

Great Barrington Zoning Board of Appeals

Sept. 9, 2015

Attending the meeting at Town Hall were Chairman Ron Majdalany, Vice Chairman Carolyn Ivory, Clerk Kathy Kotleski, Madonna Meagher, Michael Wise and Don Hagberg.

The chairman at 7:30 p.m. opened the public hearing for **John Tracy/Linda Hoddy's** Special Permit application (845-15) for a deck between the house and garage at 224 North Plain Road. Ms. Meagher stated she knew Ms. Hoddy from church, but did not believe it would in any way affect her decision-making.

Diego Gutierrez of Housatonic Architectural Services, at the request of the chairman, provided information from the Assessors' card that the house was built in 1900. Members said it was the old paymaster's house for VanDeusenville Iron Works (later Richmond Iron Works), which shut down in 1896. In any event, it predated the town's first zoning bylaw adopted in 1932.

Mr. Gutierrez said the building is nonconforming as it is within the required 50-foot setback from the highway. The proposed deck will be recessed slightly from the front of the house and garage. It will be an open deck mounted on metal piers. The Conservation Commission has given its order of conditions. There will be a door from the deck into the kitchen. The deck on the rear will have a latticed garden wall, on the front a lattice and vegetation as sound buffer. The board closed the hearing at 7:40 p.m. on a motion by Mr. Wise, seconded by Ms. Kotleski and approved unanimously.

In making findings, all members said the building's status was legal and the proposed changes were no more detrimental than what exists now. In the criteria under 10.4.2, board members unanimously found the proposal: met social, economic or community needs as it improved the quality of life for the occupants of the house; would have no impact on traffic flow and safety, and a turnaround area would be an improvement; would have a neutral effect on public utilities; would not detract from the visual character of the neighborhood; in complying with the Conservation Commission permit, would have no impact on the Williams River; and would marginally increase the property's value without increasing use of town services. Board members said that if a door is desired from the deck into the garage, it should go through the Building Inspector. On a motion by Ms. Kotleski, seconded by Ms. Ivory, the board voted unanimously in favor of allowing the applicants to add the proposed deck between house and garage. This action does not alleviate the need of the applicant to secure other necessary permits from the Board of Selectmen, Conservation Commission or Building Inspector. Ms. Meagher said she would write the decision.

The chairman at 7:45 p.m. opened the public hearing for **Navin Shah, Trustee, KSNS Stockbridge Road Realty Trust** (Holiday Inn Express) (844-15) for a special permit to construct a third floor on the existing building and add 20 guest rooms and parking. Attorney Nick Arienti said the hotel has 58 rooms now. The hotel was built with a special permit from the Selectmen June 7, 2001. It is in a B-2 General Business zone. Town meeting in 2008 adopted a bylaw limiting hotels to 45 rooms. The vote rendered this hotel pre-existing, non-conforming and legal, and thus eligible to apply for more rooms through a special permit from the ZBA. Mr. Arienti said corporate Holiday Inn Express has issued an ultimatum to its franchisees that they must have three-story hotels. This hotel's deadline is 2017, when the current franchise expires. He said the hotel has a strong repeat-customer base. Annual occupancy is 56 percent, 80 to 88 percent in the peak June to October season. Some weeks the hotel is full. He said Mr. Shah three years ago invested \$500,000 in interior improvements. He said the hotel's customers are brand-oriented and earn points with repeat visits. He said the applicant would show that the requested improvements would not be substantially more detrimental to the neighborhood than the existing nonconformity.

Mr. Arienti said Berkshire County has become a tourist destination and the 20 new rooms will help meet demand; the rooms will, in the estimate of the town assessor, increase the building's value from \$5.45 million to \$7.3 million, and bring in approximately \$25,000 more in real estate tax and \$23,000 in room tax. It would support three new full-time jobs. The proposal, he said, is consistent with the Master Plan, is in a busy commercial area with restaurants and shopping, will require no curb cuts, will not have an impact on open space and will have a very minor impact on traffic. Mr. Wise asked Mr. Arienti the nature of the ultimatum from Holiday Inn Express. Mr. Arienti said he had submitted a copy of the letter (it had not reached the secretary's hands before the meeting) and would provide a new copy. Mr. Wise said the options appeared to be to comply with the ultimatum, seek a different franchise or go with no franchise at the same location. Mr. Arienti agreed.

Michael Kulig, president, Berkshire Engineering, said Tim Drumm of the town's wastewater treatment plant and Peter Marks of the Great Barrington Fire District have indicated by letter plenty of capacity to accommodate the 20 new hotel rooms. He said there is already a large retention basin on the site. New parking on the south side will be of pervious material, and any water not absorbed will go to the basin. The Conservation Commission has issued an order of conditions. Natural Heritage has raised no objections. He said eight parking spaces will be created on the north side, 14 on the south. In response to comments at the site visit, a sidewalk on the east will be moved closer to the building, the drive will be 18 feet instead of 20 feet wide and other changes will be made to increase room for buffer vegetation. In answer to a question from Ms. Ivory, he said existing lighting on the rear of the building will be replaced with new LED lights, also mounted on the building.

John Dietrich, Fuss & O'Neil, said a traffic study from May is included in the submission. He said in the morning in peak hour, the 20 new rooms will generate an average of eight vehicle trips; in the afternoon peak, nine trips. He said these are not significant increases. He said he found no vehicle crash patterns. He said sight lines are acceptable in all directions.

Architects Kerry Bartini and Robert Harrison described changes to be made to the hotel: Some hotel rooms will be removed from the first floor and those rooms used for other things. There will be a larger conference room and fitness room. There will be expanded in-house laundry. There will be one more accessible guest room on the first floor, a bigger lobby and registration area. The kitchen will be larger, the pool will remain the same. There will be 16 guest rooms on the first floor, 31 each on the second and third floors. It will still have a mansard roof, with a stone band around the base of the building for aesthetics. The sign will stay where it is; the new floor will rise behind it. Regarding a Board of Health concern about swimming pool capacity, Mr. Arienti said the owner will comply with appropriate health regulations. In response to a question from Mr. Hagberg about pedestrian traffic, Mr. Arienti said that was a good question but difficult for the applicant to deal with, as the nearest pedestrian crossing is at Kmart and there is no Route 7 sidewalk.

From the audience, Gaetan Lachance, who identified himself as owner of a small inn, suggested the prospect of additional room tax might actually represent a cannibalizing customers from other hospitality places in town. He said the ZBA should take notice of the town meeting vote on a 45-room limit. Mr. Arienti said the applicant is within his rights to make this application, and there are two other hotels/motels in town also eligible, Days Inn (64 rooms) and Fairfield Marriott (92 rooms). Selectman Ed Abrahams said he alone on his board voted against recommending the project, as voters made it clear they wanted to keep chain hotels out of town. Mr. Wise at 8:45 p.m. moved to close the hearing, Ms. Ivory seconded and members agreed.

All members said they were comfortable with the legitimacy of the applicant's pre-existing non-conforming status. Was it substantially more detrimental? Ms. Ivory said the hotel is in a commercial zone and there is no increase in the footprint. Ms. Meagher noted the parking lot would be expanded using pervious materials. Mr. Wise said the town did adopt the 45-room-limit bylaw. What is grandfathered is 29 percent larger than that, and with the new rooms, it would be 93 percent larger. He

said five rooms might be considered insignificant, and 75 would be significant. Where did 20 rooms come in? He said he was inclined to believe 20 rooms was significant even if there were no dimensional nonconformities created and no performance standards maltreated. There was further discussion. Ms. Kotleski said the prospect of raising the hotel by one floor only to add five rooms seemed not to make sense. Ms. Meagher asked if the hotel could be enlarged again. Mr. Hagberg said other hotel owners might consider the change significant, but this is a thriving tourism area. Mr. Arienti said this was the maximum that could be achieved on the site. In a vote, Ms. Ivory, Ms. Kotleski, Ms. Meagher and Dr. Majdalany found the change not significant, Mr. Wise disagreed.

On the six points in 10.4.2, members said 20 more rooms would serve a growing tourism base; the effect on traffic would not be significant; the effect on utilities neutral; the effect on the character of the neighborhood negligible because of strong screening and the commercial character of Stockbridge Road; the environmental impact neutral, and with the promise of better screening; and the economic benefit to the town greater use of an existing building and additional tax revenue.

Ms. Ivory made a motion to grant the special permit to KSNSS Stockbridge Road Realty Trust to add a floor and 20 rooms to the Holiday Inn Express, conditional on more mature plantings, adjustment of the sidewalk placement on the east side of the building and preservation if possible of the 8-inch pin oak on the north side of the parking lot. Should the applicant want to add a restaurant, new permits would have to be sought. Ms. Meagher seconded. Ms. Ivory, Ms. Meagher, Ms. Kotleski and Dr. Majdalany voted in favor of the motion, Mr. Wise against. Ms. Ivory said she would write the decision.

On a motion by Ms. Ivory, seconded by Ms. Kotleski, the board approved the minutes of the Aug. 20, 2015, meeting as written.

On a motion by Mr. Wise, seconded by Ms. Kotleski and with all members in favor, the members went into an emergency executive session to discuss a new appeal brought by Claudia Shapiro regarding the board's denial of her July appeal of a decision of the building inspector. The matter to be discussed arose that day, too late to be listed on the meeting agenda, the secretary said. The board needed to make a decision in timely manner and had no other scheduled meetings. The board did not return to open session. John Katz attended the executive session.

The meeting adjourned at 9 p.m.

Respectfully submitted

Bernard A. Drew, Secretary

