

PLANNING BOARD

DATE: February 8, 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 25, 2023

Mr. Hankin made a motion to approve as amended, the minutes of January 25, 2023, Mr. Fick seconded, all in favor.

SPECIAL PERMIT: FOREST ROW CHRISTIAN HILL ROAD

Attorney Peter Puciloski was present on behalf of the Community Land Trust in the Southern Berkshires to modify the special permit issued in 1986 for the PURD know as Forest Row by removing one acre from the site's open space.

Mr. Puciloski said the Fire District wants to connect the site to the Housatonic Water Works from Division Street to Christian Hill Road. The water company will occupy the acre of land and give Forest Row an easement to occupy the rest.

Mr. Hankin asked if there will be a structure.

Mr. Puciloski said yes.

Ms. Nelson asked if there will be a Form A.

Mr. Puciloski said yes. He said the special permit has to be approved first.

Ms. Nelson asked if there could be buffer for the residential abutter.

Mr. Puciloski said yes. He said the Fire District has been very accommodating.

Ms. Nelson asked if there were any comments from the Board. There were no comments.

Ms. Nelson asked if anyone in the audience wanted to comment.

James from 84 North Plain Road was attending via Zoom. He said the Board was muted during the discussion.

Ms. Nelson gave a recap of the discussion. She said the applicant has asked for a modification of the special permit for Forest Row to sell one acre of land to the Fire District for a connection to Housatonic Water Works. She said a vegetated buffer was requested for the abutter to the north.

There were no additional comments.

Mr. Fick made a motion to send a positive recommendation to the Selectboard, Mr. Hankin seconded, all in favor.

SPECIAL PERMIT: 453 STOCKBRIDGE ROAD

Mr. Pachano said he previously submitted an appearance of conflict of interest because he previously did some work for the CDC. He said he no longer works for or receives any compensation for the project.

Attorney Puciloski was present to discuss the special permit. He said also present is Jim Harwood and via Zoom Phil Orenstein and Tom Doyle.

Mr. Puciloski said the Thornewood Inn is being changed into work force housing from a tourist inn. He said the inn was established in 1930. There is no record of a special permit with the exception of a special permit for a garage apartment. He said the intent of getting the special permit is to clean up the record prior to the property being purchased and expanded from 14 rooms to 19 rooms.

Mr. Rembold said there is no original permit on record. He said there was a permit applied for but it was withdrawn.

Mr. Puciloski said the current dining room will be made into additional rooms. He said there will be income limitations and successive 30 day leases for people who don't qualify for subsidized housing but still can't afford to live here.

Mr. Fick said are we voting to recommend making a hotel into a hotel.

Ms. Nelson said yes.

Ms. Kain asked when this will happen.

Mr. Puciloski said after the public hearing.

Mr. Hankin made a motion to send a positive recommendation to the Selectboard, Mr. Higa seconded, all in favor.

SPECIAL PERMIT: 9 ELM COURT

Attorney Nicholas Arienti was present with Steve Mack, Civil Engineer from Foresight Land Services; Tobias Bernecker from Clark, Green & Bek; Eugenie Sills and Beth Carlson.

Mr. Arienti gave an overview of the project reading from the application. He said the project is the adaptive reuse of the AME Zion Church to the W.E.B. DuBois Freedom Center. The property is located at 9 Elm Street. The building will be restored and there will be exterior alterations to the non-conforming pre-existing structure. The building is on the National Register of Historic Buildings.

Mr. Arienti said the AME Zion Church was dedicated in 1887. The church served the African American community in Great Barrington for 130 years. He said the goal and vision of the project is in alignment with Great Barrington's preservation plan as a historically significant site. He said the proposal aligns with the Master Plan and promotes redevelopment of a cultural center.

Mr. Arienti said the site is small, 4,800 square feet. The building is 1915 square feet. The site does not conform to any of the setbacks. He said there is a small portion of land adjacent to the site that is owned by the Town. He said the land has been used by the church for many outdoor activities over years. The land has been used and maintained by the church. Part of the proposal is for the parcel to be part of the site for the benefit of all.

Mr. Arienti said lack of accessibility runs throughout the building, not just the entrance but throughout the building. It is a challenging project. The proposal would include an agreement with the Town for the use of the parcel on the north side. A license agreement has been submitted to the Town. The parcel will be landscaped and the location of the entry walkway to the building in the northwest corner. The parcel is a significant aspect for the use of the site. A retaining wall will be installed along some portion of the yard as shown in the plans.

Mr. Arienti said the proposal is to raise the building 24 inches to increase the current basement headroom from 6'-3" to allow its use by the public. The grade will need to be raised when the building is raised to accommodate the drainage, water and accessibility. An extremely important issue is addressing accessibility to allow the intended use of the entire property. The entrance to the building will be at the lower level of the building. An elevator will be installed to allow access to the rest of the building. The heightened lower level will be the only part of the building that is not historic. There will be three levels inside the building. There will be a warming kitchen, not a commercial kitchen.

Mr. Arienti said the building is in the B-2 District and the VCOD. The project will be a good fit for zoning. He said we are requesting two deviations of the lighting requirements for the Planning Board's consideration. The request is a deviation to allow up lighting for the belfry and down lighting on the side of the building.

Mr. Hankin asked where the license process is with the Town.

Mr. Arienti said it hasn't been approved yet.

Mr. Hankin asked if there has been a meeting with the Selectboard.

Mr. Arienti said not yet.

Mr. Hankin asked what if they don't agree.

Mr. Arienti said he understands that the Selectboard is open to the proposal.

Ms. Nelson asked if there had been a meeting with the direct abutters.

Mr. Arienti said there has been some outreach but there hasn't been an opportunity to present a comprehensive plan.

Mr. Arienti turned the discussion over to Mr. Mack.

Mr. Mack introduced himself as a Civil Engineer from Foresight Land Services. He said the zoning is B-2 and VCOD. The land is 4800 square feet; a minimum of 5,000 square feet of lot area is required. Additionally the setbacks are less than what is required by zoning minimums. Currently there is no landscaping or parking.

Mr. Mack said the site is served by Town water and sewer. New services were put in the road within the last couple of years. The building is not handicap accessible. The drainage is connected to the Town's storm system. He said he had used a camera to confirm the drainage capacity and determined the drainage is adequate with no breaks in the lines.

Mr. Mack said the property will be renovated into a cultural and educational center. There is no parking and no parking requirements. When there is a large event people will be directed where to park. Almost all traffic to the site will be pedestrian. A waiver of the traffic study will be requested during the Site Plan Review process.

Mr. Mack said there will be an increase in the use. The street is adequate to handle the use. The current overhead utility lines will be buried.

Mr. Mack said there will be a significant amount of landscaping added to the site that will help with drainage. There will be a four foot wall on the north side along Elm Court. There will be a 1.5 foot wall on the south east corner of the property.

Mr. Higa asked about raising the building.

Mr. Bernecker said a longer ramp will be needed to do what we are proposing. Massachusetts Historical is requiring the building to be raised to keep the historical nature of the building.

Ms. Nelson asked if Mass Historical has generally endorsed the plan.

Mr. Bernecker said yes, the project has been thoroughly vetted on that end.

Ms. Nelson said she has concerns about flooding in the lower level. She asked if flooding has been accounted for.

Mr. Mack said it is complicated. There are all sorts of drainage on the site. He said there will be a drain at the bottom of the ramp, two catch basins and a sump pump for back up when needed. He said heated pavers will be installed near the door.

Ms. Nelson asked if the pump is only for back up.

Mr. Mack said yes.

Ms. Nelson asked if the HVAC units will be on the outside of the building.

Mr. Bernecker said yes and no. The site is very tight so the units can't be installed next to the building. He said the system will be installed on the roof over the entrance. There will be geothermal energy used for cooling the building. We won't know if this will be possible until cooling is needed. He said it is only for cooling.

Mr. Hankin asked if there will be wells.

Mr. Bernecker said there will be for wells in the front lawn along the ramp.

Mr. Hankin asked if there is a well head.

Mr. Bernecker said no.

Ms. Nelson said she had concerns about noise.

Mr. Pachano said the units will be quiet.

Ms. Nelson asked why up lighting is necessary.

Mr. Bernecker said the up lighting is for the belfry. The lighting would only be on until 11:00 PM. It might possibly be turned off earlier.

Ms. Nelson said she is not supportive of up lighting in general. She asked that the lighting designer be consulted for a different lighting plan. She said a special permit can be applied for but we would want to know why there is no other alternative. She said the down lighting proposed is a good selection.

Mr. Hankin said the sidewalk along Elm Court is all new. Removing the sidewalk will take away where people can walk so they will be forced to walk in the street. He said we have been trying to make areas walkable. He said an alternative should be considered. The Town thought it was worth putting the money into the sidewalk. He said he is not in favor of people walking in the street.

Ms. Nelson said she shared Mr. Hankin's concerns about the sidewalk. She said it is a concern that needs to be thought about.

Mr. Arienti said the proposal to acquire the parcel from the Town will be brought forward very soon. The sidewalk goes nowhere as it ends at the railroad tracks.

Ms. Nelson said she is supportive of the project. She said she is happy to see the preservation of an important historic building. Eliminating a sidewalk is antithetical to what we usually want.

Mr. Higa said the road on the east side is very narrow for cars traveling on that road.

Ms. Nelson asked if that sidewalk was commented on the last time there was a sidewalk survey; on Elm Court or in general.

Mr. Pachano said the sidewalk wasn't there.

Ms. Sills said most of the traffic is from people leaving the Berkshire Bank parking lot. The sidewalk wasn't there. The street was used more than the sidewalk.

Ms. Nelson suggested going through SPR to see if there is more information that will be needed for SPR after the special permit has been granted.

10.5

1) Mr. Mack said material will be moved around on the site. It will be close to net.

Mr. Hankin asked if there will be a retaining wall on the south side. Mr. Mack said yes, it will be a low wall. There will be a catch basin in the south west corner. Mr. Bernecker said there will be gutters and down spouts off the new roof.

2) No additional information was required.

3) N/A

4) HVAC units, no exterior garbage dumpster—contracted for pickup.

5) Ms. Nelson said the glare into the night sky needs to be minimized, not in favor of up lighting.

6) Building will be raised 24 inches.

7) N/A

8) Parking and landscaping in compliance—applicant advised to come back with a more formal landscaping plan when returning for SPR approval.

Mr. Fick asked if there needed to be a motion to waive the traffic study and storm water management plan.

Ms. Nelson said yes. She said the Village Center Overlay District (VCOD) is flexible for parking. She said she didn't think there is a need for a traffic study.

Mr. Pachano made a motion to waive the storm water management plan and traffic study, Mr. Fick seconded.

Mr. Higa asked if the special permit approval has changes to the site will we need to revisit the review.

Mr. Rembold said if there are substantial changes it can be dealt with at the time of SPR.

Vote: all in favor.

Mr. Pachano made a motion to send a positive recommendation to the ZBA on the special permit application, Mr. Higa seconded.

Mr. Hankin said endorsing the plan means getting rid of the sidewalk. He said he is not in favor of getting rid of the sidewalk.

Ms. Nelson asked what information is needed for you to determine if the loss of the sidewalk is detrimental.

Mr. Hankin said he feels it is detrimental.

Mr. Fick and Mr. Pachano said they didn't think the sidewalk loss was detrimental.

Mr. Rembold asked how the landscaping would be treated if the sidewalk remains. He asked if there is a possible alternative.

Mr. Mack said there would need to be railing. The wall would be taller making it a structure. He said we don't see people walking on the sidewalk. To keep the sidewalk makes the plan very complicated.

Mr. Arienti said we are sensitive to the Town not wanting to eliminate a sidewalk anywhere. This is a balance of the cost analysis. The benefit of facilitating the project is significant; the loss of the sidewalk is not significant. The sidewalk was recently installed. It serves a limited number of people and it serves a limited purpose. Removing the sidewalk allows the project to move forward. He said the benefit outweighs the loss of the sidewalk.

Ms. Nelson said there is a motion and a second. She called for a vote. Mr. Fick, Mr. Pachano, Mr. Higa and Ms. Nelson aye, Mr. Hankin opposed.

Mr. Fick made a motion to recommend the ZBA grant a special permit for the side lighting on the south elevation but not the up lighting, Mr. Higa seconded.

Mr. Fick, Mr. Higa, Mr. Hankin and Ms. Nelson in favor, Mr. Pachano opposed.

ZONING AMENDMENTS:

Mr. Rembold said an email outlining ways to look at co-housing and co-living. Co-living might be a better term as co-housing can be self-contained. He suggested the Board change the term from co-housing to co-living.

Mr. Fick said he has a major problem with the way it is structured. Anyone who wants to build an apartment building can build it by-right then call it co-living.

Ms. Nelson said there is a definition.

Mr. Fick said the definition says “may”.

Ms. Nelson said the underlying zone sets the limits.

Mr. Fick said density will limit. The co-living can go anywhere.

Mr. Rembold asked what the intent is.

Mr. Pachano said zoning and real life circumstances create limits.

Mr. Fick said the R-2 and R-4 zones do not allow multi-unit housing but if co-living is intended it would be allowed in those zones.

Ms. Nelson said the Windflower is in the R-2 zone.

Mr. Hankin said why would a developer build co-living instead of multi-unit apartments. Financially it would not make sense.

Ms. Nelson said she thought one version had a minimum and maximum.

Mr. Rembold said there is no maximum limit. He said there are practical limits to what you can build. He said having no limits won't pass Town Meeting.

Mr. Fick said he didn't see why a builder wouldn't build what they want and call it co-living. A four bedroom apartment could be called co-living. He suggested requiring a special permit across the board.

Ms. Nelson said this is a huge swerve in a different direction from where we were. She said we are trying to make the process affordable.

Mr. Hankin suggested changing the first paragraph in the definition to say “are” shared.

Ms. Nelson suggested adding a line for what is not co-living.

Mr. Hankin said there are a couple of houses on the Windflower site.

Mr. Higa said that is why there should be different requirements for existing buildings and new construction. We keep doing a dance around because we are making reuse and new the same. He said he isn't in favor of a special permit but maybe it would provide limitations for an upper cap.

Ms. Nelson said the upper cap is set by the underlying zoning.

Mr. Fick said the R-2 and R-4 are big zones.

Mr. Higa said there are huge swaths of land.

Ms. Nelson said why is that bad to have a big swath of land. She said a development on the former golf course could provide a higher quality of life.

Mr. Fick said someone could build 1,000 units on five acres.

Ms. Nelson said fear is not a good approach.

Mr. Fick said he wants a special permit process for all co-living.

Mr. Higa suggested tweaking the language to differentiate reuse from new construction.

Mr. Pachano said language from the Building Code could be added to the bylaw.

Mr. Higa said he would like co-living to pass at Town Meeting.

Ms. Kain agreed. She asked how much time do we have to work on this bylaw?

Ms. Nelson said there is no time. The language has to be finalized tonight in order to get the public hearing set. She said she agrees with changing co-housing to co-living. She said dining, kitchen and laundry facilities must be shared. Bathrooms may be shared.

Mr. Pachano asked if there is a problem requiring a special permit in the R-2 and R-4 zones.

Mr. Hankin said the Windflower exists.

Mr. Pachano said the Windflower exists and has operated under a special permit.

Mr. Rembold said he doesn't usually do this but he strongly recommended that the R-2 and R-4 zones require a special permit for co-living. He said Mr. Higa's idea of different requirements for new construction is a good one.

Mr. Higa said there should be specific things when building new.

Ms. Nelson said she is not sure how to flip this around.

Mr. Rembold said change will be made to the Table of Uses.

Mr. Fick said there are conflicts to the Table of Uses. He said he also wants a special permit requirement for the B-2A zone.

Ms. Nelson said we can't rework this tonight.

Mr. Fick said 9 units or more with co-living would require a special permit. He said change the by-right housing in the B-2 zone.

Mr. Hankin said the zoning refers to dwellings units. Co-living units are not dwellings per se: dwelling units have a bathroom and a kitchen.

Mr. Pachano read a definition from the Building Code. He suggested the definition could be used.

Mr. Fick said if the kitchen, dining and bathrooms have to all be shared it will create issues for the Windflower and Thornewood, where there are some independent dwelling units. We might have in our minds an idea of what co-living is but it is not in the language.

Mr. Pachano said residents would share either a bathroom or kitchen or both. He said the Building Code definition is perfect for what we want.

Ms. Nelson said we need to finalize this or table it within the next 15 minutes.

Mr. Hankin said he doesn't want to table it.

Ms. Kain asked if the definition provided by Mr. Pachano could be used.

Mr. Fick said he is fine with the definition provided by Mr. Pachano.

Ms. Nelson asked about the Table of Uses, specifically the R-2 and R-4 zones.

Mr. Hankin said it has to be clear that the kitchen and/or bathrooms have to be shared.

Ms. Nelson asked if co-living should be by-right in all zones or by Planning Board special permit in some districts. She asked if there can be a compromise for a special permit process in the R-2 and R-4 zones.

Mr. Hankin said he will be opposed.

Ms. Nelson said she understands. She said Mr. Fick is opposed to the language as it is.

Mr. Higa asked if the SPGA article could be a separate article from the zoning amendment.

Ms. Kain wondered about the audience for the discussion. She said there needs to be clarity as the terminology will get confusing.

Ms. Nelson said we are just trying to get the draft set so it can go to a public hearing.

Mr. Fick said he is willing to compromise. The language provided by Mr. Pachano makes sense.

Ms. Nelson said a common bathroom shall have a water closet, 1 per every 8 people and a shower 1 per every 8 people.

The Board discussed by-right housing.

Mr. Pachano said the Planning Board as the SPGA will never pass.

Mr. Hankin asked why assign a board as SPGA that doesn't know as much as the Planning Board?

Mr. Higa said because it will pass.

The Board made no changes to the language for landscaping and trees.

MASTER PLAN REVIEW:

Ms. Kain asked that the reports get sent to her by February 22. She said she will remind all what needs to be revisited.

PLANNER'S REPORT:

Mr. Rembold said there are hard copies of the definitive subdivision plan for North Plain Road. There will be a public hearing at the next meeting. He asked if the Board wanted to make a site visit. No one wanted to make a site visit.

Mr. Rembold said there will be a special permit for Timberlyn Heights. He recommended a site visit.

The Board scheduled a site visit at 5:00 PM on February 22.

BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:

Mr. Higa said the Housing Sub-Committee will be meeting to review its charter and determine if the committee needs to exist going forward. If it is determined that the committee does not need to exist we will go to a joint meeting of the Planning Board and Selectboard.

Ms. Nelson asked if all of the concepts have been exhausted.

Mr. Higa said we got stuck on a list of things.

Mr. Fick said we are not sure if we still have a purpose.

Ms. Nelson said it is fine if it has run its course.

Mr. Pachano commented that Mr. Arienti made a statement (during the discussion of 9 Elm Court) that up until 1960 buildings could be rebuilt but after 1960 we are not able to rebuild the most cherished parts of our Town. He said if the sub-committee disbands perhaps the members could be a think tank for us.

CITIZEN SPEAK TIME:

Claudia Shapiro from 78 Plain Road asked if anyone had looked at her concerns about the airport. She asked if someone would consider reaching out to the FAA.

James from 84 North Plain Road asked if the Planning Board has any input into the GE route for transporting PCBs.

The Board had no input.

Having concluded its business, Ms. Nelson adjourned without objection at 8:51 PM.

Respectfully submitted,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary