

TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Remote Meeting held on December 21, 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 is hereby given that the Bolton Zoning Board of Appeals held a public hearing on Monday, December 21, 2020, at 6:00 p.m. (rescheduled from December 14th) via Zoom Video Communications, Inc. (Zoom) to hear and act upon the application of Christopher Poutenis & Robyn Roberts. The applicant seeks a Variance for a barn installed at 75 Spectacle Hill Road in Bolton's Residential Zoning District identified on Assessor's Map 1.C as Parcel 40. The applicant seeks partial relief from the 50 ft. side yard setback 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.
- Christopher Poutenis was in attendance to present his application to the Board. The Applicant sought a Variance for an existing barn that was installed approximately five years ago without a building permit. The offset to side property line is 36.8 feet. The existing house was built in 1997.
- The barn is located within 50 ft. of the side yard setback. The property at 75 Spectacle Hill Road is zoned as a Backland Lot. Offsets to property lines are required to be 50 ft. in accordance with Bolton's Zoning Bylaw.
- The location of the existing barn is shown on a Certified Plot Plan for 75 Spectacle Hill Road prepared by David E. Ross Associates, Inc. dated November 6, 2020 (Plan No. S-14997).
- The closest neighbor to the barn is at 426 South Bolton Road, but the home at 426 South Bolton Road abuts near the road and not the barn.
- The Applicant sought a building permit for the existing barn in March 2020. As an outcome of this process, the Planning Department identified that the location of the barn did not meet the necessary offset for side yard setback. The Building Permit process was halted.
- The Applicant outlined how the criteria for a Variance is met, 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 property contains subsurface bedrock making it difficult to meet the necessary offsets to property lines in accordance with Bolton's Zoning Bylaw. At the time of installation, the Applicant constructed the barn at a location away from the bedrock. He dug holes all around the area and kept hitting ledge. The Applicant was unaware his property was a Backland Lot and that a Variance was required for the location of the barn.
- *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 to the Applicant. The property is currently for sale because the Applicant can no longer afford to live in Bolton due to a significant reduction in income. Literal enforcement would halt any potential sale and likely lead to foreclosure of the property.
- *Criterion 3: The desired relief may be granted without substantial detriment to the public good.*
 - The desired relief may be granted without substantial detriment to the public good as the existing barn abuts undeveloped woods on all surrounding properties. The Board reviewed the Applicant's colored photographs of the existing barn as well as Bolton's online GIS service to verify location of abutting homes and surrounding tree cover.
 - In support of the Applicant's Variance application, the Board received emails from two certified abutters, Mark Edoff and Doug Storey. Both abutters were in support of the Variance.
- *Criterion 4: The desired relief may be granted without nullifying or substantially derogating from the intent and purpose of the Bolton Zoning Bylaw.*
 - The Applicant seeks 13.2 ft. of relief from the 50 ft. side yard setback due to subsurface bedrock. The existing barn is an allowed accessory structure and given the wooded surroundings, the desired relief does not appear to substantially derogate from the intent and purpose of Bolton's Zoning Bylaw.
- If the Variance is granted, the Applicant will be required to obtain a Building Permit.
- **Bradley Reed motioned to close the hearing for 75 Spectacle Hill Road. 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.**
- Gerard Ahearn, Chair, called for a motion from the Board to act on the Variance request.
- **Bradley Reed motioned to approve the existing barn location as shown on the plot plan contingent that no further encroachment of the barn occurs in the future. 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 December 1, 2020. 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.**

Zoning Board of Appeals recommended the appointment of Gabrielle Lomanno as an associate member. The recommendation will go to the Board of Selectmen as the appointing board.

- **Bryan Holmes motioned to approve Gabrielle Lomanno as an Associate Member to the Zoning Board of Appeals. 2nd 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.**

Kay Stoner motioned to adjourn the meeting at 6:52 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.