

TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Remote Meeting held on July 21, 2020 at 6:00 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.

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, July 21, 2020 at 6:00 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.

- Gerard Ahearn read the legal notice to open the hearing.
- 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”.

- Mr. Ahearn provided a recap of the site walk conducted by the Zoning Board of Appeals and the Applicant on July 20, 2020. The Board observed existing conditions including the approximate location of wetland resource areas, tree lines and existing structures (sugar shack and root cellar). The Board observed the staked locations of the four (4) proposed dwelling units in relation to each other, the road and the wetlands to the rear. Lastly, the Board also observed the overhead wires, broken drainage structure along Berlin Road, and the intersection alignment of Berlin Road and Farm Road.
 - Bryan Holmes stated that it was good to see the site and the footprints of the homes to understand the scale of the project.
- Seth Donohoe from Ducharme & Dillis Civil Design Group, Inc. (D&D), on behalf of the Applicant, provided a response to Horsley Witten Group's second peer review letter:
 - D&D submitted a plan and process for removing existing structures to minimize impact to wetland buffer zones. There is clear access upgradient of the structures to remove the sugar shack and root cellar without disturbing the wetlands. Access would be located within the wetland buffer. D&D will document the trees for preservation in the area of access. These trees will be counted again after construction. The abandoned utility pole and concrete structure located near the sugar shack and root cellar will also be removed and hand carried to the designated construction laydown area. This plan will be submitted to the Conservation Commission as part of the Notice Intent permitting process.
 - Standard construction procedures/operations will be conducted on this project; the same for all other single-family homes in Bolton. No blasting is anticipated as part of the operations.
 - The Conservation Commission has not determined the pond onsite to be a vernal pool. D&D submitted a letter confirming this statement.
 - D&D added additional spot grades to driveways to indicate the driveways slope towards the drainage features designed to capture runoff from the driveways.
 - Invasive species will be managed onsite particularly to the northwest corner of the property. However, invasive species will be monitored throughout the site during construction.
- Discussion of outstanding department comments:
 - The Design Review Board's comment to eliminate the stone façade as an exterior option to dwelling units was discussed. Joe Peznola, the Board's MHP consultant, noted that 40B guidelines indicate that affordable units should be indistinguishable from market rate units. If the other market rate units are marketed with the stone façade option, the affordable unit should be provided with the option as well. However, purchasers of affordable units are not typically able/allowed to incur extra costs because it can exceed the set price of the home established by DHCD. If the Applicant is willing to provide the stone façade as an exterior option to the affordable units at no additional cost then marketing the stone façade as an option to the market rate units could be acceptable. Mr. Peznola also noted that the Board could condition their decision to eliminate the stone façade; consistent with the Design Review Board recommendation. If the Applicant chooses to appeal the decision because the elimination of the stone façade renders the project uneconomical, there are likely bigger issues at hand.
 - Doug Deschenes, from Deschenes & Farrell, PC, noted that the Applicant is willing to provide stone façade as an option to only two market rate units.
 - Mr. Ahearn noted that the Board will take Mr. Peznola's guidance under consideration.

- The location of the proposed sugar maples along the intersection of Berlin and Farm Roads, in relation to the overhead electrical wires, was reviewed by Mark Caisse, Bolton's Tree Warden. The Applicant is willing to install the trees at the direction of the Warden.
- Bolton's Police Chief, Warren Nelson, agreed to the installation of a stop sign at Farm Road. The Applicant will replace the existing yield sign with a stop sign. Both police and DPW had recommended straightening out the intersection of Berlin and Farm Roads into a T-intersection. However, D&D indicated that this was not possible because there was not sufficient right-of-way and would require the taking of private property. D&D will add the ROW/property lines (taken from record plans) used to make this determination onto the site plans.
- The Applicant, at the direction of the ZBA, will replace the broken drainage structure on Berlin Road. Approval to replace this structure will also require Board of Selectmen approval. Mr. Peznola noted that the Board should be careful in the writing of such a condition since the Applicant does not own the land.
- Mr. Deschenes reviewed the updated waiver list. The removal of the existing structures and enhancement to the wetland buffer were added. The abandoned utility pole and concrete structure will be added as well. A waiver request for front yard setback was also included for Unite 3 and 4 since they do not meet the required 50 ft. offset to Farm Road. Unit 3 is 41 ft. and Unit 4 is 42.9 ft.
- Public comment:
 - Tom Kashuba of 173 Berlin Road provided comments:
 - Mr. Kashuba is concerned with waiver to allow reduced front yard setbacks for Lots 3 and 4.
 - Mr. Kashuba is concerned with impact to neighborhood watershed and wildlife corridor.
 - Mr. Kashuba is agreeable to the stop sign on Farm Road although concerned with added road noise.
 - Written comments included concern for how COVID 19 is impacting the process, would like the Board to provide additional time for public comment, construction will likely disrupt residents working from home, interference with communication lines during construction which could impact his radio business. He also indicated that the project would decrease home values.
 - Mr. Kashuba asked about penalties if the developer does not adhere to the Board's decision.
 - Mr. Ahearn noted that there can be a bond held to ensure the project is constructed in accordance with the approved site plans.
 - Mr. Deschenes noted that penalties and restrictions are the same as any other project/development.
 - Mr. Kashuba asked if the hours of operation could be offset to accommodate the residents working during the day.
 - No, the town establishes standard hours of operation during construction.
 - Mr. Kashuba is not in favor of the stone façade exterior option.
 - Mr. Kashuba asked about the project's timeline.
 - Mr. Ahearn noted that the Board needs to close the public hearing then render a decision within a certain time frame. Once the decision is recorded with the Town Clerk, there is an appeal period.

- Mr. Deschenes noted that the Applicant will need to go back to the State for approval of final site approval (the State compares preliminary project with final project). He also noted that there is an appeal period that also could extend the project. Once Conservation Commission and Board of Health provide permits, the Applicant would be able to apply for building permits.
- Donna White of 167 Berlin Road provided comments:
 - Mrs. White is not in favor of the stone façade and not in favor of multiple colors. She suggested that the developer would know better than the Design Review Board.
 - Mr. Deschenes indicated that the Applicant would prefer to have no restrictions on colors and believed the Design Review Board requested multiple colors to provide customization of the homes.
 - Mr. Ahearn noted the Board would take these comments under advisement and would seek further feedback from the Design Review Board, if needed.
 - Mrs. White asked if the placement of the homes could be modified. She objected to the waiver allowing the reduced front yard setback for Lots 3 and 4.
 - Mr. Donohue noted that the placement of the homes was a balancing act between offset to front property line and further encroachment into the 100 ft. wetland buffer zone. A waiver is needed either way. Mr. Donohue indicated that the road ROW is wider than the road pavement, therefore, there is substantial distance from the dwelling units to the actual pavement (53 ft.). D&D tried to maximize offset to wetlands. The sight distances at driveways are acceptable.
 - Mrs. White asked how the four (4) homes would be managed on a single lot?
 - A homeowner's association will be established.
- Martha Remington of 447 Main Street and of Historical Commission noted the historical significance of the neighborhood indicating that the poor house was located across the street and how Farm Road was previously Poor Road then Town Farm Road. She also noted there was clear sight distance.
- Mr. Ahearn stated that the Board would seek input from other departments regarding final draft waiver list and follow up on Horsley Witten Group's latest report to be submitted. The Board would then likely begin their review.
- **Bradley Reed motioned to continue the public hearing for The Woods at Farm Road to August 25, 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 June 23, 2020. 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.**

Andy Kischitz motioned to adjourn the meeting at 8:05 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.