

## TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Remote Meeting held on April 15, 2021 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: 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, 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 will hold a public hearing on Thursday, April 15, 2021 at 6:00 p.m. via Zoom Video Communications, Inc. (Zoom) to hear and act upon the application of Jessica and Robert Kalagher. The applicant seeks a Variance for the installation of a pool and construction of a 12 ft. by 16 ft. shed at 11 Cider Circle in Bolton's Residential Zoning District identified on Assessor's Map 2.D as Parcel 105. The applicant seeks partial relief from the 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.
- Robert and Jessica Kalagher were in attendance to present their application the Board. The Applicant sought a Variance for the installation of a pool to be 10 feet from the side and rear yard setbacks and for a 12 x 16 ft shed to be located 5 feet from the side and rear yard setbacks. Dimensional Requirements set forth in the Code of Bolton indicate 20 feet setbacks from both the side and rear yard property lines.
- The property at 11 Cider Circle was constructed as part of the Century Mill Estates subdivision.
- The proposed locations of the pool and shed are shown on a plan prepared by Dillis & Roy and dated February 18, 2021.
- The abutting neighbors at 9 and 21 Cider Circle each provided letters of support of the proposal.
- The rear yard abuts Open Space to be deed to the Bolton Conservation Trust.
- 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 ledge making it difficult to meet the necessary offsets to property lines in accordance with Bolton's Zoning Bylaw. The shape of the lot further eliminates options for the placement of the pool and shed, as the back yard is particularly narrow.

- *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 as they would need to blast through ledge in order to place the pool closer to the existing home.
- *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 there is no encroachment onto abutting properties and a drainage swale separates the property from the Open Space parcel.
  - In support of the Applicant's Variance application, certified abutters Kris Schulz and Sarah Clifford at 9 Cider Circle as well as Jonathan Balewicz of 21 Cider Circle provided letters of support. These households directly abut the subject property.
- *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 10 ft. of relief for the installation of the pool and 15 feet of relief for the installation of a shed from the 20 ft. side and rear yard setbacks due to ledge. 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 gain approval from the Conservation Commission prior to obtaining a Building Permit for construction of the pool. Information was not provided in the application to confirm the proximity from any wetlands buffers that may exist.
- **Bryan Holmes motioned to close the hearing for 11 Cider Circle. 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 Variance for the installation of a pool and shed as shown on the plot plan contingent upon Conservation Commission approval. 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.

- **Bryan Holmes motioned to approve meeting minutes from December 21, 2020. 2<sup>nd</sup> 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.**

Vote on Recommendation of Associate Member

The Zoning Board of Appeals considered the interest of Kevin Eriksen and Lis Hutchins to be appointed as an associate member. The Zoning Board of appeals agreed to request the Board of Selectmen increase the number of associate members allowed from two to three. The Zoning Board of Appeals recommended the appointment of Kevin Eriksen and Lis Hutchins as associate members. The recommendation will go to the Board of Selectmen as the appointing board.

**Approved September 7, 2021 via Zoom participation by  
GA, BH, AK, BR, KS (VO)**

- **Bryan Holmes motioned to recommend the Board of Selectmen appoint Kevin Eriksen and Lis Hutchins as associate members. 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.**

**Bryan Holmes motioned to adjourn the meeting at 7:00 p.m. 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.**