

## PLANNING BOARD

DATE: July 28, 2022

TIME: 6:00 P.M.

PLACE: Zoom Virtual Meeting

FOR: Regular Meeting

PRESENT: Brandee Nelson, Chair; Pedro Pachano; Jonathan Hankin; Malcom Fick;  
Jeremy Higa  
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 July 16, 2022, from the agenda. She said the meeting was being recorded. Ms. Nelson also read Section 241-1 of the Town Code.

She called for roll call attendance:

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

### **FORM A's:**

There were no Form A's

### **MINUTES: JULY 14, 2022**

Mr. Hankin made a motion to approve the minutes of July 14, 2022 as amended, Mr. Fick seconded.

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

### **APPOINT REPRESENTATIVE TO THE HOUSING SUBCOMMITTEE:**

Ms. Nelson said Mr. Pachano resigned from the Housing Subcommittee. She said Mr. Fick has expressed interest in filling the position.

Mr. Higa made a motion to nominate Mr. Fick to the Housing Subcommittee, Mr. Hankin seconded.

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

Mr. Pachano said Ms. Davis is the vice chair of the Housing Subcommittee. She should be made aware of the change so she can call a meeting to reorganize.

### **SITE PLAN REVIEW: 302 STOCKBRIDGE ROAD**

Steve Wilson was present on behalf of McDonald's to discuss the revisions to the SPR.

Mr. Rembold said per the previous discussion there are now trees shown on the west side of the building to be in conformance with special permit requirement. He said there are also trees on the east side of the building.

Mr. Wilson said he met with the Tree Committee to come to an agreement about the trees to be planted. Plan has been updated. He said other than those changes the plan is the same as was previously submitted.

Mr. Rembold shared the screen to show the tree placement. He said four trees were added to the west side of the building on the applicant's property. The trees will be planted between the sidewalk and the public way.

Ms. Nelson said she would like to require a condition that the trees be a minimum of three inches.

Mr. Wilson asked that the condition be two to three inch caliper.

Mr. Pachano said he is surprised that the Tree Committee would recommend the American Elm and Japanese Katsura. He said he always recommends a White Oak.

Ms. Nelson said she doesn't have an issue with the variety if approved by the Tree Committee. She said the site plan review was done at the last meeting and there were no conditions.

Mr. Pachano made a motion to approve the plans dated July 19, 2022 with the condition that the proposed trees have a caliper of two to three inches, Mr. Fick seconded.

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

#### **SITE PLAN REVIEW: 116 BRUSH HILL ROAD**

Michael Parsons was present on behalf of Deborah Mars and William Ryan for continued discussion of a two-family residential use and grading and clearing more than 10,000 square feet of land at 116 Brush Hill Road.

Mr. Parsons said his clients do not want to rotate the house. He said he has provided a revised plan showing the areas to be cut and filled. He said the plan also shows the retaining wall to be built. Mr. Parsons said there will be 12,000 square feet of area to be filled requiring 745 cubic yards of fill. He said 3,500 square feet of area will be cut resulting in 175 cubic yards of material to be removed. He said the retaining wall will be built with field stone.

Mr. Parsons said the maximum cut will be five feet on the south side of the house. He said the garage will be set down half a foot. He said the septic system will be beyond the retaining wall. He said there will be sand under the septic tank but otherwise native soil will be around the septic system.

Mr. Rembold share photos of the stone retaining wall and a revised plan with the cut and fill shown.

Ms. Nelson said the applicant was asked to rotate the house and they have declined. We asked for calculations for the cut and fill and these calculations were provided. She asked if there were any other questions.

Mr. Hankin asked if there will be a guard on top of the wall.

Mr. Pachano said it appears to be 30" above grade.

Mr. Parsons said he thinks the height is right at 30" so no guard is necessary.

There were no other comments. Site plan review was read and discussed at the last meeting.

Mr. Hankin made a motion to approve SPR, Mr. Fick seconded.

