

PLANNING BOARD

DATE: February 24, 2022

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

FORMS A:

Michael Parsons from Kelly, Granger, Parsons and Associates was present with a Form A application on behalf of Sean Stanton, North Plain Farm, LLC at 180-190 North Plain Road.

Mr. Parsons said there is no frontage for the property because the Railroad took all the land along the road. He said Mr. Stanton entered into an agreement with the State for Lot 4 to go into Agricultural Preservation Restriction. He said in order to get the APR it had to be demonstrated to the State that the property can't be developed. He said there are two ways both in existence prior to Subdivision Control Law that cross the railroad tracks to access the two existing homes on the property.

Mr. Parsons provided a railroad map showing the houses were in existence in 1915. The houses were in existence prior to adoption of Subdivision Control Law. He said Lot 4 has 66.8 acres of land and will be put in APR. He said Mr. Stanton keeps the remaining land that includes Lot 1 containing 1.063 acres of land. Lot 2 contains 4.190 acres of land. Lot 3A contains 1.003 acres of land. Lot 3B has 0.173 and is not to be considered a separate building lot. There is a well on Lot 3B. Lots 3A and 3B are to be combined.

Mr. Parsons said Lot 2 has a barn on it. The east boundary is configured so as to keep the upper land available for Mr. Stanton to possibly put in housing for the farm employees. Lot 2 has a steep drop off on the east side.

Mr. Rembold said the State did not want buildings on the APR land.

Mr. Parsons said that is correct. He said ways in existence are being used. The plan does not constitute a subdivision.

Mr. Fick said if the APR is taken away there is no complication with the ANR.

Ms. Nelson agreed.

Mr. Pachano made a motion to endorse the application, Mr. Fick seconded.

Roll call vote: Mr. Hankin, no, Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

MINUTES: FEBRUARY 10, 2022

Mr. Hankin made a motion to approve the minutes of February 10, 2022 as amended, Mr. Fick seconded.

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

SITE PLAN REVIEW: 22 RIVER STREET

Applicant Gretchen Gnaedinger was present with architect Diego Gutierrez to discuss two-family residence on 22 River Street.

Mr. Gutierrez said the property was purchased several years ago as a two-family house. He said the house is not code compliant. The owner wants to upgrade the property and make it comply with code. He said there was some minor exterior work done under a separate permit. He said there won't be any further exterior work. He said the property will not be expanded. There are no exterior issues. He said the intent is to get the property on the record and approved for a building permit.

Ms. Nelson asked if there is a parking area.

Mr. Gutierrez said yes. The parking is shown on the site plan. There is room for three cars.

Mr. Hankin said he was Ms. Gnaedinger's agent for the purchase of their home, but not this property. He said there are no conflicts. He asked Ms. Gnaedinger to confirm.

Ms. Gnaedinger said there is no conflict of interest.

Mr. Rembold said the structure is not conforming for the front yard setback. He said a building permit can be issued as long as there is no work that increases the non-conformity.

Ms. Nelson asked if SPR can be waived if the work is interior.

Mr. Rembold said no it has to be gone through.

Mr. Nelson read through 10.5 SPR. She said it is typical for there to be a condition that exterior lighting be full cutoff fixtures with the light at 3000k or less.

Mr. Hankin made a motion to grant SPR for 22 River Street with the condition that exterior lighting fixtures be full cutoff with the light no more than 3000k, Mr. Fick seconded.

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

SITE PLAN REVIEW: 70 EGREMONT PLAIN ROAD

Mr. Hankin recused himself from the discussion as he is an abutter. He turned off his video and muted himself.

Michael Valenti from SK Design was present to discuss the SPR application for Berkshire Aviation Enterprises for the demolition of the existing airport office building and the reconstruction of the building on the same footprint at 70 Egremont Road.

Mr. Valenti said the property consists of 87 acres that operates as an airport. The office building will be demolished and reconstructed within the same footprint. The building will be the same height, dimensions and uses. He said he did not apply for a special permit for the Water Quality Protection District because it is a pre-existing use.

Mr. Valenti said 5.7.2 allows the building to be rebuilt by-right on the same footprint.

Mr. Valenti shared his screen to show the site plan. He said some trees will be removed and replaced. He said cars park in front of the building on the shoulder. He said there are no curbs in front of the building. There is existing gravel parking, septic system, well and catch basin.

Mr. Valenti said proposed building will be 2855 square feet. Curbing and a grass area will be installed in front of the building. This should prevent people from parking in front of the building. One loading space will be provided at the end of the proposed curbing. New sidewalks will be installed around the building. A small patio in back of the building will be installed for viewing. The new roof will have gutters that will be collected and discharged into the drainage system. An HVAC system will be located behind the building and screened. The parking lot will be paved. Erosion control will be installed around the property with an infiltration system.

Mr. Valenti said there is no section in the bylaws to address airport parking. He said 44 parking spaces are proposed. He said parking calculations were done using the Institute of Transportation Engineers. The ITE calculations would require 43 parking spaces.

Mr. Valenti said trip generations were calculated through ITE. There would be no significant traffic impact. We request a waiver of the traffic study.

Mr. Valenti read through 10.5 Site Plan Review criteria from pages 10-13 of the Site Plan Review application.

Ms. Nelson asked if the trees to be removed are in bad shape.

Mr. Valenti said the trees are probably ok but they won't survive the construction. He said there won't be an increase to aircraft. He said the building will be made accessible and it will have a residential appearance. He said the lighting will be downward directed and won't spill over the property lines. He said the light will be between 2700-3000k. He said the existing septic is adequate for the new building.

Mr. Valenti said he is excited to update the building, make it accessible and energy efficient. He said the new building will be a modular. He said the new building will be a benefit to the community.

Mr. Fick asked if there is any anticipation of increased usage at the airport.

Mr. Valenti said no. He said there is a flight simulator that will go into the classroom. He said the classes are small, usually one on one.

Mr. Pachano didn't have any questions.

Mr. Higa asked if the parking calculations are based on the number of planes.

Mr. Valenti said the calculations are in the applications. He said the calculations are based on departures and arrivals in a day.

Ms. Nelson said it is typically based on peak use.

Mr. Higa asked if the calculations are from this airport.

Ms. Nelson said the calculations are from ITE.

Mr. Valenti said the busiest day could expect 43 parking spaces to be used. We are providing plenty of parking.

Ms. Nelson asked if there would be an increase in the impervious area.

Mr. Valenti said there would not be any increase in the impervious area. He said the impervious area would be reduced.

Ms. Nelson asked if the turf would be reinforced on the grass parking area. She asked how the parking would be demarcated.

Mr. Valenti said there is no intention to demarcate the parking. He said he doesn't think it will be used much. He said it more visually desirable to leave it unmarked. If necessary it could be temporarily marked or a parking attendant could be used.

Mr. Rembold asked about the drain that goes under the road.

Mr. Valenti said he isn't sure about the drain under the road but the parking area is all gravel.

Ms. Nelson said maybe the Town put dry wells in.

Mr. Rembold asked if there was any consideration for moving the parking back away from the front of the building.

Mr. Valenti said no, we planned to use the existing.

Mr. Rembold asked if there would be curbs around the paved parking lot.

Mr. Valenti said no.

Ms. Nelson asked for the cut sheets for the lighting. She said she saw the photometric plan but there was no information about cut off fixtures. She said we want to know that the fixtures are full cut offs and Dark Sky compliant. She said we can make it a condition or the information can be provided.

Mr. Valenti said he doesn't have a problem with a condition.

Mr. Fick asked about the "B" fixture in the back.

Mr. Valenti said yes there is only one in the back.

Ms. Nelson said the Tree Committee tree list should be consulted for the type of trees to be planted in front of the overflow parking area. Only native species are allowed. She said asked if the trees would be deciduous.

Mr. Valenti said yes the trees will be deciduous. He said he will look at the tree list.

Ms. Nelson said the trees should have a three inch caliper and they will have to be replaced if they die.

There were no additional questions or comments from the Board. She opened the discussion to the public.

Holly Hamer, from Seekonk Cross Road and Chair of the Tree Committee, said it is hard to tell what trees will stay and which ones will be removed. She said some of those trees may be on Town property. She said healthy trees cannot be removed or destroyed if they are on Town property without the Town's consent.

Ms. Nelson said the location of the trees can be determined.

Mr. Valenti said he was looking at the site plan and it shows trees are not being removed only added.

Ms. Nelson looked at the site plan. She said she only sees one tree being removed.

Mr. Valenti said he will check on it but it does appear that only one is being removed.

Ms. Nelson said the tree shown on the plan to be removed is well outside the street line but it doesn't look very healthy.

Ms. Nelson said there is a giant spot light on the property. She said she has asked that it be turned down. She asked if the LED light will be stronger or more controllable. She asked why the airport lights have been on 24/7. She said there is a lot of light spill right now.

Mr. Valenti said the airport is waiting for a part to fix the lights. He said the new light will be less bright and pointed down.

Attorney Heuer emailed a letter dated February 23, 2022 to the Board. It was distributed via email to the Board members prior to the start of the meeting.

Attorney Tad Heuer from Foley Hoag LLP said he is representing Ms. Hamer, an abutter, and Anne Fredericks/Marc Fasteau who live further down on Seekonk Cross Rd. He said the Board needs to ensure compliance with the zoning bylaws. He said what the applicant wants to do cannot be done as it does not comply with State zoning law. He said there is a pre-existing non-conforming building with a non-conforming use. He said the airport needs a special permit to be

a conforming use. That was denied two years ago. The building can be constructed for a use allowed in the R-4 zone but not for a use that is not allowed.

Mr. Fick said he looked at the case law cited that could allow the use.

Mr. Heuer said there is no parallel provision in the Town's bylaw.

Ms. Nelson said the application is not for an expanded use.

Mr. Heuer said the use didn't exist when the airport use began. He said there is a difference between the structure and the use. They have to be looked at differently. The building can be reconstructed but it cannot be used as an airport use, only for a use allowed in the R-4 zone.

Mr. Fick said he would like to ask Town Counsel for an opinion.

Ms. Nelson agreed.

Claudia Shapiro from 78 Egremont Plain Road read a 7 page letter into the record. Ms. Shapiro began reading her letter at 7:21 P.M. and concluded reading the letter at 7:31 P.M. Ms. Shapiro is opposed to the reconstruction of the airport office. Ms. Shapiro said she would send the letter to the Town. The letter will be attached to these minutes if it is received.

Anne Fredericks from 77 Seekonk Cross Road said the building was built post the adoption of zoning as a single-family house. She asked at what point were permissions given to change it into something else. She said an office building should not be built to replace a single-family house.

Ms. Nelson said she does not have an answer for that question.

Ms. Fredericks said there is a tax card showing it was a single-family home. Post meeting clarification from the assessor's office indicates that there is no current residential use at the property.

Ms. Nelson thanked Ms. Fredericks for her comments.

Ms. Nelson said we have received the letter from the attorney and Mr. Fick has requested an opinion from Town Counsel.

Mr. Rembold said the Board has until the end of March. If Town Counsel doesn't have an opinion prior to the end of March, an extension from the applicant can be requested.

Ms. Nelson asked that Mr. Valenti provide the species of trees to be planted and the cut sheet for the light fixtures. She said he will be notified when the discussion will next be on the agenda.

ZONING & TOWN CODE AMENDMENTS:

Mr. Rembold said 4.2.1 negates work done by the Board to make the two-family use on a single lot more flexible. He said in 2014 the regulation was kept for two separate structures on one lot. 4.2.1 requires two times the frontage, width and setbacks. He said it negates what the Planning Board tried to do in 2014. He said the Board could revisit the provision for the double lot.

Mr. Hankin said this is a good catch. He said he didn't think it was the Board's intent to make it harder to have two houses on a lot.

Mr. Fick said he is not sure why it wouldn't be required to have two lots for two dwellings.

Mr. Rembold said if there is twice the area and frontage the lot could be divided with a Form A. He said the language from 2014 expressly says the two-family would be allowed by-right but keep twice the area and frontage if proposed in separate structures. He said he doesn't think twice the frontage was intended. He said he thinks the Boards intent over the last eight years has been to have twice the minimum area but not twice the frontage.

Mr. Pachano said that for every lot there is a certain area that can be covered. If two houses can fit in that area why is it a big deal? He said he is not proposing to build more but only what is allowed.

Mr. Rembold said at the very least the language should be clarified that twice the width, frontage and setbacks is not intended.

Mr. Pachano asked it would really be required to have twice the lot area.

