

PLANNING BOARD

DATE: December 14, 2017
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jack Musgrove;
Jeremy Higa
Pedro Pachano, Associate Member
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 7:00 P.M. Mr. Musgrove had not yet arrived.

FORM A'S:

There were no Form A's presented.

MINUTES: NOVEMBER 9, 2017 & DECEMBER 6, 2017

Mr. Hankin made a motion to approve the minutes of November 9, 2017 as amended, Mr. Fick seconded, all in favor.

Mr. Hankin made a motion to approve the minutes of December 6, 2017 as amended, Mr. Fick seconded all in favor.

SPECIAL PERMIT: 39 ALFORD ROAD

Most of the Board members conducted a site visit prior to the meeting.

Applicant Donald Elitzer from 39 Alford Road was present to discuss the special permit application for a minor occasional commercial use. Mr. Elitzer gave the Board a presentation.

Mr. Elitzer said he is interested in a minor occasional commercial use at his home located at 39 Alford Road. He said the plan would be to host parties/weddings. He said he had hosted numerous non-commercial weddings for friends and family over the year. The parties were successful so it was suggested to offer the property as a location for parties.

Mr. Elitzer said the parties would be for 125-150 people. He would use local vendors for the tents and catering. The property consists of 36 acres of land. There is a pool and hot tub, a tennis court/basketball court. There is plenty of room on the lawn for croquet and volleyball and other activities.

Mr. Elitzer said the goal would be for a weekend affair with guest arriving on Friday with the primary party on Saturday and a brunch on Sunday. There could be variation in the schedule.

Mr. Elitzer had a question about amplified music and what the allowed decibel level would be for music and what time limits might be imposed. He went on to say that this would be a destination for events. There is nothing like this in the area. He said this business would help our finances as well as bring people into town which would help the Town's economy.

Mr. Elitzer said 60 cars can be easily parked on the property. He said he would not expect that many cars as most people will arrive by shuttle to the property from where they are staying in Town. He said the house will not be available for use by guests. He said he would be on the property for every event. He said only the venue will be for rent including the recreational facilities.

Mr. Elitzer said the Board of Health has issued a 1 year permit to make sure everything works as it has been presented. After the first year the permit can be made permanent. He said he is starting late so he might not have anything in place to start renting next summer. He said he hopes the 1 year can be triggered when the first event is hosted.

Mr. Hankin suggested a permit could be issued for the moderate impact use for 1 year then renewed with a 3 year cycle. He said the permit would not run with the property, it would go with the owner.

Mr. Hankin said there are two driveways and there are good sight lines for the driveways.

Mr. Elitzer said he planned to have an attendant to assist people entering the property and parking.

Mr. Hankin said it is a beautiful spot. He said the nearest neighbor is 800 feet away through the forest. He asked if the abutters had been notified.

Mr. Rembold said yes, they have been notified of the public hearing.

Mr. Pachano asked about trash removal and bathroom facilities.

Mr. Elitzer said the caterers would provide the dumpster. The trash will be cleaned up and removed at the end of the event. Portable toilets will be provided. It is part of the Board of Health's requirements to provide temporary sanitary facilities. Mr. Elitzer said he is aware of what can happen when things are not done right. He said he plans to have everything planned out to avoid any problems.

Ms. Nelson asked if he has a contract worked up that would be provided to the sub-contractors. She said she would expect that the Selectboard would want to see the document. You would be able to take a very clear direction from the boards and convey it to your clients.

Mr. Elitzer said he does not have a document put together yet. He is waiting until he has been before all the boards. He said he wants to see what conditions are imposed from the boards then build them into the contract(s).

Ms. Nelson said to make the contract clear so any issues can be dealt with through the contract.

Mr. Elitzer said the contract will be clear. He said the venue will be available Friday thru Sunday. He asked if a Sunday afternoon event would be possible.

Ms. Nelson said you have to be clear about what you need.
She said to work out times with the Selectboard.

Mr. Elitzer asked about having fireworks. He said he had a party a few years ago with fireworks. He said they lasted 10-15 minutes. He said Berkshire Fireworks did all the permitting.

Ms. Nelson said she did not think fireworks would be a big deal for four events a year.

Mr. Elitzer said he would ideally want to space out the events having one a month during the summer but he would want flexibility. He said he is not planning to advertise. There is no website. The events would be coordinated through the caterer, Mezze Catering. He said he is not sure there will be any events next year. He said having a mandatory shut down time that would be too early, 9 PM, would not be appealing for most people.

Ms. Nelson said the hours will be determined by the Selectboard.

Mr. Fick asked how conditions can be controlled if you are not sub-contracting.
Mr. Elitzer said there will be one contract for everyone. He said he will be on site for every event.

Mr. Fick said the conditions imposed by the Town have to be able to be enforced.

