

## **TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES**

Remote Meeting held on April 7, 2020 at 7:00 PM via Zoom Communications, Inc.

Members Present: Gerard Ahearn (Chairman), Kay Stoner, Bradley Reed, Andy Kischitz, and Bryan Holmes

Also Present: Erica Uriarte (Town Planner)

Call to order: 7:00 PM

Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public meeting of the Town of Bolton Planning Board was conducted via remote participation. No in-person attendance of members of the public were permitted, but the public can access this meeting while in progress using **Zoom Video Communications, Inc. (Zoom)**. Members of the public attending this meeting virtually were allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by telephone, cell phone or personal computer using Zoom.

Directions to connect to the public meeting were provided on the agenda.

The Zoning Board of Appeals conducted a roll call of all members present including Gerard Ahearn, Kay Stoner, Bradley Reed, Andy Kischitz and Bryan Holmes.

### **PUBLIC HEARINGS**

In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice was hereby given that the Bolton Zoning Board of Appeals (ZBA) held a public hearing via remote participation on Tuesday, April 7, 2020 at 7:00 PM to hear and act upon the application of The Woods at Farm Road, LLC and Deschenes & Farrell, PC. The applicant seeks a Comprehensive Permit for a proposed housing development entitled “The Woods at Farm Road” to be located in Bolton’s Residential Zoning District at the corner of Farm and Berlin Roads identified on Assessor’s Map 3.C as Parcel 72 (2.47 acres). The proposed development consists of four (4) single-family detached homeownership units. Three (3) of the units will be sold at market rate and one (1) of the units will be sold as affordable to those who earn 80% or less of the area median family income to be counted on the Town of Bolton’s affordable housing inventory in accordance with G.L. c. 40B.

- Chairman Gerard Ahearn read the legal notice to open the hearing.
- The ZBA requested the assistance of a consultant through MHP to help the Board through the Comprehensive Permit process. The MHP consultant, Joseph Peznola, P.E. from Hancock Associates, provided an overview of Chapter 40B affordable housing. The intent of 40B is to require all MA communities to share in the responsibility of affordable housing creation. Each community is required to have 10%, as defined by DHCD, in its year around housing stock. In communities with less than 10%, an applicant can seek a Comprehensive Permit.
  - In order to apply for a Comprehensive Permit, the Applicant must comply with the following requirements: build a minimum of 25% affordable housing units, be a limited dividend organization, have received approval from a subsidizing agency such as MassHousing, and have site control.
  - The Applicant is limited to 20% profit; anything greater is given to the town.
  - The Applicant can seek waivers from local bylaws and regulations.

**Approved at May 19, 2020 meeting via Zoom participation by  
GA, BH, AK, BR, KS (EU)**

- If the Applicant appeals a ZBA denial to the Housing Appeals Committee (HAC), the Town would have to demonstrate that local concern is greater than the need for affordable housing (high bar to overcome). Local concern is defined by the waivers requested in a 40B project.
- The ZBA may seek a peer review to assist in the review of the project to gather all the necessary information to deliberate on a decision.
- Due to COVID-19, recent State orders and legislation provide flexibility in the scheduling/deadlines of the Comprehensive Permit process.
- The Applicant submitted the necessary documentation as part of its application to the ZBA to verify their eligibility to seek a Comprehensive Permit.
- Douglas Deschenes, the Applicant's attorney, and Seth Donohoe from Ducharme & Dillis Civil Design Group, Inc., the Applicant's engineer, provided a presentation to the Board.
  - The site is 2.47 acres with two existing structures to be razed. The bordering vegetated wetlands located on the property were delineated and verified with the Bolton Conservation Commission. A Notice of Intent will be filed with the Conservation Commission to permit the development in compliance with the MA Wetlands Protection Act. The Applicant seeks to build four (4) single-family dwelling units each having three (3) bedrooms, 2 ½ baths and driveway space for two vehicles and two visitors. Building coverage is approximately 5.2% of the total site and the parking/pavement is 5.1% of the total site. Approximately 90% of the site will remain open space. A drainage report was prepared as part of the application. It is anticipated that the development will generate approximately 38 total vehicle trips per day. The Applicant met with both Fire and Police Departments regarding the development. The dwelling units will be sprinklered and site layout was modified based on their comments. There are no floodplains or endangered species present on the site in accordance with most recent FEMA maps and Natural Heritage Biomaps. The Applicant will be seeking the following waivers from local bylaws/regulations:
    - Waiver from Conservation Commission regulations to allow Unit 1 to be located 50 ft. from wetlands.
    - Waiver from Conservation Commission regulations to allow Unit 4 to be located 76 ft. from wetlands.
    - Waiver from Conservation regulations to allow well to be located 51 ft. from wetlands and pump house to be located 52 ft. from wetlands.
    - Waiver from Board of Health regulations to allow leaching field of septic system to be 72 ft. from wetlands (100 ft. required locally).
    - Waiver from Zoning Bylaw to allow for multifamily structures and multiple principle dwellings.
    - Waiver from Zoning Bylaw to allow one of the dwelling unit's front yard setback to be 41 ft. (50 ft. required locally).
    - Waiver from Zoning Bylaw to allow two (2) shared driveways on a single lot.
    - The waiver regarding an internal lot line is to be omitted.
- As recommended by Bolton's Board of Selectmen to MassHousing (comment letter from September 2019), the Applicant will seek recommendations from Bolton's Design Review Board regarding architectural/site layout design.
- The ZBA agreed to a peer review of the project's civil design and wetland impacts. The Board will seek to hire Horsley Witten Group. Mr. Deschenes had no objections.

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- **Bradley Reed motioned to have Mr. Peznola solicit a peer review proposal from Horsley Witten Group. 2<sup>nd</sup> by Bryan Holmes. All in favor 5/0/0.**
- Opportunity for public comment was provided during the hearing. The following abutter concerns were discussed:
  - Development impacts including increased noise & light pollution, destruction of open land, stormwater impacts, wetland impacts, impact to neighboring land values, etc.
  - Increased density of development; four (4) single family dwelling units on a two (2) acre lot.
    - The Board could choose to condition the project to allow for reduced number of units. The Applicant could then appeal the decision because it renders the project uneconomical. A review of the Pro Forma could be requested by the Board to verify profits (economic test). Typically profits less than 15% would be considered uneconomical by the State.
  - The number of waivers requested by the Applicant, particularly the waivers regarding wetlands.
  - The proximity of the septic system to the wetlands. What risk does the wastewater flow impose to the wetlands since the leaching field is less than 100 ft. from the wetlands?
    - Title V requirements allow leaching fields to be within 50 ft. of bordering vegetated wetlands.
  - Where is the reserve area for the proposed septic system?
    - The reserve area is located between the proposed trenches of the leaching field.
  - Obtaining one (1) affordable unit does not greatly impact Bolton's affordable housing stock.
  - Do abutter comments matter?
    - Yes, comments can help to shape the development and the appearance of the project.
  - Development is inconsistent with Bolton's iconic farming fields, wildlife, open space, etc.
- The ZBA will consider conducting a site visit once the initial peer review is completed.
- **Bryan Holmes motioned to continue the public hearing for The Woods at Farm Road to Tuesday, May 19, 2020, at 7 PM via Zoom. 2<sup>nd</sup> by Bradley Reed. All in favor 5/0/0.**

**ADMINISTRATION**

- Approval of meeting minutes.
  - **Bradley Reed motioned to approve meeting minutes from 10/29/19 and 04/18/19 with edits agreed upon during the meeting. 2<sup>nd</sup> by Kay Stoner. All in favor 5/0/0.**

**Kay Stoner motioned to adjourn the meeting at 8:43 PM. 2<sup>nd</sup> by Bryan Holmes. All in favor 5/0/0.**