

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

Meeting Held at the Bolton Town Hall – Board of Selectmen Room on **October 16, 2017** at 7:00 PM

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

Also Present:

Call to order: 7:00 PM

**Hearings**

- o In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice was hereby given that the Bolton Zoning Board of Appeals (ZBA) held a public hearing on Monday, October 16, 2017 at 7:00 p.m. in the Board of Selectmen Room of the Town Hall, 663 Main Street, Bolton, MA to hear and act upon the application of Leslie Waguespack, 91 Burnham Road, Bolton, MA 01740. The applicant sought a Variance for a proposed ground-mounted solar system located in Bolton's Residential Zoning District at 91 Burnham Road identified on Assessor's Map 4.D as Parcel 58. The applicant sought a Variance for side yard setback pursuant to Section 250-13.B of the Code of the Town of Bolton.
  - Jeffery Constantine from SolarFlair Energy, Inc. presented the request for variance on behalf of Leslie Waguespack. Mr. Constantine indicated that the applicant was seeking a variance to encroach within the side yard setback of the applicant's property by 5 feet. The required setback was 20 feet, however, the ground mounted solar system would be within 15 feet of the side property line.
  - Mr. Constantine indicated that the proposed ground-mounted solar system would be comprised of approximately 30 solar panels (8.55 kW) and would encompass an area approximately 26 feet by 33 feet. The system would be located in the existing clearing of the rear yard of the applicant's property closest to the northeasterly property corner. The closest abutting property would be 81 Burnham Road.
  - The Board heard comments from the abutters at 81 Burnham Road (Kevin & Paula Stoddard and Dorothy Paquet) who indicated that the proposed solar system was to be located too close to their yard and would require the abutters to plant trees for screening. The abutters felt that the Applicant had other potential locations on the property to place the system where property offsets could be met; either in the front yard or on the roof of the applicant's home. The abutters were concerned with how the system would impact the market value of their property.
  - The Applicant indicated that the proposed ground-mounted solar system needed to be located within 15 feet of the side yard setback in order to prevent the removal of trees that would be required if the system was placed 20 feet from the property line. The removal of the trees within 10 feet of the proposed solar system would be necessary in order to prevent shading on the panels. The applicant explored placing the solar panels on the roof, but there was not sufficient space and placing the system in the front yard would require the removal of even more trees.
  - The ZBA determined that the applicant did not present circumstances relating to soil conditions, shape, or topography of the land that uniquely affected the property, but that do not affect generally the zoning district in which the property is located. The Board indicated that trees are not permanent structures and they can be easily removed compared to bedrock or wetlands.
  - The ZBA found that the applicant was creating his own hardship by not removing the trees to meet the side yard setback and that the hardship was not due to literal enforcement of the provisions of the bylaw.
  - Based on the comments from the abutters at 81 Burnham Road, the ZBA determined that the desired relief cannot be granted without substantial detriment to the public good.
  - The proposed ground-mounted solar system can be shifted accordingly to meet the required setback of 20 feet. Therefore, the ZBA determined that the desired relief cannot be

*Handwritten signatures in blue ink:*  
 Gerard Ahearn II  
 Andy Kischitz  
 Bradley Reed

granted without nullifying or derogating from the intent and purpose of the Bolton Zoning Bylaws.

- **Jack Sargent motioned to close the hearing. 2<sup>nd</sup> by Bradley Reed. All in favor 5/0/0.**
- **Bradley Reed motioned to deny variance based on the above findings. 2<sup>nd</sup> by Jack Sargent. All in favor 5/0/0.**
- In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice was hereby given that the Bolton Zoning Board of Appeals held a public hearing on Monday, October 16, 2017 at 7:20 p.m. in the Board of Selectmen Room of the Town Hall, 663 Main Street, Bolton, MA to hear and act upon the application of Bolton Cracker Barrel LLC (Members Stenio and Denise Tallarida). The applicant sought a Special Permit for a property and structure located in Bolton's Residential Zoning District at 716-718 Main Street identified on Assessor's Map 1.0 as Parcel 36. The applicant sought a Special Permit to alter the preexisting nonconforming use from office to retail/office pursuant to Section 250-3C of the Code of the Town of Bolton.
  - Stenio and Denise Tallarida presented their application for Special Permit to alter the use at 718 Main Street (Bolton Cracker Barrel) to include retail use. The building and use are pre-existing nonconforming. The Bolton Cracker Barrel was built in 1823 and is currently in the National Historic Registry. It has served as Bolton's post office and general store for over a century. Most recently it served as offices for Coldwell Banker through April 2016. The Bolton Cracker Barrel is located at the juncture of Main Street and Wattaquaddock Hill Road. The applicant strived through the years to maintain the structure's original character. The windows in the front section of the building are original and the brickwork, front porch, chimneys, front doors and trim work are original or replaced to replicate the original. The second floor of the Bolton Cracker Barrel contains two apartments.
  - The applicant is interested in altering the use to allow for retail uses like a country store, gift shop, antique store, art gallery, etc. The country store would serve basic items like bottled soft drinks, candy, snacks, etc. Previously there was a gift store in the building in the 1990's.
  - The first floor of the Bolton Cracker Barrel has a total of 1,770 square feet available for retail space. The applicant does not intend to expand this floor area.
  - The property is served by a tight tank for sewer and well for drinking water. The tight tank requires routine pumping and maintenance. In accordance with Board of Health requirements, coffee is not allowed to be served on the property or brewed offsite for onsite sale/consumption. Items allowed to be sold onsite are to be prepackaged only. No food or drink are to be prepared onsite. No tables would be provided.
  - The applicant indicated that parking will be limited to the existing parking area previously used by Coldwell Banker which also includes two (2) parking spaces reserved for apartment tenants. The parking is located in the rear of the Bolton Cracker Barrel and can accommodate up to seven (7) customer parking spaces. When Coldwell Banker occupied the Premises, there were 14 agents coming and going at various times throughout the day for 18 years. There were anywhere from two (2) to 12 cars parked side by side or in tandem at any one time. The interior spaces would be provided for the employees. An ADA accessible entrance will be provided at the rear of the building.
  - The applicant envisions creating a complimentary business to the downtown area and town common. The intention is to maintain the property and add value.
  - The applicant anticipates the required parking and traffic for retail to be less than what was existing with Coldwell Banker. Based on his research, convenient stores have about a six minute turnover time. The applicant believed that the retail use and hours would not conflict with the peak hours of traffic on Main Street.
  - Alice Coggeshall of 714 Main Street and a Member of the Historical Commission asked if the applicant had any plans that would affect the exterior the historical building.
    - The applicant did not intend to modify the exterior of the building and agreed to work with the Historical Commission to preserve the exterior if needed (possibly a deed restriction to help preserve the historical nature of the building).



- Mary Ciummo of 74 Corn Road asked if the applicant planned to sell the property.
  - The applicant indicated that he and his wife lived in Florida and wouldn't be able to manage and maintain the property.
- Eileen Griffin-Wright of 154 Wattaquaddock Hill Road indicated that as a realtor there is more demand for retail than for office space.
- Mark Ayotte of 985 Main Street was concerned with the parking at 718 Main Street. He indicated that vehicles have to back out of the parking lot onto Wattaquaddock Hill Road near the intersection with Main Street which is unsafe. He was also concerned with public safety vehicles coming down Wattaquaddock from the Public Safety Center and being interrupted by vehicle backing out from the parking lot.
- Cia Ochsenbein of 702 Main Street suggested that the ZBA hold off on allowing retail use until the applicant knows who will purchase the property and the specifics of the retail use are better known.
- Erica Uriarte reported that she and Police Chief Nelson conducted a site visit. Chief Nelson had concerns with impact to traffic and the safety of the Main Street and Wattaquaddock Hill Road intersection. He also had concerns regarding ADA accessibility to the building and appropriate lighting for the building.
- The applicant indicated that the building had sufficient lighting that could be turned on and the rear entrance would be constructed to be ADA accessible.
- The applicant indicated that the property across the street from the Premises at 713 Main Street also have pre-existing nonconforming structures and retail uses in operation. Traffic doesn't appear to be an issue on Main Street from these businesses.
- Bradley Reed and Jack Sargent agreed to conduct site visit with the applicant the next day at 3 p.m.
- **Bradley Reed motioned to continue hearing for 718 Main Street to October 30, 2017 at 7 p.m. in the Board of Selectmen Room of Town Hall. 2<sup>nd</sup> by Kay Stoner. All in favor 5/0/0.**

**Business**

- None.

**Administrative**

- ZBA reviewed and approved revised application to include variance form requiring applicants to provide description of how the criteria for variance are being met in accordance with Section 4.2 of the ZBA Rules & Regulations.
- ZBA approved meeting minutes for 01/10/17, 02/28/17, 03/28/17, 04/11/17, 04/27/17, and 06/28/17.

**Gerard Ahearn motioned to adjourn meeting at 8:37 pm. 2nd by Bradley Reed. All in favor 5/0/0.**