: applicant's lack of objection to extension of public hearing to April 24, 2013, or May 15, 2013
49. March 13, 2013 e-mail from Stephen T. Penny to John Pagini re: materials provided to George Knoecklein.
50. March 13, 2013 e-mail from Stephen T. Penny to John Pagini re: currency of plans and future availability of consultants
51. March 13, 2013 e-mail to Joe Dillon re: hold on review due to continuation of hearing.

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52. March 20, 2013 e-mail from Stephen T. Penny to John Pagini concerning impervious coverage issues.
53. March 22, 2013 e-mail to Jim Rupert re.: pending meeting with Stephen T. Penny on impervious coverage standards
54. March 22, 2013 e-mail from Joyce Stille to John Pagini re: her conversation with Joe Dillon, Town Engineer re: impervious coverage issue.
55. March 22, 2013 e-mail to Joyce Stille from John Pagini re: my professional necessity to review all alternatives
56. March 25, 2013 e-mail from John Pagini to Richard Barger re: consideration of alternatives by the Commission
57. Report dated April 30, 2013 by Northeast Aquatic Research, George W. Knoecklein, Ph.D, Mansfield Center, CT, to Joyce Stille
58. May 10, 2013 e-mail to Stephen Penny from John Pagini re: supplemental sketches request, and related agenda item.
59. Bolton Lakes WPCA map of Hannon property showing grinder pump location.
60. May 14, 2013 letter from Stephen T. Penny to Jim Rupert re: request for interpretation of impervious coverage
61. Technical questions to be directed to Dr. George Knoecklein dated 3/14/13
62. Copt of CGS, Section 8-22, concerning the authorization for PZCs to hire staff and consultants, and accept donations
63. Resume of John D. Pagini, AICP
64. Letter dated May 15, 2013 from Stephen T. Penny to Eric Luntta granting an extension of time for the opening of the public hearing.

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Appendix "B"

Request of Matthew L. and Katie L. Hannon

Map

Improvements Location Plan - Proposed
Prepared for Matthew and Katie Hannon

33 Lakeside Circle

Bolton, CT

Messier & Associates, Inc.

Manchester, CT

Date: 5/12; revised 3/7/13

Scale: 1"=10'

Project #-12-025

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Appendix "C"

Applicant's Exhibits

Request of Hannon's, 33 Lakeside Circle

- A. Applications package - November 29, 2012
- B. Deed - recorded in Vol. 130, p. 13
- C. Applicant's site plan revised 3/7/13
- D. Variance Dated September 13, 2012 issued to applicant
- E. Site Plan depicting location of structure turned 90 degrees.
- F. January 22, 2013 letter from Robert Messier to Stephen T. Penny
- G. G-1. 2 Colored architectural renderings, one of site plan, the other of House design
- H. G-2. The same two plans as in G-1, but in black and white, with floor plan added.
- I. June 20, 2012 Letter from George Logan, REMA, to Wetlands Commission
- J. October 23, 2012 Letter from George Logan, REMA, to Wetlands Commission
- K. Wetlands Permit dated 10/23/12
- L. Letter Dated May 14, 2013 from Stephen T. Penny to Jim Rupert requesting interpretation of Zoning regulations
- M. Memo dated March 11, 2013 to PZC from Lauren Lalancette