

PLANNING BOARD

DATE: December 9, 2021

TIME: 6:00 P.M.

PLACE: Zoom Virtual Meeting

FOR: Regular Meeting

PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa;
Pedro Pachano

Chris Rembold, Assistant Town Manager/Director of Planning and Development

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

Mr. Pachano, present; Mr. Hankin, present; Mr. Fick, present; Mr. Higa, present; Ms. Nelson, present

Ms. Nelson took the agenda items out of order due to meeting conflict with one of the applicants.

910 SOUTH MAIN STREET: 40 R SMART GROWTH PERMIT

Ms. Nelson said the CDC of South Berkshire and 910 Housing Inc. have requested to extend the 40R Smart Growth Permit approval for six months from December 31, 2021 to June 30, 2022 in accordance with Section 9.13.11.6 of the Zoning bylaw.

Mr. Hankin made a motion to grant the request for a six month extension of the Smart Growth permit, Mr. Higa seconded.

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

Mr. Fick asked if we have to ask if people want to comment as per the new bylaw.

Mr. Rembold said if people have questions they can raise their hand to be recognized.

SITE PLAN REVIEW: 205 NORTH PLAIN ROAD

Ms. Nelson said the Site Plan Review application is for the installation of a ground mount accessory use solar energy system at 205 North Plain Road. The system is proposed to be greater than 750 square feet.

Peter Stanton, applicant was present along with Jason Allen and JP Monta from Aires Power.

Mr. Stanton said the proposal is for a 100kw system. Half of the panels will be on the carport and the rest will be on the ground in the pasture field closer to the road. He said all of the electricity is for farm purposes.

Mr. Hankin said 100kw is extraordinary. He asked what the farm runs.

Mr. Stanton said there is a walk in freezer, many refrigerators and the house is all electric.

Mr. Rembold said there is a property line issue. The system crosses the property line. He said it is not an issue that will stop this process but the Building Inspector may have an issue. It will need to be dealt with prior to installing the system.

Mr. Higa asked what the time line would be for the screening along the road to mature.

Mr. Stanton said he is willing to do what is needed for the screening. He said something could be done along the fence line but he it won't do much to screen the panels. He said he could put it closer to the panels but the goats might eat the shrubs.

Ms. Nelson said the screening could go near the fence.

Mr. Hankin asked why we want it screened.

Mr. Higa asked if something should be near the road to break up the view so not just the panels are seen.

Mr. Stanton said his personal preference is for people to see the panels. He said he wants people to see that solar can be used in a practical way. He said something used to block the array is less appealing.

Ms. Nelson asked what the panels will look like.

Mr. Monta said the details can be sent to the Board. He said the mounts will be driven into the ground.

Mr. Rembold said 9.12.4 requires screening to minimize the visual impact.

Mr. Stanton asked if the array could be installed then decide if screening is necessary.

Ms. Nelson said that is not the usual way the Board approves SPR. She suggested a neutral color for the electrical boxes.

Mr. Manto said a neutral color for the electrical boxes can be done and screening can be provided.

Ms. Nelson asked if there will be multiple poles.

Mr. Manto said he has not received the full scope of work from National Grid. He said he expects one riser pole.

Mr. Pachano asked if there have been comments from the Agricultural Commission.

Mr. Rembold said it is not required because this is not a commercial array.

Ms. Nelson asked if it is possible for Mr. Manto to provide elevations for the carport and the ground mounted array. She said the Board can go through 10.5 to see if there is anything else we need the applicant to provide.

Mr. Stanton said the height of the carport is listed on the plan.

Mr. Hankin asked if these are 325 watt panels.

Mr. Manto said no they are 450 watt panels.

Ms. Nelson said we can work with you on screening. She said it is required if there is an impact. She read through 10.5.

Mr. Rembold asked about the method of construction of the carport. He asked if there will be a concrete pad.

Mr. Manto said the ground mounted panels will be screwed into the ground. He said the carport will be on a poured foundation.

Ms. Nelson asked if there will be lighting under the carport.

Mr. Stanton said no.

Mr. Rembold structural details need to be provided. He said the O & M plan is needed for the sign off.

Ms. Nelson asked Mr. Stanton to please provide additional details and elevations. She said the screening can be evaluated when the elevations have been provided.

Mr. Hankin asked that the hoop houses need to be shown. He said we need to see the visual impact.

Ms. Nelson said the hoop houses can be shown if they are in the visual area. She said the dimensions need to be provided for the array.

Mr. Hankin said the footprint and height need to be provided. He said we need the whole picture to make a determination.

Ms. Nelson said the next meeting is yet to be determined. Plan to attend the first meeting in January.

Michael Parsons from Kelly, Granger, Parsons and Associates, said he will be combining the two parcels to address the property line issue.

FORMS A: 3 & 5 SEEKONK ROAD

Heather Brown from Foresight Land Services was present with a Forms A plan on behalf of Jeff Taylor. Mr. Taylor was also present.

Ms. Brown said Lot 1 will have Parcel B added to it to make it larger. Lot 1 contains 19,965 square feet. Parcel B, not a separate building lot, contains 9.925 square feet.

Ms. Brown said Lot 4, which contains 32,511 square feet will be combined with Parcel A which contains 3,312 square feet. Neither Lot 1 nor Parcel A are separate building lots. Lot 4 will provide access to Lots 2 and 3.

Mr. Fick asked what is being done with the plan.

Mr. Taylor said Lot one needs to be made larger to upgrade the septic system that has been reviewed by the Board of Health. He said the only place for the leach field is between the two residences. He said Lot 1 will be made larger by adding Parcel B. This will allow for the leach field without encroaching on the other property.

Mr. Fick said the plan changes the dimensions of the non-conformity.

Mr. Hankin asked when the building was built.

Mr. Taylor said it was built in 1930.

Mr. Hankin said the building predates zoning.

Mr. Hankin said the lot is over 5,000 square feet and there is more than 50 feet of frontage. The lot is a pre-existing non-conforming lot.

Mr. Hankin asked for the width of the right of way.

Ms. Brown said the right of way is 33 feet wide.

Mr. Hankin said that is a problem because the subdivision regulations require the right of way to be 40 feet wide.

Ms. Brown said the way was in existence prior to subdivision control.

Mr. Rembold said the Board has to determine if the right of way is adequate to serve the lots.

Sid Smithers, attorney for Mr. Taylor, joined the conversation. Mr. Smithers said the plan is not easy to understand at first glance. He said Lot 4 is not a separate building lot. He said Lot 4 provides the frontage for Lots 2 and 3. He said it has been a way in existence since January 14, 1970. He said the right of way has provided vehicular traffic and utility access since 1865. He said there is no doubt that it is way in existence. He said it is the only means of access for Lots 2 & 3. He said it provides adequate access.

Mr. Hankin said the Planning Board still has to make a judgement to see if the access is sufficient. He said we need to look at it.

Ms. Nelson said she has been down that road in a professional capacity. She said, in her opinion, the road is adequate.

Mr. Hankin said he would take Ms. Nelson's word for it.

Mr. Hankin made a motion to endorse the plan, Mr. Fick seconded.

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

17 & 19 MONUMENT VALLEY ROAD:

Michael Parsons was present on behalf of Brendon Smith. Mr. Smith bought the two parcels of land on Monument Valley Road. He said an ANR was signed by the Planning Board in 2006 creating the two parcels but the plan was never recorded. He said the plan still meets the zoning requirements for the R-2 zone. Mr. Parsons said the plan is similar to what was previously signed.

Mr. Pachano made a motion to endorse the plan, Mr. Hankin seconded.

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

MINUTES: NOVEMBER 18, 2021

Mr. Hankin made a motion to approve the minutes of November 18, 2021 as amended, Mr. Fick seconded.

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

SITE PLAN REVIEW: 325 STOCKBRIDGE ROAD

Attorney, Kate McCormick; was present with engineer Vince Guntlow, to discuss the Site Plan Review application for Valkyrie Cannabis, Inc. for a retail marijuana establishment at 325 Stockbridge Road.

Ms. McCormick said Valkyrie Cannabis proposes to open a retail marijuana establishment at 325 Stockbridge Road in the White House Square property.

Ms. McCormick said the first Community Outreach meeting was done via Zoom. The second Community Outreach meeting was held in person. She said the SPR was submitted in accordance with 7.18 and 6.2.7. She said the site plan was updated with the trees required to conform to the Route 7 Landscaping. She turned the meeting over to Mr. Guntlow.

Mr. Guntlow said there are two buildings with frontage. The southern building is where the proposed business will be located. He said there are no changes except for lighting. He said the building currently has residential lighting. The lighting will be replaced with area lighting for the walkway and the parking lot.

Mr. Guntlow said the building is not currently (handicap) accessible. He said a wooden board sidewalk will be installed to make the building accessible.

Mr. Guntlow discussed the parking requirements. He said there are 20 parking spaces around the building. He said there are 140 parking spaces available in the complex. He said 83 parking spaces are required. He said overall there are 220 parking spaces on the entire site.

Mr. Guntlow said 8 street trees will be planted between the building and the road.

Mr. Guntlow said the traffic assessment shows 32 cars at the peak hour for a total of 64 trip ends. There is a traffic light to exit the property. He said the at the peak hour the traffic increase on

Route 7 will be 1.3%. He asked the Board to take into consideration the restaurant and retail peaks don't coincide so there will be the ability to share parking.

Mr. Pachano asked how the landscape requirements are applied for one building.

Ms. McCormick said we used the full frontage of the lot then placed the trees in front of our building. She said that is her reading of the bylaw.

Mr. Pachano said the bylaw is unclear on how to apply.

Mr. Rembold said the Route 7 bylaw creating a buffer of new trees was amended on Town Meeting floor from one every 50 feet to one every 25 feet. It can be difficult to comply with. There is no provision for the Planning Board to waive the requirement. The requirement can be waived only through the special permit process.

Ms. McCormick said she thinks the Planning Board should look at the issue for other applicants. She said for a cannabis permit having to apply for other permits can create an issue.

Ms. Nelson asked if the trees could be planted in a way that they will be viable. She said the trees look haphazard given the spacing. She suggested a triangular pattern to give the trees room to grow.

Ms. McCormick said the intent is to not screen the building. She said we want the building to be visible.

Mr. Guntlow said four trees would be more reasonable in this space as it is so tight it will be hard for the trees to mature.

Mr. Pachano said he would be willing to allow the deviation to space out the trees. He said he assumes there is no need for a dumpster as all garbage will be handled inside.

Mr. Guntlow said yes.

Mr. Pachano asked if a dumpster there is a common dumpster for other uses.

Ms. Nelson said this use won't be allowed to use a common dumpster.

Ms. McCormick said the organic matter must be handled inside so we will have a service to deal with all waste.

Mr. Hankin said he would like to see diversity in the types of trees.

Mr. Hankin said lighting of 10 foot candles is hot.

Mr. Guntlow said we are proposing fairly standard light fixtures. He said it is tough to find something to get across the parking lot. He said even with 10 foot candles on the site it is at the minimum at the end of the parking spaces.

Ms. Nelson said the high intensity has to do with the bulb being used. She suggested working with the lighting representatives to bring the lighting down. She said 10 foot candles is high on a walkway. It is a huge contrast that could be dangerous going into the areas where the foot candles drop off.

Mr. Guntlow said we will work on it.

Ms. Nelson said the actual light is good as it is at 2700-3000k.

Mr. Hankin asked about pole lights.

Mr. Guntlow said there is not a pole light. There are building mounted area lights. He said he would find a new fixture and submit it with a new photometric plan.

Ms. Nelson said the building is existing so there is not a lot of impact. Reducing the lighting impact will help. She said the proposed lighting is night sky compliant and that is appreciated. She asked where the loading is occurring.

Mr. Guntlow said the loading is on the south side of the building. He said it is shown on the plan on sheet C-2.

Ms. Nelson asked if there is a sidewalk to that door.

Mr. Guntlow said there is a gravel path. He said because the building is so long a second means of egress is required for the second floor. He said there will be a door to exit in the northwest corner.

Ms. Nelson asked that the photometric plan be updated and resubmitted.

Mr. Guntlow said he would do that. He said if there is an option to condition the approval on the submittals it would be appreciated. He said a condition requiring a maximum of four foot candles is acceptable. He said we will find something that works.

Mr. Fick said he would rather approve with the condition.

Ms. McCormick said we would prefer to have the SPR conditioned as it will allow us to keep moving forward with the CCC.

Mr. Higa said to be mindful when picking lights that the bulb is not visible to the cars on the street.

Ms. Nelson said a full cut off fixture is required.

Ms. Nelson said this is the list of conditions: Full cut off light fixture and a reduction in the foot candles to a maximum of four. The lights will be night sky compliant.

Eight trees will be planted. At least 2-3 varieties will be planted. The trees should be a minimum of 1.5 inch caliper and spaced so they can be viable. A tree should be replaced if it dies.

Mr. Higa requested a bike rack. He said it should not be a condition.

Mr. Fick asked if the lighting would be on during business hours or all night.

Mr. Guntlow said for the most part the lights will be on during business hours. He said one or two might be left on for security purposes. He said lights would be motion activated.

Ms. McCormick said if the lighting is not going to be regulated by the CCC, we would appreciate flexibility.

Mr. Fick said as long as it is not in conflict with the CCC regulations the lights should be on a motion sensor after business hours.

Mr. Rembold said the lighting might be necessary for police officers to check the building. He said another condition is the CCC license must be provided prior to starting operations.

There was a brief discussion of the sign that is non-compliant. It will most likely have to be changed as it is in the State right of way. The applicant may have to come back for an amendment if the sign is move.

Mr. Hankin made a motion to approve the SPR for Valkyrie Cannabis, Inc. with the conditions list:

Lighting photometric plan with a maximum foot candle of four to be reviewed by Mr. Rembold
The lighting will be off after business hours

Eight trees of at least two species will be clustered so as not to screen the building

The CCC permit will be submitted to the Town prior to commencing operations
Mr. Fick seconded.

Mr. Higa asked if there was anyone in the audience who wanted to comment.

Ms. Nelson said there is one hand raised she asked if there is a question about the application.

Joe Burke said he is a representative of Valkyrie Cannabis. He thanked the Board for their work and said he took note of the bike rack request. He said all of the conditions are reasonable including the lighting. He thanked the Board for their time.

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

ZONING AMENDMENTS:

Ms. Nelson asked if any updated information from BRPC has been received.

Mr. Rembold said they are still working on the analysis for a build out of the Stockbridge Road sites. He said they will come back when they are ready.

Ms. Nelson said she is hoping to get it on the warrant for the Annual Town Meeting.

Mr. Rembold said he would see what the status is.

Ms. Nelson said Mr. Pachano brought the bylaw to the Board two years ago. She said she would like to get it in. She said the timing might be good for community support.

SHORT TERM RENTAL BYLAW:

Ms. Nelson said the Selectboard, at the joint meeting on November 29, gifted the STR bylaw to the Planning Board to shepherd through the normal process. She asked Mr. Rembold if Town Counsel had given an opinion about where the bylaw falls-zoning or Town Code.

Mr. Rembold said Town Council gave a verbal opinion that it is a zoning bylaw. He reminded the Board that at the joint meeting it was agreed that the Planning Board would focus on the four purposes in the draft language. It is the Board's purview to decide how to proceed with the purposes or you can write the type of bylaw you want. He said he is not sure how it will take shape but in order to go to the Annual Town Meeting the bylaw needs to be in fairly good shape within the next 30 days.

Ms. Nelson said typically the Board would engage in a multi-month process not a one-month time frame for a bylaw. She said she is concerned about the time. She said she is not sure we can craft a bylaw and vet it in 30 days.

The Board proceeded to discuss the draft bylaw submitted to the joint meeting. There was an opinion to start from scratch but out of respect for Ms. Davis who did a considerable amount of work on the draft discussion focused on the draft. It was agreed that the draft could be edited where there wasn't agreement with draft language.

The Board went through all of the purposes. There was discussion about the restrictive language and the intent of the bylaw. It was agreed that restricting short term rentals would not have a significant beneficial impact on affordable housing. The Board's discussion led to the agreement that the purposes needed to be more refined. They also decided to look at the language for a meeting on December 23 to determine if the bylaw was something that could be prepared within the 30-day window. The meeting on December 23 will be held from 6:00-8:00 P.M. for the purpose of discussing the bylaw.

BOARD & SUB-COMMITTEE UPDATES/ISSUES & CONCERNS

Mr. Higa said the Step-2 applications have to be submitted to the CPC by 4:00 P.M. December 17, 2021. Review of the applications will take place on January 6 and January 11, 2022.

TOWN PLANNER'S REPORT:

Mr. Rembold said at the next meeting the Board can approve his continued ability to authorize certain documents such as the Forms A approvals.

Mr. Rembold said the Lake Mansfield Improvement Task Force has plans on line for review.

Ms. Nelson asked about the CHP trail along Stockbridge Road.

Mr. Rembold said there was a hold up with getting plans in place and the technical review of a wall that needs to be constructed. He said work should resume soon. He said when it is completed there will be a three-mile loop.

Mr. Rembold said he is pleased that the sidewalks and tree plantings along Bridge Street and Bentley Avenue have been completed.

Mr. Hankin reminded the Board that Construct will have a webinar on affordable housing on December 7th.

CITIZEN'S SPEAK:

No one spoke.

Having concluded their business, Ms. Nelson adjourned without objection at 8:44 P.M.

Respectfully submitted,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary