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## TOWN OF BOLTON - PLANNING BOARD MINUTES

Meeting Held at the Town Hall – Board of Selectmen’s Room on **June 22, 2016** at 7:30 PM

Members Present: Erik Neyland (Vice Chair acting as Chair), Danielle Spicer, Mark Sprague, and Michael Gorr.

Also Present: Erica Uriarte (Town Planner), Brandon Ducharme (Ducharme & Dillis Civil Design Group, Inc.), John Farnsworth (Farnsworth Engineering Associates), Mary Ciummo (Public Ways Safety Committee), Martha Remington (Historical Commission), Brian Falk (Mirick, O'Connell, DeMallie & Lougee, LLP - Town Counsel), Fred Coon (Century Mill Estates), Fred Hamwey (Hamwey Engineering, Inc. – Planning Board Peer Reviewer), Jane & Tim Houde (Country Cupboard), and Michelle Tuck (Tuck & Tuck Architects)

Call to order: 7:34 PM

- Hearings
  - None.
- Business
  - ANR Plan for 48 Meadow Road, Ducharme & Dillis Civil Design Group, Inc.
    - Brandon Ducharme presented the ANR Plan for 48 Meadow Road to reconfigure the lot lines to create New Lots 2A and 4A by adding Parcels A and B to New Lot 2A (Parcel 4.E-24) from New Lot 4A (Parcel 4.E-9). B. Ducharme indicated that adding Parcel A had been approved under a previous ANR, but was never incorporated into the deed. Parcel A allows for the existing dwelling on New Lot 2A to meet the required zoning offset to the side yard property line. Parcel B provides access to the existing driveway easement.
    - E. Uriarte indicated to the Board that the Lot 3 label should be revised with correct abutter information and the plan required a locus. The applicant also failed to submit electronic copies (PDF and GIS) as part of the original submission package.
    - B. Ducharme will update the ANR Plan accordingly and submit a revised plan with electronic copy.
    - The Planning Board will approve the revised ANR Plan at their next meeting.
  - ANR Plan for 306 Old Bay Road, Farnsworth Engineering Associates
    - John Farnsworth presented the ANR Plan for 306 Old Bay Road to reconfigure Parcels 4.B-22 (306 Old Bay Road), 4.B-34 (316 Old Bay Road), 4.B-35 (Lot 2-1986), and 4.B-36 (Parcel-A-1986). The reconfiguration will add 1.94 acres to 306 Old Bay Road (Lot-3-2016) from Lot-2-1986, add Parcel-2016-A to 316 Old Bay Road, and create Lot-2-2016 from remaining Lot-2-1986 and Parcel-A-1986.
    - **D. Spicer motioned to approve the ANR Plan prepared by Farnsworth Associates dated 05/16/2016 to reconfigure 306 Old Bay Road into Lot-3-2016, create Lot-2-2016 and transfer Parcel-2016-A to Stephen H. Coulter at 316 Old Bay Road contingent upon receiving a GIS file. 2<sup>nd</sup> by E. Neyland. All in favor 4/0/0.**
  - Fast food Restaurant Bylaw Review
    - Brian Falk (Town Counsel) assisted the Planning Board in reviewing the zoning bylaw definition of fast food. Jane & Tim Houde and Michelle Tuck contributed to the discussion. The Houdes are considering adding a Dunkin’ Donuts as an accessory use to the Country Cupboard.
    - Under Section 250-28 of the Zoning Bylaw, the definition of fast food states “*An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the building or outside the building or off premises, or within a parked motor vehicle and usually requires ordering at a counter and whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers. The foregoing shall not apply if such sales are wholly incidental and ancillary to a conventional restaurant or other allowed principal use; this regulation shall not apply to ice cream parlors. The intent of the regulation is to address the adverse impacts of fast-*

*food restaurants on Bolton's historic and adjacent residential areas as well as gateways to the Town. The proliferation of fast-food establishments has a negative impact on the Town's economy, historical relevance, unique character and economic vitality. These uses are therefore restricted in order for Bolton to maintain unique dining experiences. Fast-food establishments detract from the overall historic village experience and are found to be obtrusive and have substantial impacts to the public safety from increases in traffic, litter and childhood obesity."*

- Under Section 250-28 of the Zoning Bylaw, the definition of accessory use states "A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than 50% of the lot area is occupied by such use, it shall no longer be considered accessory."
- B. Falk indicated that fast food is allowed as an ancillary use to a principal use as long as it is less than 50% of the lot area. B. Falk mentioned he had reviewed the fast food bylaw with the Building Inspector.
- E. Neyland and M. Tuck indicated that the section of the fast food definition that states "*wholly incidental and ancillary to a conventional restaurant or other allowed principal use*" was intended to allow take out for restaurant uses (e.g., Slater's could have takeout pizza). However, the definition was worded with a loop hole stating "*or other allowed principal use*" providing fast food ancillary to any permissible primary use.
- The definition of accessory use (as determined by being 50% or less of the lot area) was discussed. It was pointed out that the zoning bylaw does not allow for buildings to occupy even close to 50% of the lot area. Lot coverage for business use is 8% (10% in the Mixed Use Village Overlay District). Therefore, the definition of accessory use does not clearly identify the primary use from the accessory use.
  - The Building Inspector previously stated to B. Falk that he would make an accessory use determination based on the occupied building square footage instead of lot area. B. Falk indicated to the Board that this was a fair and reasonable interpretation of the bylaw.
  - B. Falk explained that the Building Inspector, in accordance with the State Zoning Act (Ch.40A), is responsible for making zoning determinations.
    - E. Neyland noted he would prefer for an elected official to make the determination regarding accessory use rather than the Building Inspector.
    - E. Uriarte explained that the Building Inspector would seek input from the Town Planner. He would not make a determination without consulting the Board.
    - B. Falk noted that the Board could appeal the Building Inspector's determination to the Zoning Board of Appeals if aggrieved by his decision.
- M. Tuck indicated that fast food, as a primary use, is not allowed in the Mixed Use Village Overlay District either. However, given the definition, fast food could still be implemented as an accessory use in the overlay.
- B. Falk discussed formula business bylaws that seek to impose additional regulation on chains/franchises. It is questionable whether these bylaws are permissible. The Town cannot prohibit a business based on ownership or the number of stores.
- M. Remington noted that no drive through windows are allowed.
- M. Remington noted that Country Cupboard is pre-existing nonconforming.
- **E. Uriarte to research the permit history of the Country Cupboard.**
- Associate Member Position
  - **E. Uriarte to contact Peter Driscoll and Adam Check to attend next meeting for associate membership discussion.**
- Century Mill Estates, Fred Coon
  - The Planning Board reviewed the Swale Modification Plan dated 06/02/16. The swale is located behind Lots 31A through 27A. Grading of these lots were changed to allow for overland flow to Detention Basin 9C directing less runoff to the swale. The lining of the

swale was modified from riprap to a combination of riprap and vegetation. Check dams were not required. Drainage calculations were submitted and approved by Fred Hamwey (Peer Reviewer).

- F. Coon sought a bond reduction for Old Stone Circle for completion of swale work as noted above and for the swale located behind Lots 44B through 40B draining to Detention Basin 9D. The Planning Board reviewed other site items to be completed including gas traps, brick inverts, and drainage structures that were not included in the bond estimate.
  - E. Uriarte noted there were insufficient funds currently being held for Old Stone Circle. Previous bond reductions were calculated using 25 lots instead of 23 lots.
  - The Board tabled the bond reduction discussion so that the surety amount could be worked out and the bond estimate could be updated to include items that had been excluded (e.g., gas traps, inverts).
- F. Coon sought approval for revised grading along the access drive for Detention Basin 9D to accommodate the new layouts of Lots 41B and 42B adjacent to the access drive.
  - B. Ducharme indicated that the original site plans specified a maximum slope of 12%. The revised design requires a slope of 14%. Harold Brown (DPW Director) approved the revised design. Additional grading is also shown for maintenance access into the basin. Rim and invert elevations were revised to accommodate the 2 - 3 ft. increase in the road elevation.
  - **D. Spicer motioned to approve the Basin Access Modification Plan for Old Stone Circle (RD C) revised 06/22/16. 2<sup>nd</sup> by M. Sprague. All in favor 4/0/0.**
- F. Coon sought lot releases for Lots 47B and 38B.
  - **D. Spicer motioned to approve lot releases for Lots 38B and 47B. 2<sup>nd</sup> by M. Sprague. All in favor 4/0/0.**
- E. Neyland discussed future blasting. He recommended notifying the neighbors prior to blasting even if the blasting company is not legally required to notify them. Placing notification on sandwich boards along neighboring roads was suggested.
- F. Coon will submit a request to conduct construction activity on Saturdays for review by the Planning Board at their next meeting. E. Uriarte will notify the abutters once the request is received in writing.
- Administrative
  - Martha Remington requested to discuss the tree trunk remaining at 147 Long Hill Road common driveway. She indicated that the canopy of the tree had been removed, but not the trunk. She would like to see the trunk removed as required by the written consent from Planning Board during the scenic road hearing.
    - **E. Uriarte to follow-up with the developer (Applewood Construction) regarding the tree.**
  - Planning Board Summer Meeting Schedule
    - **Planning Board agreed to set summer meeting schedule to July 13, 2016 and August 10, 2016 tentatively.**

**D. Spicer moved to adjourn the Planning Board meeting at 9:35 PM. 2<sup>nd</sup> by M. Sprague. All in favor 4/0/0.**