

**BOLTON PLANNING & ZONING COMMISSION**  
**Regular Meeting**  
**7:30 p.m., Wednesday, July 10, 2019**  
**Bolton Town Hall, 222 Bolton Center Road**  
**Minutes & Motions**

**Members Present:** Chairman Adam Teller, James Cropley, Christopher Davey, Benjamin Davies, Arlene Fiano, Neal Kerr, Thomas Robbins, and Alternates Marilee Manning and Thomas Manning

**Members Excused:** Alternate Rodney Fournier

**Staff Present:** Patrice Carson, Director of Community Development, Jim Rupert, Zoning Enforcement Officer, Yvonne Filip, Recording Secretary

**1. Call to Order:** Chairman A. Teller called the meeting to order at 7:32 p.m.

**2. Approval of Minutes: June 12, 2019 Regular Meeting Minutes**

**Correction:** Page 1 of 6, Residents' Forum – change to “There were no speakers.”.

**A.Fiano moved** to approve the minutes of the June 12, 2019 regular meeting with the correction.

**C. Davey seconded.** Vote: 5-0-2 (Davies, Cropley). Motion passed.

**3. Residents' Forum:**

Saleem, 1135 Boston Turnpike, owner of the gas station – submitted plans about one year ago for modifications to the gas station. Town Staff visited yesterday for the C.O. inspection. Comments included that details mentioned on the plan is the way the site should have been landscaped. Some stones in the drainage area were moved around to revamp the area rather than use of modified rip rap as stated on the plan. A professional landscaper feels it would be more harmful to do something that is not needed. The owner is here to get approval that the work as stated on the plan is not needed.

A. Teller stated for clarification that the work authorized per the permit was not done according to the site plan on file. The owner will have to deal with Town Staff on this matter. If Town Staff has an issue, they will inform the applicant what must be done or to come to the PZC for guidance. This is not the appropriate forum to discuss the matter. P. Carson plans on discussing the issues under Old Business.

Unidentified citizen – asked what is happening with the new bike path. P. Carson clarified that he was talking about the Nathan Hale Greenway which will be a footpath-type trail.

**4. Staff Reports:**

P. Carson reported that she, J. Rupert, Randy Heckman, Barbara Kelly, Holly Hood (Health Department), and Joe Dillon went to the Valero station for inspection to issue a Certificate of Occupancy. B. Kelly, Wetlands Agent, noted that the outfall area from the drainage pipe in the parking lot was supposed to have modified rip rap placed; instead, product stone was placed. There are some gaps under the stones. However, she would consider signing off for the CO. Joe Dillon noticed there was no rip rap and did not see erosion at the outfall, as well as other issues. P. Carson, J. Rupert, and R. Heckman saw several issues with the site. The landscaping and

backfilling are not complete, signs for entrance and egress are not posted, modifications to the parking lot striping were made without request and approval to modify, the modified rip rap is not present, the emergency light must be moved, the attendant's camera does not show a pump. The CCTV conduit must be plugged at both ends, and the dumpster area must be closed off. Once these issues are corrected, a CO would be issued.

Modifications that were made to the approved plan and not approved by the PZC are the absence of the modified rip rap and the parking striping. The parking striping was changed because of the grade where the handicapped spot was supposed to be. The number of spots remains the same or may have one additional spot. Stone was put in place of the modified rip rap, but the area seems to be stable.

C. Davey asked if the approval of the permit included language that allows Staff to approve minor modifications? The reply was that there is such language in the regulations, but a request for the modifications did not come before Staff. J. Cropley asked if the rip rap is not there or that it cannot be seen. A. Teller read that there is regular stone in its place. T. Manning relayed the DOT requirements of modified rip rap, including that it must be angular and interlocking. J. Rupert indicated the Town Engineer and Wetlands Agent stated the material is not rip rap. It is native stone, some of which is angular, and the area is stable. A. Teller asked Staff if they were asked about the modification for the handicapped spot, would they have approved it? J. Rupert believes it would have been approved because the original spot had too much slope. There is no more pavement than proposed. Staff does not think there is any issue with entrance and egress for fire vehicles.

A. Teller asked if Mr. Dillion would agree to the modification of the rip rap? J. Rupert spoke to him at length. The stone seems to be working, the bank is well vegetated, and more damage may be done by installing the modified rip rap causing destabilization during the process. The same was asked of Ms. Kelly. She was disappointed that the approved material was not used but making changes now would create more damage. A. Teller asked about the longevity of the native stone. That question was not asked of Mr. Dillion or Ms. Kelly. B. Kelly noted that the depression above the outfall is slightly larger than it was last year. That area is a depression in the earth just above the pipe that flows into the brook. The brook does flow seasonally so this could be a natural issue.

A. Teller wants a professional engineer to certify that the structure in place will function as intended per the approved design. A professional engineer signed off on the approved plans, he should sign off on the modification. If he does not, the owner must come to the PZC to request a modification.

Owner of the business spoke saying both J. Dillon and B. Kelly saw the stone and accepted it in writing via email and asked why the CO can't be issued? A. Teller replied that the engineer has not answered the question the PZC is asking about it functioning in the same capacity. Until the engineer stands behind the structure as is, the change is not acceptable. The owner did not do what was on the plan nor ask for a modification.

ZEO report provided by J. Rupert:

There has not been much administrative activity. An underground propane tank, a chicken coop, and amplification of a roof top solar array was approved. A 10' x 12' shed in the R3 Zone was denied because they are already over the impervious allotment.

A Cease & Desist order was issued for two businesses using the Lyndale Stand property. These are two tree companies that J. Rupert is not sure the PZC would approve the use if they did come to the Commission. There have been two meetings with the owner of the property without making much progress. J. Rupert recommended to the owner that if he does not agree with the ZEO he should appear before the ZBA. Otherwise, he must remove the violations or submit applications to the PZC. The tree companies park the company vehicles on the property overnight and employees park their personal vehicles during the workday. This use is not associated with farming or allowed in the RMUZ. This is not ancillary to farming. There is also the issue with the farming property now being detached from the farm stand. The farm stand can remain because it is an established use. The issue of the greenhouse was resolved.

Staff continues to wait on the court system for the violation at 65 Shoddy Mill Road. He is not hearing from the neighbors as frequently as he was. There is noise, moving of earth at all hours, and motor vehicles. J. Cropley asked if there is anything the residents can do? Teller indicated they could go for an injunction, but that would not get results any faster than the Town. A pre-trial conference was held with the attorney and the owner's son representing the mother with no results.

## **5. Old Business**

**a. Other:** There was none.

## **6. New Business**

**a. Other:** There was none.

## **7. Correspondence**

P. Carson reminded the PZC that they approved a site plan in February for a home occupation at 874 Hop River Road. The owner stated in the application and during the meeting that he would be applying to provide some gun transfers, make gun repairs, and would be applying for a Type 1 FFL. He would not be making or manufacturing guns at this time. Recently, ATF called P. Carson regarding the application of a federal license for the owner of the home occupation. That application is for a Type 7 license. This license allows for manufacturing, way beyond repairs as stated by the owner. She received a call from the owner who tried to argue that this is what he requested of the PZC. Should the owner continue with that application he will have to come back to the PZC requesting a modification.

Bolton, in conjunction with three other towns, have hired CERC to review EDC plans and studies for each town. A subcommittee is being organized comprised of two members from the PZC, EDC, and BOS, and staff members. Ideally the members should have business experience. The subcommittee's work should be completed within twelve months. The Town subcommittee will meet in July or August. A meeting of the subcommittees of the four towns is tentatively scheduled for September 30, 2019. J. Cropley and T. Robbins volunteered to represent the PZC.

The *Connecticut Federation of Planning and Zoning Agency Quarterly Newsletter* was distributed to the Members.

A United States Supreme Court case was recently ruled on regarding the taking of land. This ruling could have horrible results for Towns. For 30-40 years, if a property owner felt his property was taken by the government without just compensation or for public purposes, he must try to resolve his claim through the State court system first. The recent Supreme Court ruling has eliminated that as being a necessary part of the process and an owner can go to the federal level right away.

A draft version of “Notice of Division or Reconfiguration of Land” was provided. Staff and the Health Department must review this. Review of the proposal is done by Staff and the Health Department before the plan is signed off on and a map can be filed with the Town Clerk. The Health Department representative will not sign on a plan but will send an email saying the plan is okay as presented. That email is placed on the mylar and constitutes a signature as required by statute. The form is one P. Carson has used previously. It identifies the property, the owners, and a brief description of what they are doing, and signatures of the property owners. P. Carson feels this can be used as policy and wants to get the PZC’s reaction. C. Davey feels #9 should clearly state that this is the owner/agent information. And what is Sanitation and PZC doing when they sign the form...approving the division or reconfiguration or receiving the form? The PZC has the ability to determine if this is a subdivision or subdivision. If not, it is a lot line modification. There is no fee for this process.

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

Time did not permit for this item.

**9. Adjournment:**

**J. Cropley moved** to adjourn the meeting at 8:52 p.m. **N. Kerr 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.*