

PLANNING BOARD

DATE: September 14, 2023

TIME: 6:00 P.M.

PLACE: Zoom Meeting

FOR: Regular Meeting

PRESENT: Brandee Nelson, Chair; Pedro Pachano; Jonathan Hankin; Malcolm Fick
Jackie Kain, Associate Member

Ms. Nelson called the meeting to order at 6:01 P.M. She read the opening statement. She said the meeting was being recorded. Ms. Nelson also read Section 241-1 of the Town Code.

Roll call attendance: Mr. Pachano, present; Ms. Kain, present; Mr. Fick, present; Mr. Hankin, present; Ms. Nelson, present

Mr. Higa and Mr. Rembold were not present as they were attending another meeting.

FORM A PLANS: BLACK WATER REALTY

Brian Koczela was present from BEK Associate Land Surveyors for two parcels of land located at 35 Silver Street. Lot 1 contains 3.187 acres of land. Lot 2 contains 1.49 acres of land.

Mr. Koczela said the plan meets frontage and area requirements. Lot 1 has 298 feet of frontage. Lot 2 has 125 feet of frontage.

Mr. Hankin said lot 2 needs 150 feet of frontage.

Mr. Koczela said the lot has the width.

Mr. Hankin said it needs the width at the building setback line.

The Board continued discussion of the frontage requirements, agreeing that Lot 2 needs 150 feet of frontage. The Board asked him to adjust the line and come back,

Mr. Koczela said he would return with the revised plan.

MINUTES: AUGUST 24, 2023

Mr. Hankin made a motion to approve the minutes of August 24, 2023 as amended, Mr. Fick seconded.

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

MASTER PLAN REVIEW:

Ms. Nelson said the Master Plan is 10 years old. There are tasks listed for boards. There listed tasks include 42 for the Planning Board, 17 for the Selectboard and 14 for the Historic District Committee.

Ms. Nelson said the Board has made a lot of progress over the last couple of years with tasks. She said we need to take stock of where we are and where we want to go with other boards and commissions. She said it would be helpful to find out where they are with their list of tasks. She said she thinks we need to take stock now.

Mr. Fick said there are 80 action items in the Master Plan. He said he isn't sure that the Board can go through all 80 in a meeting. He suggested we ask other boards what they have looked at. He said he knows that the HDC hasn't looked at any items. Mr. Fick is on the HDC.

Ms. Nelson suggested Mr. Fick have the HDC begin looking at the tasks.

Ms. Kain suggested looking at what tasks have been done and what needs to be done as well as what doesn't need to be done.

Ms. Nelson suggested the Board members attend other board and committee meetings to introduce the Master Plan tasks and discuss how to implement them.

Ms. Kain said the idea lines up with the individual listening sessions that were discussed with the Selectboard. She said after the Town boards have been addressed then there can be outreach for businesses. She said we need information from other boards and committees to align ourselves.

Ms. Nelson it would be good if we could report to the ATM where we stand with implementation of the Master Plan. She said she expects the work will take several months.

Ms. Nelson asked Mr. Hankin for his opinion about the suggestion. She said she values his opinion.

Mr. Hankin said he thinks this is a reasonable approach.

Ms. Nelson asked about the older Master plan.

Mr. Hankin said it is so old we shouldn't spend much time on it.

The Board made a list of boards and committees for the members to contact to be on their meeting agendas.

Historic District Commission and the Historic Committee—Mr. Fick
Tree Committee—Mr. Pachano
Agricultural Committee—Ms. Nelson
Conservation Commission—Mr. Pachano
Cultural Council—Ms. Kain
Parks and Recreation—Ms. Nelson
Council on Aging—Mr. Hankin
Town Staff items—talk to Mr. Rembold
Selectboard—Ms. Nelson

Ms. Nelson said we can discuss with Mr. Rembold about engaging Town Staff. She said we can also talk to Mr. Rembold about the orphan items of energy and economic development to see how to handle those items.

Ms. Nelson said we can share the task list with the other boards and committees.

Mr. Fick said if he can get a spreadsheet he can create a document that can be sorted. The tasks for each board or committee can be sorted by each group.

Ms. Kain asked about the Board's list.

Ms. Nelson said she looked at the Board's list and she thinks we are getting through it. She said our tasks can be sorted when the spreadsheet has been created.

Ms. Kain suggested putting a template letter together so we are all on the same page.

Ms. Nelson said we will get the list to what needs to be looked at. She said we want to make sure no one is overloaded.

INDUSTRIAL ZONES:

Mr. Pachano said his interest in looking at the Industrial zones came when we reviewed the marijuana processing proposal on VanDeusenville Road and then recently when we reviewed the application for a marijuana processing use on South Main Street. He said some uses are compatible with what is surrounding them.

Mr. Pachano said without oversight, any I zone can take hazardous waste according to state law. It can't be over ridden. He said I zones can also be a place for solid waste. He said solid waste can be regulated but we don't have any regulations. He said we have islands in the middle of residential zones that could have dumps.

Mr. Pachano said he went through the bylaw and how it pertains to jobs.

Ms. Nelson said we have to be careful about saying just because it is an I zone it is a potential site for hazardous waste. She said there are other regulations that pertain. She said she doesn't want to see people leaving thinking a hazardous dump can just go in.

Mr. Pachano said instead of removing uses the uses can be moved into other zones. He said there are inconsistencies with housing in the I zones.

Ms. Nelson shared the zoning map on the screen so the Board could look at the zones from Housatonic to Sheffield. She said we should connect the inconsistencies with housing.

Mr. Pachano said there are not a lot uses that are incompatible with the B and B2 zones. He said he thinks we need to look at the uses.

Ms. Nelson said it should be a relatively easy task to connect housing permissibility to the I zones. She suggested the Board do an assessment of the I zone vs. the B zone. She said we don't want to create non-conformities.

Mr. Fick said he thinks housing in the I zones should be eliminated altogether. He said one problem with the I zones is they are near residential areas. He said the housing should be restricted or don't have any I zones.

Ms. Nelson said she would like to bring Mr. Rembold into the discussion as he may have some good input.

Mr. Pachano said some of the I zone uses could be obnoxious to adjacent uses and allowing housing in the I zone could be objectionable to uses allowed in the I zone.

Ms. Nelson said it could be hard to throw out the zone.

Mr. Pachano said there is very little developable land left. He said there are areas in the I zone that could be developed.

Mr. Fick asked how does creating more land for housing solve the affordable housing problem.

Ms. Nelson said it is complicated. She suggested carrying the discussion over to the next meeting. She said she would send an email to Mr. Rembold for consideration of reassigning uses in the I zone and looking at inconsistencies regarding housing. She said there also needs to be change in the ~~text~~map to remove an APR parcel on North Plain Road from the I zone.

Ms. Kain asked about the Sustainable Berkshires exercise done by BRPC. She said there are some differences with the Master Plan.

Mr. Fick said the Town's Master Plan is very specific.

Ms. Kain asked if BCRP's review dovetail with our review. She said BRPC did their exercise in 2019. She said she doesn't remember hearing anything more about it.

Mr. Pachano said he didn't know what Ms. Kain was talking about.

Ms. Kain suggested looking at BRPC's website.

[https://berkshireplanning.org/wp-content/uploads/program_documents/brpc_initiative/sustainable-berkshire-regional-plan-adopted/default/Sustainable Berkshires - Executive Summary - Complete.pdf](https://berkshireplanning.org/wp-content/uploads/program_documents/brpc_initiative/sustainable-berkshire-regional-plan-adopted/default/Sustainable_Berkshires_-_Executive_Summary_-_Complete.pdf)

<https://berkshireplanning.org/initiatives/sustainable-berkshire-regional-plan-adopted/>

Mr. Fick said he will look into it.

Ms. Nelson said she will send the links to everyone and asked that they be included in the minutes.

Ms. Kain said it is amazing that it happened and we aren't talking about it.

Ms. Nelson said she would like to know if it will be implemented.

HOUSING OPPORTUNITIES DISCUSSION:

Mr. Pachano said he produced a summary with building code requirements. He shared the document. He said he thought it would be helpful to show how the building code deals with congregate living. He said that congregate living for the elderly is allowed anywhere.

Mr. Pachano said it is important to address as there is already one congregate living house (Windflower Inn) that is operating under a special permit. He said there is no avenue for further organizations to do projects legally without a special permit.

Mr. Pachano said historically congregate living has existed in every part of the world. He said congregate living got a bad reap in New York City. He said it is being done here by organizations in the community. He said congregate living is on par with the building code.

Mr. ~~Rembold~~ Pachano said that the R-1 zonusee allows congregate living that is more transient in nature. He said in the R-2 zone-use, it is more permanent. He said the definition of lodging house in the bylaw shows congregate living in a non-transient nature.

Mr. Hankin said there are group homes in the community. He asked about house sharing.

Ms. Nelson asked if we need to do anything with this information.

Mr. Hankin said he didn't know.

Mr. Pachano said congregate living provide sleeping and eating areas.

Ms. Nelson said we need to assess if congregate living is appropriate to bring into our code. She said we need to decide if the use can be allowed in certain situations.

Mr. Pachano said he wants to allow the use.

Mr. Hankin asked if the occupancy trigger could be done away with.

Ms. Nelson said it sounds reasonable.

Ms. Kain agreed.

Mr. Fick said he is in favor of it. He said when he did a search he came up with problems like frat houses He said we need to keep an open mind about potential problems.

Ms. Nelson said she will talk to Mr. Rembold about putting a list of zoning items together for the next ATM. She said she will have this added to the next agenda.

BOARD & SUB-COMMITTEES/ISSUES & CONCERNS:

Mr. Hankin said he sent out research he did for the last meeting. He said a reviewed the cost of land cost for housing units ~~and land cost~~. He said the developers of the North Plain Road project are spending 6 times per unit in land cost compared to the Town buying a parcel at a median price and putting 3 units on it.

Ms. Nelson said we recommended higher density for that development but the Selectboard knocked it back.

Mr. Fick said the Selectboard had an agreement with the neighbors.

Mr. Hankin said it was not a legal agreement.

Ms. Nelson said we know a development has to have a balance for all. She said there is a need for housing so we need the most density. She said she is resigned to the approved 20 units. She said 20 units is better than zero units. She said she absolutely would like to see 30 or 40 units.

Mr. Hankin said they have to come to the Planning Board for approval of the PURD. He said the project is not a PURD, it is a subdivision. He said it should be processed as a subdivision. They can divide the lots off and reserve the remainder.

Ms. Nelson said she agreed she would like to see higher density.

Mr. Pachano said the housing has been made more expensive than it should have been. He said he thinks everyone should be made aware of the information.

Mr. Hankin said it is crazy that the project will get \$3.2 million infrastructure grant. He said he heard there was a law suit regarding the plans.

Ms. Nelson said she heard there was a delay but she was not aware of a law suit.

Mr. Pachano said he had three items. He said in response to the I-2 and hazardous waste zone, licensing is needed. He said there could be a hazardous waste site on a waterway in Lee. He said we have to consider that this is happening.

Mr. Pachano said he is appalled that no one from this Board was invited to the meeting held at the Town Hall where affordable housing was discussed.

Mr. Pachano said the dermatologist building on State Road is terrible. The applicant should have to come back to the Board. He said the builder has turned the building's back to the street, in conflict with the SPR approved plan.

Ms. Nelson said Mr. Rembold has to be congratulated for securing funds for Lake Mansfield.

Mr. Pachano said he attended a Tree Committee meeting. He said he agreed to send approval²s to the Tree Committee when there is reference to trees being planted on Route 7. He said he saw that Guido's planted some trees.

Ms. Nelson said she saw that too. She said it looks good.

Mr. Fick said BRPC is holding its annual meeting on October 5 at the Berkshire Hills Country Club. He said the speaker will be Anne Cobi. He said more people need to sign up. He asked the Board members to attend. He said the discussion will be world affairs.

CITIZEN'S SPEAK TIME:

No one spoke.

Having concluded its business, Ms. Nelson adjourned without objection at 7:36 PM.

Respectfully submitted,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary