

BOLTON BOARD OF APPEALS
Minutes of Meeting
November 20, 2007 at 6:30P.M.
Bolton Town Hall

Present: Gerard Ahearn, Kay Stoner, Brad Reed, Andy Kischitz, Jacqueline Smith and Town Planner, Jennifer Atwood Burney

HEARING

1. 7:00 pm Variance – 59 Bolton Woods Way

Present: Applicant, Kevin Boydston

Applicant, Kevin Boydston requested to withdraw his request for a variance without prejudice.

The Board voted unanimously 5/0/0 to grant the request to with withdraw a request for a variance without prejudice.

2. 8:30 pm Special Permit - 125 Still River Road, Bolton Orchards

Present: Applicant, Sarah O'Toole for Bolton Orchards/Davis Farm Trust

The meeting was called to order at 8:30 p.m. by Chairman, Gerard Ahearn. Prior to the Hearing on November 20, 2007, the applicant came before the Board of Appeals on April 24, 2007 and was granted a temporary trial period until September 3, 2007 to sell ice-cream through a window and would need to return before the Board of Appeals after the trial period for a Special Permit. The applicant received a building permit from the building inspector to construct windows for the purpose of selling ice-cream.

The Board heard testimony from the Applicant Sarah O'Toole, requesting a Special Permit to continue the sale of ice-cream through a window at Bolton Orchards. Prior to the Hearing the Board of Appeals solicited input from the various Boards and Departments. The Board of Health stated that Bolton Orchards has the required permits and has a consent order from the Department of Environmental Protections (DEP) for a Zone 1 Public Water Supply. The Police Chief stated that the police department received no complaints or had any parking issues at Bolton Orchards. Tom Bromfield an abutter to Bolton Orchards was present and stated he was in favor of the request.

The Board discussed that the proposed expansion and alteration of the structure and use as described by the applicant would not change the current building structure and only add two service windows to serve ice-cream. The proposed expansion and alteration of the structure and use would have limited visual, traffic, heat, or light impact to the surrounding neighborhood. The Applicant states no changes have been made outside except two windows and a menu posted on the outside of the building. Service is available until 9:00 p.m. The Police Chief stated that there has been no added traffic or complaints.

A motion was made by Brad Reed, seconded by Alexander Kischitz to approve the Special Permit as submitted with the condition it is solely to service ice cream related desserts through the service window, with anticipated hours no later than 9:00 pm and with year round use.

Vote: 5/0/0

3. 9:00 pm Variance – 16 Laurel Road

Applicant: Gordon Hawkins

The Hearing was called to order at 9:00 p.m. by chairman, Gerard Ahearn. The Board heard testimony from the Applicant, Gordon Hawkins. Mr. Hawkins explained that the proposed location of the shed did not meet current zoning regulations because it encroaches within the 20 foot side yard setback. The Applicant explained the difficulty to site the shed due to ledge and sloping of the yard. The Applicant estimates that 90% of the yard consists of a hill, leaving a 700 square foot area of yard. If Mr. Hawkins complied with the 20' foot side yard setback, the shed would take up two-thirds of the remaining yard. The Applicant explained that he couldn't place the shed on the hill due to the difficulty of moving equipment such as a lawnmower back and forth. The Board received a letter from Noel Thel, of 312 Sugar Road in support of the Variance request. Ms. Thel is a direct abutter of the Applicant. The shed is 10' by 16' with a height of 12' 13" and will be placed on a foundation on grade.

A motion was made by Brad Reed, seconded by Kay Stoner to grant a Variance to the Applicant that provides relief from the provision of Zoning Bylaw Section 2.3.5.2 that sets a minimum side yard set back of 20 feet. The storage shed shall not exceed 13 feet in height and no larger than 10' x 16' and that the structure is used only as a storage shed.

Vote: 5/0/0

DISCUSSION

1. Regency – Unit Style change

Present: Shawn Nuckolls, Project Manager

Shawn requested the ability to change some of the styles of the market rate units to accommodate the preference of potential buyers. According to Mr. Nuckolls having the ability to offer the buyer the various options made it more marketable. The Board asked if the footprint would change. Shawn indicated that each unit change would be reviewed on an individual basis and the depth of the unit could change. Andy asked if bathrooms or bedrooms would be increased with the unit style changes. Shawn replied that not change would occur. Jackie asked of the size of the actual building would change. Shawn replied that only the depth of the unit would change by possibly 5' in the front and 5' in the back but would not impact the overall size of the building. Brad asked how much the units would be changing. Shawn explained that the Hickory style is 1742 square feet and the Lindon is 1798 square feet. A 50 square foot change could occur accommodating a more open floor plan and garage, which potential buyers seemed to prefer. Kate asked if the market rates would look any different than the affordable units. Shawn stated that the roofline would have to be analyzed and readjusted to accommodate changes but would

look no different from how it is presently designed. Kay asked if someone could choose the Shilling affordable unit as an option for a market rate unit for affordability. Shawn stated that this is a possibility. Gerard asked if there was any impact on direct abutters. Shawn replied that there was not. Brad asked if the price of the units would change substantially. Shawn replied that there was the possibility that they would be slightly different.

Gerard explained that the board would have to determine if the request was substantial or insubstantial and handled pursuant to 760 CMR 31.03. The Board felt that the request was a minimal change and not significant. The Board requested that the Applicant submit a lot specific plan with the building permit showing grading and what ever other requirements are required such as an as built. The building inspector needs to be made aware of the request that Linden could be Hickory on 9 units that the applicant requested. If the building inspector feels that any of the requests at the time of a request for a building permit are substantial that the board is made aware and that changes are permitted contingent upon the building inspector's approval of the unit style change.

A motion was made by Gerard Ahearn, seconded by Brad Reed that the request for unit style changes on 9 interior units were insubstantial pursuant to 760 CMR 31.03 and to approve the request to allow the flexibility of unit style changes on the 9 units presents contingent upon the building inspectors approval of the unit style change.

Vote: 5/0/0

2. Regency – Continued discussion on request for guardrail modification

Present: Eric Carlson, P.E. Director of Land Development – Toll Brothers.

The Board continued the discussion in regards to the request of removal of a portion of guardrail from the Regency. The Board was awaiting feedback from Public Ways and the Public Works Department. The town planner told the Board that Public Ways indicated that they were not concerned with the guardrail and left that decision to the Board and Public Works Department. Their only concern was the proposed walkway. The town planner told the Board that she had received a verbal approval from the Police Chief on November 20, that the section of guardrail on the easterly side of the drive should be removed to address site visibility issues. The Chief also agreed that the remnant guardrail located on the westerly side of the drive should be removed. Harold Brown felt indicated that as long as engineering analysis showed that guardrail wasn't required in the sections proposed for removal he was in agreement. He also indicated that the wooden guardrail that runs along Pond side is not needed due to sloping.

Changes of any details of the Development as required by the terms of the Comprehensive Decision must be handled pursuant to 760 CMR 31.03. The Board must determine and notify the applicant whether to deem the change substantial or insubstantial.

A motion was made by Gerard Ahearn, seconded by Brad Reed that the request for guardrail modification is insubstantial pursuant to 760 CMR 31.03 and to approve the request to remove sections of guardrail located on the easterly side of the drive and the remnant section of

guardrail on the westerly side as well and approved that wooden guardrail was not required for the Pondside Drive.

Vote: 5/0/0

3. Sunset Ridge – Sandy Roca

Mr. Roca was before the Board to discuss the drainage issue at Sunset Ridge. Mr. Roca claims the septic plans do not make a provision for the drainage flow. The Board suggested having a peer engineer review the septic system plan, storm water plan and drainage plan to make sure the plans comply with the Comprehensive Permit.

OTHER BUSINESS

- Approve minutes from 10/9/07 and 10/20/07
- Approve bills

NEXT MEETING

To be determined

The meeting adjourned at 9:00 p.m.

Minutes submitted by Town Planner Jennifer Atwood Burney