

**Bolton Planning & Zoning Commission**  
**Regular Meeting**  
**7:30 p.m., Wednesday, September 9, 2020**  
*Virtual Meeting Utilizing Zoom*  
**Minutes and Motions**

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

**Members Not Present:** Alternate Rodney Fournier

**Staff Present:** Patrice Carson, AICP, Consulting Director of Community Development, Sandra Pierog, First Selectman and Jim Rupert, Zoning Enforcement Officer

**Others Present:** Andrew Bushnell, Gerald Hardisty, William Phillips and Liz Fahey - Parkside Pizza

**1. Call to Order:** Chairman A. Teller called the meeting to order at 7:30 p.m.

**2. Approval of Minutes: August 12, 2020 Regular Meeting Minutes:**

Amend the following: **Page 4, last sentence:** Correct the last word from are to area.

**J. Cropley moved** to approve the minutes as amended. **T. Manning seconded.** The motion passed 6:0:1. **B. Davies abstained.**

**3. Public Hearings (begin at 7:45 p.m.)**

**a. Application: Zoning Regulation Amendments to Extend Outdoor Dining Operations into December 2020/January 2021 and Reviving Outdoor Dining Without a Regulation Change in Spring 2021**

P. Carson read the legal notice dated August 21, 2020. Neighbors and CRCOG were notified. There were no comments. A. Teller noted that the Governors Executive Order expired but has been reauthorized. The date for the public hearing was set before the reauthorization. There have not been any significant problems with the outdoor dining.

P. Carson noted that the town was trying to be proactive if the Governors Order was not extended. This amendment should either be adopted or it needs to be at the ready. A. Teller noted that the Planning & Zoning Commission might want to approve a regulation amendment to allow the temporary revival of outdoor dining in the spring.

T. Robbins noted that outdoor dining is working very well and it appears that the pandemic is likely to last for a while. He proposed extending the deadline to November 30, 2021. J. Cropley agreed and thinks that outdoor dining should be allowed all the time. P. Carson explained that it would only be an issue if restaurants are able to open indoor dining at 100%. Parking could be an issue and J. Rupert noted that public health regulations concerning septic use could be a problem due to additional seating. A. Teller is also concerned about the configuration of traffic patterns and seating areas. The way the seating has been set up in parking lots may not work in the winter.

C. Davey supports the extension to November 2021 but does not support a permanent extension.

A. Teller noted that with a blanket approval through the winter, you can see how it may work. He suggested authorizing the ZEO to have more time to grant an extension, say 30 or 60 days instead of 14. T. Manning noted that as the regulation amendment is written, the ZEO can suspend or extend. A. Fiano agrees with the extension through November 30, 2021, but that is not what the public hearing is about.

S. Pierog is in favor of the November 30, 2021 extension. This will give the restaurants two summer seasons and a full winter season to experiment with outdoor options and it allows time for the medical community to come up with a solution to the pandemic.

Liz Fahey from Parkside Pizza spoke about her restaurant. They currently have picnic tables on the lawn and she feels that it has been great to see families together enjoying their time in a safe environment. They do more takeout than sit down meals. Inside dining is at half capacity. She feels that people are still nervous about inside dining. Parkside Pizza is fortunate in that they have many windows as the Health Department prefers open windows to air conditioning and the circulation of indoor air. She feels that once it gets colder people won't go inside as flu and winter cold symptoms are similar to COVID-19 and it is difficult to discern. They do not have a plan for a winter tent. It doesn't make sense for them financially. She would be thankful to have outdoor dining continue.

J. Cropley asked if she would want outside seating after COVID pandemic eases. Liz replied yes that it is a valuable option and people enjoy it. J. Flick enjoys Parkside Pizza and agrees with extension to November 30, 2021.

P. Carson shared the draft resolution. P. Carson suggested changing the dates in the first paragraph from November 30, 2020 to November 30, 2021, and changing the ZEO authority to suspend or terminate at any time. A. Teller noted that changing the dates to 2021 takes care of restaurants extending their seating in the spring and it eliminates the need for ZEO extensions as the total extension will be until November 2021. A. Teller notes that this puts a lot of pressure on the ZEO to monitor how these businesses are operating in the winter. It will be up to the town to tell them to stop if it is unsafe. J. Rupert said that he has a good idea of what is happening with these businesses and they are capable of making responsible decisions. He thinks that it will self-regulate and he doesn't foresee any issues.

P. Carson questioned if the second paragraph is necessary if the extension is granted to 2021. A. Teller replied that the notation about weather or other change of conditions is necessary but the extension days is not. The last sentence can be removed if the extension is granted to 2021.

**T. Manning moved** to close the public hearing at 8:16 p.m. **C. Davey seconded**. The motion passed unanimously 7:0:0.

**4. Resident's Forum (Public Comment for items NOT on the agenda):** No comments from the public

#### **5. Staff Reports**

P. Carson reported working on the agenda items and meeting with people interested in development. She has also spoken with a couple of restaurant owners.

J. Rupert reported that the only enforcement issue is a notice of violation about keeping of roosters on Brookfield Road. Zoning permits for sheds, decks, pools continue and he has been reasonably busy. He has issued a letter of approval for Georgina's to put up a tent in their back area. They will be losing a few parking spaces but it is not an issue. The tent will need to be inspected before use and emergency lights are necessary. Re-inspection will be required after 90 days.

A. Teller asked if there have been any complaints about outdoor dining i.e. noise. J. Rupert stated that he hadn't heard any complaints but he would check with the Health Department.

## **6. Old Business**

### **a. Discussion/Possible Decision: Subdivision Application for 1-Lot, 12 Webster Lane, CARMA LLC (#PL-20-11)**

Gerald Hardisty spoke for the applicant regarding the application. P. Carson noted that the names of the three appraisers provided by Mr. Hardisty were approved. An appraisal has not been performed yet as it has been difficult to find one willing to take on this assignment. Mr. Hardisty will provide the town the names of three new appraisers. Town Engineer Joe Dillon has approved the plans.

The site plan, dated August 10, 2020, was shared with the commission. The square footage of the area in Bolton versus Andover is in question. A. Teller said that if the total value of the parcel was known, the fee in lieu of open space could be determined.

A. Teller asked if there was any objection to voting at this time. The commission members replied that there were no objections and that the vote would be to approve the application. Discussion ensued about the wording of the motion.

**A. Teller moved** to approve application #PL-20-11 for a 1-lot subdivision at 12 Webster Lane by CARMA LLC in accordance with the plan entitled "CARMA LLC two lot subdivision in Andover/Bolton Connecticut", last revised on August 10, 2020, with the following conditions which are necessary to bring the application within the subdivision regulations:

1. Approval will be conditioned on similar approval by the Andover Planning & Zoning Commission.
2. This approval and the letter of approval from the Andover Planning & Zoning Commission shall be added to the plan before final recording.
3. The final plan shall be recorded in the Bolton Land Records.
4. In order to comply with Section 4 of the Bolton Subdivision Regulations regarding open space, a fee in lieu of open space shall be due in connection with this approval. Said fee shall be in the amount of 10% of the appraised value of the pre-subdivided parcel as determined by an appraiser acceptable to the Commission, multiplied by the fraction, the numerator of which is the area of the land located in the town of Bolton and the denominator of which is the area of the total parcel being subdivided. Said fee shall be divided 50% for each lot and secured by a lien on each lot and due upon the sale or transfer of each lot.
5. Approval is subject to compliance with any comments or requirements of the Health District and Town Engineer.
6. All appropriate seals and signatures of the design professionals for this plan shall be on the plans prior to filing.
7. The Town of Bolton Zoning Enforcement Official shall be authorized to approve the plans for recording in the event of minor changes by the Andover Planning & Zoning Commission that do not affect the interests of the Town of Bolton.

The Planning & Zoning Commission finds that with these conditions, the plans meet the requirements of the Town of Bolton Subdivision Regulations.

**J. Cropley seconded.** The motion passed unanimously 7:0:0.

### **b. Discussion/Possible Decision: Zoning Regulation Amendments to Extend Outdoor Dining Operations into December 2020/January 2021 and Reviving Outdoor Dining Without a Regulation Change in Spring 2021**

**T. Manning moved** to adopt a new section (3B4.f.) in the Bolton Zoning Regulations as follows:

**Any Outdoor Dining that has not been the subject of a zoning enforcement action or nuisance activity report, which is operating with a permit issued pursuant to 2020 Gubernatorial Executive Order 7MM, or any extension or amendment or reissuance thereof shall be permitted to operate until November 30, 2021, provided that such extension shall not be interpreted to create any nonconforming right, and further provided that the operation of the Outdoor Dining between the date of the suspension of the State’s declared state of emergency and November 30, 2021 shall be deemed to be a complete and total waiver of any claim of nonconforming rights under any local, state, or federal legal activity.**

**The Zoning Enforcement Officer (ZEO) shall be authorized to suspend and/or terminate any such permit issued under the Executive Order upon a finding that weather or other change of conditions at a particular site constitute a nuisance or a risk to health and safety.**

This regulation is effective on the date of publication. **J. Cropley seconded.** C. Davey felt that the words “this extension” in the second paragraph should be replaced with “any such permit issued under the Executive Order”. The amended motion passed unanimously 7:0:0.

## **7. New Business**

### **a. Special Permit Application: Proposed Garage/Office Building, Excavation Business, Equipment Storage & Material Processing Areas, 1 Notch Rd., William Phillips (#PL-20-12)**

P. Carson noted that the applicant came before the commission in the summer. The town engineer and the applicant worked out some issues and new plans were submitted. Andrew Bushnell of Bushnell Associates in Manchester spoke on the application. He is working with Joe Dillon on issues such as access sight lines, septic system, etc. They have wetlands approval. The plan will be submitted to the Health Department. P. Carson said that there will be a full review of the plan within a week or two.

**A. Teller moved** to set a Public Hearing on Wednesday, October 14, 2020, at 7:45 p.m. at Town Hall or remotely via Zoom for the Special Permit Application for a Proposed Garage/Office Building, Excavation Business, Equipment Storage & Material Processing Areas, 1 Notch Rd. William Phillips (#PL-20-12). **J. Cropley seconded.** The motion passed unanimously 7:0:0.

## **8. Correspondence**

### **a. Report on Statewide Planning Conversation-Racism, Planning, Zoning**

No commission member or staff attended the meeting on Tuesday. There was no report.

## **9. Adjournment:**

**J. Cropley moved** to adjourn the *virtual* meeting at 9:06 p.m. **T. Manning seconded.** The motion passed unanimously 7:0:0.

Respectfully submitted,

*Leslie J. Brand*

Leslie Brand  
Recording Secretary

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