

## PLANNING BOARD

DATE: January 25, 2024

TIME: 6:00 P.M.

PLACE: Large Meeting Room/Zoom

FOR: Regular Meeting

PRESENT: Brandee Nelson, Chair; Pedro Pachano; Jonathan Hankin; Malcolm Fick

Jeremy Higa

Jackie Kain, Associate Member

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.

### **FORM A PLANS:**

There were no Form As.

### **MINUTES: JANUARY 11, 2023**

Mr. Hankin made a motion to approve as amended, the minutes of January 11, 2023, Mr. Fick seconded, all in favor.

### **ZONING AMENDMENTS:**

Mr. Rembold sent out draft zoning amendments for discussion. He said the drafts represent the edits discussed at previous Planning Board meetings. He said the objective now is to finalize the draft for a public hearing.

Cohousing Development:

Mr. Fick said if one unit has a private cooking facility it won't conform to the bylaw.

Mr. Rembold said he agreed with that interpretation.

Ms. Nelson suggested removing from the definition "but not private cooking facilities"

Mr. Pachano added to also remove "are shared" instead adding "may be shared".

Mr. Hankin said to take out "other" before facilities. Mr. Hankin said in 8.11.1 take out typically and replace with generally.

Mr. Hankin said in 8.11.2 2 remove "s" at the end of development.

Ms. Nelson said in the last sentence of 8.11.2 add "shall be filed concurrent with the annual inspection with the Building Inspector".

In 8.11.3 3 Ms. Nelson said she does not like the idea of not having a half bath per unit. She asked what "provisions for privacy" mean. She asked if that language is defined in the building code.

Mr. Hankin said some cohousing might be in an existing building.

Ms. Nelson suggested language such as “multi-occupant with provision for privacy”.

Mr. Fick said multi could have multiple toilets and sinks.

Mr. Hankin suggested removing “provisions for privacy”.

Mr. Pachano said he agreed with Ms. Nelson. He said she made a good point.

Ms. Nelson she is trying to think practically. She asked if there needs to be a gender preference.

Mr. Higa said there is a difference between new and reuse. He said he doesn't want to see a project killed because most development will be reuse. He suggested adding a single number of single use bathrooms.

Ms. Nelson said she didn't think the language is clear enough. She suggested providing guidance.

Mr. Hankin said maybe a project can be designed with gender specific bathrooms.

Mr. Fick said society is getting away from gender specific and leaning toward gender neutral.

Ms. Nelson said this needs more thought.

Ms. Kain asked about considering pandemic issues when sharing spaces.

Ms. Nelson said we can't manage for a pandemic.

Mr. Fick said he didn't know if we need to deal with all of this. He asked what are we trying to protect the Town from?

Mr. Higa said cohousing isn't for everyone so we might not need to design for everyone. He said ideally we want single occupancy.

Mr. Fick said he didn't think we need the entire section just the first and last sentence. Mr. Fick said a maximum of 8 units in a development. He said he thinks it should be less than 8 units.

Ms. Nelson said to strike the language. She asked that the revised language be sent to Construct and Berkshire housing to ask for further review and comments.

The Board tried to work through the number of shower/bathtubs per number of units.

In 8.11.3 4 the Board changed “must” to “shall” in the second sentence.

In 8.11.3 5 the Board struck the last sentence that started with “plus”.

In 8.11.3 6 the Board deleted the last part of the last sentence from “and shall be at least...”.

Mr. Higa asked about e-bikes. He said it will be harder for people to take them to their rooms because they are heavier than a regular bike. He said he was wondering about charging areas.

Ms. Nelson said that issue should be left to the property owner.

Mr. Higa said there have been issues with the bikes catching on fire. He said it would be safer to provide space in a shed.

Ms. Nelson said it can be addressed on a case by case basis during SPR. She said there are too many unknowns to include.

Mr. Higa agreed. He said he likes the idea of covered bicycle storage.

Mr. Fick said that should be a question for the property owner. He said it shouldn't be mandated.

In 8.11.3 7 The Board changed “must” to “shall” in the first sentence. They agreed to strike “more than 20 units”.

The Board discussed the number of washers and dryers to be required. They decided they needed additional information to make a determination. Mr. Pachano said he doesn't like leaving the language as it currently is because it doesn't work. They discussed language such as “up to 10 units a minimum of 2 each, washer and dryer. Over 10 units one additional set”.

In 8.11.3 8 Common Space requirements; Mr. Higa asked where the common space would come from in the downtown area.

Mr. Hankin said the applicant would go to the ZBA.

Mr. Fick said maybe the applicant would come to us.

Mr. Hankin said they should go to the ZBA.

Mr. Rembold said the Board needs to designate authority.

Mr. Hankin said if an application doesn't conform it should go to the ZBA like any other non-conforming application.

Mr. Rembold said there would need to be a use variance. The ZBA doesn't grant use variances so it can't go to the ZBA.

Ms. Nelson said the Planning Board will designate the Planning Board as the granting authority.

The Board was satisfied with the revisions to make this a final draft for the public hearing.

The Board discussed agenda item 3 b, multi-unit residential development.

Mr. Hankin stated he likes the changes but they are not enough.

Mr. Fick said we need to discuss if we want to have residential use in the I zones.

Mr. Hankin said the I-2 zone was created to allow residential use.

Mr. Rembold provide clarification of the I-2 zone saying that west of the railroad tracks downtown the I-2 zone runs from Castle Street to Rosseter Street then Gas House Lane to High Street. He said the I-2 zone also runs for a portion of Church Street and River Street. He said the I-2 zone was created for multi-unit housing.

Ms. Nelson said some areas in the B-1 zone do not have Town water or sewer.

Mr. Rembold said that might be expanding.

Ms. Nelson said housing would be by-right if there is Town water and sewer. She said if thinking practically, it would be prohibitive to have to put in a septic system or systems for a 20-unit development.

Mr. Hankin said let the developer figure it out.

Mr. Fick said he doesn't like making the I-zone residential. He said if the I-2 zone was designed for residential then it is ok.

Ms. Nelson said allowing residential use in the I-zone invites conflict.

Mr. Hankin said if you are uncomfortable with allowing by-right it could be allowed by special permit but don't say no.

Mr. Pachano said we are not getting rid of the I-zone we would be allowing the possibility of residential use.

Mr. Higa said there is a lot of the I-zone that is not developed.

Ms. Nelson said it is resource protected. She said we are in agreement with the exception of the I-zone.

Mr. Fick said the Table of Use shows that a single residential use requires a special permit but a two-unit use is allowed by-right.

Ms. Nelson said we will fix it later because it isn't on the agenda.

Mr. Pachano said it could be discussed as it is related.

Mr. Fick said it can be brought up at the next meeting.

Mr. Rembold agreed.

The draft will be revised, including the Table of Use, as discussed.

The Board discussed agenda item 3 c, lighting. Mr. Rembold said 6.4.6 has a new paragraph at the conclusion allowing up lighting in certain historic areas.

Mr. Hankin said he is completely opposed to the change. He said an applicant can have up lighting through the special permit process. He said it should be left the way it is.

Ms. Kain agreed.

Mr. Pachano said he likes the change for this area.

Mr. Hankin said we would lose control.

Ms. Nelson said she doesn't like the change either.

The Board didn't reach a consensus unless it was to leave the language as it. The item was tabled.

There was discussion of the Tree Committee wanting to be involved with maintenance of landscaped area, 6.3.5. The Board questioned who would enforce maintenance or replacement.

Ms. Nelson said it could be discussed at the joint meeting with the Select Board. She said maybe the new Building Inspector will have a different approach to enforcement.

Ms. Kain asked if the Tree Warden could enforce the bylaw.

Mr. Fick said he thinks the Tree Warden is only responsible for trees in the Town Right of way or on Town property.

Mr. Rembold agreed with Mr. Fick.

Mr. Hankin said the Tree Warden advises the Tree Committee.

Ms. Nelson said she is not opposed to the language philosophically but how do we make it work if we can't determine enforcement. Ms. Nelson suggested changing the last sentence to read, "replaced if they die".

Mr. Hankin agreed.

Mr. Rembold added to replace with a tree of original size.

**JOINT MEETING:**

The Board will meet with the Selectboard after their priority planning meeting on Monday January 29. Not sure what time we will meet with them but it will be after their meeting. Ms. Nelson said to be at the meeting by 6:45PM.

**MASTER PLAN REVIEW:**

Ms. Kain sent out a document with the up to date information she has received. She said it would be helpful for the Board members to follow the format of the document. She asked that all information be submitted by February 22.

**TOWN PLANNER'S REPORT:**

Mr. Rembold said he had sent out the District Local Technical Assistance application for the Board's information. He said the grant allows for help with projects that the staff doesn't have time to work on.

Mr. Rembold sent out a copy of the letter to be sent from the Board in support of House Bill HR3555. The bill is an act relative to local option for associate members of planning boards to be elevated to a voting member.

Mr. Hankin made a motion for the letter to be sent, Mr. Higa seconded, all in favor.

Mr. Rembold said at the meeting of February 8 the Board will review three special permits. One will include SPR.

Mr. Rembold said there will be a public hearing on February 22 for the North Plain Road subdivision. He said he expected the discussion to take up the bulk of the meeting.

Ms. Nelson said she will not be at the meeting.

Mr. Rembold said the public hearing for the zoning amendments will be held on March 14. March 28 will be a backup date if the public hearing isn't concluded on the 14<sup>th</sup>.

**BOARD & COMMITTEE UPDATES & CONCERNS:**

There was nothing discussed.

**CITIZEN'S SPEAK TIME:**

Claudia Shapiro, 78 Egremont Plain Road, was present to express concerns about the airport allowing plans to land and take off any time of day or night. Her concerns were about night flying. She asked for restrictions on the airport use.

Eileen Mooney asked if there would be a limit on the number of units that could be built under the zoning for multi-unit developments.

Mr. Hankin said the size would be limited by setbacks, lot coverage, height restrictions and parking.

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

Respectfully submitted,

*Kimberly L. Shaw*

Kimberly L. Shaw  
Planning Board Secretary

## January 25, 2024 Planning Board meeting citizen speak time

From: Claudia Trucks (claudiatrucks@gmail.com)

To: kim\_shaw88@yahoo.com

Date: Friday, February 2, 2024 at 10:36 AM EST

Claudia Shapiro 78 Egremont Plain Road for the Record,

I am elaborating on my January 11, Planning Board citizen speak time Assistant Town Manager and MassDOT Denise Garcia communications and my statement regarding question No. 5. Can the Town regulate the time of day, or day of week, that planes can take off or land at the Airport? Answer No. The airport is a day, daylight, and visual flight rules (VFR) airport based upon their available navigational aids (NAVIDS) and airport lighting.

Some country's require additional training or even an instrument rating for night flights, in the United States, for example, night VFR flight is allowed and night training is included in basic pilot training. There is no separate night rating or endorsement, it is included in the private pilot flight proficiency requirements (14 CFR 61.107) and the specific required experience is in 14 CFR 61.109:

(2) Expert as in 61.110 of this part, 3 hours of night flight training in a single engine airplane that includes,

(1) cross country flight or over 100 nautical miles

(2) 10 takeoffs and landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(3) hours of flight training in a single engine airplane on the control and maneuvering of an airplane solely by reference to instruments.

The airport also has FAA REIL lights, runway end identification lights. The REIL System provides three intensity settings and has an approximate range of three miles in daylight and twenty miles at night. The REIL system can be controlled by the air traffic control tower, remotely by the pilot, or manually from the control cabinet.

The airport has a beacon.

I have abutted the airport for 52 years and there has always been night flying, so like I said, airport restrictions is intentional and part of an ongoing strategic plan over the years to develop and expand the airport in our aquifer in disregard of numerous reasons/violations why the airport can't expand, including the Safe Drinking Water Act.

In February 2008 as soon as the estate settled the airport and their attorney at that time, Attorney Brewer gave the airport a letter and plans to divide the airport business and real-estate. This is for two airports, a Walter J. Koladza Great Barrington Regional, KGBR, and Flight School, now called Berkshire Holdings, eliminating Berkshire Aviation Enterprises Inc. The letter has a hand written note, Really for Planning Board hangars, so hangars and two airports have been in the works all along, permitted in February, and April 2023, making hangars, as many as wanted, by right. The only 2008 remaining Planning Board member is Mr. Hankin who purchased a home abutting my property and the airport 6 weeks after the Planning Board recieved in 2003 the Source Water Assessment Protection Program Report (SWAP) not publically disclosed as required documenting 78 Egremont Plain Road as a DEP Permitted Regulated Facility within the public water supply, a Permitted Activity of Very Small Quantity Generator, an activity classification of Hazardous Waste Generator, and a Facility Description of Autobody/Repair. The airport is listed as having underground tanks and as the biggest concern to the WQPOD.

Also on May 2, 2013 the Assistant Town Manager, Town Planner and Director of Community Planning Mr. Rembold sent Richard Solan regarding the airport in part, 2. (a) To add hangars might be considered by the Zoning Board of Appeals (ZBA) as a "change or expansion" of a nonconforming use and the ZBA would grant a special permit to allow this to happen. As I mentioned the use of the site as an airport must be documented as existing before zoning which I find to be 1931. By May, Rick Solan had filed two separate special permit applications, and a half page Variance application with the ZBA, that he recieved.

2. (b) Also to add hangars will likely trip the following two special permit requirements of the Water Quality Protection Overlay District. So needless to say.

Claudia Shapiro