

TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Remote Meeting held on March 15, 2022 at 6:00 p.m. via Zoom Communications, Inc.

Members Present: Gerard Ahearn (Chairman), Andy Kischitz, Bradley Reed, Gabrielle Lomanno (Associate), Elisabeth Hutchins (Associate)

Absent: Bryan Holmes

Also Present: Valerie Oorthuys (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 (Chairman), Andy Kischitz, Bradley Reed, Gabrielle Lomanno (Associate), and Elisabeth Hutchins (Associate).

PUBLIC HEARINGS

Comprehensive Permit, Mallard Lane

Age-Restricted Development along South Bolton Road, Map 2.C Parcel 15.1

Present:

Joe Peznola, Hancock Associates (Town's Peer Reviewer)

Jim Morin, Northeast Classic Builders, Applicant

Greg Roy, Applicant's Engineer, Dillis & Roy

The Zoning Board of Appeals acknowledged that this is the second public hearing on Mallard Lane without member Bryan Holmes, and appointed Gabrielle Lomanno as a voting member for this permit, as she has attended all previous public hearings.

On March 2, 2022 an updated plan was submitted reducing the project from 11 units to 8 units. The engineering company is in attendance to give an overview of these revised documents. Elisabeth Hutchins asks if the applicant has updated his license with the State. Jim Morin indicates the information has been updated with the State and Town Hall.

Greg Roy, Dillis & Roy, represents the applicant. They did a significant change to the plan and shares screen to show the revised plan. Applicant has made the decision to reduce the plan to 8 units from 11 units. Cul-de-sac is in the same location as before with the units surrounding it. The units along the drive have been moved to the back of the site and allows them to be further from the closest abutter. Units 1 building has been moved outside the wetlands buffer zone. They also took a look at the waste water for the site, with the units moved they are able to construct

and operate a much simpler system. 7 of the units are accessing the leeching system by a gravity system.

There is also now some flexibility with the affordable units. A total of 8 units in the project, 2 would be affordable. While they are still proposing this to be an age restricted development, the waste water design flow was calculated to allow for 2 units to be non-age restricted if needed. Reducing the number of units also allows them below the public water supply threshold. The change also resulted in modifications to the drainage system. It has now been simplified to an above ground system, the operational maintenance is reduced as a result. Individual waivers would not need to be voted on, they could be voted on at the same time.

Greg Roy stated that when the units were moved, it created a shared driveway in the back for those units. This was the best option to not have to move the cul-de-sac.

Gerard Ahearn asks about the retaining wall, clearing and depth. Greg Roy says still have retaining walls, they still have grading, but have been able to minimize the size.

Gerard Ahearn asks if the home sizes have changed?

Jim Morin states they have also moved the mailbox location as this was a concern of some of the abutters, he has spoken to the post office to update them as well. The house sizes have remained the same.

Gerard Ahearn states that the other boards in town will also have to review these revised plans.

Bradley Reed asks which 2 units will be designated as affordable? Jim Morin indicates he has not designated them at his time though he would designate one affordable unit in each of the 2 sizes. Andy Kischitz asks Joe Peznola to weigh in on that designation, it's not good practice to both of the units be of one of the 2 sizes. He also asks if Unit 1 was determined to be to be one of the affordable units, because it is not in the same location as the other 7 units in the project, would that be a concern?

Joe Peznola, Hancock Associates, says the regulation states the units need to be indistinguishable from the exterior. As far as placement of the units designated to be affordable, it may not be a concern. The Board would be in its right to ask that the decision be made now to determine which ones are the affordable, as the buyer does not have a choice to decide which unit they'd like to be affordable. The Board can decide if the units in the front can be used as an affordable or both units should be located closer together.

Brad Reed said he does not see that the one home separated from the others to be an issue designated it as one of the affordable units. He also states that this revised plan is more agreeable from the last plan and it did address concerns of the Board.

Elisabeth Hutchins inquires what the maintenance system will be for the shared system? Greg Roy stated a Condo Association would be created. The Board of Health will need an operational plan as well as an escrow fund be established to fix any issues. These terms are Title 5 regulations, so there would not be the ability to work around those. The Applicant indicates that the pump is in the common land, no easement would be needed to work on it.

Elisabeth Hutchins asks about the infiltration B area. Greg Roy shows this plan for the Board to see and explains how the system will work. Greg Roy also speaks to the infiltration basin closer to unit 1 as it is separate. Elisabeth Hutchins also asks about the past flooding on South Bolton Road and would like to know if the engineer is confident in this design. Greg Roy suggests the DPW director will also want to weigh in on the plan, but feels this plan will not cause additional problems.

Gerard Ahearn asks if there are any other questions from the Board or the Town Planner.

Valerie Oorthuys, Town Planner, has concerns on the wetlands in the area as there is still a portion of the roadway and Unit 7 that are in the 100ft buffer. Since the 2019 Wetlands delineation there has been a vernal pool that has been certified, the conservation commission did not review or confirm the delineation of the wetlands by unit 7, this could have greater impact on this. Since October the application has been stating this would happen during the ZBA process, is this still going to happen before or after the ZBZ process? If not, then conditions would need to be placed to cover. The applicant says this was their intent, but before he goes to Conservation, he needs to know if the units are in the correct locations. He needs a decision from the ZBA so he can move forward.

Greg Roy states that filing an ANRAD has not been done at this time. The challenge is that the conservation commission cannot go on the property without permission of the property owner. The notice of intent filing really needs to follow the comprehensive permit. The authority to grant waivers from location wetlands bylaws lies with this board. They need to have the zoning resolved so they know what they are asking for. They can go to the conservation commission to review with them, but they'd like input from the ZBA before doing that. Valerie states it would be helpful to have that discussion with the conservation commission prior to a filing.

Valerie Oorthuys has yet to gather feedback from all other boards, but will need them to review the new plans. She will follow up with them before another public hearing. Asks the applicant if they have measured the site plans as the road is a 40 MPH. The have done that and they are on the plans.

Elisabeth Hutchins asks the applicant if they have any lighting for this project. The applicant says that is not part of the plan.

Valerie Oorthuys asks about the grading and draining plan, is the proposed tree line is intended to be the limit of clearing? Greg states this is the proposed limit of clearing. Valerie asks if they have considering phasing the clearing in the project. Applicant states the majority of the site is open around the cul-de-sac, though they could build temporary ponds to help any erosion during the construction time. Greg Roy states that this is a small site and will need to be opened and would not led well to phasing compared to other sites they have worked on.

Valerie Oorthuys asks if the existing conditions plan show all of the 18" diameter trees, rock outcrops, stone walls, structures, etc along South Bolton Road, as the ZBA application for a comprehensive permit does require these things to be shown on the plans. Greg indicates they did send a survey out to get those onto the plans, they were not returned in time for this meeting.

They will make sure they respond to this by either updating the Board with a plan or speaking with Valerie.

Valerie Oorthuys inquires since South Bolton Road is a scenic road, have they had the Tree Warden out? Greg is not sure there are any trees in the right away and if there are any, they may not need to come down.

Valerie Oorthuys adds a comment on having Unit 1 towards the road. There is a concern having that unit being one of the designated affordable units it is further from the other units. It may not be a requirement, but it could be a condition that the 2 affordable units are around the cul-de-sac. Also, was there consideration to having all 8 units around the cul-de-sac? Greg responds that he tried, but there was not enough room.

Brad Reed suggests making a decision now that all the affordable units be on the cul-de-sac. Gerhard Ahearn agrees. Jim Morin asks Joe Peznola what his thoughts are on that taking place at this time? Joe is no longer on the meeting. Valerie indicates that it is not required to state where the affordable units are placed, though the Board may prefer to request this to be clarified during the public hearing process, as Joe Peznola stated earlier. The Applicant is not opposed to this, but would like something in writing from Joe Peznola clarifying this.

Elisabeth Hutchins believes the subdivision rules and regulations have been changed to include granite curbs. Valerie agrees. Brad Reed states a previous DPW director indicated the granite curbing was a problem for the DPW.

Gerard Ahearn asks if any other Board Members have questions at this time. If not, are there any abutters on the call who would like to speak.

Barry Buchinski of 348 South Bolton Road is allowed to comment. He fully supports no site lighting, no granite curbs. He has a question regarding the infiltrations. There are 2 test pits, he hopes the design of the basin is designed based on the soil type and minimizes the standing water. Also, he does not support a chain link fence around the basin. Greg states they did design the basin based on soil type, there is no proposed fence. Based on the soil that is there, the water will move faster. Barry does not support any sidewalks on South Bolton Road. As Valerie noted, it is a scenic road and a side walk would impact that.

Christopher Hoyt and Brittany Bethune of 342 South Bolton Road has a question about the pump for home 1 and who is responsible. Christopher Hoyt asked if the site plans have been revised to align with the home sizes shown on the architectural plans. He also agrees with what previous resident stated regarding a fence or sidewalk in the area.

Jim Morin responds to the architectural question that he does not have the plans at this time, he is waiting for the final plans as the homes have changed locations with these plans. Greg states the walls are meant to welcome people to the driveway.

Gerard Ahearn indicates there are no other questions. A continuation hearing needs to be scheduled. Greg says they will also need time for additional review and to clean the plans.

Perhaps, looking at early April. The date of Wednesday April 6, 2022 at 6pm, Board members agree this date works for them.

Bradley Reed motioned to continue the meeting on Wednesday April 6, 2022 at 6pm. Elizabeth Hutchins 2nd. **All in favor by roll call: Gerard Ahearn – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, Gabrielle Lomanno (Associate) -Yes, Elisabeth Hutchins (Associate) – Yes (5/0/0).**

Bradley Reed motioned to adjourn the meeting at 7:30 p.m. 2nd by Andy Kischitz. **All in favor by roll call: Gerard Ahearn – Yes, Andy Kischitz – Yes, Bradley Reed – Yes, Gabrielle Lomanno (Associate) -Yes, Elisabeth Hutchins (Associate) – Yes (5/0/0).**

Respectfully Submitted,
Kristen Zina