

TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Remote Meeting held on June 23, 2020 at 6:45 p.m. via Zoom Communications, Inc.

Members Present: Gerard Ahearn (Chairman), Kay Stoner, Bradley Reed, Andy Kischitz, and Bryan Holmes
Also Present: Erica Uriarte (Town Planner), Joe Peznola (MHP Consultant for The Woods at Farm Rd 40B)

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, Bryan Holmes, Andy Kischitz, Bradley Reed, and Kay Stoner.

BUSINESS

Megan Moran, Cultivate Care Farms, 401 Main Street

- The Zoning Board of Appeals reviewed a proposed paddock fence at 401 Main Street in accordance with the Amended Decision for Cultivate Care Farms/401 Main Street dated May 14, 2019.
- The proposed fence is made of wire mesh and wood posts designed to keep farm animals in and predators out. The height of the fence will be five (5) ft. and the top of the fence will be a live electrical wire. The electrical current will be pulsating and not a steady current. The electrical current will be turned off during business hours and signage will be posted regarding the live wire.
- **Bryan Holmes motioned to accept the fencing proposed at 401 Main Street as shown on the documents submitted. 2nd by Kay Stoner. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.**

PUBLIC HEARINGS

- In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice is hereby given that the Bolton Zoning Board of Appeals held a continuation of a public hearing via remote participation on Tuesday, June 23, 2020 at **7:00 p.m.** 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.

- Erica Uriarte (Town Planner) provided an overview of the Zoning Board of Appeal's Public Meeting Remote Participation Guidelines.
 - Zoom meetings can be accessed from your personal computer, cellphone and/or telephone.
 - All participants entering the meeting via a personal computer ("computer participants") are required to rename themselves with their official first and last name.
 - All participants (excluding Board members) will be muted throughout the meeting unless called upon by the Chairman.
 - All participants are required to state their name and address when called upon by the Chairman. Participants called upon more than once should restate their name.
 - When the Chairman opens the hearing for public comments, participants can "raise hand" or type their comment in the "chat" feature. Attendees participating by telephone can dial *6 to mute/unmute and dial *9 to "raise hand".
- Gerard Ahearn opened the hearing to public comment:
 - Donna White of 167 Berlin Road indicated that the density of the project was unfair to long-time abutting residents and that the developer appeared to have more rights than the them. She noted that the Town had an affordable housing plan that recommended establishing density for affordable housing to 2:1. She was also very concerned with the proposed houses being close together and close to the road.
 - Joe Peznola responded that this guidance for affordable housing density does not apply to 40B projects. Greater density is allowed since Bolton has not achieved 10% affordable housing stock on their Subsidized Housing Inventory (SHI). The Zoning Board of Appeals must weigh in on the project before them with waivers sought. The affordable unit is sold at a discounted rate to eligible buyers and the increase in density makes the project economically viable. If the Town had a certified Housing Production Plan and was able to increase their affordable housing stock on their SHI by 0.5% or 1%, the Town could then have control to deny a comprehensive permit for either one or two years. The State also has rules that limits the Board's ability to review the economics of a project. If the Board were to condition a project requiring a reduction of units to two or three, the Applicant could take that decision to the Housing Appeals Committee (HAC) and likely get a positive outcome. A reduction of units merely based on density will have no traction with the HAC. Affordable housing outweighs local concern to have two acre lots.
 - Mr. Ahearn noted that the project undergoes design review as well as technical review by Horsley Witten Group where the location of the homes is reviewed.
 - Tom Kashuba of 173 Berlin Road was concerned with density and that neighboring property values would diminish. He wondered why the developer chose 40B and why he could not change the project to a large single-family home.
 - Joe Peznola reiterated that the developer is within his rights and limits of the law. The Town does not have the control to change the project to a single-family house since the Town is not at 10% affordable housing stock on their SHI.
- Janet Bernardo, P.E. from Horsley Witten Group (HW) was in attendance of the public hearing to present their second peer review report dated June 16, 2020.
 - HW understands the two existing structures on the site ("sugar shack" and root cellar) will be removed. The Applicant will submit a plan for removal of these structures. HW

recommends that the plan incorporate robust erosion and sedimentation controls and restoration of disturbed soils as part of that plan. HW also acknowledges that the removal of the existing structures will be covered under the Applicant's NOI filing and will require a waiver from Bolton's Wetlands Bylaw and Regulations.

- Douglas Deschenes (Deschenes & Farrell, P.C.) and Seth Donohoe (Ducharme & Dillis Civil Design Group, Inc.) noted that the plan will provide a clear process of how the structures will be removed including any removal of existing trees and the placement of erosion controls. The sugar shack can be accessed from the upland side and native species and the removal of invasives will be provided as part of the plan.
- The Bolton Conservation Commission did not make a determination that Farm Pond is a vernal pool as part of the project's 2019 ANRAD. HW recommends all disturbed portions of the wetland buffer zone are stabilized/maintained and revegetated with native plants.
- HW recommends testing the proposed well to ensure it does not drawdown too much water from the adjacent wetland system. The well meets the necessary offsets to wetlands.
- HW recommends mitigation measures to reduce impact to wetland buffer including:
 - Site restoration of disturbed areas or enhancement plantings using native species.
 - Management of invasive species.
 - Replacing failed drainage structure along Berlin Road. The Applicant is not opposed to replacing the structure.
- HW recommends spot grades be added to the shared driveways to clarify the catchment areas provided.
- The Applicant adjusted the HydroCAD model as follows:
 - Revised pre and post development watershed areas to be equal.
 - Adjusted the precipitation rates for the 2-year, 10-year, 25-year, and 100-year storm events.
 - Revised Tc path for roof runoff.
 - Included the rain garden underdrain & adjusted outlet height of rain garden.
 - Post development peak rates and peak volumes are comparable to the predevelopment values for the 2-, 10-, 25- and 100-year storm events.
- The Applicant adjusted the design of the dripline recharge trench and included language about the trench in the Operation & Maintenance Manual.
- The Applicant added an infiltration trench and drywell at the end of the shared drive nearest Unit 1. The structures will manage the runoff from the driveway and minimize erosion of the slope.
 - Bradley Reed expressed concern whether the drywell would sink. HW responded that it should not as long as the stone material placed beneath the structure is compacted and the structure itself is constructed well. HW also noted drywells should be maintained regularly so that they do not fill with sand/debris.
- HW would have preferred to see the rain garden positioned in a location to collect and treat more of the driveway runoff.

- Mr. Donohoe noted that soil testing had been conducted throughout the site and the rain garden is where it is because of the suitable soils at that location.
 - An Operation & Maintenance (O&M) Plan for the stormwater management system has been created and includes a figure identifying the stormwater features. The four dwelling units will form a homeowner's association that will be responsible for maintaining the system.
- Mr. Deschenes addressed Department/Board comments:
 - Design Review Board comments were addressed except for two recommendations. The Applicant refuses to lower the sill of the second-floor bathroom window for privacy reasons and seeks to keep the stone façade as an exterior option for potential buyers.
 - Robert Pace (Developer) indicated that he was willing to allow up to only two units to have the stone finish.
 - Andy Kischitz was concerned with providing an exterior option to potential buyers since the exterior of the affordable unit needs to be the same as the market rate units. Would the affordable unit have the stone façade as well? Joe Peznola (MHP consultant) will weigh in at the next hearing date.
 - Mr. Kischitz also expressed concerns with changing the arbovitae with sugar maples along the corner of Berlin and Farm Roads because of the overhead wires that extend across the intersection. Who would trim the trees if needed? Mrs. Uriarte will ask Mark Caisse (Bolton's Tree Warden) to weigh in.
 - Police/DPW comments to reconfigure the intersection is not feasible since it would require the taking of private property. The Applicant is willing to install a stop sign at Farm Road, if desired by the Police.
 - Conservation Commission recommended eliminating impact to wetland buffer and reducing impervious area: Mr. Deschenes noted that the dwelling units could not be removed from the wetland buffer, but are located as far out of the buffer as possible. He also noted there is no disturbance from the dwelling units to the 25 ft. no disturb area. Mr. Deschenes indicated that reducing the number of dwelling units would render the project uneconomical and noted that the two driveways were approved by Police/Fire. Mr. Deschenes also noted the stormwater runoff is minimal. The Applicant agrees to install monuments along the shared property line with the Bolton Conservation Trust to help visibly delineate the properties.
 - Planning Board recommended moving the driveway entrance off of Farm Road away from the intersection with Berlin Road. Mr. Deschenes indicated that the driveway entrance was located as far down Farm Road as the topography would allow. The Planning Board also recommended multi-family units to reduce impervious surfaces. The Applicant is not inclined to change the single-family dwelling units to multi-family structures. The Applicant believes the single-family units are a better fit for the neighborhood and that multi-family units would not reduce impervious surfaces anyway.
 - The Zoning Board of Appeals agreed to schedule a site visit for Tuesday, June 30th, at 6 p.m. both in person and via Zoom. The corners of the proposed dwelling units will be staked and Seth Donohoe will be present.
- **Gerard Ahearn motioned to continue the public hearing for The Woods at Farm Road to July 21, 2020 at 6 p.m. via Zoom. 2nd by Bryan Holmes. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.**

ADMINISTRATION

- Approval of meeting minutes.
 - **Bradley Reed motioned to approve meeting minutes from May 19, 2020. 2nd by Kay Stoner. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.**

Gerard Ahearn motioned to adjourn the meeting at 9:15 p.m. 2nd by Bryan Holmes. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.