

**BOLTON PLANNING & ZONING COMMISSION
SPECIAL MEETING
7:30 PM, WEDNESDAY, AUGUST 17, 2016
BOLTON TOWN HALL, 222 BOLTON CENTER ROAD**

MINUTES & MOTIONS

Members Present: Chairman Eric Luntta, Vice-Chair Jeffrey Scala, Carl Preuss, Adam Teller, Arlene Fiano, Neal Kerr, Thomas Robbins (Alternate)

Members Excused: James Cropley, Christopher Davey, and Nancy Silverstein (Alternate)

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

Others Present: Joel Mrosek, Tim Sadler, Lawrence Pesce, Attorney Steve Penny of Penny, Botticello, and O'Brien, P.C., Andrew Bushnell, L.S, P.E of Bushnell Associates LLC, John Parkins Jr., Raymond Dzen, James Bombria, Kris Caya, Serge Poulin and others

1. Call to Order: Chairman E. Luntta called the meeting to order at 7:32 p.m. T. Robbins was seated for J. Cropley.

The special meeting was suspended at 7:32 p.m.

2. Public Hearings:
 - a. Re-subdivision Application: Pond's Edge, 3-Lots, 60 Loomis Road, Lawrence Pesce:

P. Carson read the public hearing notice published in the Hartford Courant on August 5, 2016 and August 12, 2016 into the record.

Town Engineer Joseph Dillon has reviewed the application information with the following comments from correspondence to P. Carson dated August 2, 2016:

1. The existing conditions plan should include the diameters of all existing drainage pipes and culverts.
2. Design calculations for the proposed twin 15" diameter cross culvert at the east edge of the property should be provided to indicate that the culvert can convey a 25-year storm event while maintaining 1 foot of freeboard. Additionally, spot elevations should be shown along the driveway centerline to verify proper cover over the proposed culvert.
3. It appears that an incorrect elevation has been shown on the plan for the outlet elevation for the proposed twin 15" diameter culverts at the eastern property line.
4. The Site Plan should indicate whether the existing farm roads on proposed lots 1 & 2 are to be maintained or abandoned as part of the proposed re-subdivision.
5. The Site Plan should include survey information regarding the existing dam spillway and embankments.

6. Referral to the Connecticut Department of Energy and Environmental Protection Dam Safety Program should be made to determine if the dam located on the subject property has been issued a Certificate of Dam Registration (CDR). Additionally, the dam's hazard classification should be determined.

The applicant's engineer confirmed that the town has not received a revised plan or any information that would address these six items.

Tim Sadler of 932 North River Road spoke on behalf of the applicant. He has contacted an engineer and the dam will be certified in a week or so. The embankment next to the dam exists on both lots 1 and 2 and both new subdivision properties will be liable for the dam.

Andrew Bushnell said he needs to do more surveying work for the site plan. To keep the farm pond on the property of L. Pesce viable, A. Bushnell said he is working on getting easements for each new lot to allow L. Pesce to continue to draw from the pond. Lots 1 & 2 will be responsible for maintenance of the dam.

A. Teller commented that L. Pesce may wish to reserve the right to enter the dam to make repairs. He said the town has an interest in the pond and dam. The easement language needs to be clear so the town knows what its rights and responsibilities are as the pond is used for water supply by the town.

A. Bushnell presented an overview of the proposed 3-lot subdivision. The applicant is proposing to cut out two lots on Loomis Road either side of the existing farm pond. Lot one would be 3.33 acres and lot two 2.11 acres, leaving 38.6 acres to remain farmland with the existing house. He explained that the proposal has received IWC approval for wetlands crossing and EHHD approval for septic systems for both lots. The proposed driveways are off Loomis road for the 2 new lots and the culvert drain shown on the plan that runs from the high school to the pond is no longer in use. The drainage was re-routed when the new high school was built, but the town still holds a 20-foot easement on this culvert. Some surface water stills flows through the culvert.

Serge Poulin asked who owns and maintains the section along Loomis Road and asked the status of Robert Minor's property, who also owned a parcel along the pond.

A. Bushnell responded that everything from the property line to the pavement is the town's property and the area from the edge of the pond to Loomis Road is in the Town of Bolton's right-of-way. He pointed out on the map the original location of the Minor property where construction will be occurring and the proposed lot where the family of Robert Minor would reside.

A. Bushnell commented that the DEEP's Natural Diversity Database shows an area of concern for wood turtles near the pond. The bulk of construction will occur outside this area. No work is allowed inside the area of concern from October 1 to April 1. There will be a silt fence between the survey area and the area around the pond the turtles will be travelling to help keep turtles out of the construction area.

P. Carson confirmed the applicant has received EHHD health approval. There has been verbal discussion with Public Works on the dam ownership and maintenance issue. Comments were received from the Fire Marshal regarding the pond and the dry hydrant and the Fire Marshal wants to review any easement for language pertaining to the town's access to the pond and dry hydrant.

P. Carson noted there is one outlying issue discussed at the last PZC meeting regarding how the Commission is going to have applicant comply with the open space requirement. The open space fee is \$20,800.00. Her recommendation in her memo dated August 10, 2016 was as follows: "The applicant is offering a maintenance easement of past drainage easements dedicated to the town and a future dry hydrant installation area. The Commission can place a value on those items and deduct that from the \$20,800.00, the remainder of which would be divided 3 ways and assigned as an Open Space payment. The Commission could consider placing a lien on the lots and deferring the Open Space payments to such time when the lots are transferred for consideration at a future date." The lots are being gifted for no consideration to two long-time employees by the applicant, Lawrence Pesce.

Before the next meeting E. Luntta said the applicant has to address the town engineer's comments by revising the map and send the dam information to the town's attorney for review.

The applicant still has to provide to staff: 1) abutter notice certified mail receipts from the applicant and 2) an affidavit that the public hearing sign was put up. A. Teller asked that a copy be provided at the next meeting of the easement language regarding the pond from another approval similar to this situation from minutes to help the board with consistency in decision. J. Rupert said there is usually a gentlemen's agreement between the property owner and the town for this type of easement.

A. Teller MOVED to continue the public hearing for the 3-lot re-subdivision application of Lawrence Pesce to September 14, 2016 at 7:45 p.m., Town Hall, 222 Bolton Center Road, Bolton, CT. A. Fiano SECONDED. MOTION CARRIED 7:0:0.

b. Application: Zone Change from RMUZ to R-2, 889 Boston Turnpike, Joel Mrosek and Wendy Mrosek Broadbent:

Attorney Steve Penny from Manchester spoke as representative for applicant Wendy Mrosek Broadbent. He stated that Joel Mrozek is present at this meeting and explained that the applicants are requesting a zone change for property at 889 Boston Turnpike from RMUZ to R-2 so the property can be used to develop multiple dwelling units not located on the second floor of commercial building as required in the RMUZ zone. There are no wetlands or watercourses on the property. An application for this property was before the PZC in the past and the zone was changed to R-2. Subsequently, the PZC approved revisions to the Bolton Zoning Regulations that changed the zoning along the Route 44 corridor to RMUZ. He reviewed the language in the sections of the Zoning Regulations pertaining to the RMUZ and R-2 zones. He said the proposed zone change back to R-2 is consistent with the Plan of Conservation and Development (POCD) adopted on 11/26/2015 as the zone change would provide more affordable and smaller housing for a diverse population and is compatible with uses in the surrounding area.

S. Penny spoke to why this is not spot zoning, but re-zoning.

A. Teller questioned S. Penny about the exhibit he handed out that showed the rear parcel as lot 2 and the frontage parcel as lot 1 and asked if they were actually two separate parcels. S. Penny responded there was a subdivision approval by the Commission in 2007 after the rear portioned was zoned R-2. S. Penny said the two lots are under common ownership.

When questioned by the board about the right-of-way shown on the site plan, S. Penny responded that the right-of-way is existing and over 50' wide so it meets the requirement for the R-2 zone. Although the plan shows a definite line along the right-of-way, S. Penny stated that the right-of-way is attached to the rear lot.

Applicant Joel Mrosek of Columbia stated the rear lot (lot 2) has a 50-foot strip attached to it that goes down to Route 44 and the second curb cut is in the center of lot 1.

P. Carson said the POCD does support the zone change to R-2 and does create a transition zone. Her recommendation is that the commission can entertain this application for approval.

J. Scala said the map submitted with the application was signed by a licensed surveyor showing the strip of land on lot 2 as a right-of-way not as part of the parcel. The map has to be corrected for the record so that the piece is part of the lot and meets the required frontage owned in fee.

Raymond Dzen of 59 Stonehedge Lane asked if parcels in the R-2 zone can connect to the public sewer system as those in the RMUZ can connect to the public sewer system. J. Mrosek responded that the sewer district extends 300 feet into his parcel and it does not matter what the uses are for that piece. It was originally brought in for the business zone and is not for residential use. R. Dzen said his concern was that the plan would include an extension to Stonehedge Lane, but by looking at the plan he sees it would be economically unfeasible to do so. He supports the change to R-2 zone.

J. Mrosek said he is here just to go back to where he was in 2009. He claimed he was not notified when the revisions to the Zoning Regulations were made.

John Parkins Jr. of 39 Stonehenge Lane had concern about the access road as there is an easement going to Stonehedge Lane. He was told that the access road will all be on Route 44. J. Mrosek said he has no easement or access to Stonehedge lane.

Jim Bombria of 60 Stonehedge Lane asked about the biggest difference between the RMUZ and the R-2 zones. S. Penny responded the thrust of the RMUZ zone is business and commercial and part of his argument tonight, was from the applicants' perspectives, since the property is surrounded on two sides by single family residences, this was better for the town to have the R-2 than to extend the RMUZ back that far because with the RMUZ you run the risk of someone coming along and attempt to make a commercial use of the rear of the property and, generally, commercial uses are incompatible with single family residences and you are better off with this zone change.

E. Luntta said "not quite " and A. Teller commented that he would not subscribe to some parts of S. Penny's answer to the question posed by J. Bombria.

Kris Caya of 15 Stonehedge Lane said he would like to hear the appropriate definition of the RMUZ zone from the board as they disagreed with S. Penny's definition. E. Luntta responded that it was a broad definition of the zone as there are many sub-sections to the definition.

For informational purposes for the audience, A. Teller said the Bolton Zoning Regulations for R-2 zones would allow for less than 20 units at this site. The height limitation is 2½ stories.

E. Luntta addressed J. Mrosek's comments that he was not notified when the Zoning Regulations were revised to change the zone classification of his property to RMUZ. J. Rupert said individual property owners were not notified and notification is not required by State statute.

J. Scala MOVED to close the public hearing for the application of Joel Mrosek and Wendy Mrosek Broadbent for a change of zone from RMUZ to R-2 at 889 Boston Turnpike, Bolton, CT. A. Teller SECONDED. MOTION CARRIED 7:0:0.

The special meeting was resumed at 9:00 p.m.

3. Approval of Minutes: The regular meeting minutes of July 13, 2016 were amended as follows:

Item 6d: "The PZC and ~~Larry~~ **Mr. Pesce** discussed considerations of dry hydrants, the current and a future easement, and open space vs. fee requirements."

Item 9: Adjournment: Add: **Motion Carried 7:0:0.** Chairman E. Luntta requested that the names of the members making and seconding the motion to adjourn the meeting and the vote be included in future meeting minutes.

A. Teller MOVED to APPROVE the regular meeting minutes of July 13, 2016 as amended. N. Kerr SECONDED. MOTION CARRIED 5:0:2 with J. Scala and C. Preuss abstaining.

4. Report of the Zoning Enforcement Officer: J. Rupert reported staff has been busy meeting with the applicants and their professional staffs regarding the applications on tonight's agenda. He said he has met with the engineer regarding the vacant parcel lake side Route 44 near Bolton Branch Brook. Staff continues to meet with the Department of Transportation (DOT) appraiser for the drive-in property. The appraiser has to determine the greatest potential for development of the site. J. Rupert reported he is dealing with enforcement of the drainage ordinance at 60 Villa Louisa Road. The property owners for 12 Colonial Road are maintaining control regarding an E&S issue there. The Town's R.O.W has been restored at 21 Enrico Road. Permits have been slow over the last month. Simonize is operating under a temporary CO which has been extended 60 days for plantings as the weather has been too dry to successfully landscape.
5. Old Business:
 - a. Discussion/ Possible Decision: Re-subdivision Application : Pond's Edge, 3-lots, 60 Loomis Road, Lawrence Pesce

There was no discussion on this agenda item as this public hearing has been continued to September 14, 2016.

- b. Discussion/ Possible Decision: Application: Zone Change from RMUZ to R-2, 889 Boston Turnpike, Joel Mrosek and Wendy Mrosek Broadbent:

E. Luntta said the history of the rear parcel was that the applicant did come in to get it re-zoned and there was much discussion about the right-of-way. At one time there was the possibility of common use of access to both properties and back then the applicant was going to do commercial in the front. E. Luntta said his memory was that the applicant's intention back then was to use the back part as residential. He agreed that the applicants are trying to zone the parcel to the way it was when subdivided. E. Luntta continued that he understood that the PZC re-zoned the Route 44 corridor because the board thought that mixed use would make it more flexible for property owners, who wanted to, to develop their properties. He asked that the members be reminded that the POCD is there as guidance for all the commissions, including the PZC. It is important for the board to be consistent as there are other parcels that might be similar to this and they could ask for something similar. Each member, when making their decision, should keep the POCD in mind.

J. Scala commented that certain areas of town are zoned a certain way as part of the planning process and it's part of this Commission, the PZC plans for the future. He said the Commission spent a great deal of time to re-zone this parcel and others along Route 44 for a specific purpose. As part of the planning process, the board wanted something, made the regulation changes and made the zoning changes for the sole purpose of creating a change along that corridor. Now the board would undo that change. The board had a very specific purpose for that change. What has changed since the Commission made that change and now? Has the direction and the desire of the Commission changed?"

Discussion followed on intent when creating the RMUZ as part of the strategy along the Route 44 corridor. A. Teller said applicant believes he can market the parcel better as an R-2 zone and has no plan to develop the property. Discussion followed on the need for diverse housing options in town.

C. Preuss MOVED to approve the application of Joel Mrosek and Wendy Mrosek Broadbent for a change of zone from RMUZ to R-2 for property at 889 Boston Turnpike, Assessor's map 5, lot 158. N. Kerr SECONDED.

A. Teller commented the map should be made clear for the record to show that lot 2 has 50 feet of deeded frontage.

MOTION CARRIED 6:1:0 with J. Scala opposed.

6. New Business:

- a. Subdivision Application: Paggioli Subdivision, 2-lots, 51 Birch Mountain Road, Kyle and Ashley Paggioli:

- A. Teller disqualified himself from this application and sat in the audience.
- P. Carson explained the clock for this application started on August 10, 2016 and is before the board as it is an irregular lot.
- C. Preuss MOVED to set a public hearing date for the application of Kyle and Ashley Paggioli for a 2-lot subdivision at 51 Birch Mountain Road, Bolton, CT for September 14, 2016 at 7:45 p.m., Town Hall, 222 Bolton Center Road, Bolton, CT. J. Scala SECONDED. MOTION CARRIED 7:0:0.
7. Discussion: Plan of Conservation and Development Implementation:
- P. Carson said the Inland Wetlands Commission would like to meet with the PZC to discuss tasks from the POCD. Staff will add agenda item to the October meeting. Patrice has had no luck in contacting Dennis Godere but has recently come across new contact information for him since he changed jobs. She has also contacted CRCOG to determine next steps to complete the IOZ work.
8. Correspondence: No correspondence.
9. Adjournment: J. Scala MOVED to ADJOURN the meeting at 9:51 p.m. A. Fiano SECONDED. MOTION CARRIED 7:0:0.

Respectfully submitted by Linda H. McDonald

Please see the minutes of subsequent meetings for the approval of these minutes and any corrections hereto.