Mr. Rembold said everything is subject to conditions of the special permit. The caterer can use the event location subject to the special permit conditions.

Mr. Musgrove arrived at 7:30 P.M.

Ms. Nelson said section 115 of the Town Code addresses noise. She said noise in excess of 20db is not allowed between 8 PM and 8 AM. Noise is measured at 50 feet from the source. She said there is a permit that would be by the Selectboard. She advised Mr. Elitzer to be aware of the bylaw and discuss it with the Selectboard.

Mr. Musgrove wondered who would hear the noise as the property is so far away from the abutting properties.

Mr. Fick read through the Site Plan Review. There were no significant issues with the Site Plan Review.

Mr. Musgrove said there are three driveways to the property. He said the sight lines are all good. He did not see any negative issues from the Town's point of view.

Ms. Nelson asked what condition should be attached to the permit.

Mr. Hankin said there should be a parking attendant on site.

Mr. Fick said sanitary and trash issues should be addressed.

Ms. Nelson said the Board of Health has already addressed those issues.

Mr. Rembold said the Board of Health has required portable toilets be present and in working order.

Ms. Nelson asked about trash removal.

Mr. Rembold said the Board of Health did not address trash removal.

The Board said trash removal must be addressed as part of the permit.

Ms. Nelson said the owner has committed to being present for the events.

Mr. Rembold said the owner being present is a standard of having a home occupation bylaw.

Mr. Elitzer asked if the one year time frame for the permit could start with the first event.

Mr. Hankin said that should be brought up to the Selectboard.

Ms. Nelson asked if the applicant will come back to this Board at the end of the year.

Mr. Hankin said if there is a new special permit it would come back before us.

Ms. Nelson said it could just be renewed if there is no record of public complaints.

Mr. Hankin said it would just go to the Selectboard.

Mr. Fick said the noise regulation is the only other issue. Would it be included in the special permit?

Mr. Musgrove said we can recommend that a noise limit be included in the special permit limiting noise to a certain time.

Mr. Elitzer said he would like it included in the special permit so he wouldn't have to go back to the Selectboard for each event.

Mr. Hankin said he would have to go to the Selectboard for the dates for the events.

Mr. Elitzer said he can't get dates without knowing if the client can have music and how late the music can be played.

Mr. Musgrove made a motion to approve Site Plan Review with two conditions, that an attendant be present to direct the entry and exit activities and the trash is to be removed at the end of each event, Mr. Hankin seconded, all in favor.

Mr. Musgrove made a motion to send a positive recommendation to the Selectboard for a moderate impact home occupation use at 39 Alford Road with the recommendation to review the noise ordinance to allow noise after typical hours.

Mr. Musgrove said he did not think there would be an issue with allowing music until midnight at this location.

Ms. Nelson said she does not totally agree.

Mr. Hankin said that is the reason they will come back after a year.

Mr. Fick said he thinks specific hours of operation should be requested from the Selectboard.

Mr. Rembold said it is up to the Selectboard to deviate from the noise ordinance. If they want to consider flexibility in the ordinance they can include it in the special permit.

Mr. Hankin seconded, the motion, all in favor.

SITE PLAN REVIEW: 15 CONE AVENUE

Mr. Rembold said the applicant from 15 Cone Avenue has requested an extension of their Site Plan Review approval.

Mr. Hankin made a motion to extend the Site Plan Review approval for 15 Cone Avenue, Mr. Higa seconded, all in favor.

ZONING AMENDMENTS:

The Board discussed recreational marijuana. The Selectboard discussed the revised draft from the Planning Board at their December 11 meeting.

There was agreement that a marijuana retail facility can be located 200 feet from a school.

There was discussion of the agricultural component required by the medical marijuana bylaw. Mr. Hankin said C-7 of the Table of Use permits growing in the R-2 and R-4 zones. Mr. Hankin said if a parcel is more than 5 acres an agricultural use is allowed.

Ms. Nelson asked if asked if it is appropriate to add as a cross reference.

Mr. Rembold said yes.

Mr. Fick said the State Bill has specified that growing marijuana is not an agricultural use.

Mr. Hankin said it might not be considered for an agricultural exemption but it is still agricultural. State law regarding agriculture overrides local laws.

Mr. Rembold said it would be allowed on an existing farm.

Mr. Fick said it is not considered an agricultural use. Marijuana cultivation is not a permitted use. It is not considered an agricultural use under Chapter 40a.

Mr. Rembold said he wanted to be clear. A farmer can grow corn anywhere on 5 acres or more. Growing cannabis does not qualify for an exemption. The Town can regulate it.

Mr. Fick said then it is not allowed.

Ms. Nelson said it can be added to the Table of Use. She said locally we could consider it agriculture but it won't meet Massachusetts General Laws.

Mr. Rembold said this is confusing. What is the intention?

Mr. Fick said it seems the intent is to allow the cultivation of marijuana.

Mr. Rembold asked how much? How big of an operation would be allowed?

Mr. Fick said it is currently prohibited.

Mr. Rembold said that is correct.

Mr. Fick said medical marijuana is regulated by the State; it is not permitted by the Town. It is not in our Table of Uses, but in this case we would be permitting the growing.

Mr. Rembold said if someone wanted to grow marijuana as an indoor use in one of the mill buildings it would be considered an industrial use and allowed.

Ms. Nelson said commercial greenhouses are allowed on less than 5 acres. She said we need more information.

Mr. Rembold said greenhouse uses, C-7, should be looked at.

Mr. Higa said the size of the greenhouse doesn't matter, only the size of the property?

Mr. Hankin said we need to figure what we want to allow.

Ms. Nelson said the Selectboard is concerned about greenhouses in residential zones.

Mr. Pachano asked if he could build a greenhouse on his two acre parcel in the R-2 zone.

Mr. Rembold said yes. You could demolish your house and put up a greenhouse.

Mr. Musgrove asked if a new line could be created to deal with marijuana cultivation.

Mr. Hankin said he thought it would be premature to do that. We need to hear what the State regulation is.

Ed Abrahams from the Selectboard said there is concern about commercial greenhouses in residential zones.

Mr. Rembold said C-7 could be revised to be regardless of facility.

Ms. Nelson said the facilities would have to be individually licensed by the State.

Mr. Fick said he does not agree.

Ms. Nelson said she doesn't know what caps could be put in place. Should it be an extraordinary use?

Mr. Pachano said this is not just about greenhouse. There needs to be oversight on where marijuana is grown and how it is grown. It doesn't seem right that I could move my family out of my house and grow marijuana on the property.

Ms. Nelson said in Easthampton marijuana is being grown in a mill building. It is a commercial building surrounded by a residential neighborhood. She asked if we are making space available in our code for the use.

Mr. Higa wanted to be able to have a say in where it can go.

Mr. Rembold suggested the Board think about where high margin uses can be located. It can change a neighborhood.

Ms. Nelson said she would like to see the mills renovated for this type of use.

Mr. Musgrove it should be a use allowed in the industrial zone.

Ms. Nelson asked if a marijuana cultivation facility could be allowed.

Mr. Rembold said he would look into it.

Mr. Hankin asked if a farmer would have to get a special permit for a greenhouse.

Mr. Rembold said the property would still qualify as a farm. He said he wasn't sure.

Mr. Rembold said he would work on a first draft of the discussion. He said paragraph 4 would read something like "cultivation would be allowed per the Table of Use regulations.

Ms. Nelson said there are challenges that we need to figure out without the State's regulations. Mr. Rembold will work on the draft for our next meeting.

Mr. Rembold said in the definition for the RMD's "not for profit" will be stricken. 7.18.6 addresses uses and hours of operation. There have been questions about if a marijuana store should follow the same regulations as a liquor store.

The Board agreed that marijuana retail should match the liquor retail hours of operation.

Ms. Nelson asked Mr. Rembold to update the red lines for the next meeting.

Mr. Rembold said yes.

Ms. Nelson asked that someone on the Board try to keep up with what the State is releasing regarding their regulation.

Mr. Rembold said on-site consumption needs to be addressed by something more than zoning. The Selectboard has not addressed it.

Mr. Fick said he would keep up on what is released by the State.

State Road

Mr. Rembold said he would have updates on State Road for the next meeting.

Ms. Nelson asked if she needed to prepare a letter.

Mr. Rembold suggested a strategy for outreach to get people to attend a meeting.

Mr. Fick suggested that the meeting dealing with State Road redevelopment be held at the Fire Station.

Mr. Rembold said we can plan that for the second meeting in January. He said the public hearing will be scheduled for either February 22 or March 8.

Mr. Fick said we had a request at the last meeting to consider parking spaces for storage.

Mr. Rembold said parking is not a zoning matter. Zoning does not apply to anything in the right of way.

PLANNER'S REPORT:

Mr. Rembold said the Town's website has been redone. He asked the Board to go through it and give feedback.

Mr. Fick said he looked at it and noticed there are no term expiration dates for the board members. That was included on the previous website.

Mr. Rembold said BRPC is asking if they can provide any technical assistance. He said maybe they could do an affordable housing need study. It could be broadened to look at housing stock vs. demographics. He asked the Board to think about what we may need assistance with.

Mr. Musgrove said maybe we could see what there is for inventory to decide where there could be infill. ADU's are by-right but it would be useful to know how many 2-family homes are on one lot and the capability of the Town to provide more affordable housing.

Mr. