

## PLANNING BOARD

DATE: September 23, 2021

TIME: 6:00 P.M.

PLACE: Zoom Virtual Meeting

FOR: Regular Meeting

PRESENT: Malcolm Fick, Vice-Chair; Jonathan Hankin; Pedro Pachano  
Chris Rembold, Assistant Town Manager/Director of Planning and Development

Mr. Fick called the meeting to order at 6:00 P.M. He read the opening statement, revised by Governor Baker on June 16, 2021, from the agenda. He said the meeting was being recorded. He called for roll call attendance:

Mr. Hankin, present; Mr. Pachano, present; Mr. Fick, present

### **FORMS A:**

No Forms A were presented.

### **MINUTES: SEPTEMBER 9, 2021**

Mr. Hankin made a motion to approve the minutes of September 9, 2021 as amended, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Pachano, aye; Mr. Fick, aye

### **SPECIAL PERMIT: 121 BRIDGE STREET**

Brent White from White Engineering was present to discuss a special permit on behalf of Benjamin Wohlfert for a new single-family house at 121 Bridge Street in the Water Quality Protection District. The Board will make a recommendation to the Selectboard.

Mr. White said there was a special permit approved in 2018 for a similar project on the site. The existing house will be demolished as in the first permit but the footprint is proposed to be larger than what was previously approved. A special permit for work in the Water Quality Protection District is also required.

Mr. White said the foundation is floodable so there is an increase in the number of vents to be installed. There will be 13 vents around the perimeter. A large deck will be built on piers. The Conservation Commission has requested a stone drip edge for the runoff from the roof. There will be a rain garden within the 100-foot buffer of the intermittent stream. There is a small depression of grass that will provide more compensatory storage. He said the Conservation Commission approved the plan. He added that the project is in keeping with the Master Plan.

Mr. Hankin said the basement will be a crawl space.

Mr. White said yes. He said it is a floodable foundation.

Mr. Hankin asked what happens to the water after a flood.

Mr. White said the flood vents work to drain the water and there will be a sump basin installed to pump the water out.

Mr. Hankin said you are rebuilding on the original footprint.

Mr. White said the new footprint is slightly larger than what was proposed in 2018.

Mr. Rembold said the plan is substantially different than the original footprint and the plan from 2018.

Mr. White said the foundation will be one foot above the base elevation as required by the building code.

Mr. Hankin said that means the structural members of the building will be in the flood waters.

Mr. White said he met all of the requirements of the building code and the flood plain compliance.

Mr. Hankin said wouldn't it make more sense to raise the foundation another 6 inches to be above the flood water.

Mr. White said enough compensatory storage has been provided to raise it another foot.

Mr. Rembold said the Board has been thinking about the flood plain for a new bylaw. He said the comment is only for your consideration. He said the house will be occupied by someone with a handicap. He asked if, under the worst situation, the occupant will be able to leave the house as the access ramp will be in the flood plain.

Mr. White said portions of the front are not in the flood plain. He said the point is noted.

Mr. Hankin said the front of the house isn't even in the 500-year flood plain.

Mr. White said that is correct.

Mr. Fick asked where the outdoor kitchen will be. He said the PDF of site plan is difficult to read.

Mr. Hankin asked if the site plan could be shared on the screen.

Mr. Rembold shared the site plan.

Mr. White said if we were using the original footprint there would be no need for all of the compensatory storage.

Mr. White reviewed the plan showing where the grades around the house and the garage and the areas for compensatory storage.

Mr. Hankin asked where the sump pump would discharge.

Mr. White said in the rain garden.

Mr. Rembold asked if the finished floor of the existing house is above the flood plain.

Mr. White said it is fairly high. He said what is proposed will comply.

Mr. Hankin asked Mr. White to talk about the 500-year flood plain.

Mr. White said the current building code addresses the 100-year flood. He said the building code required the foundation to be 1 foot above the 100-year flood plain. He said the compensatory storage is calculated for a larger event if the client wanted to consider going higher. He said he discuss it with his client.

The Board reviewed the special permit criteria.

Mr. Fick said he thinks it conforms with 9.2.8 and 9.2.9 and there won't be a significant impact on the WQPD.

