

## PLANNING BOARD

DATE: October 13, 2022

TIME: 6:00 P.M.

PLACE: Hybrid In-Person/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.

With the exception of Mr. Higa, who participated remotely, the Board and Ms. Shaw met in person at the Town Hall.

Ms. Nelson called for roll call attendance:

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

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

There were no Form A's

### **MINUTES: SEPTEMBER 22, 2022**

Mr. Hankin made a motion to approve the minutes of September 22, 2022 as amended, Mr. Fick seconded.

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

### **COMMON DRIVEWAY: EAST MOUNTAIN ROAD**

The Board discussed a common driveway permit submitted by Steven Yang and Katy Lee for a common driveway, beginning at 21 East Mountain Road, to serve three dwelling units on East Mountain Road.

Attorney Charles Ferris was present to discuss the permit on behalf of the applicants. Mr. Ferris said East Mountain Road is a private road with a Home Owners Association. He said there was no bylaw when the road, off of East Mountain Road, was created but the road has been used as a common driveway. He said the first 200 feet of the road is paved, the rest of the road is gravel.

Mr. Ferris said the benefits of using the existing right of way are significant. He said between the two roads there is a significant incline of about 100 feet making it more difficult for emergency

vehicles to access the lots. He said more cuts into the hill is more of an impact on the environment.

Mr. Hankin asked what the turning radius is of the cult-de-sac at the end of the right of way/common driveway.

Mr. Ferris said he doesn't know what the turning radius is but it is fairly big.

Ms. Nelson asked if the Fire Chief drove around the cul-de-sac when he looked at right of way.

Mr. Ferris said he didn't know. He said it is wide enough for a truck. He said the right of way is a 14 feet wide gravel road with grass on the sides.

Ms. Nelson said there are three dwelling units served by the road with 5 other building lots.

Mr. Ferris said we are requesting for the common driveway to serve three dwelling units. He said we are not seeking the maximum use allowed by the bylaw. He said the application meets the criteria for three houses.

Ms. Hankin said currently there are two houses being served by the road.

Mr. Ferris said yes. He said one more dwelling will be served. He said there is another lot at the far end of the driveway. He said if another house goes in there, it would need to be a modification of the easement and additional permits.

Ms. Nelson asked Mr. Ferris to make sure the applicant understands there could be three units per lot equaling 9 units. She said the build out of all five lots would be a potential maximum of 15 units.

Mr. Hankin said the revised common driveway bylaw addresses the number of dwelling units.

Mr. Rembold said the revised bylaw eliminated the reference to lots. He said the bylaw only addresses units.

Mr. Ferris said East Mountain Estates restricts the use to single family homes.

Mr. Hankin read the bylaw. He said the bylaw still refers to three lots up to nine units.

Mr. Rembold said he sees the language. He said he will look into it. He said there must have been an oversight.

Mr. Hankin said the incline is very steep between the road and the right of way/common driveway. He said accessing the lots from the road would be very difficult.

Mr. Fick asked how long the common driveway would be.

Mr. Ferris said he thinks it is about 800 feet long.

Mr. Fick said the design standards limit the length to 1,000 feet.

Mr. Rembold said for three units the basic driveway standards apply.

Mr. Pachano said the covenant agreement does not list lot 11.

Mr. Ferris said the existing deeded easement has access from East Mountain Road. He said the lot only uses the apron portion of the driveway.

Mr. Pachano said even if the lot uses the apron it is using the common driveway.

Mr. Rembold said there is no unit on that lot. He said it appears that the language for the number of units was struck out in the revised bylaw. He said it is not relevant to this application. He said we will fix it.

Mr. Rembold said the application is compliant with the new bylaw. He said the common driveway has been reviewed by the Fire Chief and the Police Chief. He said it was determined to be ok as it exists and will meet the requirements.

Ms. Nelson suggested there be a pull out at 500 feet to allow cars to pass especially when there are emergency vehicles on the driveway. She said in New York it is common to require a pull out every 500 feet.

Mr. Ferris said there are driveways off the common driveway. He said the driveway apron is 15 feet wide. He said there would have to be further review by the Conservation Commission to make a pull out.

Mr. Rembold said it is a good point but the Fire Chief didn't raise the issue.

Mr. Fick made a motion to approve the application, Mr. Hankin seconded.

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

## **CHAPTER 61/RIGHT OF FIRST REFUSAL: 200 NORTH PLAIN ROAD**

The Planning Board reviewed the application for 79 acres of land located at 200 North Plain Road to be released from Chapter 61. The Town has the right of first refusal for land being released from Chapter 61. The Board will make a recommendation to the Selectboard.

Attorney Kathleen McCormack was present on behalf of the applicant. She said her client wants to sell a 79 acres parcel. The parcel will remain in Chapter 61 but the Town has the right of first refusal.

Glen Bergman from Berkshire Agricultural Venture commented that he believed the land will be farmed by others and will remain in conservation.

Ms. McCormack said the land is being conveyed based on it being in Chapter 61. She said the request is for the right of first refusal to be waived.

Mr. Fick made a motion to send a recommendation to the Selectboard to waive the right of first refusal, Mr. Hankin seconded.

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

## **SITE PLAN REVIEW: 343 MAIN STREET**

Mr. Higa recused himself from the discussion. He turned off his video and sound.

Applicant Ian Rasch was present to discuss the SPR for 343 Main Street, LLC. for the renovation and change of use of a commercial building to mixed use at 343 Main Street.

Mr. Rasch said the original submittal in April of 2021 was for a health and wellness center that included office space for CHP and VIM. He said the plans have been scaled back. He said there is a need for housing so we are excited to change to a different program. Mr. Rasch said not much has changed from the original SPR that was submitted. He said the landscaping is the same. He said there is less parking. He said the drainage issue resulted in the plantings and trees being moved out of the easement.

Mr. Hankin asked how many housing units will be in the space.

Mr. Rasch said there will be thirteen apartments and two retail spaces.

Mr. Fick said it is almost the same.

Michael Valenti, the architect for the project, said it is located in the B-2 zone as well as the VCOD and the WQPD. He said the impervious area will be reduced by 7%. He said the original SPR had 41 parking spaces. The revised SPR has 39 parking spaces. He said the original plan was to replace the egress stair located on the east end of the building. He said there is an interior egress so there is no longer any need to restore that exterior stair.

Ms. Nelson asked about a right of access.

Mr. Valenti said there is an access easement in the area of the Town's drainage easement.

Ms. Nelson asked if the access easement is the same as the drainage easement.

Mr. Valenti said yes. He said the drainage easement runs along with the access easement.

Ms. Nelson asked about lighting on the site.

Mr. Valenti said there was a light located in the easement that has been moved. He said he printed out the lighting specs. He gave the specs to the Board members. He said the lights will be Dark Sky compliant. The specs show the color temperature to be 2700k.

Mr. Rembold reminded the Board that the light poles were reduced to 20 feet in height during the last SPR discussion.

Ms. Nelson asked if there were any other questions. There were none. Ms. Nelson read 10.5 SPR criteria.

Mr. Hankin asked about the parking configuration. He said cars will cross the crosswalk in the parking lot. He said it is not ideal to send all of that traffic across the crosswalk that goes to the entrance of the building.

Mr. Rasch said there are two ways to enter the building.

Ms. Nelson said the crosswalk is well lit.

Mr. Pachano said this is not a public building and the entrance off the parking lot is a back entrance.

Mr. Valenti said the circulation is what currently exists.

Mr. Rembold said it is slow movement.

Mr. Valenti said there will be fewer trips per day because there is no business use of the parking lot.

Ms. Nelson said she is ok with it. She asked if there are any conditions.

Mr. Rembold said conditions from the last SPR have been satisfied.

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

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

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

Mr. Rembold said he doesn't have anything new. He said the Stockbridge Road efforts will try to be advanced this year. He said the discussion of the Stockbridge Road zoning evolved from language put forth by Mr. Pachano. He said the effort is to create more housing through increased density.

Mr. Rembold said the proposal would be an extension of the B2X zone that currently extends from the bridge to Belcher Square. He said the B2X zone allows for mixed use, reduced setbacks and less parking. He said the Planning Board discussed extending the zone to Stockbridge Road. He said additional height and density bonuses would be part of the Stockbridge Road portion of the zone.

Mr. Rembold concluded that the discussion hasn't advanced since the previous discussion.

Ms. Nelson said BRPC gave some projections. There will need to be some changes to the Table of Uses. She said there were concerns about the residential zone to the east having a buffer. She said when we discuss the possibility of a five story building there needs to be a potential buffer to mitigate the impact on the neighborhoods on the east side. She said she would like to see growth in that corridor.

Mr. Hankin pointed out that there is already an effective height restriction in our zoning with a 45° angle starting from the ground at the setback line on the residential properties.

Mr. Fick said this zoning could be one of our big items for this year. He asked when the language needs to be finalized.

Mr. Rembold said there isn't much scheduled for the next meeting. He said the meeting could be focused on zoning. He said the Board should try to finish substantial discussion in January.

Ms. Nelson said she is not sure the language needs a lot of work. She said we need to study how the language and get information out to the public.

Ms. Nelson said there are four or five smaller housekeeping items. She asked if the items are small enough to be procedural.

Mr. Rembold said some amendments have already been discussed such as the three family use of a single lot. He said it is easy to read and could potentially generate some discussion.

Mr. Pachano said we need to discuss incentives such as affordability, child care facilities and affordable housing to allow the height and density bonuses.

Mr. Rembold said the other topic to discuss is alternative residential types such as dormitories and shared living arrangements (single room occupancy). He said he hasn't prepared anything for the discussion.

Ms. Nelson asked if there has been any external interest.

Mr. Rembold said yes there has been some interest. He said it would be beneficial to pursue. He said maybe the interested developers could come in for a discussion.

Mr. Hankin said he thinks Construct is purchasing Windflower for effectively single room occupancy housing.

