

**BOLTON PLANNING & ZONING COMMISSION**  
**Regular Meeting**  
**7:30 p.m., Wednesday, June 12, 2019**  
**Bolton Town Hall, 222 Bolton Center Road**  
**Minutes & Motions**

**Members Present:** Chairman Adam Teller, Christopher Davey, Arlene Fiano, Neal Kerr, Thomas Robbins, and Alternates Rodney Fournier, Marilee Manning and Thomas Manning

**Members Excused:** James Cropley, Benjamin Davies

**Staff Present:** Jim Rupert, Zoning Enforcement Officer, Yvonne Filip, Recording Secretary

**1. Call to Order:** Chairman A. Teller called the meeting to order at 7:33p.m. T. Manning was seated for B. Davies; M. Manning was seated for J. Cropley.

**2. Approval of Minutes: May 8, 2019 Regular Meeting Minutes**

**C.Davey moved** to approve the minutes of the May 8, 2019 regular meeting as written. **A. Fiano seconded.** Vote: 4-0-3 (T. Manning, M. Manning, N. Kerr). Motion passed.

**3. Residents' Forum:** There was none.

**4. Staff Reports:**

J. Rupert reported that he did not have a chance to run a report, but indicated he has been issuing permits for the items usual for this time of year, such as pools and sheds. He continues to work on the non-permitted driveway issue at 11 Hebron Road. Of the two issues at the Lyndale property, the owners have taken steps to get the greenhouse permitted and J. Rupert has issued cease and desist orders for the two businesses that have equipment there without permission.

Resident complaints have been received about 65 Shoddy Mill Road. This matter remains in litigation with a court date in October.

A. Teller noticed the for-lease sign back up at the former Bolton Pizza site. J. Rupert does not know what happened although he received an email from the Health Department that unforeseen kitchen issues were encountered during inspection. That person is now looking for a different location.

C. Davey asked about the construction equipment he has seen going into the Fish Farm. J. Rupert reported this was for a heavy use building for managing manure. The permit was obtained in December. The owner received grant money and low interest loan from a farming association.

**5. Old Business**

**a. Other:** There was none

## 6. New Business

### a. Application/Discussion/Possible Decision: Modification of Special Permit #PL-18-6 to include New Building, Public Hearing Requirement, Steven Rockefeller (#PL-19-2)

Steven Rockefeller, owner, was present along with Andrew Bushnell of Bushnell Associates.

Mr. Rockefeller indicated they are here this evening because of a change in scope for the office space. Retrofitting the existing building for office space proved too costly. Therefore, the project now includes a 75' x 75' structure off the front of the building.

Mr. Bushnell presented the new site plans. The office building will be situated in the northeast corner of the property. There will be an access ramp on the side of the structure to connect the two buildings. A detention basin at the rear of the existing building will accept storm water from the back, newly paved, parking area and the runoff from the roofs. Improvements will be made in the lighting and dumpster area. A front detention basin will capture storm water from the front parking area. The building will be served by the existing well. Sewage will flow to the existing grinder system that then connects to the Town sewer system. A handicap ramp will be constructed at the back of the existing building. The culvert under the driveway will be extended. The site work will make it more presentable from the roadway. A fire lane will be added to the front. No wetlands are being impacted. Standard erosion controls have been added to the plan.

J. Rupert added that the intent is to also use the office space in the existing building. The site will remain fairly wooded to the road. C. Davey asked what the sideline setback requirement is. J. Rupert indicated it is 10'; the building is set at 12'. A. Teller noted a memo from P. Carson, dated June 10, 2019, was included in the documentation. Also, an email from Town Engineer Joe Dillon indicated he is satisfied with the revisions.

**A.Teller moved** to approve Able Coil & Electronics Co.'s modification of Special Permit #PL-18-6 to add a new office building at 837 Boston Turnpike, application #PL-19-2, in accordance with the plans submitted as "Plan Prepared For Howard Road Realty, LLC, 837 Boston Turnpike, Bolton, CT" (2 sheets) dated: 11/7/2018, revised through 5/23/2019, Landscaping Plan (1 sheet) dated: 5/31/2019, and Conceptual Building Elevations (4 sheets) dated: 5/28/19, which is conditioned on the following modifications:

1. The approval letter to be placed on the mylars to be recorded in the Office of the Town Clerk.
2. The approval is subject to compliance with any comments or requirements of the Health District, Bolton Lakes Regional Water Pollution Control Authority, Fire Marshal, and the Town Engineer.
3. All appropriate seals and signatures of the design professionals for this plan shall be placed on the plans before recording.
4. An Erosion & Sedimentation Bond in the amount of \$26,160.00 (\$21,800.00 plus a 20% contingency of \$4,360.00) shall be filed with the Town prior to the commencement of work on the site.
5. A Site Improvement Bond in the amount of \$110,281.49 (\$91,942.91 plus a 20% contingency of \$18,338.58) shall be filed prior to the commencement of work on the site. Should items covered by this Bond not be constructed during 2019, an

- appropriate escalation factor shall be reviewed by the Town Engineer and applied if warranted.
6. A copy of the referral to the CTDOT for work proposed within their right of way shall be submitted to the Building Department.
  7. Comply with following conditions imposed by the BLRWPCA:
    - a. Obtain and pay the benefit assessment for up to two additional EDUs for subject property
    - b. Obtain necessary permits and pay associated fees
    - c. Install a second duplex grinder pump if determined necessary by the BLRWPCA
    - d. Install a water meter on the building to enable the BLRWPCA to monitor water usage
  8. The location of the proposed stormwater basin shall be staked in the field prior to construction.
  9. An as-built survey of the completed stormwater basin shall be submitted to the Town for review.
  10. The Commission finds the elevation designs are in compliance with Section 16A.3.x. – Buildings and Structures: Architectural and Design Requirements and Section 16B.4.1. – Architectural Character, Historic Preservation, Site Design.

The PZC grants Waivers requested by the Applicant for:

1. Landscaping islands in the parking areas
2. 10 parking spaces above the maximum requirement for shift overlap and future expansion.

The Planning and Zoning Commission finds with these conditions and modifications the plan meets the requirements of the Bolton Zoning Regulations. **T. Manning seconded.**

Discussion:

C. Davey wanted a point of clarification – he looked at the elevations and the fourth page describes the upper level map with maximum stories being two. A. Bushnell explained the new structure is one-story while the existing building is two-stories. A. Teller added that the PZC approved the original plan and he does not see this new plan as being less desirable. He feels an owner can design a building as they wish if it complies with regulations.

Vote 7-0-0. Motion passed.

**b. Expiration of/Void Approval of Subdivision Plan: Sperry’s Glen Subdivision, 11 French Road (Frank & Luisa Wood – Original Applicant, Glenn Ostrager – Current Owner)**

A.Teller related that Staff has suggested it is wise to reflect for the record that the subdivision approval has expired and is void. A. Fiano asked if the new owner is aware of the limitations and the expiration. M. Manning related that the original owner has died, and the heir’s attorney has been notified. J. Rupert indicated a bond was posted for the subdivision; the heirs would like that money returned. The new owner has owned the land for some time and has shown no interest in the subdivision. The new owner was with the original owner when the modification was made. There is not a requirement to give notice to the owner of the expiration. A. Teller added the Commission does not have to act, but it is wise to do so.

**T. Manning moved** to terminate/void the subdivision approval of Frank & Luisa Wood's application for the Sperry Glen Subdivision on 11 French Road, currently owned by Glenn Ostrager, in accordance with Section 8-26c.(e) of the Connecticut General Statutes, as amended. This subdivision was approved on September 14, 2009 and revised May 29, 2010 and valid until September 14, 2018 and May 29, 2019. No extensions have been requested. Therefore the Commission declares this subdivision to have expired and the approval to be null and void. **A. Fiano seconded.**

Discussion:

C. Davey stated that if the approval has already expired, what is the PZC doing – declaring it is expired? Why not take no action? A. Teller restated that taking this action does not hurt. M. Manning sees this as a possible scenario of twenty to twenty-five years in the future of someone pulling the subdivision plan and trying to act on it. T. Robbins confirmed that someone can apply for a new subdivision while complying with the current regulations. J. Rupert added that there are a couple of issues with the property that may make it difficult to comply with current regulations. The Inland Wetlands Agent and Town Engineer walked the property and found it to be stable so the Town can release the bond.

N. Kerr wondered if the Commission would be setting a precedent for expired plans that we do not make a motion to cancel after expiration. A. Teller does not think so, but future practice may be to formally terminate expired permits. He continued that the current owner has notice because his name appeared on the meeting agenda. But there is no statutory requirement to notify him directly. J. Rupert stated that the land records will be updated, and documentation filed in the Clerk's office about this action.

Vote: 7-0-0. Motion passed.

**c. Other:**

A representative from the Linde Gas Company had a discussion with staff about 299 Hop River Road. The company is very interested in the property for the storing and shipping of cylinders of various types of gases. Staff feels the use qualifies under Section 9.A.2.b. of the regulations as a Special Use Permit. J. Rupert understood that this would be a warehousing facility with no manufacturing or venting of gases. Filling of cylinders was not discussed. Due to the amounts of gases this would be regulated by the State and Homeland Security. It would be a very secure site. Some gases could be stored outside. For this purpose, item 5 under Special Permit uses was considered for outdoor storage as long as there is screening to abutting properties. Storage would be in the manner prescribed by the state and federal regulations.

A.Fiano asked if there is any concern about such a business near an area that is well used by pedestrian traffic as the East Coast Greenway and Boy Scout camp abuts the property. J. Rupert replied there is always concern any time there is storing of materials if there are properties that could have a negative impact on health and the environment. That's why there are rules of storage and transport. Item 31 of the regulation caught staff's eye that describes prohibited uses in an industrial zone. However, if there is social utility, even if hazardous, PZC may allow the storage.

M. Manning opined that extra care may be needed with the pedestrian/biking public being close to the property. J. Rupert stated that no one would be able to see the property; there is a swamp and steep hill between the building and trail. The company would have to comply with building and fire safety codes, DEEP regulations, and federal regulations. Staff does not know if any of the gases are petroleum based. Item 19 of the regulations prohibits bulk storage of such products. Staff does not feel this is bulk storage. C. Davey asked if the company might want an exemption to the lighting regulations to make the building more secure. J. Rupert stated that the astute members of the Commission and the public will ask these questions. Also, the company should be able to answer questions about accidents or incidents history.

J. Rupert added that this property is a sizable one, but much of the land around the building is not usable because of the swamp. The building needs a fair amount of work. Trucks would be entering and exiting the driveway without adding significant traffic to the roadway. Staff recommended that if the company makes an offer on the property that it be contingent on PZC approval.

A. Teller is thinking that this use is not prohibited. It would require a public hearing for a special permit. Economic activity is valuable and generates tax revenue for the town. Improvements to the property make it more valuable. R. Fournier notes there are no quantities listed in the regulations. J. Rupert replied that is regulated by other authorities. The company is willing to offer training to the local first responders.

The following would be asked of the company during a presentation:

- A list of the stored gases, the size of the containers, and the industries serviced.
- Some gases sink and some rise – what are the environmental risks? There is a lot of conservation land nearby. The Conservation Trust owns property that backs up to the property.
- Reference to other sites the company maintains.
- Would a concrete impoundment be required? For what gas?

J. Rupert added that there is not room for expansion based on the wetlands. The first 300' from the road is not usable. The office trailer would likely be removed. Once the site is built out federal representatives must inspect the site before any storage begins; they inspect on an annual basis. He is not certain if this is a twenty-four-hour operation or secured for twenty-four hours although he feels it would be secured day and night, not having materials moving in and out around the clock. The security would be quite sophisticated. One of their customers used to be Simonize. Most manufacturers use these gases in their system and the gases are traveling over the roads all the time.

C. Davey asked A. Teller what ability the PZC has to deny an application even if regulations are met, but the community is opposed? If it is not a prohibited use and poses no threat to the health, safety, and welfare a special permit can be granted. The Commission would have to find something about the specific location that makes the use inappropriate. The PZC considers how the public feels, but this is zoned industrial. There are a small amount of industrial areas in town. What used to be a railway has been turned into a trail and public park. The number of people using the trail at any given moment is many fewer than would be in another location.

Staff does not know the approval sequence. He thinks it may be local approval is met first before state and federal approval is sought. Every location is environmentally sensitive to someone. There are thousands of locations like this across the country. Due diligence is required by Staff and the PZC so Bolton does not end up with a Love Canal.

**7. Correspondence:** There was none

**8. Public Forum: Discussion/Review of Possible Amendments to the Zoning Regulations (time permitting) – Section 2 & 3**

Time was not available to discuss the regulations.

**9. Adjournment:**

**T. Manning moved** to adjourn the meeting at 8:45 p.m. **A. Fiano seconded.** Vote: 7-0-0. Motion passed.

Respectfully Submitted,

Yvonne B. Filip

Yvonne B. Filip, Planning & Zoning Commission Recording Secretary

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