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

### **ZONING STRATEGIES TO INCREASE HOUSING OPPORTUNITES:**

Ms. Nelson said there are two items to be discussed.

Mr. Pachano said if we have housing issues that are by-right then projects should be able to go through without SPR. He said Mr. Higa made a point that many people won't come to Town because of the process. He said we want these people to come to town to build their houses. He said it is a no brainer to remove the SPR for by-right uses.

Mr. Fick said it is not a no brainer for him. He said he is not sure if the Building Inspector goes through the review we go through with SPR. He said he is not sure the review we go through the building code issues. He said SPR is the only way we make sure the project conforms to the bylaws. He said he is not comfortable just dropping the SPR.

Mr. Hankin said the Building Inspector is the Zoning Enforcement Officer. It is the Building Inspector's responsibility to make sure the plans are in compliance.

Mr. Pachano said a by-right use would still need to comply with building code and zoning.

Mr. Fick asked who would review the plan.

Mr. Hankin said the Building Inspector. He said the change would have to go to the Annual Town Meeting.

Ms. Nelson asked if there is a down side to eliminating the checks and balances. She asked what the risk is to the community.

Mr. Pachano said look around Town to see what isn't being enforced.

Mr. Rembold said if conditions of an SPR is not being enforced it is a separate issue. He said currently there are no specific regulations about lighting. There isn't anything in the bylaws that addresses the lighting. He said maybe some things regularly addressed in SPR should be added to the bylaws.

Ms. Nelson said that is a good point.

Mr. Fick agreed that is a good idea.

Ms. Nelson said we might have similar views but we are not completely in agreement. She suggested that 10.5.5 be looked at to come up with some type of performance criteria such as clearing impacts of an area exceeding 10,000 square feet or more.

Mr. Fick said he will be the devil's advocate. He said we need to be careful about removing standards.

Mr. Pachano said the discussions we have are all building code issues. He said the building inspectors in this area are not lax in their job performance.

Mr. Fick said he is not suggesting that the Building Inspector is lax. He said we have improved some projects with our suggestions.

Ms. Nelson said the building code doesn't deal with drainage for example. She said she is open to considering additional performance standards such as lighting that is not codified anywhere.

Mr. Hankin said there are many dark sky bylaws we could use as a reference..

Ms. Nelson said she tried to address previously but we have not been successful in coming to an agreement.

Mr. Rembold said perhaps there are existing structures that have two-three family units but they don't have official zoning approval. He referred to the three-family on Giddings Street that was discussed a couple of weeks ago. He said that application was to make the structure legal. There were no exterior changes to the property. He said a property with no exterior changes or small alterations could be exempt so the property could be legally complying which would allow for a mortgage. He reminded the Board that SPR could be appealed.

Mr. Higa said he is interested in further discussion of this topic.

Mr. Fick said converting an old apartment house could be a reason to cut down on submittal requirements. He said if cost prevents some people from applying then submittal requirements could be cut down. He said a waiver could be granted if there are no changes to the footprint.

Mr. Hankin said the driveway bylaw should be reconsidered because we are trying to encourage more housing and the limitation to two driveways per property can be a stumbling block.

Ms. Nelson said if we look at single two-family and ADUs in terms of SPR and driveway access we need to look at 10.5 to develop performance standards that pertain to those uses.

Mr. Pachano asked what those things would be.

Ms. Nelson said lighting.

Mr. Pachano said he has been keeping a list since October of conditions. He said the only comments were for parking, one application, and lighting.

Mr. Fick said if all of the criteria for SPR have been met the SPR process would not be required.

Mr. Rembold asked that examples be sent to him and staff will draft suggestions.

Mr. Rembold said the regulations for three-family houses could be revised per a previous discussion. He said three-family uses are grouped with multi-family uses. He said making the change in our zoning would bring the bylaw in line with the State definition of multi-family which is four units and up.

