

PLANNING BOARD

DATE: January 11, 2018
TIME: 7:00 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 7:00 P.M.

FORM A'S:

Brian Koczela was present with a Form A application on behalf of Powerhouse Square II, LLC for a parcel of land containing 1.013 acres. The frontage for the parcel is on Bridge Street.

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

Jack Magnotti was present from Kelly, Granger, Parsons and Associates with a Form A application on behalf of Margaret Dietemann for parcel of land located on the east side of Fairview Road in Housatonic.

Mr. Hankin said he represented the buyer at the closing of the property. He said the deal has been completed and he has no financial interest.

Lot 1 contains 1.106 acres of land. Lot 2 contains 0.168 acres of land.

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

Mr. Magnotti presented a Form A application on behalf of Rachel Fletcher Revocable Trust for a parcel of land on the south side of Division Street containing 0.141 acres of land. The sliver of land is to be added to adjacent Lot A. The purpose of the Form A is to attach the piece of land to the abutting lot. It is unclear why it was not originally surveyed to be part of that parcel.

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

MINUTES: DECEMBER 14, 2017

Mr. Musgrove made a motion to approve the minutes of December 14, 2017 as amended, Mr. Fick seconded, all in favor.

SITE PLAN REVIEW: 15 CRISSEY ROAD

Dave from Solectenergy was present to discuss the Site Plan Review application for a 20,000 square foot roof mounted solar array at Berkshire South Community Center, 15 Crissey Road. Dave provided a letter certifying the structure from an independent structural engineer who was hired to evaluate the structure for the additional weight.

Ms. Nelson asked if there will be construction staging during the installation.

Dave said there is a full time safety officer who will go through the entire project with the project manager. He said this is all part of the project plan. He said his company is used to working with large scale commercial projects.

Mr. Hankin asked if the roof space is rented or owned.

Dave said there is a 20 year contract. The power from the lease will go to the Community Center.

Mr. Fick asked how much power is used by the Community Center.

Dave said he didn't know how much power they use. He stated that all the energy will go to the Community Center before going to the grid. He said he would expect the energy demand at the site to be significant.

Mr. Fick said he wanted to see that this is an accessory use.

Mr. Rembold said it is an accessory use to the Community Center. The roof mounted array is allowed by right in every district. The size of the array (greater than 750 SF) is what mandates SPR.

Mr. Fick said he thinks that is wrong. He said the accessory use is what needs to be permitted.

There was discussion of the bylaw, 9.12.6, Site Plan Review for solar.

Mr. Hankin asked what the degree of angle will be for the panels.

Dave said they are very low profile. The angle will be 5-10 degrees.

Mr. Hankin asked why are they so flat.

Dave said if they are too high they will shade a lower panel. He said they are more resistant to the wind loads at a lower angle.

Mr. Hankin said they won't shed snow at that angle.

Dave said they will shed snow.

Mr. Musgrove read through the Site Plan Review criteria. There were no issues.

Mr. Musgrove made a motion to approve Site Plan Review, Mr. Hankin seconded for discussion.

Mr. Hankin asked where the transformers will be located.

Dave said the pad mounted transformer will be located in front of the building. He said there will be 51 string invertors distributed along the roof top that will convert the power from DC to AC before going to the grid. The invertors are vertical structures.

Mr. Fick asked why the Board is going through this process if the solar use is by right.

There was additional discussion of the bylaw.

Mr. Fick said if they are selling to the grid it is a commercial system. Residents can not sell their power back to the grid. He said you are a commercial enterprise selling to Berkshire South then pocketing the excess.

Dave said any excess power would be credited back to the customer, Berkshire South.

Mr. Fick said to him it is the same as the Rising Paper array, commercial. If 100% of the power goes to Berkshire South then it would be an accessory. If credits are sold then it is commercial.

Mr. Rembold asked if Mr. Fick was questioning if the use is by right.

Mr. Fick said yes.

Mr. Rembold asked if he was questioning if the SPR applies.

Mr. Fick said that is not the only question. If the roof array is by right then it is by right. There is no need to have a discussion. If it is over 750 square feet then it is commercial.

Mr. Rembold said the bylaw allows roof mounted arrays of any size. He said Mr. Fick does not think the SPR applies. He addressed the Chair saying he felt the question could be moved.

Mr. Fick said he did not think the question of accessory or commercial has been resolved.

Mr. Musgrove said 9.12.6 does not say commercial. It says "commercial scale" not commercial use. The "commercial scale" requires SPR.

Mr. Fick said if it is commercial scale it needs a special permit.

Mr. Musgrove said no because it is roof mounted. Roof mounted arrays are allowed in all zones by right.

Ms. Nelson said we allowed roof mounted arrays of any size to be allowed by right to encourage them to be mounted on roofs.

Mr. Fick said yes we wanted to encourage roof mounted arrays. So if it is roof mounted any size it does not require a special permit.

Mr. Musgrove said that is correct.

Ms. Nelson said we work hard to craft language for the bylaws to express our intent. When the language is applied we sometimes find that more clarification is required.

Ms. Nelson called for a vote on the motion to approve Site Plan Review, all in favor.

Ms. Nelson thanked the applicant for allowing the Board to work through the issue.

ZONING AMENDMENTS:

Mr. Hankin identified a member of the audience, Alexander Farnworth, a weekend resident of Monterey who is interested in the marijuana discussion.

Mr. Rembold provided a hand out for each of the Board Members titled, *Planning Board Draft Zoning Amendments for Planning Board meeting January 11, 2018.*

Mr. Fick handed out an untitled highlighted overview of Chapter 40a, the marijuana law.

Mr. Fick said he doesn't think we have addressed the agricultural aspect properly.

Ms. Nelson said she thought that "agricultural" referred not to the growing, but rather the ability to take advantage of tax incentives such as Chapter 61A.

Mr. Hankin said he didn't want to preclude a farmer from growing marijuana that's why growing was going to be allowed in the R-2 and R-4 zones.

Ms. Nelson said she didn't want to see growing in residential neighborhoods. She asked if the intention is to restrict growing on large scale parcels in the R-2 and R-4 zones.

Mr. Fick said we want to encourage the business. We should allow on large parcels in R-2 and R-4 zones.

Mr. Pachano agreed but he said he would want to know how it would work.

Mr. Musgrove said we need to talk about where we want growing to take place and the location of 10,000 square foot buildings.

Mr. Hankin said we need to establish a reasonable threshold. The original state agricultural threshold for exemption from zoning was a minimum of 5 acres.

Mr. Fick agreed that the bylaw we create should mimic the State laws.

Ms. Nelson asked if we should establish growing as an accessory use or as a commercial use.

Mr. Musgrove said if there is more than 5 acres then any size facility can be put up.

Mr. Pachano added as long as it conforms with zoning. What about more densely populated areas?

Ms. Nelson said we don't want to allow it in dense residential districts.

Mr. Musgrove said a cultivator should be allowed a 1,000 square foot building.

Ms. Nelson said the point of zoning is not what we want but what our community wants. She said she would like to have legislation crafted that can be passed by our community.

Mr. Fick said maybe cultivation could be allowed as an accessory use to an agricultural use.

Mr. Musgrove said a 2 acre parcel that makes \$1,000 per acre can be an agricultural use.

Mr. Hankin said he thinks sticking to the 5 acre minimum would be accepted at the Annual Town Meeting.

Ms. Nelson asked what zones do we want it in? I, parcels of any size; R-2 and R-4, if greater than 5 acres.

Mr. Rembold asked if cultivation of any size in any zone should be required go through Site Plan Review.

The Board agreed that it should be required.

The Board went through the draft with extensive discussion of retail stores and the Table of Uses. Mr. Rembold said there are still too many questions that can not be resolved at this meeting. He said there is language that needs to be reviewed by Town Counsel. The discussion will continue at the next meeting.

STATE ROAD REZONING:

The Board discussed the handout titled, *Planning Board Zoning Amendment for May 2018 Town Meeting--State Road*. Mr. Hankin said he made some edits.

Ms. Nelson asked if the edits are minimal or substantive.

Mr. Hankin went through the edits.

Mr. Rembold said the regulation had been previously approved and moved forward with text for the article.

Mr. Pachano asked why a multi-family of 9 units or more needs a special permit. Don't we want to encourage high density by right?

Mr. Rembold said he felt it would be better to discuss that issue at another meeting.

Mr. Rembold said the State Road Rezoning went to all property owners affected by the changes. We will invite them to the next meeting scheduled at the Fire Station on January 25.

Mr. Rembold said we will have to have further discussion of the marijuana regulations.

Ms. Nelson said we will work to align our bylaw with State regulations.

Ms. Nelson asked if we want to transmit all of the amendments to the Selectboard or are we sending what we have ready.

Mr. Rembold said he thinks there is still time to transmit as one packet providing we wrap up discussion at the next meeting. We will send them to the Selectboard by their February 12 meeting.

Mr. Hankin said we might want to schedule 2 public hearings. He said he is not sure we could get through all of the amendments in one meeting.

Mr. Rembold said his opinion is to advertise one meeting for all amendments. If we don't finish we can continue to another meeting.

The Board agreed to schedule the public hearing for March 8 at 6:00 P.M.

TOWN PLANNER'S REPORT:

Mr. Rembold said the Board has received a copy of an appeal regarding a Cease and Desist order by the Building Inspector for 11 Roger Road. The ZBA has scheduled a hearing for February 20. Typically the ZBA likes to get comments from other boards, but it is not required by statute or bylaws.

The Board tentatively scheduled discussion of the appeal for their February 8 meeting.

BOARD & COMMITTEE UPDATES:

Mr. Hankin said Katie Jackson from B&B Micromanufacturing and a director of the American Tiny House Association is interested in presenting information to the Board about "Tiny Houses". He suggested discussing at a future meeting.

Mr. Rembold suggested pushing out to March or April or May.

Mr. Hankin yes. It would be a possible zoning amendment for next year's town meeting. He said the Housing Trust is also interested in the topic.

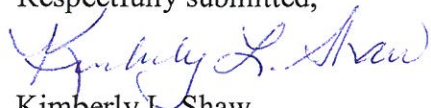
Mr. Rembold asked Mr. Fick if he had received the BRPC notice for housing choice initiatives. He said it might put the Town in a better position to receive grants if we adopt something. He said it would be a good idea if Mr. Fick could attend the meeting and bring information back to the Board.

CITIZEN'S SPEAK TIME:

No one spoke.

Having concluded their business, Ms. Nelson adjourned without objection at 9:30 P.M.

Respectfully submitted,



Kimberly L. Shaw

Planning Board Secretary

