

PLANNING BOARD

DATE: December 22, 2016  
TIME: 6:00 P.M.  
PLACE: Large Meeting Room  
FOR: Regular Meeting  
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa  
Jack Musgrove via telephone  
Pedro Pachano, Associate Member  
Chris Rembold, Town Planner

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

**FORM A'S:**

Mark Reynolds, from Kelly, Granger, Parsons and Associates was present with a Form A application on behalf of John Bugsch for 38 acres of land located on the west side Monument Valley Road. The plan cuts out an 8 acre parcel. The remaining land will be donated to Berkshire Natural Resources Council. The 30 acres lot is not to be considered a separate building lot although it does have legal frontage.

Mr. Hankin made a motion to approve the plan, Mr. Fick seconded, all in favor.

Mr. Higa arrived at 6:06 P.M.

Mr. Reynolds presented a Form A application for Marianne and Jerome Comcowich for three parcels of land located on the north side of South Egremont Road. Lot 1 contains 0.377 acres of land, lot 2 contains 0.450 acres of land and lot 3 contains 0.606 acres of land. Three years ago the land was divided with three existing buildings that pre-dated subdivision control. The building on lot 3 was later destroyed by fire. Legally the building was allowed to be rebuilt on the previous footprint but the owner decided to modify the boundary lines and rebuild to be more in compliance with zoning.

Mr. Musgrove said the plan should be endorsed. He had no issue with the plan.

Mr. Fick disagreed.

Mr. Musgrove said this is just cleaning up a boundary line.

Mr. Fick said the claim is that we can endorse because it is exempt because it pre-dates subdivision control, but the new house does not predate subdivision control.

There was a little more discussion. The Board decided not to endorse the plan and to allow it to receive constructive approval.

**MINUTES: DECEMBER 8, 2016**

Mr. Hankin made a motion to approve the minutes of December 8, 2016 as amended, Mr. Fick seconded.

Mr. Musgrove aye

Mr. Hankin aye

Mr. Fick aye

Mr. Higa aye

Ms. Nelson aye

All in favor.

**40R SMART GROWTH ZONING:**

Ms. Nelson began the discussion asking the Board how enthusiastic they are about pursuing this zoning. She said letters were sent out to the property owners whose property would be considered for the overlay. There was no response to give encouragement to pursue the zoning. There were no supportive responses.

Ms. Nelson said there was no response from the VFW. There were two negative replies from the freight yard area and nothing from the Rising Mills site. There were three positive responses from the Housatonic Mills.

Mr. Rembold said the three responses from the Housatonic Mills was support of anything that would increase the redevelopment options. They asked to be notified when you actually get there.

Ms. Nelson asked how many overlay districts do we want. She asked for a straw poll on how to proceed.

Mr. Hankin asked if there is an affordable requirement in the Housatonic Mills Redevelopment Overlay District (HMROD).

Mr. Rembold said yes. Any development of 10 or more units requires 20% of the units to be affordable. He said the difference is the HMROD allows development by special permit. The 40R would be by right.

Mr. Fick asked how much money would the Town receive for the 40R zoning.

Mr. Rembold said all of the subzones would be needed to meet the maximum reimbursement. There is a significant drop in the reimbursement if the number of units is below the threshold. He said the Town might not need 40R as a defense against 40B as we are close to meeting the required percentage of affordable housing units.

Ms. Nelson said the 40R zoning is developer driven.

Mr. Higa agreed that it is developer driven but also design guidelines driven.

Mr. Musgrove said affordable housing and money from the State; we need an avenue to do it.

Ms. Nelson said we only have subzone A.

Mr. Fick said he disagreed. We should have the Housatonic Mills, Rising Mills and the VFW. It gives the property owner an option.

Ms. Nelson said she is reluctant to spot zone a property without the property owner agreeing.

Mr. Higa asked if there would be different design guidelines for each subzone.

Mr. Rembold said yes.

Mr. Hankin asked how abutting properties would be affected if the zoning is imposed on the home owners of the subzones.

Mr. Rembold said all of the existing rights would be remain. By-right options won't affect the land assessment.

Mr. Pachano asked if a property owner comes in who would like their property considered could they opt in.

Mr. Rembold said the zoning would have to be amended to allow.

Mr. Hankin said he has felt all along that this is a law that was developed for the eastern part of the state and we are trying to make it fit.

Mr. Musgrove said he agrees but if we can find a way to get the money we should.

Ms. Nelson asked how many dwelling units have to be planned to access the funds.

Mr. Rembold said there is one amount for having the zoning to provide a certain number of units and a second amount when the units are actually built.

There was discussion of the funds.

Mr. Rembold said the Town Manager would decide where the money would go.

Mr. Musgrove asked if the money would go to the developer as an incentive.

Mr. Higa said the developer will not necessarily get the cash incentive. The Town will get the incentive.

Mr. Rembold said that is correct.

Ms. Nelson said it appears that the majority wants to move forward with the zoning for the Housatonic Mills, VFW and Rising Mills.

Mr. Fick said yes.

The Board went through the revised draft dated 12/5/16.

There was discussion about what percentage of the units has to be affordable. Per Mr. Rembold, 40R requires a percentage to be set. Mr. Rembold was clear that the percentage applied to the number of units not the floor area.

Ms. Nelson said this zoning is not about redeveloping the mills. It is about providing incentives to the developer.

Mr. Pachano said Mr. Hankin said at the beginning that the law was created for the eastern part of the State. He said we might have to bend the law to make it work.

Ms. Nelson said the units are calculated on all residential.

Mr. Musgrove said 20% of the units have to be affordable for the total property.

Ms. Nelson said it seems disingenuous to put in units when we can't meet the numbers. She said she does not want to be disingenuous.

Mr. Higa said just because we are saying we can build them doesn't mean we have to build them.

Ms. Nelson said she would like to see the percentage at 50%. Mr. Higa said he would like to have less than 50%. Mr. Pachano said he would like 40% and Mr. Musgrove said he would like to see 30%. Mr. Hankin abstained from the discussion.

Mr. Higgins from the Berkshire Eagle asked if the 40R is approved, does a property owner have to build according to 40R.

Mr. Rembold said no.

Mr. Higgins asked if enough of the Town was zoned out would the Town be able to reject a 40B project.

Ms. Nelson said 40R is a way to manage 40B.

Mr. Rembold asked to move on and think about the percentage in the future.

There was a discussion of design principles. Section 13.

Mr. Musgrove signed off from the discussion at 8:07 P.M.

Mr. Fick had a copy of the Easthampton design guidelines. He said some of them might be considered.

Mr. Rembold said many of the guidelines were already included.

There was discussion of the process for including the zoning on the Annual Town Meeting. The zoning goes to the Selectboard for them to refer back to the Planning Board to schedule a public hearing then it has to go to the Department of Housing and Community Development. The Board agreed to finalize the zoning at the January 12 meeting.

**SOLAR ENERGY ZONING:**

Mr. Fick suggested discussion of the solar zoning be deferred to the next meeting. The Board was in agreement.

**TOWN PLANNER'S REPORT:**

Mr. Rembold suggested the Board look at the height requirement in zoning and how it should be calculated. He said a clear definition for the purpose of clarification should be considered. He said we can discuss it at the next meeting.

Mr. Rembold reminded the Board to do their Ethics Training.

**BOARD & COMMITTEE UPDATES:**

Mr. Pachano said some people have expressed concern to him about the siting of a solar array on the farmland on West Plain Road.

**CITIZEN'S SPEAK TIME:**

No one spoke.

Having concluded their business, Ms. Nelson adjourned without objection at 8:39. P.M.

Respectfully submitted,



Kimberly L. Shaw  
Planning Board Secretary

Materials submitted at the meeting:  
--40R Zoning revised draft 12/5/16

