

## TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Remote Meeting held on August 25, 2020 at 5:45 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.

### 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 on Tuesday, August 25, 2020, at **5:45 p.m.** via Zoom Video Communications, Inc. (Zoom) to hear and act upon the application of John & Mary Robinson. The applicant seeks a Variance to install a 12 ft. by 16 ft. shed at **48 Manor Road** in Bolton's Residential Zoning District identified on Assessor's Map 4.C as Parcel 15.A. The applicant seeks partial relief from the 20 ft. side yard and rear yard setbacks pursuant to Section 250-13.B of the Code of the Town of Bolton.

- Gerard Ahearn read the legal notice to open the hearing.
- The Zoning Board of Appeals (Board) received a letter of support from the abutter at 42 Manor Road for the placement of the shed.
- The Board had no further comments/questions.
- **Kay Stoner motioned to close the public hearing for 48 Manor Road. 2<sup>nd</sup> by Bradley Reed. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.**
- **Bryan Holmes moved to grant the Variance for the placement of the shed at 48 Manor Road. 2<sup>nd</sup> by Bradley Reed. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.**
- Chairman Ahearn and Erica Uriarte, Town Planner, will finalize the decision. Chairman Ahearn will sign on behalf of the Board. Once filed with the Town Clerk (14 days from date of the decision), will commence the 20-day appeal period.

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,

August 25, 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 aloud to open the public hearing.
  - Applicant’s formal response to Horsley Witten Group’s third peer review letter dated July 31, 2020
  - Douglas Deschenes from Deschenes & Farrell, PC and Seth Donohoe from Ducharme & Dillis Civil Design Group, Inc. provided a response to outstanding items.
    - Horsley Witten Group, the Board’s Peer Reviewer, had no further comments in their third peer review letter dated July 31, 2020. Horsley Witten offered several recommendations for conditions in a decision.
    - Ducharme & Dillis incorporated the right-of-way/property lines to the site plans. In addition, the existing yield sign on Farm Road will be replaced with a stop sign as approved by the Bolton Police Chief.
    - Ducharme & Dillis updated the site plans to show the location of the Green Mountain Sugar Maples at the intersection of Berlin and Farm Roads as recommended by the Tree Warden. Mrs. Uriarte noted that the exact location of the trees should be verified in the field by the Tree Warden at the time of installation.
  - Bolton’s Design Review Board requested the elimination of stone façade. As a compromise, the Applicant offered to provide stone façade as an exterior option to up to only two (2) market-rate dwelling units. Joe Peznola, MHP Consultant, indicated that the Applicant’s offer would be in line with the intent of 40B guidelines requiring the exterior of the affordable unit to be indistinguishable to the market-rate units. Mr. Peznola also noted that the Board could condition the decision to not allow stone façade in accordance with the Design Review Board’s recommendation.
    - Andy Kischitz, originally concerned that the affordable unit would be distinguishable if stone façade was offered on the market-rate units, was satisfied with the guidance provided from Mr. Peznola.
  - The Board reviewed comments received from the Board of Selectmen, Board of Health and Conservation Commission regarding the project’s waiver list.
    - Mr. Deschenes reiterated that the waiver list had been updated to include the removal of the existing structures (sugar shack and root cellar) in the 25 ft. wetland buffer zone.
    - Mrs. Uriarte clarified that the front yard setback of 50 ft. is required for both street fronts as confirmed by Bolton’s Building Inspector and identified in the Terms Defined section of Bolton’s Zoning Bylaw.
    - The Board of Health recommended Nitrogen Reduction Treatment be provided as part of the project.
      - A MicroFast system will be provided. The system is shown on the utilities sheet (C3.1) of the site plans.
    - The Conservation Commission comments dated August 25, 2020 are as follows:

**Approved at September 22, 2020 meeting via Zoom participation by  
GA, BH, AK, BR, KS (EU)**

- Submit and have ZBA review full restoration/mitigation and invasive species management plan, it appears that the applicant says one is coming. This should be reviewed and agreed upon that prior to issuing agree to any exemptions or waivers to ensure there are no adverse impacts to resource areas under the local wetland bylaw.
  - Ducharme & Dillis submitted an Invasive Management Plan dated July 16, 2020.
- Provide alternative analysis related to the impact/exemptions needed relative to reducing the number of impervious surfaces and area of disturbance through reducing the number of structures but attaining the same number of livable units.
  - Mr. Deschenes reiterated that the Applicant will not be reducing the number of units (uneconomical) or modifying the design to multi-family.
- Reference the bylaw directly; for example, when asking for buffer zone exemptions it is unclear whether this is an inquiry for exemption from the buffer zone under the Wetlands protection act OR the Adjacent upland resource area of our local bylaw. To note, it should be the latter as it would be counterintuitive for the board to approve a waiver for the wetlands protection act considering the project will still be required to be reviewed and go through the permitting process with the conservation commission specific to the Wetland Protection Act.
  - Mr. Deschenes believes the bylaw is referenced appropriately.
- The Commission requests that the ZBA make it clear that no waivers to the Wetlands Protection Act are being considered at this time by their board but rather addressing inquiries about waivers specific to the Local Wetland Bylaw.
- Describe how the well would be maintained going forward, is there a path proposed or area proposed to be mowed around it for access? Limit of work for this purpose should also be included.
  - Mr. Deschenes noted that the area around the well will be maintained as lawn.
  - Mr. Donohoe also stated that there is sufficient spacing (fire access) between the homes (20 ft.) to provide vehicle/equipment (drilling rig/skid steer) access to the well if failure occurred.
- The commission is of the opinion that the town should rely on the setbacks as is, and not waiver.
- Is there any documentation specific to this land recovering from being a dump in the past? If so is there additional testing that will be carried out to ensure the disturbance or any soils eroding from the site shall not cause adverse impacts to the resource areas.
  - The Applicant is unaware of the site ever being used as a dump.
  - The Applicant will be required to implement erosion control measures to prevent sediment from being transported into the wetlands.
- There is a concern with increased traffic on Berlin road and into the subject area. It would be of benefit for the developers to design a way to emphasize and

naturally delineate the boundaries of the wetlands and address concerns about traffic this may be a beneficial location.

- Mr. Deschenes stated that the Applicant would be willing to place signs as specified by the Conservation Commission indicating no disturbance to wetlands/buffer zone areas.
  - Mr. Deschenes will provide a formal response to the Conservation Commission comments.
- Chairman Ahearn opened the hearing to the public. No comments were received.
- The Board received a letter from Mr. Peznola, Hancock Associates, dated August 25, 2020 with a summary of the project's timeline, submittals, and remaining steps.
- Mrs. Uriarte will draft a decision with conditions for the Board to review at their next hearing to help the Board deliberate on waivers. Chairman Ahearn and Mr. Peznola will provide comment to the draft as well.
- Mrs. Uriarte to send updates Bylaws/Regulations to the Board.
- **Bryan Holmes motioned to continue the public hearing for The Woods at Farm Road to September 22, 2020 at 6 p.m. via Zoom. 2nd by Andy Kischitz. 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 July 21, 2020 and August 10, 2020. 2<sup>nd</sup> 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 7:33 p.m. 2<sup>nd</sup> by Bradley Reed. All in favor by roll call: Gerard Ahearn – Yes, Bryan Holmes – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, and Kay Stoner – Yes.**