Mr. Rembold said the language needs to be cleaned up at a minimum.

Mr. Pachano said if there is a conforming lot two houses and an ADU should be allowed if it fits the lot coverage.

Ms. Nelson said there are two issues. One is a housekeeping item to clean up that the original intent wasn't to double dimensional requirements. The other issue would be twice the lot size.

Mr. Fick said there are many principal structures. He is reluctant to proceed with reducing the lot area as a housekeeping item.

Mr. Rembold said if the target is residential use it could be included as housekeeping but if business use is going to be included more discussion may be necessary.

Mr. Pachano said he is not sure principal structure is defined. He said if there is a business building and a residential building which is principal.

Mr. Hankin said the change should be put in to make it clear for residential uses.

Mr. Pachano said he is fine with that.

Mr. Fick said this is way beyond housekeeping. He said discussion is necessary.

Mr. Higa suggested limiting what will go forward to the strike through language presented by Mr. Rembold.

Ms. Nelson asked if we can deal with the strike through language at this year's ATM and deal with the rest next year. She said one housekeeping item can adjust the text in 4.2.1.

Mr. Rembold said there can be more in depth discussion at another time.

Ms. Nelson asked if there is a consensus to deal with the strike through language.

Mr. Hankin said it should all be dealt with. He said do it right and do it once.

Mr. Pachano agreed.

Mr. Higa said we can't present as housekeeping if the area is changed.

Ms. Nelson said deal with the strike through language and not deal with the area.

Mr. Hankin said he doesn't know how limiting width and frontage is different than area.

Mr. Higa said double the area was part of the original intention. He said there should be further discussion.

Ms. Nelson said she only wants to move this forward if there is a consensus. Otherwise we will table it she said.

Mr. Rembold said the change would be referred to the Selectboard separately and it would have its own public hearing. He suggested if the Board wants to preserve maximum flexibility do more than narrow the language at the public hearing.

Mr. Rembold said 4.2.1 is not restricted to residential so it could be clarified as to what uses it will be applied to.

The Board said to strike 8.1.1 from the last sentence of 4.2.1.

Ms. Nelson asked if there was comment from the public.

Mrs. Mooney asked if the proposed language would be available before the public hearing.

Ms. Nelson said yes.

Ed Abrahams said he is impressed with the Boards ability to dig into something so late in the meeting. He thanked Mr. Rembold for finding the discrepancy.

Mr. Hankin made a motion to refer the language to the Selectboard, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye, Mr. Fick, no; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson asked Mr. Fick why he voted against moving the proposal forward.

Mr. Fick said he is concerned about the area discussion. He said he doesn't think it is ready.

COMMON DRIVEWAY BYLAW:

Mr. Rembold said the Common Driveway bylaw is Town Code amendment not a zoning bylaw amendment. He said the General bylaw is not governed by the same laws as zoning. He said the amendment would be referred to the Selectboard asking them to put the proposal on the warrant. He said the article will belong to the Selectboard. There won't be a public hearing by the Planning Board.

Mr. Rembold said a common driveway requires a permit. As written it can only serve three housing units which limits the ability of people to provide additional housing on their lots. He said there were previous discussions about how to revise to allow the common driveway to serve as many units as allowed by zoning. It was determined that up to nine units could be served by one common driveway. Mr. Rembold suggested there is no reason to limit three units to three lots as long there are Design Standards in place to limit the number of units to nine.

Mr. Pachano asked if there is a reason to limit the lots.

Mr. Rembold said he doesn't think there is a reason to limit the lots.

Mr. Fick asked when it becomes a subdivision.

Mr. Rembold said a common driveway doesn't provide frontage.

Mr. Pachano said five lots could be served by one common driveway.

Mr. Rembold said it could serve more than three lots as long as there are no more than nine units. He said the Design Standards set the limits.

Mr. Fick said he likes the language for three lots.

Mr. Pachano said he doesn't like it when the bylaw says can't do something but if you ask nicely you can do what you asked for. He said bylaws should just say what can be done. Say nine units by right.

Mr. Fick said if more than three lots are allowed there could be four lots with 12 units.

Mr. Pachano said the limit is nine units.

Ms. Nelson said the lots have to meet zoning.

Mr. Pachano said allowing more units to share a driveway is a benefit. He said if people want to building more than what is allowed they can build a separate driveway.

Ms. Nelson asked if we have seen an instance where we have had more than three lots that want to share a driveway.

Mr. Rembold said he hasn't seen a situation but there could be a public benefit to allow three to five lots to be served by a common driveway. He said if there was a situation where, for example, there was a stone wall along the frontage that the board wanted to preserve, a common driveway could serve lots that front where the wall is, instead of multiple driveways through the wall.

Mr. Hankin said he likes the proposal prepared by Mr. Rembold.

Mr. Pachano said he doesn't like that people would have to keep coming back to add additional housing. He said it is onerous.

Mr. Rembold said the language accomplishes the addition of housing units.

Mr. Fick made a motion to refer the proposed Common Driveway Bylaw to the Selectboard as a change to the Town Code, Mr. Hankin seconded.

Mr. Higa asked what if one person owns the three lots.

Mr. Hankin said it says three lots.

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

Mr. Rembold will forward the proposal to the Selectboard.

Mrs. Mooney asked why there is no width mentioned for the driveway, why the Highway Superintendent is gone and why nine, why not five or six.

Ms. Nelson said nine because three units are allowed per lot by-right.

Mr. Hankin said the width is determined by the number of units.

Ms. Nelson said there are Design Standards, section F. She said the more units there are the wider the driveway. She said the Public Works Superintendent can delegate review of the driveway.

AFFORDABLE HOUSING:

Ms. Nelson said there is nothing new to discuss about affordable housing. She said the sub-committee is not functioning so there might be a need for a joint meeting. She said this item will be kept on the agenda.

Mr. Pachano said he would vote to keep the item on the agenda. He said the sub-committee doesn't meet.

Ms. Nelson said we may or may not have discussion topics but we will maintain it as a standing agenda item.

Mr. Higa reiterated that he thinks the Town needs to create affordable housing.

Ms. Nelson said there is an Affordable Housing Trust Board.

Mr. Higa said they need more support.

Mr. Hankin said to be fair they should reach out to the Planning Board. They have already made planning decisions for the seven acre site they are working on.

Mr. Rembold said the Selectboard and Planning Board can continue discussion of affordable housing even if the sub-committee isn't meeting.

Mr. Fick asked Mr. Rembold to talk about the District Local Technical Assistance (DLTA) applications he has been working on.

Mr. Rembold said he has drafted two DLTA applications one for work on the Open Space and Recreational Plan and the other for Housing assistance – to investigate ways to create and incentivize housing production including purchasing affordable housing preservation restrictions.

Mr. Rembold said hopefully the Town will get some assistance.

BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:

Mr. Pachano said the last two SPR discussions condition the permits for lighting, parking and trees. He suggested there might need to be more specificity in the bylaws. This might be a topic for future discussion.

Mr. Higa said the CPC has another meeting coming up but he wasn't sure what would be discussed.

Mr. Rembold said the CPC would be discussing some administrative business.

Mr. Higa asked if the ATM is in June and the Town election is in May.

Mr. Rembold said yes.

TOWN PLANNER'S REPORT:

Mr. Rembold said a large portion of the April 14 meeting will be dedicated to Climate Justice Training that will deal with climate change and cultural competency. He said he would like to focus an hour and a half on the training.

Mr. Rembold said there will be a public hearing at the next meeting for a rear lot at 183 Division Street. There will also be the public hearing for the first set of zoning articles. He suggested a site visit for Division Street.

The Board agreed to conduct a site visit on March 10 at 5:00 P.M.

CITIZEN'S SPEAK:

Mr. Abrahams wanted to correct his last statement about the Board digging in so late in the meeting. He said he should have said in the middle of the meeting.

Tom Doyle said his property at 546 Main Street is fully permitted. He said the site is for sale. He said with all of the encouragement about housing that the Town might protect the property for housing. He said he has an offer for a retail development of the site.

Mr. Doyle said there is a project in Hilton Head South Carolina that encourages a public and private partnership. He suggested this could be considered for the property. He said it is the 11th hour. If there is a way to preserve the pathway for housing we need to move forward.

Having concluded their business, Ms. Nelson adjourned without objection at 8:52 P.M.

Respectfully submitted,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary