

BOLTON PLANNING & ZONING COMMISSION
Regular Meeting
7:30 p.m., Wednesday, September 8, 2021
Virtual Meeting utilizing Zoom
Minutes & Motions

Members Present: Chairman Adam Teller, Vice Chairman James Cropley, Christopher Davey, Arlene Fiano, Tom Manning, Thomas Robbins and Alternates Jeremy Flick, Rodney Fournier and Marilee Manning

Members Excused: Benjamin Davies

Staff Present: Patrice Carson, AICP, Consulting Director of Community Development, Mike D'Amato, Interim Zoning Enforcement Officer

Others Present: Sandy Pierog, Dr. Christine Ilies

1. Call to Order: Chairman A. Teller called the meeting to order at 7:30 p.m. J. Flick was seated for B. Davies.

2. Approval of Minutes: August 11, 2021 Regular Meeting Minutes

J. Cropley moved to approve the minutes of the August 11, 2021 regular meeting as written. **C. Davey seconded.** Vote: 6-0-1 (Robbins). Motion passed.

3. Resident's Forum (Public Comment for items not on the agenda)

Dr. Christine Ilies, 1120 Boston Turnpike was present to discuss the common sign approved for the properties at 1100 Boston Turnpike. A "Unified Monument Sign" and its location was originally approved in 2017 by the town as a common sign for the three properties. When Dollar General made their application the sign was approved to be moved to their property which Dr. Ilies feels denies her of having her own sign. It was clarified that the original sign location was approved on Dr. Rosenlicht's property, not on property of Dr. Ilies. A. Teller said that Dr. Rosenlicht has control over his property and Dr. Ilies might need to take her issue up with him.

It was clarified that the public hearing took place during COVID and under the Governor's Executive Order which meant a sign posted on the property, in this case directly abutting Dr. Ilies property, served as notice. There was a public hearing and no one told the PZC that there was an issue with signage or common signage. It was suggested that Dr. Ilies might have some contractual or easement right to have a sign on Dr. Rosenlicht's property and therefore Dr. Ilies needs to deal with the person she has an agreement with. The easement that is filed with the town is for access and utilities and does not address the sign.

Dr. Ilies stated that the town approved the sign for the three properties. She brought the electricity in to the site and built the common driveway according to the plans, and has been landscaping the area ever since. Only one sign was approved for the three businesses and Dr. Ilies thought she had to wait until the other two businesses were approved to install the sign.

Dr. Ilies explained that four weeks ago she was contacted by Dr. Rosenlicht's lawyer asking her to sign an agreement within one week to agree to the sign relocation and giving her a 1/6th space

on the sign below the other properties signs. She was told that if she did not sign the agreement that she would not be able to use any space on the common sign. P. Carson said that the Zoning Regulations say that the Unified sign that was approved in both plans is for the three businesses so she is not sure how Dr. Ilies business can be kept off the sign.

Dr. Ilies did not understand why the sign was allowed to be moved to someone else's lot and now why would she want her sign on someone else's lot instead of in the easement – it did not make sense to her. It was explained that the same sign that was approved in the original application was also approved in the second application, on land owned by the same person, just in a different location and it was for the safety of truck traffic delivery.

Dr. Ilies said she waited to install a sign that she could have installed three years ago and feels like she was not informed about all the changes that would happen and the town approved something without her knowledge. A. Teller stated that was not quite true - she was informed by the sign on the property that there was an application pending on that property, and the application was available for review before the hearing. She does not own the property and the application included a request to move the sign and there was a public hearing. It would be up to her, an abutting property owner, to follow up to understand what is being applied for. The property owner in this case controlled all the property where the sign was located and requested to be relocated for safety reasons and the PZC approved his request. However, had the sign location issue been brought up at the public hearing the PZC could have dealt with it at that time, but at this point the PZC has no other control. Dr. Ilies might have separate agreements but the PZC has no control over those – they are between property owners. The PZC cannot control content of the sign and who gets what size on the sign. Since a common sign was approved, all three properties have rights to use it, but the PZC does not get involved in private landowner's agreements. The PZC enforces the regulations for the use and acts on the application that is before them at the time. The PZC only changed things on land owned by the property owner who was before them, not on Dr. Ilies' property.

T. Manning asked if the PZC can request the ZEO not to approve the sign application until the PZC has reviewed it? M. D'Amato explained that if a sign application is made and it is compliant, unless it requires a Special Permit where this is some flexibility for the PZC to review it and determine appropriateness, then it really has to be approved. The PZC cannot regulate the content of a sign which seems to be the concern. The PZC can regulate that the sign is a coordinated sign for the three businesses but not who gets how much of the sign; size, location and purpose is all the PZC has control over.

Dr. Ilies expressed that she did not think that the town would approve something different from what had been approved for the three businesses and was upset that that could happen. A. Teller explained that the PZC is only in control of the applications that are before them and in this case the property owner had control of the entire property where the sign was being located and the purpose of the sign, a directory for the three businesses, did not change. A. Fiano stated that the sign was asked to be moved for safety reasons for access and egress of larger vehicles, not as a promotion of one business over another.

A. Teller stated that he understood the issue and understood that Dr. Ilies felt she was not well-served by the public hearing, but the PZC did what they did based on what appeared to be safe. If she feels that it infringed on something she thought she was entitled to have then that is

between Dr. Ilies and Dr. Rosenlicht and whatever agreements were in place between them at the time. A. Teller said he appreciated Dr. Ilies coming to the meeting and her time, and wished she had come to public hearing where, at that time, something different might have been able to be worked out during the public hearing process that would have been more satisfactory, but the PZC cannot do that if people don't come to the public hearings and make their interests known.

4. Staff Reports:

P. Carson reported that she and Mike have been working on the Regulation amendments to address the Legislative Changes. They are also working with an intern to prepare an Affordable Housing Plan for the Town which the Selectmen and PZC will have some involvement with.

M. D'Amato reported that in addition to the Legislative changes he was getting up to speed with some of the in-progress enforcement issues that were pending, creating status points, reviewing the files and determining what the approach will be for each one. A. Teller asked about general enforcement actions and if anything has progressed. M. D'Amato said not at this point but will be following up on 17 Howard Road with a formal request to start a clock, and watching the Special Permit timeframes for 1225 Boston Turnpike.

5. Old Business:

a. Discussion: New Legislative Changes

The staff reviewed the recommended draft amendments to the Zoning Regulations to address the 2021 Legislative changes. The Commission discussed the draft and agreed to initiate an application to amend its regulations on the following to conform to the new statutory provisions:

Allow outdoor dining as an as of right accessory use to a restaurant:

- Amend Sections 3B.4.a. and 3B.4.f.
- Amend Sections 8A.2.c., 8B.2.c., 8C.2.c., and 9B.2.c. to add at the end “,unless these Regulations expressly allow a different review.”
- Amend Sections 8C.2.b.6. and 9B2.b.4. to add at the end “per Section 3B.4.

Remove references to minimum floor area in certain circumstances:

- Amend Sections 11A. and 11B. to remove the minimum floor areas required.
- Amend Sections 11A., 11B. and 11C. to add footnote 4 “No dwelling unit shall be erected or created that does not comply with the minimum standards as set forth in all applicable Building, Housing and/or Health Codes.”

Allow Accessory Dwelling Units by right:

- Amend Section 2 to remove Accessory Apartment, rename and redefine Accessory Dwelling, and add ADU as a term.
- Amend Sections 6A.3 and 8C.2.a.4. to add ADU requirements.
- Amend Section 8C.2.b.13. to remove accessory apartments as a Special Use.

As a separate matter P. Carson questioned why Section 3.B4.d. required restaurants to have 30 seats. Commissioners stated it was probably to avoid allowing a taproom or bar to be operated under provisions intended for a restaurant. The concern is that 30 seats may be too many to allow a smaller café. The Commission decided to flag this section for a future discussion.

A. Teller moved for the Commission on its own application to present the draft regulations as just discussed with the amendments thereto and set a public hearing for Wednesday, October 13, 2021 at 7:45pm to be held remotely. **J. Cropley seconded.** Vote: 7-0-0. Motion passed.

b. Other: There was none.

6. New Business

a. Other: There was none.

7. Correspondence: There was none.

8. Adjournment:

J. Cropley moved to adjourn the meeting at 9:35pm. **A. Teller seconded.** Vote: 7-0-0. Motion passed.

Respectfully Submitted,

Patrice L. Carson

Patrice L. Carson, Recording Secretary

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