Ms. Nelson said the two-family and three-family uses could be merged.

Mr. Higa asked how we differentiate between three units where the third unit is larger than an ADU. He said it might be a good idea for multi-family to be 4-8 units but how is it differentiated between a two-family with an ADU or a three-family.

Ms. Nelson said we need to look at it to see what needs to be modified.

Mr. Fick said he is in favor of this. He said he doesn't think a three-family should be allowed to have an ADU. He said allowing multi-family units in residential neighborhoods can change a neighborhood.

Ms. Nelson said a single family home of 10,000 square feet is different than a 10,000 square foot three to four family. The intensity of use is different.

Mr. Fick said he is in favor of some type of review.

Ms. Nelson said in general the Board is in favor of taking the three-family use out of multi-family and put it in with the two-family use.

Mr. Hankin said he agreed with Mr. Higa that there is a difference between two-family with an ADU and a three-family.

Ms. Nelson said the units under three may need more performance standards. We will need to set a minimum threshold to require SPR.

Mr. Pachano said a three-family in one building is looked at differently in the building code than a one/two-family. He said the changes need more thought.

Ms. Nelson said she appreciated the point.

Mr. Pachano said he is not sure if it is a relevant move to make the change with a three-family use.

Mr. Fick asked if a three-family is treated differently than a two-family.

Mr. Rembold said under zoning act the three-family use is not within the State's definition of multi-family. He said Chris Brown from BRPC made the distinction at the last meeting. He said the zoning act also treats one and two-family uses differently than three-family uses. He said the zoning act places the three-family in the mid-range of permissions.

**FINANCIAL STRATEGIES AND STAFF CAPACITY:**

Ms. Nelson said there have been discussions about financial ideas that are not in this Board's purview. We could make recommendations to the Selectboard, the Community Preservation Committee and the Great Barrington Affordable Housing Trust.

Mr. Rembold said it is important to keep the ideas relevant for consideration such as encouraging property owners to rent their properties long term instead of short-term rentals. He said there are different ideas that could be brought to the attention of other boards and committees. He said he could prepare a memo for the Board's consideration.

Mr. Pachano said he would like to have key members in place before sending a memo. He said it might be beneficial to have a model bylaw ready for the other boards and committees to think about before implementing.

Ms. Nelson asked Mr. Rembold if BRPC would be available to help flesh out items for consideration.

Mr. Rembold said yes.

**BOARD & SUBCOMMITTEE ISSUES & CONCERNS:**

Mr. Pachano said he would like to have a discussion about the types of residential uses that are allowed. He said Windflower, for example, wanted to have boarding for workers. The bylaw limits how many boarders. He said there are different types of habitation allowed.

Mr. Fick said he has a question about 8.1.1 and 8.2 (two-family on a single lot). He said he doesn't think the bylaws are clear about two principal dwellings on a lot is considered a two-family use.

Ms. Nelson said she would make a note to clarify.

Mr. Higa said the CPC did not reorganize. There will be a discussion for revising the plan on August 23, 2022.

**TOWN PLANNER'S REPORT:**

Mr. Rembold said he doesn't have much to report. He said there is nothing pending for the August 11 meeting. He said Habitat for Humanity will hold a community meeting for the North Plain Road housing site on August 11 at 5:00. He asked suggested starting the Planning Board meeting later so people who want to attend can do so.

Mr. Hankin asked if a joint meeting has been set with the Affordable Housing Trust.

Mr. Rembold said not yet.

Ms. Nelson said she will reach out.

**CITIZEN'S SPEAK TIME:**

Eileen Mooney said the invitation for the Habitat for Humanity meeting says the meeting is in Housatonic at Housatonic Real Estate from 5:30-7:30. People can drop in at any time.

Having concluded their business, Ms. Nelson adjourned without objection at 7:33 P.M.

Respectfully submitted,

*Kimberly L. Shaw*

Kimberly L. Shaw  
Planning Board Secretary