

PLANNING BOARD

DATE: December 14, 2023
TIME: 6:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Brandee Nelson, Chair; Pedro Pachano; Jonathan Hankin; Malcolm Fick
Jeremy Higa
Jackie Kain, Associate Member, via Zoom
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. She said the meeting was being recorded. Ms. Nelson also read Section 241-1 of the Town Code.

Ms. Nelson called for roll call attendance because Ms. Kain was present via Zoom.
Mr. Higa, present; Mr. Pachano, present; Mr. Hankin, present; Mr. Fick, present; Ms. Nelson, present; Ms. Kain, present via Zoom.

FORM A PLANS:

There were no plans submitted.

MINUTES: NOVEMBER 30, 2023

Mr. Hankin made a motion to approve as amended, the minutes of November 30, 2023, Mr. Fick seconded, all in favor.

HOUSING OPPORTUNITY DISCUSSION:

Ms. Nelson said there was discussion at the last meeting of the proposed language and with two non-profits who operate congregate living facilities. She said the discussion was very interesting. She thanked Mr. Pachano for arranging for June Wolfe from Construct and Eileen Peltier from Berkshire Housing to be present.

Mr. Fick said he thought the term congregate living should be dropped. He said the term co-housing should be used instead. He said he Googled the terms and found they are very different.

Ms. Nelson said Mr. Pachano built the language for congregate living from the Building Code.

Mr. Pachano said he didn't have a problem changing the name but there is a difference.

Mr. Hankin asked if there would be State funding if our language is not in compliance with the State language.

Mr. Pachano said the non-profits used the term co-housing.

Ms. Nelson asked if the International Building Code, IBC, defined co-living.

Mr. Pachano said it does.

Ms. Nelson said the previous discussion of live in managers and storage was interesting. She said some design standards would be beneficial to have in place.

Mr. Hankin said the discussion of the minimum size for units was also interesting.

Mr. Pachano said the intent of having minimum size units was to maximize the habitable number of units.

Mr. Higa said reusing buildings might be a lot more work.

Mr. Hankin said or have to add a kitchen.

Mr. Higa said or have to split a room.

Mr. Pachano said the reference to size can be eliminated.

Ms. Nelson said if you want to build new there could be a floor with single rooms. She said there could be a lot of discussion about building. She said a minimum of a half bath would be desirable.

Mr. Higa said Thornewood Inn has some rooms with a bathroom across from the room.

Mr. Fick said design standards can be overridden by a special permit.

Mr. Higa said he likes the idea of conversion with standards then if there is a deviation from the standards a special permit could be applied for.

Mr. Fick asked why there would be two standards.

Mr. Higa said a conversion could be more difficult. He said he thought it should be up to the developer to decide on size.

Mr. Fick said he is concerned about abuse of the bylaw. He said a developer could chop up a building into small units and walk away.

Mr. Pachano said a high limit doesn't make sense but maybe a low limit would make sense to provide a level of dignity for people.

Mr. Higa said the CPC reviewed the plans for the Thornewood Inn. He said there will be 1 person and 2 person rooms.

Ms. Nelson said she thinks there should be a half bath at a minimum.

Mr. Higa said what if there was a school conversion. He said it might not be easy to provide the bathrooms.

Ms. Nelson said we will deal with it when it comes up.

Mr. Pachano said maybe we should be careful not to over regulate. We can expect people who want to engage in this type of housing to be creative.

Ms. Nelson said she is concerned about unsanitary conditions.

Mr. Hankin said the use is short term.

Ms. Nelson said that is not what she has heard. She said Ms. Wolfe said the target is for seasonal workers with a 30 day renewal cycle.

Mr. Fick said Thornewood Inn would be a daily or weekly rental.

Mr. Rembold said he is not sure it will be that short term. He said seasonal workers could have a shorter term tenancy. He said it would be more transient.

Mr. Pachano said in his conversations with Ms. Wolfe he was surprised to learn how short term the stays would be.

Mr. Higa said Thornewood would be temporary housing for workers while they look for housing.

Ms. Nelson asked if we could modify the language for minimum room size and no kitchenette. She said she still thinks a bathroom should be required.

Mr. Pachano suggested language such as if the space is larger than 375 square feet some facility would be provided.

Mr. Rembold said he is not sure that language belongs in a zoning bylaw.

Mr. Pachano said in the IBC congregate living has all shared facilities.

Mr. Rembold said the Board needs to decide if the housing would be by-right or by special permit. He asked if there will be design standards for the use.

Mr. Fick suggested that non-profits could be given a special status.

Mr. Rembold said there is a section in the bylaw for non-profits.

Mr. Fick said the use for non-profits could be by-right and by special permit for others.

Mr. Rembold said that could be tricky if the housing is publicly financed.

Ms. Nelson said the reasonableness of a management plan is a good idea.

Mr. Fick said if the use is by-right it can't be denied.

Mr. Pachano said the point of the zoning is for information to be provided.

Mr. Fick said a developer doesn't have to listen to us if the use is by-right.

Ms. Nelson said a management plan with specific criteria needs to be added to the language.

Mr. Pachano said he will make some calls.

Ms. Kain said she likes the bathroom requirement but the plan needs to be simple.

Mr. Rembold asked Mr. Pachano to follow up on how the co-housing is different from dormitories or sorority houses. He asked how the other two are defined and how much different they might be from what we are talking about. He said dormitory and sorority housing can be problematic for towns.

Mr. Hankin said there are so many drafts.

Ms. Nelson agreed. She said we need a fresh draft to review. She suggested a draft could be prepared for the January 11 meeting.

Mr. Fick asked if there are any other bylaw issues.

Mr. Rembold said he would like the Board to look at lighting standards. He said the light pole height is too short. He said suggested the standards could be tweaked for historic integration.

Mr. Fick said last year there was discussion of design standards to get away from the special permit process.

Mr. Higa said the Housing Sub-Committee will push for multi-unit housing to be by-right,

Mr. Higa said Sam Nickerson attended a Housing Sub-Committee meeting. He said he prefers to build housing units that are allowed by-right because of the uncertainty of the special permit process.

Mr. Pachano said he sent an email with a memo to discuss by-right housing with Steve Bannon, Chair of the Selectboard.

Ms. Nelson apologized for not seeing the email. She said she thought from her discussion with Mr. Bannon that there would be discussion on the permit granting authority. She said there needs to be an agenda item for discussion.

Ms. Nelson said we previously discussed multi-family use in certain zones by-right.

Mr. Pachano said Route 7. He said there could be an overlay district.

Ms. Nelson asked if there are design standards proposed. She said we have to figure out what it will look like in the community.

Mr. Pachano said it is a complex issue. He said there is nothing more important for us to work on.

Ms. Nelson said we need to be prepared to explain what it looks like. She said she wants to understand what the process looks like. She said what does it mean to give a free pass to build multi-unit buildings.

Mr. Pachano said it is simple. Just look at the bylaw and get a building permit.

Ms. Nelson said we already have density, height requirements, landscaping and parking requirements. She said by-right would mean that as long as the plan complies with these items the developer could get a building permit.

Mr. Pachano said yes.

Mr. Rembold said last year there was a half-step approved allowing 20% by-right in the B-2 zone. This would be a full step.

Mr. Pachano said he saw last year as a compromise.

Mr. Rembold said we couldn't get by the design standards.

Mr. Pachano said he is working with someone who is looking at 6 properties for development. He said by-right is important.

Mr. Fick said we have a housing problem because we have a wealth problem. He said the middle-class can't aspire to own a single family home. He said we can't solve the problem. We can make it easier to build multi-unit buildings but the problem is everywhere.

Mr. Pachano said Ms. Wolfe will tell you that the Town has had a housing problem for 100 years. He said it is not a recent problem.

Mr. Hankin said the solution is not to just build affordable housing but build all types of housing.

Ms. Nelson said the Board has focused on a variety of housing for the last 7-8 years. She said we can only set the table.

Mr. Pachano said that is what I am trying to do.

Ms. Nelson said there are a lot of forces driving what is happening.

Mr. Pachano said he is working with developers and finding that the zoning isn't clear about whether something can be done without a special permit. Developers won't build if a special permit is required.

Mr. Hankin asked what value a special permit actually has. He said it isn't automatically a good thing.

Mr. Pachano said he would like to put the bylaw before the Town. If it is rejected he will accept it. If the zoning bylaws are good enough then let's put it forth.

Ms. Nelson said she isn't a fan of putting things forward that won't pass.

Mr. Higa said he agrees with Mr. Pachano that we need to move this.

The Board will continue this discussion.

BERKSHIRE DIGITAL EQUITY:

Wylie Goodman was present from BRPC to discuss Digital Equity in Berkshire County.

Mr. Rembold the Ms. Goodman has two documents about the State's Digital Equity plan. He said the documents didn't get sent prior to the meeting. He said any comments the Board may want to make can be sent individually.

Ms. Nelson asked Ms. Goodman to summarize the process.

Ms. Goodman said she is the Senior Economic Development Planner at BRPC. She said she is the consultant for 14 communities in Berkshire County including Great Barrington. She said she is working jointly with the 14 communities to write a joint municipal digital equity plan that will improve conditions for people in unserved and underserved communities. She said the goal will be to get people hooked up. She said there is a broad view of what will come out of the State's Digital Equity plan. She asked that everyone take the on-line survey. She said there is a digital divide between seniors, veterans, families of incarcerated individuals and rural residents.

Ms. Nelson said there is a lot of reading to do.

Ms. Goodman said there is still time to take the survey. She said tomorrow is the last day to give feedback to the State. She expects the survey will be available for a while.

Ms. Goodman said the State and municipal plans will be happening together. She said she needs everyone's help to get the word out for the survey. She said there might be 100 responses from Great Barrington.

Ms. Goodman said after the plan is handed off it will be up to the towns to follow through. She said there will be need to have someone from each community to carry out the plan BRPC worked on.

Ms. Nelson said we will work completing the survey.

Ms. Goodman said she will be in Great Barrington with new posters and paper surveys that can be left in a drop box. She asked the Board to look at the comments to see if they make sense.

Ms. Nelson asked if 5G technology is covered in the plan.

Ms. Goodman said we are not talking about 5G we are focused on Broadband.

Ms. Kain asked about privacy issues in public access areas. She asked if there will be education about privacy and security.

Ms. Goodman said the community anchor institutions such as the town halls and libraries will have the fastest speeds and very secure enterprise systems.

Ms. Kain asked if the State has a policy about security.

Ms. Goodman said she doesn't have a good answer for that. She said she will see what she can learn.

Mr. Rembold said there are a lot of people who need the internet. He said there are concerns about security in public access places. He said there could be more focus on security. He said this could be part of the comments.

Ms. Goodman said there is free WiFi in all affordable housing developments. She said there are open grants available for money for implementing the plan. The money can be applied for before a plan is in place.

Ms. Nelson asked if it was a prerequisite for money to adopt a plan.

Ms. Goodman said the funds are out there. She said she wants people to be listed on the State's asset map so they can be first in line to be considered for future funding.

Mr. Rembold provided a proposed draft to the Board. He said comments to BRPC will be critical for small towns. He said we don't have the staff to continue the work so funding will be needed to support the process. He said BRPC will help with the equity plan. He said there are areas of Town that are served by high speed cable. Housatonic missed out on getting a fiber optic upgrade. He said the money was put up to get connected but there are vast amounts of Town that were missed by the State. He said cable providers don't have the motivation to meet the need. He said there is an outline of the comments for the Board to consider.

Ms. Goodman there are many people who are under served or unserved in Great Barrington. Many people have been identified but there are others. All need to be identified so they can be put forward by MBI.

Ms. Nelson asked if there is a fact sheet or do we need to work with you? She said Ms. Kain could work on this.

Ms. Goodman said she is happy to help make specific information available for Great Barrington.

Mr. Fick made a motion to endorse the comments purposed by Mr. Rembold for the State Digital Equity Plan and have him submit the comments on behalf of the Planning Board, Mr. Higa seconded.

The Board wanted the comments sent around and proof read prior to submitting. All in favor.

Ms. Nelson asked about a moratorium on the special permit process for multi-unit development.

Mr. Rembold said he wasn't sure that would be the right approach. He said the Table of Uses could be changed to allow a by-right use in certain zones.

Ms. Nelson said a moratorium would be for a specific time.

Mr. Fick said he isn't sure what the language for a moratorium would be.

Mr. Rembold said there would be a specific amount of time a moratorium would be in place and it would require 2/3 vote at Town Meeting.

Mr. Pachano said he wasn't thinking about changing the Table of Uses because the use wouldn't be specific to a map.

Mr. Rembold said to adopt an overlay district.

Ms. Nelson asked Mr. Pachano to provide an overlay map.

Mr. Pachano said he can provide a map. He asked to have a discussion with the Selectboard to get their comments.

Ms. Nelson said the Selectboard has two meeting coming up in January. She said she will see if there can be a discussion at the January 8 meeting. She said we are already set up to discuss the

Master Plan at that meeting. She said she is fine pushing off the Master Plan discussion. She said we will have to pick up the pace if we are doing this as a zoning item for Town Meeting.

Mr. Rembold said the public hearing would have to be held by March 28, 2024.

All Board members are available for the January 8 meeting with the Selectboard.

Ms. Kain left the meeting at 7:46 PM.

MASTER PLAN REVIEW:

Ms. Nelson said she will meet with the Parks and Rec Committee soon.

TOWN PLANNER REPORT:

Mr. Rembold didn't have a report.

BOARD & COMMITTEE ISSUES & CONCERNS:

Mr. Higa said the CPC would review Step 2 applications on December 21 then vote to recommend to Town Meeting. The said there were a lot of applications and there will be a lot of sad people.

Mr. Higa said the Housing Sub-Committee met with the Great Barrington Affordable Housing Trust. He said the Trust is interested in having a larger role in housing. The Trust was encouraged to bring the interest to the Planning Board and Selectboard chairs. The Trust wants a seat at the table when housing is discussed.

Mr. Pachano said the CPC has a big ask. He said the Town has things it wants to do. The Town should look at its budget.

Mr. Fick said the CPA was "sold" to the voters as a benefit that would help with Town projects.

Mr. Higa said Town projects get preference. He said in the CPA housing has a special place.

Mr. Pachano there are documents available for the Technical Assistance Grant.

Mr. Pachano said the new building on State Road has the scaffolding down and no front door. He said it really bothers him.

Ms. Nelson said she agreed. She said she discussed it with the Selectboard. It is an enforcement issue.

Mr. Pachano asked about plans for the Town Hall campus renovation.

Mr. Rembold said it will be ready in January or February.

Mr. Pachano asked if the Planning Board will see the plans.

Mr. Rembold said yes. Planning Board will do SPR.

Mr. Fick said BRPC has a lot coming down from the State. He said there are new regulations for electric transmission lines, wind and solar. He said there may be a proposal that will override bylaws for solar placement and alternate energy sources. BRPC is on top of it.

Ms. Nelson thanked the Board for another year of hard work.

CITIZEN SPEAK TIME:

Claudia Shapiro from 78 Egremont Plain Road read the attached statement.

Ms. Nelson adjourned without objection at 8:05 P.M.

Respectfully submitted,

Kimberly L. Shaw
Planning Board Secretary



December 12, 2023 Selectboard meeting citizen speak time

1 message

Claudia Trucks <claudiatrucks@gmail.com>

~~Draft~~

Wed, Dec 13, 2023 at 6:21 AM

Claudia Shapiro 78 Egremont Plain Road for the Record

I am adding to my concerns voiced at the December 7, joint Board of Selectmen and Health meeting regarding Chapter 40A Section 9 Special Permits allowing a hazardous waste combustion facility by right in a recharge areas of surface drinking water supplies zoned Industrial if not prohibited in the zoning bylaw, that my 78 Egremont Plain Road property is in the recharge area and in state and federal compliance with including but not limited to the 2010 provisions added to the codified bylaw Water Quality Protection Overlay District for a hazardous waste facility. Unfortunately this enables the skirting of the Hazardous Waste difficult public permitting process.

Currently there is no Hazardous Waste Combustion Facility this side of Massachusetts due to the dismantling of Pittsfields Covanta and Agawams Bondi facilities last year. I am concerned this facility would include the 32 western Massachusetts cities and towns and include not just hazardous but also acute and medical waste.

Such a facility requires a Board of Health siting and I am concerned, was this accomplished when Dr. Majdalany was Board of Health Chairman and Mr. Pruhenski Health Agent? Or would it be accomplished by the current Board of Health. This is how a Koladza Great Barrington Regional Airport permitted in April and not just behind my back would sustain itself and the Town of Great Barrington will make direct monetary compensation, grants, and incentives.

I sent a record request for the report the airport is to file with the Town Manager six months after the April permitting to be told nothing received yet. On November 22, I resent the request to receive, Mr. Pruhenski and Mr. Rembold have responded "Planning/TM/Selectboard office have no documents submitted by the airport responsive to this request."

The airport has intentionally shut itself down since receiving April permits in preparation for the Plaintiffs Attorney Fasteau, Anne Fredericks, and Holly Hamer's Land Court lawsuit multi permitting the airport under the guise of an enforcement action and their last request in their Prayer for Relief d. as a matter of law the Airport's expansion, extension, and enlargement requires further municipality approval. This municipality approval is to be accomplished at the upcoming 2024 Annual Town Meeting in conjunction with Town airport acquisition through the airports Chapter 61A status giving the Town of Great Barrington first right of refusal. All parties involved know a Regional Airport cannot legally and does not operate within the current tiny confines of the airport. The airport property is 52.7 acres, 90 if they own or control the field off Seekonk Cross Road. Pittsfield Municipality airport is 550 acres, the smallest airport in Massachusetts is 450 acres.

The Plaintiff's Attorney Heuer specializes in Transportation, Infrastructure, and Construction, airport terminals, permitting new and existing waste facilities, eminent domain, land use and permitting in Land Court.

"Limited manufacturing" shall, subject to the issuance of the special permit, be an allowed use, if the following requirements are satisfied: (1) the manufacturing activity is related to research uses; (2) no manufacturing activity customarily occurs within 50 feet of a residential district; and (3) substantially all manufacturing activity customarily occurs inside of buildings with any manufacturing activities customarily occurring outside of buildings subject to conditions imposed in the special permit.

A hazardous waste facility as defined in section two of chapter twenty-one D shall be permitted to be constructed as of right on any locus presently zoned for industrial use pursuant to the ordinances and by-laws of any city or town provided that all permits and licenses required by law have been issued to the developer and a siting agreement has been established pursuant to sections twelve and thirteen of chapter twenty-one D, provided however, that following the submission of a notice of intent, pursuant to section seven of chapter twenty-one D, a city or town may not adopt any zoning change which would exclude the facility from the locus specified in said notice of intent. This section shall not prevent any city or town from adopting a zoning change relative to the proposed locus for the facility following the final disapproval and exhaustion of appeals for permits and licenses required by law and by chapter twenty-one D.

A facility, as defined in section one hundred and fifty A of chapter one hundred and eleven, which has received a site assignment pursuant to said section one hundred and fifty A,

shall be permitted to be constructed or expanded on any locus zoned for industrial use unless specifically prohibited by the ordinances and by-laws of the city or town in which such facility is proposed to be constructed or expanded, in effect as of July first, nineteen hundred and eighty-seven; provided, however, that all permits and licenses required by law have been issued to the proposed operator. A city or town shall not adopt an ordinance or by-law prohibiting the siting of such a facility or the expansion of an existing facility on any locus zoned for industrial use, or require a license or permit granted by said city or town, except a special permit imposing reasonable conditions on the construction or operation of the facility, unless such prohibition, license or permit was in effect on or before July first, nineteen hundred and eighty-seven; provided, however, that a city or town may adopt and enforce a zoning or non-zoning ordinance or by-law of general application that has the effect of prohibiting the siting or expansion of a facility in the following areas: recharge areas of surface drinking water supplies as shall be reasonably defined by rules and regulations of the department of environmental protection, areas subject to section forty of chapter one hundred and thirty-one, and the regulations promulgated thereunder; and areas within the zone of contribution of existing or potential public supply wells as defined by said department. No special permit authorized by this section may be denied for any such facility by any city or town; provided, however, that a special permit

granting authority may impose reasonable conditions on the construction or operation of the facility, which shall be enforceable pursuant to the provisions of section seven.

