

BOLTON PLANNING & ZONING COMMISSION
Regular Meeting
7:30 p.m., Wednesday, March 10, 2021
Virtual Meeting
Minutes & Motions

Members Present: Chairman Adam Teller, Vice Chairman James Cropley, Christopher Davey, Benjamin Davies, Arlene Fiano, Thomas Robbins, T. Manning, and Alternates Jeremy Flick, Rodney Fournier (joined at 7:44 p.m.), Marilee Manning

Members Excused:

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

Others Present: Attorney Stephen Penny, George Logan, Luke DiStefano, Andrew Ladyga

1. Call to Order: Chairman A. Teller called the meeting to order at 7:34 p.m.

2. Approval of Minutes: February 10, 2021 Regular Meeting Minutes

Corrections:

Page 1, Public hearing, second paragraph – change to “...Stephen Penny, attorney for Happy Town, LLC; Andrew Ladgya member of Happy Town, LLC;...”

J. Cropley moved to approve the minutes of the February 10, 2021 regular meeting as amended.

C. Davey seconded. Vote: 7-0-0. Motion passed.

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

a. Continuation of Public Hearing: Special Permit Application for Nursery and Value-Added Agricultural Business, 1225 Boston Turnpike, Happy Town LLC (#PL-20-13)

Present were: Stephen Penny – Attorney for Happy Town, LLC, member Andrew Ladyga, Mark Byam, All American Tree Service; George Logan, Soil Scientist, Chris Berman of Shamrock, Richard Mihok, engineer.

P. Carson said amended maps and drawings were submitted today. These have not been reviewed by Staff. The public hearing time frames are still under Executive Order. This matter can be continued to the April meeting.

Attorney Penny received a memo from P. Carson that identified items that must be addressed on the plan. Item 1 says stone/product cannot be stored in the setback area. S. Penny said the two concrete silo bunkers have been existing and non-conforming. Logs and stumps shown in pictures indicate the prior nonconforming use. A. Teller asked how the storage of stone or cut wood is an agricultural use. S. Penny said stone is not a product that the tree services use. His point is that the use of the silos is not sufficiently different from the prior use. A. Teller said the plans have fire wood and log processing to the area south of the bunkers. This extends over into the residential zone. S. Penny said they will need a waiver, the PZC can tell us we can't do that, or PZC can decide that is a continuation of a non-conforming use. A. Teller said the proposed use has a cease and desist order in place indicating it is not legal and that order has not been appealed. How can that be called a valid non-conforming use? S. Penny said there is no

evidence that the use was abandoned. The tree services wanted to do processing of the logs in the bunkers. The vast majority of the composting pile has been removed from the setback area. The silage bunkers will be used for a multitude of reasons. They have 6' high walls and provide screening. If log processing cannot be done it will be removed from the property. A. Teller said the silage bunkers are open to the residential zone. With the existing cease and desist order in place the PZC can't open up something that is against regulations. S. Penny said he thought the cease and desist order is pertaining to having no permits for the uses on this property. Product has been moved out of the setback areas – out of the residential zone and the 50' line. Seven evergreen trees will be placed along part of the rear boundary line for screening between the two zones. The compost pile sits on the property lines at the openings of the bunkers. Behind this pile is phragmites. These two elements serve as natural screening. There are wetlands on the hayfield side of the boundary line. The IWC did not want any more material added to the compost pile but what is there serves as filtration.

A. Fiano asked how long the compost pile has been there and what does it consist of. S. Penny said Giglio created the pile. Our people have been adding wood chips to it; the IWC has asked us to stop doing that. This is not a huge storage facility. The tree services use just in time inventory. The compost pile is protecting the wetlands to the south. A. Teller said processing fire wood and wood chips in the concrete bunkers will send sound right into the residential zone. S. Penny said if that is an issue we can do the processing elsewhere.

The next issue in the memo from P. Carson is to delineate where things are going to be located including physical barriers. Shown are the composting area, the fire wood processing area, and location of the nursery stock. The landscaping is shown along the rear and access will be blocked from Old Coventry Road. Rich Mihok has experience with what CT DOT requires which is that landscaping plants are safer than mafia blocks, a farm fence, or chain link fence. A. Teller drove by the property and saw where people have been accessing it from Old Coventry Road. He said they should do whatever is permitted by CT DOT to stop the access from occurring.

Item 6 - No current lighting will be moved. All the buildings have two fixtures on them. The tree services will get back to the barn when it is still light out.

Item 8 - A. Ladyga has requested September 30, 2021 as a completion date for improvements.

Item 9 - Chris Berman said the company he owns was named 20 years ago and included landscaping in the name. C. Berman has offered tree services exclusively for many years and does not do landscaping.

There is one toilet on the property and it has been determined that one sewer EDU is adequate.

The dumpster has been moved away from all buildings to in front of the bunker silos. This will be screened by the bunkers and the gated privacy fence. The privacy fence off the Shamrock building did not cause concern from the IWC.

The IWC approved the application, finding non-significant impact, on February 23, 2021.

George Logan, Soil Scientist, presented new information. This will be shared with S. Penny to be uploaded for the application file. The 2016 aerial photograph shows the bunkers and the ditch. There is a land bridge over the ditch with a pipe buried before the ditch continues. The woodchip pile was there and has been augmented by the clients. The IWC told the clients not to make this any larger. The ditch extends the entire length of the field to the brook. The overland bridge is the only place for the farmer to access the field. Area three on the map is a wet or moist meadow as labeled by USDA mapping. Phragmites is a non-native invasive species that surrounds the wetlands. Some of the drainage patterns were viewed on site yesterday. There is compacted gravel on the property now. More will be added so the ground is stable and does not get mucked up. This should be renewed on an annual basis by scarifying it to renew the surface. There is moderate to significant potential for infiltration. The activities are not generating substantial runoff.

T. Manning said based on the soils houses could be put behind this property but access would come through this one. A. Teller said there is a large parcel that is zoned residential that has the same rights of development that this one does. There is frontage and the IWC would give them access for a road. It is developable. A. Fiano asked if a road stub is in place on the cul-de-sac for the potential connection to this property. P. Carson and J. Rupert believe there is one but that would be way worse access than from coming off Old Coventry Road.

S. Penney asked if the Members had any more input so changes to the plans can be addressed. C. Davey asked about the number of employees on site and if one bathroom is sufficient. S. Penney said the two tenant businesses employ a total of six people and would be on site for 20 hours each week. C. Davey confirmed with Attorney Penny that the use is not being expanded for the farm stand even though it is labeled as farm stand/convenience store. It sells vegetables, fruits, and maybe milk. J. Rupert said some items not typically associated with a farm stand have been happening from this location prior to the purchase. This is consistent in keeping with the harmony of activities happening before this purchase.

A. Teller said the labels on the map and narrative of the application should not include landscaping information so it is clear what the PZC is basing a decision on. S. Penny said that is no longer part of the application. He submitted the application and was relying on the name of the firm.

C. Berman said there will be no equipment repair taking place on the property. Maintenance to keep equipment running will be done such as lubrication. Oil changes or anything of that nature will not take place here.

A. Fiano asked what is happening inside the barn and if there is a gate in the privacy fence between the Shamrock area and barn. S. Penny said the barn is used for the farmer's hay storage; a picture was shown indicating this. There is to be a gate there; it will be added to the map.

R. Fournier asked if the screening behind the silos is a requirement for this property or should it be for when a residential development gets approved. G. Logan said the potential development on the farm property would be more to the west where the evergreen trees are being placed. A. Teller asked if the woodchip pile blocks noise. G. Logan said to some extent but not completely. The property where the shed is located is lower than this property. P. Carson said the line of

trees does not extend behind the silos. G. Logan said the IWC did not want plantings on the berm area to not interfere with the right-of-way for the farmer.

J. Cropley asked what happens to the woodchip berm in 10 years. S. Penny said it is being used as compost so it is being turned. The IWC wants the owner to stay away from it. The berm is keeping sound out and it is a buffer. J. Cropley said it will decompose and then not be there as a buffer. G. Logan said there is rubble and foreign material that someone put there in the past. Some of that would remain.

T. Manning would like a lighting photometric plan of the conditions now. And another lighting plan to follow the regulations so in making the decision the PZC can compare the two plans. T. Manning said he did a search for 'landscaping' in the regulations. He found that landscaping is required in certain instances in certain development. But the use is not one permitted in any zone or district.

J. Rupert asked that the composting area be labeled as woodchips instead. Joe Dillon asked for a physical barrier for the pile so the material is retained and does not spread. A lighting plan is needed to see if the lighting levels are going to meet PZC regulations and the building code for the parking area. Curb stops are prohibited in parking areas because they become a tripping hazard. S. Penney confirmed with J. Rupert that a split-rail fence would be an alternative to curb stops. J. Rupert said there is quite a bit of storage in the bunker such as one truck body or other things not normally part of tree care. Outdoor storage of that nature should be well defined on the plan so the PZC knows what is being stored there. The labels need to be more specific for that area. A. Teller said there was mention of needing a waiver based on the desire to use gravel that may or may not be a pervious surface. R. Mihok recalculated the lot coverage, using all of the buildings and gravel, as being at 30%; he believes 50% is allowable. J. Rupert said the Bolton regulations consider gravel an impervious surface. Enforcement of a requirement for annual maintenance to scarify gravel surfaces would be difficult. P. Carson said the PZC could require an annual report on gravel maintenance.

Public Comment: No one was present to speak.

A. Ladyga said before he took ownership of the property the silage bunkers where used for the processing of wood, storage, and selling. This was a prior use. A. Teller said if there is a legal right-of-way for the farmer to the field it should be shown on the plan. If that access is a customary use by some agreement with the other land owner A. Ladyga can allow it or not.

T. Manning moved to continue this public hearing to Wednesday, April 14, 2021 at 7:45 p.m. via Zoom. **J. Cropley** seconded. Discussion: P. Carson noted this process is still operating under the Governor's Executive Order extension. Vote: 7-0-0. Motion passed.

4. Residents' Forum (Public Comment for items not on the agenda): There were none.

5. Staff Reports:

P. Carson reported she and J. Rupert got the codification of the zoning and subdivision regulations yesterday. There is a deadline of July 1, 2021; this will be time consuming. J. Rupert reported the office is starting to get busy with items normally seen at this time of year, such as swimming pools and sheds. He has been meeting with several clients recently.

6. Old Business:

a. Discussion/Possible Decision: Special Permit Application for Nursery and Value-Added Agricultural Business, 1225 Boston Turnpike, Happy Town LLC (#PL-20-13)

There was no further action on this agenda item since the public hearing was continued.

b. Discussion of Accessory Dwelling Units/Living Space

P. Carson said the bill came out today regarding accessory dwelling units. There are a lot of items the PZC discussed that are not included. The design guidelines, minimum size, and the number of units is different from what Bolton has discussed. Housing and affordable housing is something that towns will do, not may do per the bill. There is a hearing on this item on Monday. Contact P. Carson for attendance information. P. Carson suggests tabling this item until we have a better direction of where the bill is going.

c. Other: There was none.

7. New Business

a. Informal Discussion: Proposed Redevelopment of the Global Partners Property (Mobil Station) for Convenience Store/Restaurant/Gas Station, 129 Boston Turnpike

Those present: Thomas Danieluk and William Grondin of Global Partners; Joe Williams, Attorney with Shipman and Goodwin; Luke DeStafano, Civil Engineer.

A. Teller reminded those present that this is an informal discussion with what is said being non-binding. The intent of such discussion is to result in a better and more successful application.

Attorney Williams said this discussion is about the proposal of redevelopment to the facility – a Mobil branded gas station with six dispensers, old style box building, and a car wash. The plan includes removing the car wash and building a larger modern building with four gas dispensers. The parties are looking for input from the PZC on the interpretation of the side yard for locating the dumpster pad and the outdoor seating area with a pergola.

T. Danieluk said they had come to the PZC in 2017 for an informal discussion of another development plan. That plan was for a 3,200 sq. ft. food store with five dispensers and a Dunkin' Donut drive-through. They now want to go in the direction of offering their own coffee and food in a 3,840 sq. ft. store, no drive-through, and four fuel islands. This would be a complete rebuild of the site. The building design would be more unique with a made-to-order kitchen and outdoor seating patio. It would be a bit more than a convenience store.

Luke DeStafano, Bohler Engineering, said this would be a complete build of the facility. The water well will remain. Everything else will be demolished and rebuilt. The proposed location of the store is the southeast corner with twenty parking spaces. The four gas dispensers can fuel two cars each at any time with up to eight vehicles fueling versus the twelve that can be serviced now. There is no proposal to modify the four curb cuts; two on Bolton Center Road and two on Route 44. The proposal calls for reuse of the utilities. There will be other improvements to the site for stormwater runoff, new lighting, a nicer, more modern facility, and patio area with a pergola roof that projects into the side yard setback as does the dumpster pad. The regulations call for close to twenty parking spaces. In a perfect world they would be looking closer to having thirty parking spaces when you consider employee parking.

T. Manning asked if there is consideration of putting in an electric vehicle charger? T. Danieluk said they have looked at that for some spaces. The underground infrastructure will be installed for future use. Attorney Williams said the parking spaces regulations is at a minimum 16 and 35 at the maximum. T. Danieluk said the store would be an Alltown. The building would have vertical cedar siding, an externally illuminated sign with gooseneck fixtures, window grills and awnings. With the full kitchen the staffing would be a little more than a standard convenience store. The seating area will be accessed from the outside using the front door. The canopy design is a bit different to give it a more authentic look.

R. Fournier asked if diesel will be offered. T. Danieluk said there would be auto diesel only. M. Manning pointed out the door near the two bathrooms in the upper left-hand corner. This door is an emergency exit only and would not be used to access the patio seating. A. Teller asked if these stores have drive-throughs. T. Danieluk said that is not what the brand is doing. Some of the larger stores had indoor seating but because of COVID-19 outdoor seating is proposed.

J. Rupert said the owners have been discussing the plan with him and P. Carson. The interpretation of the side yard setback would best come from the PZC. J. Williams said based on the regulations the dumpster pad and the patio don't count as the dumpster does not have a roof and is not more than 8' high. The patio is to have a pergola not a roof. But because it is more than 8' high it seems it may be a building by definition. This decision will be up to the PZC but the owners can remove the pergola. J. Rupert said the pergola is not a roof; it does not shed water. A. Teller said it does count as a building because it is more than 8' high. Can the pergola be built at 7'11" and still meet code? That may be the way to go.

J. Copley said he thinks it would be nice to have an area to sit in in that corner. He would want to make the pergola 7'10" to be safe. T. Danieluk said they will take a closer look at the suggestions. The 8' height is from grade. A. Teller said most of the Commissioners seem to be unbothered by but attracted to that detail in the plan. J. Flick would love to see a landscaping plan. A. Teller said if you don't need all of the parking spaces you could move things around a bit. T. Danieluk said based on the regulations the dumpster sounds like it meets the regulation. J. Rupert said regulations do allow awnings to encroach into setbacks a certain amount. That may give the owners some wiggle room on the pergola.

A. Teller said no one seems offended by this plan.

b. Other: There was none.

8. Correspondence

a. Report on Statewide Planning Conversation – Racism, Planning, Zoning: Nothing new.

b. Budget

A. Teller received an email response about the proposed cut to the PZC budget. The response is from Josh Kelly and will be shared with the Commissioners. The BOS don't seem to think the PZC budget has a lot of fluctuation year to year in the line items that have been cut. They seem to think there are very low costs in the areas cut. The BOS also thinks the bulk of PZC activities end up being taken from the Land Use budget. The areas needed to hold PZC meetings, payroll and advertising, are untouched by BOS' proposed cuts. Hearing related expenses are funded out

of the Land Use budget not out of Office Related Expenses and Dues and Fees which are the lines they cut. That was not A. Teller's understanding and J. Rupert agreed with A. Teller. J. Kelly invites the PZC to come back to the BOS or BOF to restore those monies if the case can be made that with more activity the PZC will be expending more out of those two line items. A. Teller will have a further discussion with Staff but welcome any comments Commissioners want to make. This is a cut of 33% for a budget that is well under \$10,000. And most of the budget is spent on things that are needed to satisfy statutory requirements.

9. Adjournment:

J. Cropley moved to adjourn the meeting at 10:13 p.m. **A. Teller seconded.**

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.