

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

Remote Meeting held on July 21, 2022 at 6:30 p.m. via Zoom Communications, Inc.

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

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, Bradley Reed, Andy Kischitz, Elisabeth Hutchins, and Gabrielle Lomanno (Associate).

### **PUBLIC HEARINGS**

#### **Variance to construct a pool shed partially within the side yard property line setbacks, 188 Annie Moore Road, Map 4.E Parcel 29**

*Continued from July 12, 2022*

Gerard Ahearn stated that the Applicant has provided a letter of support from the most impacted abutter as well as renderings of the proposed pool shed.

The Zoning Board of Appeals reviewed the additional materials and a draft decision. Language was added to the decision to note the letter of support from an abutter

Andy Kischitz moved to close the public hearing for a Variance at 188 Annie Moore Road. 2<sup>nd</sup> by Brad Reed. **All in favor by roll call: Gerard Ahearn- Yes, Bradley Reed – Yes, Andy Kischitz- Yes, Elisabeth Hutchins- Yes, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the Variance at 188 Annie Moore Road and to authorize the Chair to sign on the Board's behalf. 2<sup>nd</sup> by Brad Reed. **All in favor by roll call: Gerard Ahearn- Yes, Bradley Reed – Yes, Andy Kischitz- Yes, Elisabeth Hutchins- Yes, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

#### **Comprehensive Permit, Alta Nashoba Valley, 580 Main Street**

Multifamily Development

*Present:*

Amy Ball, PWS, Horsley Witten Group

Joseph Peznola, Hancock Associates

Jim Lambert, Wood Partners

Debbie Horwitz, Goulston & Storrs

Phil Cordeiro, Allen & Major Associates

Gerard Ahearn stated that the Board received a copy of a letter issued to the Conservation Commission from their peer reviewers at BSC Group regarding the Abbreviated Notice of Resource Area Delineation (ANRAD) and requested the Board's peer reviewer at Horsley Witten Group discuss the letter further with the Board.

Amy Ball stated that the Conservation Commission voted that the two wetland resource areas in the middle of the site are jurisdictional under the local bylaw. Cumulatively, these areas add up to more than 7,300 square feet. These areas may trigger further review through the Wetlands Protection Act and the Massachusetts Clean Waters Act.

Brad Reed asked about the waiver request from providing a narrative of the impact of the project on town services. Gerard Ahearn said that when this was discussed earlier in the public hearing process, the ZBA became aware this is not something they are able to base their decision off of and therefore cannot play a part in deliberations.

Jim Lambert provided an overview of plans submitted for entry signage and revisions to the building elevations. Brad Reed said the applicant requested a waiver from the sign regulations to allow a sign in excess of 36 square feet. The zoning bylaw allows for signs up to 36 square feet outside of residential zones.

Phil Cordeiro spoke to the current process with the Conservation Commission.

Joe Peznola stated that the draft decision includes updated language regarding linkage requirements and the ability for occupancy permits to be provided throughout construction so that residents are adequately separated from construction. Prior to provision of a building permit, the developer would need to provide a construction sequencing plan.

Joe Peznola stated that the decision includes language stating that building permit fees are those in effect at the time of filing for each individual permit. The applicant had requested that building permit fees would be those in effect on October 14, 2021 when the Comprehensive Permit application was submitted. Joe Peznola stated that the Applicant has not requested a waiver on this item. Valerie Oorthuys noted Town Counsel agrees a waiver request would be needed on this item, should the Applicant wish to request one.

Valerie Oorthuys noted that the decision could include condition the submittal of a plan indicating a pedestrian path to connect the existing cart path with sidewalks at Bolton Country Manor.

The Zoning Board of Appeals reviewed the waiver request list dated June 23, 2022.

Bryan Holmes moved to approve the waiver request from Section 1.18 of the Town of Bolton's Wetlands Bylaw as indicated in Section 1.0 of the Waiver Request List dated June 23, 2022. 2<sup>nd</sup> by Andy Kischitz. **All in favor by roll call: Gerard Ahearn- Yes, Bryan Holmes – Yes, Andy Kischitz- Yes, Bradley Reed- No, Gabrielle Lomanno (Associate)-Yes (4/1/0).**

Andy Kischitz moved to approve the waiver request from the Town of Bolton's Wetlands Bylaw Regulations as indicated in Section 2.0 of the Waiver Request List dated June 23, 2022. 2<sup>nd</sup> by Bryan Holmes. **All in favor by roll call: Gerard Ahearn- Yes, Bryan Holmes – Yes, Andy Kischitz- Yes, Bradley Reed- No, Gabrielle Lomanno (Associate)-Yes (4/1/0).**

