Town of Milford Zoning Board of Adjustment AUGUST 18, 2022 Public Hearings

Case #2022-14 TM Bolduc Holdings, LLC. and Salt Creek Properties, LLC. SPECIAL EXCEPTION

Present: Jason Plourde, Chair

Karin Lagro, Vice Chair Michael Thornton, Member Andrea Kokko Chappell, Member

Tracy Steel, Member Joan Dargie, Alternate

Lincoln Daley, Director of Community Development

David Freel, BOS Representative

Not Present: Jane Hesketh, Recording Clerk

Meeting Agenda

1. Call to Order

2. Public Hearing(s):

a. Case #2022-14 TM Bolduc Holdings, LLC. and Salt Creek Properties, LLC. for the property located at Tax Map 43, Lot 69 are seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.05.8.C and 5.07.7.C to allow the construction of six, multi-family buildings with a maximum height of 56 feet where 35 feet is permitted in the Limited Commercial-Business District "LCB' Zoning District and 40 feet is permitted in the Commercial 'C' Zoning District. (Continued from 7/21/22)

3. Meeting Minutes: TBD

4. Other Business: TBD

5. Next Meeting: September 1, 2022 September 15, 2022

1. CALL TO ORDER

Chair Plourde opened the meeting by welcoming everyone and introducing himself. He welcomed those attending in person and electronically since this meeting is being conducted in a unique manner.

He stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen's Meeting Room with all Covid protocols in place.

If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and enter the Meeting ID: 851 6407 7601 and Password: 269952 or log in via www.zoom.com using the Meeting ID and Password previously stated.

A digital copy of the meeting materials can be found on the Town website at: https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda. We will also be live streaming the meeting on Granite Town Media, Government Channel 21: http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2

He then went on to inform everyone about the procedures of the Board.

Chair Plourde stated all votes taken during the meeting must be done by Roll Call vote. He started the meeting with a roll call attendance by asking each member to state their name; this is required under the Right-to-Know Law. Roll Call Attendance with everyone in attendance at Milford Town Hall: M. Thornton present; Andrea Kokko Chappell present; K. Lagro present; J. Dargie present; T. Steel present; J. Plourde present.

MINUTES OF THE ZBA MEETING AUGUST 18, 2022

When the case to be heard was initially presented on 7/7/22, J. Dargie was present as a full member and T. Steel was not present. In view of this, J. Dargie will be seated as a full member at this meeting and T. Steel will be allowed to participate by asking questions during the presentation. However, T. Steel will not be part of the Deliberations or the Vote, but J. Dargie will take part in those proceedings.

He stated there is 1 case be heard and then explained the process of the case hearings for the applicant and the public. He said a full agenda may not allow all cases to be heard and that at 10:00 p.m. the meeting will end. He explained how the meeting would proceed for the cases that may not be heard in that they would be continued or tabled to another agreed upon meeting. He also explained the notification process for continued cases.

J. Plourde then moved ahead to the case to be heard.

2. PUBLIC HEARINGS

a. Case #2022-14 TM Bolduc Holdings, LLC. and Salt Creek Properties, LLC. for the property located at Tax Map 43, Lot 69 are seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.05.8.C and 5.07.7.C to allow the construction of six, multi-family buildings with a maximum height of 56 feet where 35 feet is permitted in the Limited Commercial-Business District "LCB' Zoning District and 40 feet is permitted in the Commercial 'C' Zoning District. (Continued from 7/21/22).

Chair Plourde went on to summarize the events that have transpired since the initial hearing on July 7, 2022. There was a site walk on July 14, 2022 at 3:00 p.m.; present were members from the Conservation Commission, Board of Selectmen, Planning Board, Zoning Board and the public. This allowed those present to get a better understanding of the topography and placement of the six buildings. J. Plourde stated there is an abutting home on 115 Poneham Hill Rd. that brought up many discussions about site lines and the view from this residence. There was also an initial meeting with the Planning Board on 7/19/2022 which L. Daley attended. L. Daley stated there were discussions about the height. It was agreed, though, that approval for this must ultimately be made by the Zoning Board.