Mr. Pachano made a motion to send a positive recommendation to the Selectboard for work in the flood plain and in the WQPD, Mr. Hankin seconded. Mr. Hankin recommended that the floor be raised.

Roll call vote: Mr. Hankin, aye; Mr. Pachano, aye; Mr. Fick, aye

## **ZONING:**

Mr. Rembold said the Board looked at the draft revisions for the Flood plain bylaw. He said he addressed the questions from the last meeting with the coordinator. He said she was helpful

regarding the question about variance. The coordinator said the Town can grant a variance but there are 3 specific criteria the Zoning Board would have find in order to grant the variance.

Mr. Hankin asked if anywhere in the document it says Selectboard for that to be changed to SPGA. In the event the SPGA were ever to change the change would not have to be done in the document.

Mr. Rembold said he would make the change.

Mr. Rembold said if the Board is satisfied with the draft, it will be treated as the final draft ready to go to a public hearing in February or March. He said it will be put aside until then.

The Board was satisfied with the draft.

### **HOME OCCUPATION & COMMERCIAL EVENT VENUES:**

Mr. Rembold said this topic was discussed at the last meeting where Ms. Nelson shared a draft bylaw for consideration. He said recently a Cease & Desist was issued to 145 Hurlburt Road. The Cease & Desist was upheld by the ZBA. He said home occupation provides a path for a resident living in the home to be used for an event venue. He said the residence has to be the primary residence. He said it is a rigorous process.

Mr. Hankin said Camp Eisner, Butternut Basin and Wyantenuck Country Club are all commercial venues in a residential zone. He said there is no definition to address the use.

Mr. Rembold said these are existing sites that are already permitted for events.

Mr. Hankin said he looked at the Home Occupation bylaw. He said it is more thorough than what was written 20 years ago. He said the requirements of moderate impact and light and noise restrictions should rule out a commercial event venue.

Mr. Pachano suggested adding a definition of moderate impact.

Mr. Hankin asked how we do that without violating what exists.

Mr. Fick said commercial events would have to conform to the bylaw.

Mr. Pachano said it should be defined in the bylaw to comply with moderate impact use.

Mr. Hankin said he things a commercial event is more than a moderate impact use.

Mr. Rembold asked why it would be defined if it is not going to be permitted.

Mr. Hankin said he thinks a farm would be a good possible venue.

Mr. Pachano said we are discussing how the use would impact residential zones not farmers. The issue before us is what is happening in homes people are not living in.

Ed Abrahams said not all events have music. Some events are corporate retreats.

Mr. Hankin said that is not a low impact use.

Mr. Fick said the Home Occupation bylaw is not the vehicle to use for events. He asked why would we want to open the possibility of events in residential zones?

Mr. Rembold said so keep it restricted to people who use the home as a primary residence.

Mr. Abrahams so it stays as it is.

Mr. Hankin said a definition should be added for clarity.

Mr. Fick said definition is fine.

Mr. Pachano said if it is just a definition there needs to be more.

Mr. Hankin said a definition would not reference home occupations.

Mr. Pachano asked how it would be worked into the bylaw.

Mr. Hankin said in theory if it is not identified in the bylaw it is prohibited.

Mr. Rembold asked if the Home Occupation bylaw would include commercial events.

Mr. Hankin said no.

Mr. Rembold said there is no need to define if it is not allowed.

Mr. Hankin said it could be allowed by special permit for farmers.

Mr. Rembold said he does not see a clean path for that. If the primary use is agriculture, it may be argued they could have an event in a barn a couple of times a year. He said agriculture is a broad use.

Mr. Pachano said that's why we want to focus on the residential areas. He said a definition would go into the Home Occupation use and the use would be defined as high impact.

Mr. Hankin said only one special permit has ever been granted for the use.

Mr. Rembold said it was not a commercial event special permit it was a home occupation with clear regulations.

Mr. Fick said he thinks the bylaw should be left as it is.

Mr. Pachano said the current bylaw worked for the last two special permits. It allows for someone to apply for a special permit.

Mrs. Mooney asked if "resident" has been defined.

Mr. Hankin said a person is considered a resident if they reside in the town for at least 180 days.

Mr. Pachano added the resident is registered to vote.

Mr. Fick added they vote and pay taxes.

Mr. Rembold said the residence can be referred to as the principal residence.

Mr. Fick suggested tabling the discussion to the next meeting.

Mr. Rembold said he doesn't have anything ready for the Stockbridge Road overlay. He said Mr. Pachano sent something out after the last meeting.

Mr. Pachano said he would like to start to think about not just affordable housing but how do we create more housing. He asked if there is a way to incentivize housing. He said there is a large group of housing issues.

Mr. Pachano said the members of the Housing Sub-Committee will each take a section of the Housing Study to review and summarize. He said we really need some incentives for all housing not just housing for one group of people.

Mr. Pachano suggested incentives such as child care, senior housing, micro housing, etc. He said the economic system doesn't help people in need. He said to solve the problem with affordable housing there needs to be more help from the government.

Mr. Pachano said we need to partner with developers and be realistic about what the developer can do.

Mr. Hankin said Section 40B provided bonuses.

Mr. Rembold said it doesn't provide bonuses per se but allows for more density than allowed. He said once a community reaches the 10% affordable housing threshold the chances for a developer to get a 40B approve is reduced.

Mr. Hankin said it would be better for a town to incentivize mixed use, market rate and affordable housing.

Mr. Rembold said 40R does allow market rate housing and affordable housing by right but there has to be the public benefit of affordable housing. He said Mr. Pachano is suggesting a bonus for any type of housing. He said he has asked the staff at BRPC to help analyze Stockbridge Road by looking at the size of the lots, allowing three stories by-right and possibly allowing four story buildings.

Mr. Pachano asked what the community benefit would be? He said there would be more housing. He said it would be good to be able to provide an incentive that is not affordable housing. He said 43% of people are housing cost burdened. He said there is an affordability gap. He said median income people could pay more for housing but there is nothing available to rent.

Mr. Fick said he is not sure where to go. He said he agrees with Mr. Pachano. He said it is not just a Planning Board issue, there needs to be a coordinated approach.

Mr. Hankin said the sub-committee is trying to work through it but we aren't there yet.

Mr. Rembold suggest that the last meeting in October could be used to focus on this zoning.

Mr. Fick said in order to solve the affordable housing issue pay needs to go up.

Mr. Pachano said the data shows people can afford to pay more there just isn't any housing.

The discussion will continue at the next meeting.

**BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:**

Short term rentals in Great Barrington were discussed briefly. It was stated that the Berkshire County Board of Realtors are in favor of property rights.

Mr. Fick said his wife was on a site where all hell broke loose over the proposed restrictions.

Mr. Pachano said there will be a review of the proposed bylaw on October 6.

Mr. Hankin said the sub-committee agreed it would be beneficial to have a bylaw. It needs to be determined if the bylaw should be in zoning or Town Code. If it is a zoning bylaw the existing units would be grandfathered. If it goes in Town Code the units will not be grandfathered. Also, if the bylaw is in zoning the Planning Board could be the SPGA if it is in Town Code the Selectboard would be the SPGA. Regardless of where it goes it is highly contentious.

Mr. Pachano said to think about the public hearing process.

Mr. Hankin said if it goes in Town Code there won't be a public hearing.

Mr. Rembold said all of that is correct.

Mr. Pachano said at this point it is just a proposal based on State law and it is open for discussion.

**TOWN PLANNER'S REPORT:**

Mr. Rembold said there will be a public hearing at the October 14 meeting for a freestanding sign at 198 Main Street, the Flying Church. He said he will send the application out.

Mr. Hankin asked if the existing sign is the subject of the special permit.

Mr. Rembold said yes.

Mr. Pachano asked if there is a way to post the draft Short-Term Rental with the housing committee meeting agenda.

Mr. Rembold said yes.

**CITIZEN'S SPEAK TIME:**

No one spoke.

Having concluded their business, Mr. Fick adjourned at 7:30 PM without objection.



Respectfully submitted,

*Kimberly L. Shaw*

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Planning Board Secretary