Andy Kischitz moved to approve the waiver request from the Town of Bolton's Board of Health Regulations related to Protection to Groundwater as indicated in Section 3.0 of the Waiver Request List dated June 23, 2022. 2<sup>nd</sup> by Bryan Holmes. **All in favor by roll call: Gerard Ahearn- Yes, Bryan Holmes – Yes, Andy Kischitz- Yes, Bradley Reed- No, Gabrielle Lomanno (Associate)-Yes (4/1/0).**

Bryan Holmes moved to approve the waiver request from the Town of Bolton's Board of Health Regulations related to requirements for the subsurface disposal of sanitary sewage as indicated in Section 4.0 of the Waiver Request List dated June 23, 2022. 2<sup>nd</sup> by Andy Kischitz. **All in favor by roll call: Gerard Ahearn- Yes, Bryan Holmes – Yes, Andy Kischitz- Yes, Bradley Reed- No, Gabrielle Lomanno (Associate)-Yes (4/1/0).**

Andy Kischitz moved to approve the waiver request from the Town of Bolton's Board of Health Regulations related to well regulations as indicated in Section 5.0 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Town of Bolton's Subdivision Rules and Regulations as indicated in Section 6.0 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the waiver request from the Code of the Town of Bolton, Chapter 147 Groundwater Protection as indicated in Section 7.0 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-12 Schedule of Permitted Uses as indicated in Section 8.1 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-13.C Dimensional Regulations – One building per lot as indicated in Section 8.2 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-13.F Dimensional Regulations – Building Height as indicated in Section 8.3 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-17.C (7) Driveways and Parking- Schedule of Minimum Parking as indicated in Section 8.4 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-18.C (8)(d) Driveways and Parking- Off-site Parking as indicated in Section 8.5 of the Waiver Request List dated

June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-17.C(11) Driveways and Parking – Standard Parking Dimensional Regulations as indicated in Section 8.6 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-17.C (12)(b) Driveways and Parking- Off-Street Parking and Loading Area Design Requirements as indicated in Section 8.7 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-17.C (12)(d) Driveways and Parking- Off Street Parking and Loading Area Design Requirements as indicated in Section 8.8 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-17.C (12)(e) Driveways and Parking- Off Street Parking and Loading Area Design Requirements as indicated in Section 8.9 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-18 Sign Regulations as indicated in Section 8.10 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-18.A Sign Regulations as indicated in Section 8.11 of the Waiver Request List dated June 23, 2022. 2<sup>nd</sup> by Andy Kischitz. **All in favor by roll call: Gerard Ahearn- Yes, Bryan Holmes – Yes, Andy Kischitz- Yes, Bradley Reed- No, Gabrielle Lomanno (Associate)-Yes (4/1/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-19.1(b) Firefighting water supply as indicated in Section 8.12 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-23 Business, Commercial, and Industrial Regulations as indicated in Section 8.13 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Andy Kischitz moved to approve the waiver request from the Code of the Town of Bolton Chapter 250-23.2 Mixed Use Village Overlay District as indicated in Section 8.14 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Zoning Board of Appeals' Rules and Regulations Section 6.3.18 as indicated in Section 9.1 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request from the Zoning Board of Appeals' Rules and Regulations Section 6.3.26 as indicated in Section 9.2 of the Waiver Request List dated June 23, 2022. 2<sup>nd</sup> by Andy Kischitz. **All in favor by roll call: Gerard Ahearn- Yes, Bryan Holmes – Yes, Andy Kischitz- Yes, Bradley Reed- No, Gabrielle Lomanno (Associate)-Yes (4/1/0).**

Bradley Reed moved to approve the waiver request from the Zoning Board of Appeals' Rules and Regulations Section 6.3.31 as indicated in Section 9.3 of the Waiver Request List dated June 23, 2022, on the condition that this is provided prior to the issuance of the final occupancy permit. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request related to the 1986 Special Permit Conditions as indicated in Section 10 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Bryan Holmes moved to approve the waiver request related to linkage conditions as indicated in Section 11 of the Waiver Request List dated June 23, 2022. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

The Board reviewed the draft decision conditions related to linkage requirements.

Gerard Ahearn noted that there is one outstanding item not yet submitted by the applicant. The Board could condition the decision based on the submittal of a plan showing the provision of continued pedestrian access along the cart path to connect to Bolton Country Manor.

Tony Jagodnik, 115 East End Road, asked about the inclusion of solar panels. Jim Lambert said solar arrays are included in the plans for the two larger U-shaped apartment buildings. Jim Lambert stated that the solar arrays will generate power for common areas and otherwise go back to the grid. Jim Lambert said that further additions of solar panels could be reviewed in the future.

Brad Reed moved to close the public hearing for a Comprehensive Permit at 580 Main Street. 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, Gabrielle Lomanno (Associate)-Yes (5/0/0).**

Brad Reed moved to adjourn. 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, Elisabeth Hutchins- Yes, Gabrielle Lomanno (Associate)-Yes (6/0/0).**

Respectfully Submitted,  
Valerie Oorthuys