Christopher Swiniarski, Attorney for TM Bolduc Holdings, stepped forward to make a presentation. He agreed with Chair Plourde's summarization of the site walk. He stated what the developers took back from the discussions at the site walk. In regards to minimizing the impact on the site lines, the idea is to spread out on the proposed lot. He stated this will, however, have some impact on the wetlands. He used a rendering that showed the current proposed location of the building closest to the home on Poneham Hill Rd. (building G). He suggested only Building G would have the underground parking removed. Hopefully, this will reduce the impact on the view from 115 Poneham Hill Rd. Parking would then be developed in an area that would affect the wet lands. The other suggestion he made is to move building G to the area shown in his suggestion as a parking area. He went on to say, there are trade-offs to the designs presented. He stated approximately 3 acres of land will need to be cleared to accomplish either of the 2 recommendations which will cross wetlands. He continued by saying these suggestions take into consideration the many areas that will be impacted with this development. He pointed out the Conservation Commission gave their input. The ZBA has been provided with a memorandum from them. He continued to emphasize this is a lot meant for development. The developers have taken information from all sources in their planning, but no matter what, there is no guarantee that the development will not be visible to residents on Poneham Hill Rd. He showed a chart comparing the height difference between the 35 ft. maximum allowed vs. the 56 ft. requested. J. Plourde then went on to explain that with the 35 ft. height the development could happen with no ZBA involvement as long as it complied with the ordinances. M. Bolduc came forward to discuss the height and placement of the buildings. Further discussion continued with a rendering used to depict the possible site views for the home on Poneham Hill Rd. Also used was the chart showing the height comparison analysis. Further discussions continued. Within a Limited Commercial-Business District the setback is 15ft. from the side which J. Plourde stated. The various points were elaborated on further to determine what will have the least impact to the community.

Christopher Swiniarski felt he presented all the possible alternatives and had nothing further to present therefore, he was open to questions.

He did go on to explain further there is an "island" of dry land on the lot in question, but wetland needs to be crossed in order to develop that area. This is the proposed area for moving building G to or developing just a parking area for building G without moving it thereby reducing the height by eliminating the underground parking. Either way, he pointed out, will affect the wet land surrounding this area of dry land. He again stated, this will require clearing about 3 acres of land. He reiterated that weighing the various options and impacts, the best option is to go with the proposed plan as requested for the location for building G.

MINUTES OF THE ZBA MEETING AUGUST 18, 2022

- J. Dargie asked about exhibit 2 showing building G in the dry area and building F remaining in the proposed location. It was stated by C. Swiniarski that if building G is moved it would remain with the underground parking at 56 ft. and building F would stay in the proposed location at 56 ft.
- A. Kokko Chappell asked how much space will be gained from the property line by moving building G and leaving building F where it is proposed. M. Bolduc stated approximately 75 ft. K. Lagro stated this would then make the building 200 ft. from the property line. M. Bolduc stated it will then be approximately 192 ft. from the property line.
- J. Dargie asked if both building F and G would be reduced to 35 ft. if the parking is moved to the dry land. C. Swiniarski stated only building G would be reduced in size.
- J. Plourde asked about the location of the club house. It was pointed out on the rendering.
- M. Bolduc then presented another option for building G. He said building G could be reduced to 35 ft. and made a commercial use building only if 3 of the other residential buildings could be increased to 60 ft. and building F would remain at 56 ft. Per M. Bolduc, this would not increase the density just the roof pitch.
- L. Daley then summarized the request to the board. He also used an aerial map of the lots surrounding the proposed location to show how it may or may not impact the area. He said the applicant would need to re-apply with the changes requested.
- M. Bolduc then presented a different idea. He said he could keep all the buildings at 56 ft. except for building G which would then be reduced to 35 ft.
- J. Plourde to L. Daley: then this would not need to change the application because the number of feet in the application is not going up. M. Bolduc said the density will not (actually cannot) be increased and he will scatter additional parking around the lot. He again stated, he will reduce building G to 35 ft. and keep all the other buildings at 56 ft. and place parking along the side of the existing location for building G. The primary concern is to protect the wet land surrounding the dry area. More discussion continued with L. Daley summarizing what needs to be voted on and J. Plourde stating the need to satisfy the 5 criteria. L. Daley confirmed that building E is also 56 ft.

Robert Bolanger, Engineer from Pedersen an engineering consulting firm in Bedford, NH stepped forward to present the traffic concerns. He stated that with L. Daley he has reviewed the traffic report. J. Plourde stated he just wants to confirm the traffic volume. The numbers shown are below the thresholds. R. Bolanger stated he feels the reports are appropriate for this area. He had positive comments and a high level of confidence that this will not impact the town. J. Plourde asked if there were any questions and there were none.

The other proposal being requested is the emergency access road. J. Dargie stated emergency access roads can no longer be gated per Fire and Police guidelines.

J. Plourde summarized by saying that R. Bolanger's presentation satisfies the criteria regarding hazards to vehicles and pedestrians.

He then asked the board about reviewing the 5 Special Exception criteria before opening the meeting up to the public. It was pointed out that at the meeting of July 7, 2022 some of the criteria were reviewed and some were outstanding. To reiterate the criteria previously discussed, J. Plourde summarized:

Special Exception criteria under 10.02.1:

a. Criteria: proposed use is similar to those permitted in the district

This was addressed at the meeting on July 7, 2022; this is permitted in the district and the request is all about the height.

- b. Criteria: specific site is in an appropriate location for the proposed use
- c. Criteria: the use as developed will not adversely affect the adjacent area

This was addressed at the meeting on July 7, 2022

d. <u>Crit</u>

d. Criteria: no nuisance or serious hazard to vehicles or pedestrians

J. Plourde stated this was just addressed with R. Bolanger's presentation regarding the review of the traffic report.

e. <u>Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use</u>
Per J. Plourde: a traffic report was prepared, therefore, access wise this will be going through the Planning Board process.

L. Daley brought up the discussion by the applicant to provide a vegetation buffer between the buildings and the abutting residential properties on Poneham Hill Rd. L. Daley asked that the applicant make a commitment to this. J. Plourde asked if this would be a Planning Board consideration in regards to the type of vegetation. L. Daley stated that the ZBA can place a condition on the approval of the application in view of Special Exception criteria C, and he feels the applicant should discuss this. He wants to determine what the thoughts are from the point of view of the applicant on this point.

J. Dargie said she still does not agree with the height of buildings F and G, therefore, feels exhibit 2 is the better option. Discussion ensued on this point. J. Plourde stated buildings F and G in the Limited Commercial-Business District should be at 35 ft. and the buildings in the Commercial District can be at 56 ft.

M. Bolduc stepped forward to state that a screened buffer should be a condition.

J. Plourde opened the meeting to the public.

Morgan O'Reilly from 91 Poneham Hill Rd. stepped forward. She stated her home will be looking at buildings F and G. She asked her home be included with the proposed vegetation buffer. She went on to say right now the summer vegetation blocks the view but in the winter it will not.

Susan Smith was recognized on-line. She asked a question about the various heights that have been proposed.

J. Plourde responded by saying the developers did not want to increase the density of the buildings proposed. He also pointed out that if the developer should decide to increase the height of the buildings in the back, they would have to re-apply with the ZBA. S. Smith then said she was wondering if the height of buildings F and G could be reduced by expanding the size of the other buildings to make-up for the units lost with the reduction in size of buildings F and G; not by making them higher but wider.

J. Plourde commented by saying the applicant has suggested building G be reduced to 35 ft. and all other buildings be 56 ft. The ZBA is questioning, however, if building F can also be reduced to 35 ft. He went on to say the developer can certainly make the buildings wider, but the Zoning Board is focusing on the height with this application. S. Smith stated her comments are more of an idea than a question.

Her idea was discussed. M. Thornton asked does it mean they make the buildings longer or deeper. J. Plourde said either way as long as they do not increase the height. J. Dargie stated F and G should be 35 ft. and the other buildings at the requested height.

Peter Basiliere, Town Moderator, stepped forward to speak as a resident of 32 Spaulding St. He asked about the alternative proposal and wanted it to be reviewed again; he was unable to see the rendering.

Christopher Swiniarski stepped forward to reply. He used the rendering to reiterate the request for all buildings (he pointed them out) to be 56 ft. tall. He pointed out Building G which was the major concern during the site walk. The developers decided to change the request for this building to be 35 ft.

J. Plourde interjected by saying that with this proposal there would be a parking area established as shown on the rendering. This would mean crossing wet lands. He then asked C. Swiniarski to display the second option.

P. Basiliere went on to say, they would not impact the wet lands but simply change building G to 35 ft. which would then be in compliance. He again emphasized they do not want to develop on the dry area surrounded by wet lands.

J. Plourde added there will be vegetation provided as screening for 115 Poneham Hill Rd. and possibly 91 Poneham Hill Rd. as well.

P. Basiliere then asked about the width of that vegetation and will it be part of the request. J. Plourde: it will be a condition added as a vegetative screen buffer and it will be up to the Planning Board to decide the type of vegetation.

P. Basiliere then distributed pictures he took during the site walk. He explained a screening is needed not only for the home discussed at the corner of Route 101, but for all residents on Poneham Hill Rd. on both sides of the street. His picture showed that at 7:30 p.m. the sun was shining through the existing vegetation at the location of the proposed emergency entrance. He went on to say that when the buildings are there, the lights from each resident in the buildings will create a great deal of light for those on Poneham Hill Rd. He continued by saying he understands a 35 ft. building in that area is allowed. He emphasized careful consideration needs to be given to approving a building higher than that. He pointed out the ordinance of 35 ft. was voted on by the town many years ago in order to preserve the integrity of the town and its character. It was intended to keep tall apartment buildings from being built. He expressed his concerns about not establishing buildings taller than 35 ft. close to residential homes. He feels the option to keep both F and G at 35 ft. is the better option and to separate the buildings by moving at least one further away from the residential homes. He ended by saying, the developers have the right to request what they have requested, however, the voters of the town have their right to establish how high they want structures to be.

J. Plourde asked that the pictures be labeled Exhibit 3.

David Freel stepped forward to ask about a rendering shown about the height and the view. He stated the way he sees it is that the building cannot be moved forward.

J. Plourde asked if there any more comments or questions. He asked Christopher Swiniarski if he would like to address the points that have been brought during the public portion of the meeting or to provide the board with more information.

C. Swiniarski stepped forward. He discussed the rendering depicting the views and the placement of the buildings. He also stated they have agreed to make building G 35 ft. He pointed out that while the ordinance does state a building cannot be higher than 35 ft., it also states that it can be higher with a special exception. He reiterated they have voluntarily agreed to reduce building G to 35 ft. which will make it in compliance. He commented on the ideas of moving the building and feels that is not a good option in view of the wet lands or even making it wider. He said that while the ZBA does not have jurisdiction over the wet lands, the input from the Conservation Commission should be kept in mind. J. Plourde immediately stepped in to clarify that the ZBA does in fact look at the wet land impacts and the buffers; the ZBA does weigh in on these impacts. J. Dargie then pointed out if there were to be an impact to the wet lands, another application would be required. C. Swiniarski stated that if the ZBA wants the buildings moved then they should be ready to allow impact to the wetlands.

impact to the wetlands.
 J. Dargie stepped in to say why then did they present options that would move the building. C. Swiniarski explained these
 options were brought up as solutions to the problems that came out of the site walk. What he is pointing out is these options
 will not work based on the points he has brought up in that the wet land impact is not a viable solution.

- J. Dargie stated that given the fact that options 1 and 2 are no longer viable, can buildings F and G be 35 ft.
- L. Daley said parking could be created around the buildings.
- J. Plourde interjected with additional comments about the reduction in size of buildings F and G, and not just building G.
 - J. Dargie stated her condition is that buildings F *and* G be reduced to 35 ft. and she will then be in agreement with the other buildings being 56 ft.

A lengthy discussion continued about J. Dargie's condition. She continued to emphasize there is a significant difference between a 35 ft. building and a 56 ft. building. A. Kokko Chappell interjected with her point about building F at 56 ft. was set back. J. Plourde stated this type of condition would be part of the deliberations. The point was then brought up about placement of a 35 ft. building and it being on the property line. J. Dargie felt this to be a bit controversial. J. Plourde wanted to clarify this point. He stated he was part of a discussion during the site walk about the visual representation of what a

35 ft. building on the property line would look like and not if the Planning Board would approve it. He reiterated he was the one who brought this up from a Zoning Board perspective, and not the developers. J. Dargie was adamant about the board placing a condition on the special exception request to include that buildings F *and* G be 35 ft. and the other buildings can be 56 ft.

L. Daley interjected by saying the board should go through each criteria and make a broad statement about approval. He encouraged the board to move forward to the deliberations on each criteria for a special exception and make a decision based on that criteria.

J. Dargie stated if the decision is going to be different, if they are going to make a different proposal, what is the board going to deliberate on; all the buildings being 56 ft. or something else. The board needs to understand what they are deliberating on and J. Plourde agreed.

MINUTES OF THE ZBA MEETING AUGUST 18, 2022

2 3

7

8

9

10 11

12

13

14

15

17

1

4 5 6

M. Thornton asked with building G at 35 ft. and the "look angle" doesn't change (meaning you cannot look over at an angle, it's a straight line) without changing the view, how tall could the next building be without going higher from the straight line perspective?

M. Bolduc came forward to answer. He explained the footage and C. Swiniarski summarized by saying building F at 56 ft. would not be visible at the vantage point M. Thornton asked about.

This point was discussed and it was stated for those across the street and at a distance building F would still be visible. It was agreed this would be the case.

- M. Bolduc again stepped forward to say he is in agreement with reducing the size of both building F and G to 35 ft. and keeping the other buildings at 56 ft. The underground parking will be eliminated from these 2 buildings.
- J. Plourde wanted to confirm both buildings will remain in the same locations as shown and a vegetated buffer will be placed for both 115 Poneham Hill Rd. and 91 Poneham Hill Rd.

J. Plourde asked if there were any more comments or questions. He then closed the public portion of the meeting.

16

Deliberations:

18 19 20

Special Exception criteria under 10.02.1:

21 22 23

a. Criteria: proposed use is similar to those permitted in the district

M. Thornton: it appears to be similar

J. Plourde: multiple family dwellings are allowed in these districts, not exceeding density

K. Lagro: height is allowed with a special exception

25 26 27

28

29

30

31

24

b. Criteria: specific site is in an appropriate location for the proposed use

A. Kokko Chappell: yes, buildings are adequately laid out and avoid the wet lands

J. Plourde: will be in line with the current ordinance in the Limited Commercial-Business District and surrounded by vegetation

M. Thornton: agrees J. Dargie: agrees

36

37

38

39

40 41

42 43

44

45

46

47 48

49

50

51 52

c. Criteria: the use as developed will not adversely affect the adjacent area

J. Dargie: buildings closest to the residential area will be in compliance with the ordinance and the other buildings (allowed with special exception) are away from residential homes

K. Lagro: applicant's willingness to work with the board and residents by reducing the size of buildings F and G as well as the vegetation satisfies this

J. Plourde: agrees

L. Daley added the following points: the buildings' location proximity should be noted in relation to the abutters, near conservation land that could be developed, Route 101 which is buffered by year round vegetation as well as a buffer of year round vegetation for residential homes to the west.

d. Criteria: no nuisance or serious hazard to vehicles or pedestrians

J. Plourde: as was presented by Mr. Bolagner Field Engineer, the traffic report study was peer reviewed and the traffic thresholds are below the maximum.

e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use

- J. Plourde: the two buildings closest to the residential homes will be 35 ft. which is in compliance with the ordinance for a Limited Commercial-Business District and the vegetative buffer will be the adequate facilities
- J. Dargie: adequate parking will be provided

J. Plourde then summarized what the board will be voting on in order to ensure everything is accurate. In reviewing the plan submitted April 11, 2022, which has a rendering (layout) of the buildings, J. Plourde then reviewed what was agreed to:

57 58

Buildings F and G, located in the Limited Commercial-Business District, will be 35 ft. which is allowed in this district; buildings in the back, located in the Commercial District, will be 56 ft.

59 60 61

A vegetated screen buffer will be placed to limit the view from 115 and 91 Poneham Hill Rd.

1	MINUTES OF THE ZBA MEETING AUGUST 18, 2022
2	
3	
4	
5	
6	3 MEETING MINUTES
	3. <u>MEETING MINUTES</u> None to review.
7	None to review.
8	
9	
0	
1	4. OTHER BUSINESS Chair Plourde will be unable to attend the next meeting on September 1, 2022.
2	Chair Plourde will be unable to attend the next meeting on September 1, 2022.
3	
4	
5	
6	Motion to Adjourn
7	
8	Chair Plourde asked if there was anything else. J. Dargie made a motion to adjourn and T. Steel seconded. All Board
9	Members were in agreement. Meeting adjourned.
20	o
22	
2	
2.5	
14	
23	
22 23 24 24 25 26 27 28 80 81 32 33 34 35 66 37	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
88	
39	
10	
12	
13	
τ <i>ጋ</i> 1/1	
t '1 1 <i>5</i>	
10 10	
10	
! /	
18	
19	
50	
11 12 13 14 15 16 17 18 19 50 51	
52	Motion to Approve:
53 54 55	
54	Seconded:
55	
56	Signed
57	
58	Date:
-	