James Garzon from 84 North Plain Road requested a list of items already permitted or under consideration. He said he is aware of 148 Maple Avenue, Windflower and Searles School. He asked if a comprehensive list could be provided for what is in the pipeline in Town. He also gave kudos to Tate for his work on micro-transit.

Ms. Nelson asked if the Housing Needs Study would be a good resource for a list of projects.

Mr. Rembold said the study would establish a good baseline. He said the Selectboard, in response to the Planning Board letter to provide recommendations for next steps, lists what is happening in Town. He said there needs to be a list with strategies to provide other boards with what is being done and who is responsible. He said a lot has been done.

Ms. Nelson asked if there is pressure for single room occupancy. She said maybe Construct can come in for a discussion this winter.

Mr. Higa suggested having the CDC of South Berkshire and Berkshire Housing to have an affordable housing discussion to see if we are on track with their vision.

Mr. Rembold said we want to respect everyone's time.

Mr. Higa suggested they could go to the Housing Subcommittee.

Mr. Fick agreed they could attend a Housing Subcommittee meeting.

Mr. Rembold said he could try to coordinate with all boards and committees under the direction of the Selectboard to staff.

Mr. Pachano said he will have a discussion with Mr. Rembold about the discrepancies between the bylaws for lodging houses and transient housing that are not defined and the conflicts with the State Building Code.

Mr. Rembold said Town Counsel advised that lodging and boarding houses have definitions in State law. He said if the Board changes the definitions in the bylaw they could be in conflict with State law. He said he will look for his notes.

Mr. Pachano said he will go through his notes.

Ms. Nelson asked if you have text please share.

Mr. Pachano said to Ms. Nelson that he is aware she has a problem with the SRO alternative. He said it is common across the country.

Ms. Nelson asked for language about SROs. She said everything she read was about providing housing for the unhoused.

Mr. Pachano said he feels the zoning is irrelevant because it has been dealt with in the Building Code.

Mr. Higa suggested the zoning doesn't address it so it is not allowed. He said there will be people going against the housing but we need to look at.



Ms. Nelson said there are two issues. She said the information she could find was all around shelter type housing. She said she is sensitive to the fact it will get a lot of interest from the public. She said Mr. Rembold will investigate.

Mr. Fick asked if we could get definitions on how we are going using the terms. He said we need to ask ourselves what it should be. He said we can use this as a starting point to figure out where we stand and where we want to go in the future.

Ms. Nelson suggested putting Mr. Pachano's notes together with comments from Town Counsel.

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

Mr. Fick said the Housing Subcommittee will meet Tuesday. He said a spreadsheet has been created with the issues we are aware of.

Mr. Rembold said the Housing Trust meets Tuesday night.

Mr. Hankin said he brought up at the last Housing Subcommittee that short terms rentals, prohibited by the approved STR bylaw, should be allowable for tenants.

Ms. Nelson asked if there are any citizen petitions to change the STR bylaw.

Mr. Pachano said that it might be irrelevant as the Building Code is going to change in January. It will address STRs.

Mr. Hankin said we won't need the STR bylaw.

Mr. Pachano said the Building code will be more restrictive than what we have. He said the new Building Code addresses STR. He said he will report back at the next meeting. He said he will check to see if there are any amendments.

Mr. Rembold asked why it is so different.

Mr. Pachano said the bylaw will conflict with the State law because the State law is more restrictive and it will govern.

Mr. Rembold said he doesn't think it will govern. He said there might not be a conflict. He said if the STR is not owner occupied it will have to meet hotel requirements such as exit signs, sprinklers and handicap accessibility.

Mr. Fick said we will need more information on how the two laws will conflict.

Mr. Pachano said it raises questions about what our bylaws allow and what the Building Code allows.

Mr. Higa said there is an addition to the CPC calendar. He said on November 1 at 5:00 PM the CPC will review the changes to 343 Main Street. He said that project was given a grant in the last cycle. He added that the step one applications will also be reviewed at that meeting.

Mr. Rembold said the agenda for that meeting has not yet been set.

Ms. Nelson said Mr. Pachano drafted a letter regarding Housatonic Water Works. She said she thought it was on the agenda but it didn't get on. She asked that it be put on the next agenda.

Mr. Rembold said the Selectboard will discuss Housatonic Water Works on October 17 at 4:30 PM.

**TOWN PLANNER'S REPORT:**

Mr. Rembold said the next meeting will be devoted to housing discussion.

Mr. Rembold said November 10 meeting will have a special permit application from Barrington Brook to amend their open space plan.

Mr. Rembold asked if the Board wanted a second meeting in November.

The Board discussed a possible second meeting in November tentatively agreeing on November 22 at 6:00 PM.

**CITIZEN'S SPEAK TIME:**

No one spoke.

Having concluded its business, Ms. Nelson adjourned the meeting without objection at 7:43 PM.

Respectfully submitted,

*Kimberly L. Shaw*

Kimberly L. Shaw  
Planning Board secretary