

PLANNING BOARD

DATE: October 27, 2016
TIME: 6:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jack Musgrove;
Jeremy Higa
Pedro Pachano, Associate Member
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 6:00 P.M. Mr. Pachano had not yet arrived.

FORM A'S:

There were no Form A's presented.

40R SMART GROWTH ZONING:

Mark Malloy and Patricia Mullins were present from Berkshire Regional Planning Commission to continue discussion of the 40R Smart Growth Zoning. Also present was Bill Reyelt from the Department of Housing and Community Development.

Ms. Nelson asked for information that will help the Board move forward in the process of adopting the 40R zoning.

Mr. Reyelt thanked the Board for having him attend the meeting. He said he would provide examples of areas that have adopted 40R zoning. He went through a power point presentation.

Mr. Hankin asked if there are towns similar in size to Great Barrington that have adopted 40R.

Mr. Reyelt said Easthampton could be similar. He said there are districts in the Boston area that were conceived of prior to the recession of 2008 that have been dormant but are now coming back.

Ms. Nelson asked if Chicopee's zoning was used for mill redevelopment.

Mr. Reyelt said there was a developer interested in redeveloping a mill, but that fell through.

Ms. Nelson said we are interested to find something that will help with creative ways to repurpose the mills in our town.

Mr. Reyelt said Belmont created four sub-districts with 1.5 acres in each district. The neighborhoods pushed for the 40R zoning because they were afraid of having a by-right (40B) project come into their neighborhood.

Mr. Rembold said this is a neighborhood project not a multi-family project.

Mr. Reyelt said Reading adopted the 40R for a 26 acre parcel that was a former grocery store. The parcel is located next to a municipal parking lot and a train station. 256 units are proposed for the project. There are 50 units completed.

Mr. Reyelt said another project in Reading is a former office park. A 40R project occupies half of the site and a community-built senior center occupies the other half of the site. Mr. Reyelt said if market rate

units are going to be included as part of a project they need to be left out of the numbers for the 40R project.

Mr. Musgrove asked if the project can be amended after it is started to take a portion out of the 40R.

Mr. Reyelt said yes. We are not a zoning enforcement agency. We wouldn't make any payment if the project is not in compliance. He said that the 40R zoning is an overlay. What is allowed by the underlying district would be considered.

Ms. Nelson said part of what the Selectboard liked about the zoning is the financial part. There would be an expectation by them for the Town to realize a financial gain from adoption of the zoning. We need to keep that in mind as we move forward.

Mr. Reyelt said there is language in the 40R provision that makes it more difficult for abutters to challenge proposals. To date, two 40R projects have been litigated allowing for a way around the provision.

Mr. Reyelt said only a hand full of communities have applied for 40S reimbursement for exceeding the affordability minimums.

Mr. Rembold asked if the funding for the 40R and 40S is appropriated.

Mr. Reyelt said it is budgeted. Last year the state was not able to make all of the payments. The Department of Revenue is the administrator of the funds.

Mr. Rembold said some communities may not want to adopt because the payments might not be made.

Mr. Reyelt said that could be. He said it is an issue we are working on. He said the advantage of the 40R is that 40B projects can be denied because a community adopts 40R zoning.

Mr. Pachano arrived at 6:27 P.M.

Mr. Reyelt said Pittsfield adopted 40R zoning. He said they established multiple sub-districts. 296 units are proposed over fragmented overlays.

Mr. Hankin said the districts in Pittsfield are residentially zoned.

Mr. Reyelt said it doesn't matter how many units would be allowed by special permit only what would be allowed by-right.

Mr. Hankin said we were told that the 40R wouldn't apply to residential zones.

Mr. Malloy clarified saying it is not that it isn't allowed in residential zones but it has to be looked at according to State standards.

Mr. Reyelt said the requirements for a 40R project would be for the proposed project to be within half a mile of a transit, bus or ferry terminal, that it be located within a city center or existing retail development with services available and that it be considered a highly suitable location such as state hospital buildings or mill buildings.

Mr. Reyelt said Northampton used the zoning on the former hospital located on 16 acres of land. The project has 156 units of mixed housing. Most important is that the district has to achieve a minimum of 20% affordable housing.

Mr. Hankin said 100 Bridge Street could not be developed as a 40R.

Mr. Rembold said multi-family is allowed by-right at that site.

Mr. Malloy said since the density can be achieved on that site, there is no incentive for a 40R.

Mr. Reyelt said a project can not be segmented to meet affordability. If it is rental project 25% affordability must be met.

There was a discussion of the sub-zones established. Sub-zones A, B and C are in Housatonic including the former school and mill buildings. Sub-zone D and E are in Great Barrington. Sub-zone D may have some issues with challenges from abutter and restricted parcels. Sub-zone E is south of the commercial district. If the former school or the restricted parcels are eliminated from the zoning it would drop the number of possible units to around 500 which is close to the minimum threshold.

Mr. Musgrove said he likes sub-zone D because it is close to the downtown.

Ms. Nelson asked if the Board had any questions.

Mr. Musgrove asked how long it would take a developer to build a project.

Mr. Reyelt said if the zoning is adopted, the developer would have to get Site Plan Review approval, design standards would have to be met. Infrastructure issues could result if the zoning doesn't match.

Mr. Malloy said it is possible that sub-zones A and C might get higher density with smaller unit sizes.

Mr. Reyelt said there are some new provisions for starter homes. Homes could be built on 3 acres with lighter affordability requirements, units can have three bedrooms in 1800 square feet and an accessory unit of 600 square feet could be allowed. An eligible location would be a highly suitable location but it is not going to be limited to being within half a mile of public transportation. He said he does not know how the new provision will work out.

Mr. Rembold said as we draft a bylaw each sub-zone can have different requirements.

Mr. Reyelt said he would be happy to look at the bylaw prior to the final submission to the DHCD. He suggested making the requirement for rental units 25%. He said the bylaws can be tailored to each sub-zone.

Mr. Rembold said it would be helpful to have two volunteers to help work on the bylaw.

Mr. Fick and Mr. Hankin volunteered to assist Mr. Rembold.

Mr. Rembold said he would be in touch to set up work sessions.

MINUTES: OCTOBER 13, 2016

Mr. Hankin made a motion to approve the minutes of October 13, 2016 as amended, Mr. Musgrove seconded, all in favor.

SITE PLAN REVIEW: 394 STOCKBRIDGE ROAD

Theory Wellness has applied for Site Plan Review for a medical marijuana dispensary at 394 Stockbridge Road. Present for Theory Wellness was Nicholas Friedman, president; Brandon Pollock, co-applicant; Nick Anderson, engineer from Berkshire Engineering and Linda Shafiroff from Creative Building Solutions.

The majority of the Board conducted a site visit prior to the meeting.

Mr. Anderson began the presentation. He said the property is located between Laramee Cleaners and the Price Chopper parking lot. He said it is a by-right use in the industrial zone but the use requires site plan review. He said the project is in compliance with the site plan review requirements and all provisions that apply to the dispensary and the requirements of the Stockbridge Road corridor.

Mr. Anderson said the building would be a one story building. It would have clapboard siding with a dark asphalt roof. There would be modest lighting on the exterior with extensive landscaping. He said the property is currently paved. A substantial improvement will be made by reducing the existing impervious conditions and providing 2400 square feet of green space.

Mr. Anderson said the primary entrance is on the south side of the building with the exit to the west. Patient parking will be in front of the building on existing black top. Employee parking, loading, and additional parking would be in the back. There will be a total of 23 parking spaces with one handicap parking space and one dedicated delivery space.

Mr. Anderson said the building will be 2,415 square feet. One half of the space will be dedicated to patient circulation. The remainder of the building would be for storage, employee space and restrooms.

Mr. Anderson said the northwest portion of the property would be densely planted. There will be lawn on the south side and another planted area to the north between the properties. There will be 3 street trees planted in the landscape buffer on Stockbridge Road.

Mr. Anderson said the lighting on the building would consist of two flood lights on the northwest and northeast corners. There will be one light at each doorway. There will be focused up-lighting for the sign.

Mr. Anderson gave an overview of the drainage plans as per the submitted application. He said there will be infiltration area to manage all runoff from the site. He said the 100 ft. buffer zone will be maintained. He said there is an agreement with the Conservation Commission that the buffer zone won't be touched.

Ms. Nelson asked about snow storage.

Mr. Anderson said he doesn't see a problem with the snow being pushed to the south side of the property.

Mr. Hankin asked if snow could be pushed into the buffer zone.

Mr. Anderson said yes.

Mr. Anderson said the landscaping requirements along Stockbridge Road include one tree being planted for every 50 feet of frontage. There is 148 feet of frontage and three trees are proposed to be planted. Lawn will be planted; 1586 square feet of lawn will replace currently paved area.

Ms. Nelson asked for more information on lighting.

Mr. Anderson said the proposal is for downward directed LED lights on the two corners and the three doorways. The lights will meet the required foot candles at the property line. There is an existing overhead light at the road. We do not want to light too aggressively. Our goal is that our lighting will be more in character with the lighting at the complex across the street than the abutting properties of the former car dealership and Price Chopper.

Mr. Rembold asked about the uplighting proposed for the sign.

Mr. Anderson said the light would be fully shielded. He said up and down the Route 7 corridor there is uplighting. We will have better control over directing the light at the sign if we diverge from the bylaw.

Mr. Musgrove asked how the light will not be shining into oncoming traffic.

Mr. Anderson said the light would be mounted on either side of the side about three feet from the sign. The light will be shrouded. He said the sign will be a double sided monument sign. It would be five feet or less in height mounted on the ground. The shrouding will prevent light spill beyond the sign. He said it would be difficult to mount lights on the stone monument.

Mr. Musgrove asked if light will be in the eyes of someone pulling out of the driveway.

Mr. Anderson said no. He said we do not want light shining in anyone's eyes. We will get a good focused beam directed at the sign only. Mr. Musgrove said good.

Ms. Nelson asked if the wall pack lights will be fully shielded.

Mr. Anderson said yes.

Ms. Nelson asked how high the front light will be.

Mr. Anderson said it is about 20 feet high and it too has an LED light.

Ms. Nelson said you can't avoid seeing the light when it is that high.

Mr. Anderson said it will be a tailored beam to avoid wider spread. He said the light temperature would be between 3500 and 3800.

Ms. Nelson said we don't want a light temperature any more than 3000.

Mr. Anderson agreed. He said the light is 25 feet from buildings. He said we don't want to light the site like a strip mall.

Ms. Nelson asked if the lighting levels around the building are mandated by the State.

Mr. Pollock said yes. The State has to be able to view security cameras at any time.

Mr. Anderson said the majority of the security is inside the building. It is unnecessary to provide a lot of outside security.

There was a brief discussion about the light spill over onto the adjacent property to the north.

Mr. Fick asked if it is a problem.

Ms. Nelson said she didn't see it as a problem as the spill onto this property from the adjacent property is more than the spill over from this property onto that one.

Mr. Anderson said the cameras need to see the line to the north.

Mr. Rembold asked about the character of the building and the traffic.

Mr. Anderson said the zoning allows for this use by-right in the industrial zone. There is adequate separation from protected areas, areas where children congregate. The minimum distance is 200 feet; we exceed that. The distance from the property line to Berkshire South is 540 feet. The distance from the Renaissance school is 695 feet. There is information at the end of the packet to address this requirement.

Ms. Nelson asked about the character of the building.

Mr. Anderson said there are four gables on the building. Elevations of the building were shown in the Power Point presentation. The siding will be Hardie plank in white with white trim. The lower windows will be frosted the upper windows will be regular glass. By regulation it is not allowed to be able to see into the windows. Natural light is allowed so the windows would comply with the regulations.

Mr. Rembold asked about trash removal.

Mr. Anderson said the use will generate normal office waste and will be removed by a local hauler. The rest of the waste is highly regulated by the CMR.

Ms. Nelson asked if the State reviews the building plan.

Mr. Pollock said they will have the final approval and will review the security plans prior to construction.

Mr. Anderson discussed the traffic impact from the project. He said noted the previous use was a car dealership with trip ends. There is no real data for comparison for the uses but if we compare this use to a medical office we don't expect any impact on the level of service. Stockbridge Road handles 14,000 cars on a daily basis. The Department of Public Health estimates we would have 52 daily trips.

Ms. Nelson said the entrance from Stockbridge Road is very narrow. She said she would like to have the applicant push the State to allow for a wider curb cut.

Mr. Anderson said he agrees. The entrance is 18 feet wide. He said he would like to get another 2 feet. He said they have had a conversation with the Mass DOT but will discuss it further.

Mr. Fick asked if there are potential changes in the business plans.

Mr. Anderson said any changes would require your review.

Mr. Fick said he is concerned about approving something today that could be impacted by the upcoming election.

Mr. Rembold said this is a medical marijuana dispensary. This is different from recreational use, one of the questions on the ballot.

Mr. Fick asked if a change of use would trigger another site plan review.

Mr. Rembold said a condition could be put on the approval that a change of use would trigger another site plan review.

Mr. Anderson said the building code would default to a change of intensity and send us back for site plan review.

Mr. Fick said he is satisfied.

Mr. Hankin said there seems to be a lot of parking. He said if this were a retail use 13 parking spaces would be required. He said it seems that 23 spaces is too much parking.

Mr. Pollock said there are 10 employees on site. He said he thinks the amount of parking is appropriate.

Mr. Anderson said if they reduce the parking and end up needing more there will be no place to get it from. We have dramatically reduced the amount of pavement.

Mr. Musgrove said the use only requires 10 parking spaces.

Mr. Pollock said we are meeting operational requirements.

Mr. Fick said he does not feel comfortable requiring them to reduce parking and put in grass.

Ms. Nelson agreed with Mr. Fick.

Mr. Musgrove said he is ok with the parking as presented.

Mr. Anderson asked for leeway from the bylaw as we can't get State approval until the permits are in place and the building is done. We need to get our Certificate of Occupancy prior to the State issuing the license. He said we will not open to the public until everything is in place.

Ms. Nelson asked about the application with the State. Mr. Pollack said it is pending.

Mr. Anderson said they have received a provisional agreement. We have to build the facility to get the final certificate.

Mr. Rembold read 17.8.7 of the applicant's application to the State. It states that prior to commencing patient dispensing operation a valid MDR registration from the DPH must be obtained.

Mr. Fick read the site plan review criteria.

The Board made a recommendation that the applicant ask the State to allow an increase in the width of the driveway entrance to 24 feet and to widen the radius turn on the road.

Mr. Hankin made a motion to approve the Site Plan Review with the condition that the application seek State approval to widen the driveway and that condition 7.18.7 of the State application be met prior to operations beginning, Mr. Musgrove seconded, all in favor.

The Board took a brief break before their next agenda item.

SOLAR ENERGY ZONING DISCUSSION:

The Board began their joint meeting with the Agricultural Commission. Present from the Agricultural Commission were Vivian Orłowski, and Laurie Epstein, and Michael Maguire, a non-member. The Agricultural Commission did not have a quorum in the room. Present on the phone Devon Arnold.

Mr. Rembold said he had worked on a preliminary draft of the Solar Energy bylaw. He said he used model bylaws from the State. He said there are controls on how and where the arrays can be sited. He said the scale of a project needs to be discussed. He said medium scale projects would be kept out of dense residential areas and large scale projects would be restricted a little more.

Mr. Rembold said 9.12.8 builds in a review by the Agricultural Commission. Their review would not be binding. There would be a 30 day review period.

Mr. Hankin said he thinks that review period is too long.

Mr. Rembold said he thinks it is reasonable. Site Plan Review has a 60 day time period.

Mr. Fick said 25 kilowatts equals a panel cluster of 4,000 square feet. He said this is a State model for community co-op power. The State encourages smaller scale community installations of 4,000 square feet of surface area of the panels.

Ms. Nelson asked if more information could be brought to us to consider.

Mr. Musgrove said the land area needs to be considered. He said we need to talk about the land area not the panels.

Mr. Higa said the visual impact should be considered.

Ms. Nelson said the reason for the discussion is that a local farmer is looking for a way to diversify his economic opportunities. Currently the sites are on brown field sites, roof tops and flood plains. She said we want the Ag Commission's perspective on a way to allow this use on farm land.

Mr. Pachano said we would want to find a way to allow in low density residential zones.

Mr. Fick said he likes the idea because the land could go back to agricultural use.

Mr. Hankin said a farmer will work the amount of land he needs to. In order to keep farmers in business we need to allow them some latitude with their land.

Ms. Orłowski said she thinks Mr. Rembold did a good job with the bylaw. We want to support local farming that is vulnerable to all sorts of factors. The farmers need a financial source to keep them from selling their farms.

Ms. Orłowski said she would like the bylaw to require that the land be pollinator friendly to be in compliance with the resolution adopted by the Town on May 9, 2016. She said we would want to see this as a requirement but at a minimum a recommendation. She said planting on the solar site should avoid plants with systemic insecticides. She said we would like to have a meadow planted around the panels with minimal brush hogging.

Ms. Orłowski said there are concerns about decommissioning or abandonment. Unless there is a financial commitment people may walk away from the site.

Mr. Rembold said in the industrial zones the Board has not required a financial bond.

Mr. Hankin said we have been told that the value of the materials exceeds the cost of removing them.

Mr. Musgrove said there is far more value in the material as scrap.

Ms. Nelson said maybe we could require a bond for a portion of the removal when the installation is on concrete pads in an agricultural area.

Mr. Higa wondered if the pollinator friendly requirement would be just for agricultural land or for brown field sites as well. He said a highly polluted site could have an impact on the pollinators.

Ms. Nelson said a brown field site like 100 Bridge Street would have to be capped.

Mr. Higa asked if it would have to be capped if it were being used for solar. Ms. Nelson said yes.

Ms. Orłowski said any large field that is cleared probably had pollinators.

Ms. Nelson said sometimes the Conservation Commission weighs in on these issues.

Mr. Pachano said we could add requirements saying plants have to be native species and non-invasive.

Mr. Higa asked if there is a fear that the land would go 100% into solar and the farming would be abandoned.

Mr. Hankin said he did think there should be a cap.

Mr. Rembold said a special permit would require that the use be beneficial to the Town. A percentage of the land to be used could be suggested.

Ms. Nelson said the Master Plan goal for renewable energy is to strike a balance.

Mr. Fick suggested language be added to the bylaw about what our goal is. He said the goal of creating this bylaw to allow a farmer's income to be supplemented so that the land can continue to be farmed.

Mr. Hankin said he thinks the Special Permit Granting Authority should be the Planning Board as we deal with land use matters.

Mr. Arnold said it makes sense to assign a percentage. There needs to be some language to encourage continuation of farming on the land. Perhaps two thirds of the land could be continued as farm land and one third could be for solar.

Mr. Hankin said it is tricky to try to guarantee farming. Having the land in APR is the only thing that does that.

Ms. Orłowski said we could make a condition that land in APR can not be used for solar.

Ms. Nelson said we shouldn't tell people what they can do with their land.

Mr. Musgrove asked how much land would be needed to provide the amount of energy used by Great Barrington.

Mr. Maguire said a cap could be based on the needs of the Town.

Ms. Nelson said maybe we need to try to get an accounting of how we are meeting the energy goals set in the Master Plan.

Mr. Rembold said we can set a cap or a percentage but it would require a fair amount of study to be defensible in court. He said there needs to be more thought about this. He said that in the future there may be more energy generated with less land required. There has been a lot of interesting discussion we can think about further.

Mr. Rembold said he will work with Ms. Nelson on how best to move forward.

Ms. Nelson thanked the members of the Ag Commission for coming to the meeting.

PLANNER'S REPORT:

Mr. Rembold asked the Board to consider changing the next meeting from Thursday the 10th to Wednesday the 9th as there is a retirement party for the Town's DPW Superintendent. The Board agreed to the change and scheduled the meeting to begin at 6:00 P.M.

Mr. Rembold said at the next meeting the Board will be discussing three special permit applications for recommendation and continued discussion of 40R zoning.

BOARD & COMMITTEE UPDATES & CONCERNS:

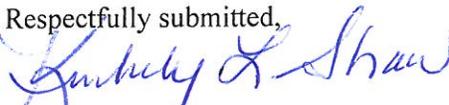
There were none.

CITIZEN'S SPEAK TIME:

No one spoke.

Having concluded their business, Ms. Nelson adjourned without objection at 9:25 P.M.

Respectfully submitted,


Kimberly L. Shaw
Planning Board Secretary