

PLANNING BOARD

DATE: September 26, 2019

TIME: 6:00 P.M.

PLACE: Large Meeting Room

FOR: Regular Meeting/Public Hearing

PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa;
Pedro Pachano
Garfield Reed, Associate Member
Chris Rembold, Assistant Town Manager

Ms. Nelson called the meeting to order at 6:00 P.M.

FORM A's:

Michael Parsons from Kelly, Granger, Parsons and Associates, was present with a Form A on behalf of Robert Foster for a parcel of land at 0 Bridge Street. Parcel A contains 0.039 acres of land and is not to be considered a separate building lot. The remaining land contains 0.296 acres of land and meets zoning minimums.

Mr. Hankin made a motion to approve the Form A application, Mr. Fick seconded, all in favor.

MINUTES: SEPTEMBER 12, 2019

Mr. Fick made a motion to approve the minutes of September 12, 2019 as amended, Mr. Hankin seconded, all in favor.

PUBLIC HEARING: SPECIAL PERMIT 85 CASTLE HILL AVENUE

Mr. Reed recused himself from the discussion as he is an abutter.

Mr. Hankin made a motion to open the public hearing at 6:08 P.M., Mr. Fick seconded, all in favor.

Attorney Kathleen McCormick was present with the applicants Bob and Donna Boyer and Meg and Greg McGonagal.

Ms. McCormick said the special permit is to develop a rear lot in the R-1-A zone. Ms. McCormick said the front lot is owned by Mr. and Mrs. Boyer. The rear lot would be served by town water and town sewer. The proposed house would be 2,500 square feet. She said the project fits the rear lot zoning perfectly. It provides a new housing opportunity and fits the Master Plan goal.

Ms. McCormick said the new lot would consist of 0.614 acres of land that exceeds the zoning minimums. The front lot would also conform to the zoning minimums as it contains .326 acres. The building lot width exceeds the required 100 feet. The rear lot has no less than 73 feet of frontage.

Ms. McCormick said there are no new curb cuts and there would be minimal impacts on the neighborhood. She asked the Board to approve the special permit.

Ms. Nelson said Mr. Rembold and Mr. Grochmal provided a summary of the 4.3.1. She said the summary is very similar to the presentation made by Ms. McCormick. She asked about the shared driveway.

Mr. Rembold said there are two existing curb cuts for the property. He said there is no reason a circular driveway connecting the two curb cuts couldn't be created. He said there is no provision in the zoning regarding the shape or configuration of the driveway but part of it has to be shared. He said the intent of the shared driveway was to reduce curb cuts but in this case the second curb cut already exists.

Ms. McCormick said the driveway will be created as shown but may create the circular driveway as it would be better planning. The common driveway will go to the boundary line as shown.

Ms. Nelson asked if there were any questions from the Board. There were none.

Ms. Nelson asked if there were any questions from the public. There were none.

Ms. Nelson asked if there were any comments from other boards.

Mr. Rembold said there were no comments from the Conservation Commission or the Board of Health as the project is not jurisdictional. The Selectboard in a letter dated September 9, 2019 sent a positive recommendation.

Mr. Hankin made a motion to close the public hearing, Mr. Fick seconded, all in favor. The public hearing was closed at 6:19 P.M.

The Board went through the findings and waivers.

On the storm water analysis and drainage waiver request, Mr. Hankin said the lot is flat there shouldn't be any issues. He said there could be issues when the house is designed but those issues would be addressed at that time.

Mr. Pachano asked why there would be that requirement for the creation of a lot.

Mr. Rembold said it is spelled out by default but if it is irrelevant it can be waived.

Mr. Hankin made a motion to waive the storm water drainage requirement, Mr. Fick seconded, all in favor.

Ms. Nelson said the proposal meets 4.3 for the criteria for the creation of a rear lot.

Mr. Hankin made a motion that the proposal meets 4.3 of the zoning bylaw, Mr. Fick seconded, all in favor.

Mr. Hankin made a motion that the proposal meets the requirements of Section 4.3 as described in the proposal and in the Town Planner's email of 9/25/19, Mr. Fick seconded, all in favor.

Mr. Hankin said his only concern is that the circular driveway is not on the plan.

Mr. Rembold said it is noted in the record that it may happen.

Mr. Pachano made a motion to approve the special permit for a rear lot at 85 Castle Hill Avenue, Mr. Hankin seconded. Mr. Pachano aye, Mr. Higa aye, Mr. Fick aye, Mr. Hankin aye, Ms. Nelson aye.

Mr. Reed rejoined the discussion.

SPECIAL PERMIT: 27 HUMPHREY STREET

Eric Shamie and Bobby Houston were present on for Greenhouse Partners LLC for a special permit application to install a swimming pool at 27 Humphrey Street.

Mr. Shamie said there are 5 houses on the property. It was decided not to put in a greenhouse as per the original plan. It was decided to put in a lap pool, 40 feet x 14 feet. The pool will be located between the two houses and it will be fenced in.

Ms. Nelson asked if the amenity is part of the condo agreement.

Mr. Shamie said yes. He said the condo will own the entire property and the residents will own the footprint of their homes.

Mr. Rembold asked if the Conservation Commission has seen the plan.

Mr. Shamie said yes.

Mr. Houston said they voted to approve the pool.

Mr. Rembold asked if it is on flat land.

Mr. Shamie said yes.

Ms. Nelson said there is no special permit criterion for this application. She said pools are regulated by the building code as are the security requirements.

Mr. Rembold said it is considered reviewable by the Board of Health because it is a community pool.

Mr. Hankin asked about having a motorized pool cover in place of a fence.

Mr. Shamie said they plan to do a fence.

Mr. Pachano said the fence is required by code.

Mr. Higa asked what the trigger is for the Board of Health to review.

Mr. Houston said the pool is semi-private. He said it is not a public pool.

Ms. Nelson asked if the pool will have a separate water sewer connection.

Mr. Shamie said that has not been discussed with the pool contractor. He said there is an extensive storm water system. If the separate water connection is required we will do it.

Ms. Nelson asked if there will be lighting inside the pool or outside of it.

Mr. Shamie said there will not be lighting inside the pool. He said if there is lighting on the pool deck it will be Dark Sky Compliant and downward facing.

Mr. Hankin asked how big the deck is proposed to be.

Mr. Houston said it will run the length of the pool.

Mr. Hankin made a motion to send a positive recommendation to the Selectboard with the recommendation that any lighting provided on the deck be Dark Sky compliant and downward directed with full cut offs, Mr. Pachano seconded, all in favor.

Mr. Fick asked why a pool wouldn't be by right in the B-3 zone. He asked what the impact would be for a non-residential use. He said it is confusing that it is by right in a residential zone but not by right for a residential use.

ZONING AMENDMENTS:

The Board discussed the zoning amendments they want to work on for the Annual Town Meeting.

Ms. Nelson said the amendment dealing with the Design Advisory Committee should be stand alone.

Mr. Pachano said he would like to pull the language that deals with DAC out of zoning all together. He said he would like to pull it out of zoning but keep the mandate. He said he would like to make DAC a permanent committee that would be open to everyone and include it in the Charter. He said DAC would work under the Selectboard.

Mr. Rembold said when you say the "Charter" you mean under Town Code generally.

Mr. Pachano said yes. He said the goal would be to be available to areas other than the Downtown District and VCOD. He said the Committee should be available to everyone. He said if DAC wants to take on more responsibilities or change the membership it would be a change under the Selectboard instead of having to wait for a Town Meeting.

Mr. Hankin said he thinks it is unnecessary. DAC is currently open to anyone who wants to come before it. He said moving from one section of the bylaw to another won't be a big change. Zoning requires applications otherwise it is completely voluntary.

Ms. Nelson asked what happens if it is left in zoning.

Mr. Rembold said reference to the DAC could be left in zoning. That would not be unheard of. He said there is a potential for the jurisdiction to get fuzzy but it could be dealt with.

Mr. Fick suggested putting DAC in a separate section of zoning.

Mr. Higa asked if it would have more jurisdictions if it stays in zoning.

Mr. Rembold said it could or it could be unclear. He said Mr. Fick's suggestion might be a good alternative.

Mr. Pachano said DAC is a weak committee. They have no authority and attendance is a problem. To change the membership requirement it has to go to town meeting. He said he doesn't see the relevance to zoning for that committee. He said it feels more like a Town committee. Zoning is not where I think it belongs.

Ms. Nelson said she thinks the discussion has given Mr. Rembold and Mr. Grochmal something to work with.

Mr. Pachano said at least change the language so anyone could go before the Committee. He said it is up to the Building Inspector to direct people to go to the Committee.

Ms. Nelson said it seems that there are 2 issues; change the physical makeup and deal with how the Committee is treated under the current zoning bylaw.

Mr. Rembold said DAC review body is weak and has no power. If that is something that should be reviewed, the Planning Board and the Selectboard should discuss the changes.

Mr. Hankin said it would be a mistake to make DAC into an architectural review board

Mr. Pachano said that is not what he is pursuing.

Mr. Rembold said he and Mr. Grochmal will work on what the structure, process and jurisdiction will be if not in zoning.

Mr. Hankin asked that they deal with lowering the required membership number and allowing constructive approval.

Ms. Nelson asked if there were floor amendments to the B District zoning proposal.

Mr. Rembold said no.

Ms. Nelson said this proposal can be carried forward as it is.

Mr. Rembold said 1-5 were presented as a block and it fell as a block. It can be carried forward.

Mr. Rembold said there was no push back on the ADU and Tiny House zoning. He said that can move forward.

Ms. Nelson said the accessory buildings zoning had amendments on the floor. She said the amendments made it very confusing.

Ms. Nelson said the accessory uses need to be looked at carefully.

Mr. Hankin said there was an issue with an ADU in a 15ft high garage that would be located at 10' from the property line.

Ms. Nelson suggested that a graphic for this proposal might help people to understand. She said we didn't tie the proposal to existing structures. She said it should be clear that we are not imposing a new development pattern but rather carrying existing development patterns forward.

Mr. Fick said it is important to make sure the Selectboard is on board with these issues in order to advance housing goals. If they don't understand we need to start over.

Ms. Nelson suggested leaving the change to the rear yard setback out for now.

Mr. Hankin said he doesn't want to table it. He suggested doing it by zone.

Mr. Pachano agreed, do it by zone and use graphics.

Mr. Higa said people were worried about what people would do in their back yards and the impact it would have on their views.

Mr. Rembold said there needs to be further discussion of the size of ADUs and the number of ADUs that will be allowed. Referring to his notes, he said 3, 4 & 5 could be one article.

Mr. Higa said there was an issue with height.

Mr. Hankin said the height was changed to 25 feet a couple of years ago to allow an ADU above a garage.

Mr. Higa asked if the Selectboard supported the change.

Mr. Fick said it wasn't one particular thing.

Mr. Hankin said there were too many diverse aspects in one article.

Ms. Nelson said we can decide later if we will have one article or break it into more.

Mr. Rembold stated that a portion of article 21 that deals with the lot coverage density required per dwelling unit is still under review by the Attorney General. The Town granted an extension as the Attorney General returned a finding of a procedural defect. If anyone has an issue they should speak now. The Town will publish complaints and the Attorney General is reviewing complaints. Depending on how it plays out the Board might want to take it up.

Mr. Pachano asked if there is a timeline for the Attorney General after receiving complaints.

Mr. Rembold said he didn't know.

Mr. Fick asked what the procedural defect was.

Mr. Rembold said there was a lack of specificity in the advertising notice.

Ms. Nelson asked if it could be done at the 2020 ATM.

Mr. Rembold said he didn't know.

Ms. Nelson asked that Mr. Rembold find out what the latest time would be to move forward on it depending on when the Attorney General decides.

Mr. Pachano asked if the article can be reconsidered.

Ms. Nelson said she would like to get a sense of it.

Mr. Pachano said if it is not approved he would want to review the article.

Ms. Nelson said the PURD bylaw is out of date given the forward movement of zoning. She said the density needs to be reviewed.

Mr. Hankin said the Great Barrington Housing Trust has a purchase and sale agreement on a parcel of land in Housatonic. He said it would be a great spot for a PURD. He said the R-1-A zone allows 3,300 sq. ft. per dwelling unit—a two family and an ADU on a 10,000 SF lot. The PURD language is more restrictive.

Ms. Nelson said she doesn't want to do spot zoning but agreed that the PURD language needs to be updated.

Mr. Rembold asked if this is something he would be working on or something the Housing Subcommittee would look at.

Mr. Pachano said he doesn't like the PURD. He said it is about sprawl because it requires a lot of open space.

Mr. Hankin said not by definition. He said it allows for multi-family and clustering in a way zoning doesn't. He said he thinks it is a tool that is worth keeping.

Ms. Nelson said it would be good to look at what land is available that might be able to utilize the zoning. She said we will look at it in more detail.

Mr. Hankin said he is focused on this project.

Ms. Nelson said she didn't think we can fairly discuss when there is a particular property being considered.

Mr. Fick said think about the objective of the PURD to create open space and housing.

Mr. Hankin said the PURD is about infill.

Ms. Nelson said she would like to create a framework. She asked the members to read the PURD bylaw as well as the Open Space Residential Development .

Ms. Nelson asked how the first meeting of the Affordable Housing Subcommittee went.

Mr. Pachano said the Planners will look at creating incentives for land use and the Selectboard members will look at implementing fiscal policy.

Mr. Hankin said they will also inform the Selectboard about issues.

Mr. Pachano said he and Mr. Hankin will work on getting the Selectboard on board with the zoning efforts.

Ms. Nelson said she would like the subcommittee to lead the effort.

Mr. Hankin asked the Board members to make them aware of any ideas they have.

Mr. Higa said he would like for affordable housing to be integrated into the community.

Ms. Nelson said she is not sure there will be an article ready for the 2020 ATM but work needs to be done to get a policy guide in place for how to use zoning for affordable housing.

The Board discussed buildable area and lot coverage. Mr. Hankin said it is not complicated.

Ms. Nelson said it was complicated.

Mr. Hankin said if the numbers are done lot coverage on a large lot makes sense on a small lot it is punitive.

Mr. Higa said it is confusing about when it is applies.

Mr. Pachano said it is a language thing.

Ms. Nelson said there is a lot to tackle but there is a common theme.

Mr. Hankin asked if there is a chance of having a separate Town Meeting for zoning.

Mr. Rembold said that has not been determined.

The zoning topics will continue to be discussed at future meetings.

TOWN PLANNER'S REPORT:

Mr. Rembold said there are two applications to review at the next meeting on October 10. He said there is an application for a solid waste hauler on VanDeusenville Road and an appeal of a Cease and Desist Order for the operation of a landscaper on 200 Maple Avenue.

The Board is not going to conduct site visits.

BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:

Mr. Pachano said the prospective design teams for the Ramsdell Library project have been narrowed to 3. A design team will be chosen to present proposals for the renovation.

Ms. Nelson said the Lake Mansfield Improvement Task Force voted to pursue closure of Lake Mansfield Road but the Town has decided to pave the road to keep it open. LMITF will now

grapple with how a one-way road will work. Emergency services have consistently been asked about what impact they would experience with the road closed and they have said they don't use Lake Mansfield Road.

Mr. Pachano asked if there were discussions about how cars would reroute.

Mr. Rembold said yes.

Mr. Reed said he has lived in that area for 30 years. He said he never had a problem with the road. He said it looks like there is an issue being made and he is not sure why.

Ms. Nelson said the issue is complex. She said she would be happy to have a conversation to explain about the failing infrastructure and the impact on the health of the lake.

Mr. Reed asked why there are concerns now.

Mr. Rembold said there have been concerns for 25 years.

CITIZEN'S SPEAK:

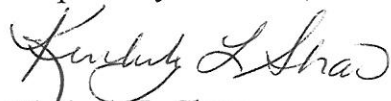
Tom Doyle from the Berkshire County Board of Realtors was present with information about a housing summit on October 16 at 4 PM. He said there will be 2 keynote speakers. He said the discussion will be about the state wide housing crisis. He handed out a flyer and said he hopes people will attend.

A citizen asked who the members of the housing subcommittee are.

He was told Mr. Hankin and Mr. Pachano from the Planning Board and Ms. Burke and Mr. Cooke from the Selectboard.

Having concluded the business, Ms. Nelson adjourned without objection at 7:51 P.M.

Respectfully submitted,



Kimberly L. Shaw

Planning Board Secretary

