

PLANNING BOARD

DATE: July 27, 2017  
TIME: 7:00 P.M.  
FOR: Regular Meeting/Public Hearing  
PLACE Large Meeting Room  
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa  
Pedro Pachano, Associate Member  
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 7:00 P.M.

**FORM A'S:**

There were no Form A's presented

**MINUTES: JULY 13, 2017**

Mr. Hankin made a motion to approve the minutes of July 13, 2017 as amended, Mr. Fick seconded, all in favor.

**SPECIAL PERMIT: 154 CASTLE HILL AVENUE**

Ms. Nelson read the public hearing notice into the record. The notice was published in the Berkshire Record on June 30 and July 7, 2017. Notices were sent to abutters and the nine towns abutting Great Barrington. The notice was posted in the Town Hall.

Mr. Hankin made a motion to open the public hearing, Mr. Fick seconded, all in favor. The public hearing was opened at 7:02 P.M.

Ms. Nelson elevated Mr. Pachano to a voting member for the purpose of the public hearing.

The Board conducted a site visit prior to the meeting.

Attorney Susan Smith was present with the applicants Gary and Darra Happ. Ms. Smith said the property at 154 Castle Hill Avenue is located in the R-2 and the R-1-A zones. The application is to create a rear lot. The front lot meets all zoning requirements of the R-1A zone and the rear lot meets all requirements of the R-2 zone. The property is served by Town water and sewer.

Mr. Pachano said each lot meets the requirements of the district.

Ms. Smith said yes, each lot meets requirements of their respective districts.

Mr. Pachano said he has concerns about the property being in separate districts.

Ms. Nelson said it is not inconsistent with the character of the neighborhood to have a lot in two zones. Historically the more restrictive zone applies.

Mr. Rembold said the structure has to meet the requirements of the zone it sits in. The lot being created is in the R-1-A and all zoning requirements have been met. The lot in the R-2 zone meets all requirements except the frontage requirement which is the reason there is a rear lot bylaw.

Ms. Nelson read through section 4.3 to discuss compliance. She said the lots share a common driveway in perpetuity.

Mr. Rembold said yes. Sharing the driveway controls access and curb cuts.

Mr. Fick asked about utility easements.

Ms. Nelson asked where the utilities for the rear lot are located specifically the gas, sewer and water. The electric is underground.

Ms. Smith said the utilities are on the west side of the property. She said they can be shown on the final plan.

Ms. Nelson suggested that the applicants set up an easement now while they own the land. Now will be the easiest time to set up an easement.

Mr. Hankin said the gas line may need to be moved as it looks like the new building will go over the top of it.

Ms. Nelson asked if there were any comments or questions from the public.

Joe Cronin, an abutter said the application is for the creation of a rear lot but the rear lot already exists.

Ms. Nelson said there is one parcel that is being split.

Mr. Rembold said the section of the bylaw is called rear lot but it is doesn't require an existing house on the front or rear of the property. The reason for the bylaw is more about waiving the frontage requirement.

Mr. Cronin said putting a house on the front lot crowds him in.

Ms. Nelson said the creation of the lot is consistent with zoning in respect to size. The bylaw is a good mechanism to create another lot.

Mr. Hankin suggested that the new house will be more in keeping with the neighborhood as it will be closer to the road.

Ms. Nelson asked if there were any further comments. There were none.

Mr. Rembold read the following letters into the record:

--Conservation Commission in a letter dated June 28, 2017 commented that their only jurisdiction in this area would be the Scenic Mountain Act. The proposed residence is outside of the Scenic Mountain Act therefore there is no jurisdiction.

--The Selectboard in a letter dated July 10, 2017 gave a positive recommendation.

--The Board of Health in a letter dated July 6, 2017 voted to pass without comment or recommendations as the proposal poses no health risk.

Mr. Hankin made a motion to close the public hearing, Mr. Fick seconded, all in favor.

The Board went through 10.4.2 criteria.

The Board had a brief discussion of each of the criteria. There were no issues or concerns expressed by the Board.

Ms. Nelson asked if the Board wanted to place any conditions on the permit.

Mr. Fick asked if we should have a condition regarding an easement.

Mr. Hankin said it is the applicant's issue.

Ms. Nelson agreed saying they create a complication for themselves if they don't consider our recommendation.

Mr. Higa made a motion to approve the special permit for the creation of a rear lot as shown on the plan submitted with the application, Mr. Pachano seconded.

Mr. Pachano aye

Mr. Higa aye

Mr. Fick aye

Mr. Hankin aye

Ms. Nelson aye

All in favor.

Mr. Rembold said the applicant will come back with a Form A application after the appeal period.

**ZONING ITEMS FOR THE ANNUAL TOWN MEETING:**

Mr. Pachano continued the discussion from the rear lot permit saying that each lot should be required to meet the requirements of their respective zones.

Ms. Nelson said this application did meet their respective zones. She said, when lots lie in two zones, the requirement of the less restrictive zone can be carried over 50 feet into the more restrictive zone with a special permit from the Selectboard.

Mr. Rembold said he thought the permit went well and the zoning requirements were clear.

Ms. Nelson agreed.

Mr. Fick asked if it would make more sense for the lots in that area to be R-1-A all the way to the water (Lake Mansfield)?

Mr. Hankin said yes.

Mr. Higa said he thought they should all be R-2.

Mr. Hankin said no.

Mr. Rembold said R-1-A is a zone with street character. The lots are smaller and the buildings are closer to the street with natural resource areas in the back. The R-2 zone has lower density requirements. The lot we just considered could potentially have been subdivided into 5 lots if the land had all been in the R-1-A zone. Theoretically it is possible to overwhelm the resource so in this case it makes sense to keep the land as it is.

Mr. Higa said it appears that the zoning has been thought out so it protects Lake Mansfield.

Mr. Rembold said yes. When the zoning was created there was an expectation of large subdivisions being created. The zoning was intended to protect the lake.

Ms. Nelson said she thought the zoning worked well and we do not need to address anything regarding this section for the next Town Meeting.

Ms. Nelson wanted to address the easy items first. She said the proposed tree list can be referenced in 10.5. Language can be added to make it clear that the owner/operator of a solar development will need to maintain the plantings.

Mr. Pachano said he would have liked to reference the tree list for the McDonald's application. He asked if the tree list could be sent to the Agricultural Committee.

Mr. Hankin said they have their own.

Ms. Nelson said we can press the Agricultural Committee for their input on the tree list we have proposed. She asked if we needed to amend section 10.5 regarding the tree list.

Mr. Rembold said it sounds like we do.

Ms. Nelson said should it be regulatory or a recommendation.

Mr. Rembold said the section already says that the list is on file with the Town Clerk.

Mr. Hankin asked if we can refer to it during Site Plan Review.

Mr. Rembold said a clause can be added but just for reference.

Mr. Hankin said sometimes we recommend that trees be saved during Site Plan Review.

Mr. Pachano said maybe we can recommend that trees be replaced when they are removed.

Mr. Rembold said 6.3 could be amended with language for general landscaping and reference to a list in the Town Clerk's office. He said he would think about adding a section to 6.3 and replicate 6.2.4 in 6. He said he would propose something.

Ms. Nelson said there could also be corrective language in the Solar Bylaw regarding maintenance of trees in place for screening.

Mr. Pachano said he has concerns about the trees to screen the solar field on Van Deusenville Road.

Mr. Rembold said the Board did not require trees for that project.

Ms. Nelson asked if there was any new information regarding recreational marijuana.

Mr. Rembold said there hasn't been any direction from any other boards. He said there will be a learning session on August 31 that the Board members may want to attend. The new law will go into effect prior to the next Town Meeting. The Board may need to request a special Town Meeting to put something in place.

Ms. Nelson said she would have a discussion with the Town Manager and Chair of the Selectboard to get a sense of what they are thinking.

Ms. Nelson said the B-3 zone needs to be amended to preserve the character of what exists and to prevent demolition of structures in the zone.

Mr. Hankin said the B-3 was designed primarily with larger lots in mind. The smaller lots on Church Street were added to the district without fully understanding the district's implications for those small lots.

Mr. Rembold said the density requirements could be tweaked to allow the density without demolition on the small lots.

Ms. Nelson said on a lot 2 acres or more a building can be 5 stories or 50 feet in height. She said maybe this is another area where the MXD could apply.

Mr. Hankin said he did not think we should rewrite the entire B-3 zone.

Ms. Nelson said there are many similarities between the B-3 and MXD.

Mr. Fick suggested extending 8.3.6 to 8.3.3 and not apply it to the B zone.

Mr. Rembold said B-3 could possibly be added to the list. He thought it was a good suggestion.

Ms. Nelson said she likes the idea of making minor amendments.

Mr. Hankin said the Table of uses could be amended, page 7 section 3 B-3 requires a special permit for mixed use. The MXD allows by right. He said we could consider changing it.

Mr. Rembold said it seems that the Town wanted extra control in the B-3 zone. He said he is not sure why.

Mr. Pachano said when he reads the B-3 it feels like it is not what currently exists in scale or character.

Ms. Nelson said it is a transitional area between the Downtown and residential area.

Mr. Rembold said we might be able to dedicate time at the next meeting to concentrate on either the B-3 or State Road. He asked the Board to pick one.

The Board decided to address the B-3 and scheduled a walk around the area prior to the meeting beginning at 6:00 P.M.

Mr. Fick said he felt the Board needs to dedicate a lot of time to State Road as it is a difficult and complicated area.

Ms. Nelson said she would like to see how many split lots exist so we can determine how difficult it will be to fix them.

**COMMUNITY PRESERVATION ACT:**

Ms. Nelson asked if the Community Preservation Committee wanted an endorsement from the Board.

Mr. Higa said yes.

Ms. Nelson asked the Board to quickly go through draft plan.

Mr. Pachano asked if there is any money to allocate for the clean up of some properties as part of the project to promote housing.

Mr. Hankin said that is not part of the CPC's charge.

Mr. Rembold said it is possible for them to focus on the reuse of existing sites.

Ms. Nelson said she doesn't see anything that allows remediation without preserving the structure.

Mr. Fick said he is not sure how the affordable housing funds get allocated. He said 30% of the funds go to the Housing Trust.

Mr. Higa said it is a goal there is not a minimum or a maximum of what will be allocated. He said how the Housing Trust allocates money will go a long way in gaining the Town's trust going forward.

Mr. Fick said he does not think money from the CPA should go to the Housing Trust for projects without going through the CPC for presentation at the Annual Town Meeting.

Mr. Rembold said the Town Meeting gave the Housing Trust the power to go out and create housing. The purpose of the Trust is that it can close on property without going back to the Annual Town Meeting each time. It allows them to act quickly.

Mr. Fick said the CPC is charged with providing funds for affordable housing.

Mr. Hankin said the Annual Town Meeting allows money to be spent once a year. The Housing Trust was established to be able to work throughout the year. The Trust can purchase foreclosed property or put a deed restriction on a property to perpetuate affordable housing. The Trust has to have money in the bank to be able to act quickly. He said other towns have been very successful with this sort of arrangement. He said Williamstown is a good example.

Ms. Nelson asked Mr. Fick if he is uncomfortable endorsing the draft as written.

Mr. Fick said yes.

Ms. Nelson said she is very comfortable with the draft. She said she could give an individual endorsement.

Mr. Rembold said initially the Trust will have to apply to the CPC with projects so there will be input from the Annual Town Meeting.

Mr. Hankin said perhaps not specific projects but goals.

#### **TOWN PLANNER'S REPORT:**

Ms. Nelson asked if Barrington Brook has submitted anything.

Mr. Rembold said not yet. He said there is a report by the Berkshire Taconic Foundation that is worth reading.

Mr. Rembold said Monday night July 31 the Selectboard will get a briefing on the Bridge Street renovations including the resurfacing from Main Street to School Street and sidewalks.

Mr. Rembold said the Attorney General did approve the zoning approved at the Annual Town Meeting. We will receive a check for the 40R zoning incentive payment after a little more paper work is completed.

#### **BOARD & COMMITTEE UPDATES & CONCERNS:**

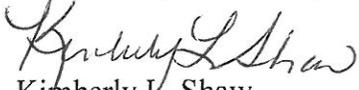
There were none.

**CITIZEN'S SPEAK TIME:**

No one spoke.

Having completed their business, Ms. Nelson adjourned without objection at 8:59 P.M.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kimberly L. Shaw".

Kimberly L. Shaw

Planning Board Secretary