

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

Remote Meeting held on December 01, 2020 at 6:00 p.m. via Zoom Communications, Inc.

Members Present: Gerard Ahearn (Chairman), Bryan Holmes, Andy Kischitz, Bradley Reed, and Kay Stoner  
Also Present: Erica Uriarte (Town Planner)

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)**.

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 was hereby given that the Bolton Zoning Board of Appeals (Board) held a public hearing on Tuesday, December 1, 2020, at 6:00 p.m. via Zoom Video Communications, Inc. (Zoom) to hear and act upon the application of Tony & Jessica Bradica. The applicant sought a Variance to install a 16 ft. by 40 ft. pool at 21 Field Stone Way in Bolton's Residential Zoning District identified on Assessor's Map 7.C as Parcel 109. The applicant sought 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.

- Chairman Gerard Ahearn read the legal notice to open the hearing.
- Jessica & Tony Bradica were in attendance to present their application to the Board. The Applicants sought to install the 16 ft. by 40 ft. pool in their backyard. The relief sought included 10 ft. from the side property line and 10 ft. from the rear property line. It was indicated that there were no homes in close proximity to the proposed pool location and the surrounding area was mostly woods. They had spoken to their neighbors at 17 Field Stone Way, the closest and potentially most impacted neighbor, regarding the Variance request. The neighbors at 17 Field Stone Way had no concerns. The Applicants outlined how they met the criteria for a Variance, as follows:
  - *Criterion 1: That there are circumstances that exist relating to the soil conditions, shape, or topography of the land or structures that uniquely affect such land or structures but that do not affect generally the zoning district in which such land or structure is located*
    - The lot shape in combination with bedrock outcropping uniquely affects the Applicants' property making it difficult to meet the necessary offsets to property lines in accordance with Bolton's Zoning Bylaw. The Applicants' potable well, septic system and driveway surround the Applicants' home on all other sides. In addition, the topography towards the rear of the property drops down.
  - *Criterion 2: Literal enforcement of the provisions of the bylaw would involve substantial hardship financial or otherwise to the Applicants*

- Literal enforcement of the bylaw would involve substantial financial hardship as the Applicants' property contains ledge outcropping which would be costly to remove.
- As part of their due diligence, the Applicants conducted test holes to verify location and depth to bedrock. The proposed location of the inground pool is a result of this testing to minimize the removal of bedrock.
- *Criterion 3: The desired relief may be granted without substantial detriment to the public good.*
  - The proposed pool cannot be seen by neighboring properties. The side and rear property lines of the Applicants' property are bound by woods. The installation of the pool would not require the removal of any trees.
  - The Board reviewed the Applicants' colored photographs of the proposed inground pool location as well as Bolton's online GIS service to verify location of abutting homes and surrounding tree cover.
- *Criterion 4: The desired relief may be granted without nullifying or substantially derogating from the intent and purpose of the Bolton Zoning Bylaws.*
  - The Applicants sought to install an inground pool, an allowed accessory structure in accordance with Bolton's Zoning Bylaw, at a location that minimizes bedrock removal.
- The Applicants also noted that they have small children and would be installing an electric cover over the pool as the perimeter fencing.
  - Andy Kischitz recommended the Building Inspector verify that the electric pool cover could be used as the perimeter fencing.
- Christopher DeMers of 331 Harvard Road, in attendance of the meeting, had no concerns regarding the proposed pool location.
- Gerard Ahearn, Chair, called for a motion from the Board to act on the Variance request.
- **Bradley Reed motioned to approve the pool location in accordance with the site plan submitted as part of the application and for the Building Inspector to verify that an electric pool cover could be used as the perimeter fencing. 2<sup>nd</sup> 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.

- **Kay Stoner motioned to approve meeting minutes from October 26, 2020. 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.**

The next meeting of the Board will be held on December 21<sup>st</sup>.

**Bradley Reed motioned to adjourn the meeting at 6:38 p.m. 2<sup>nd</sup> 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.**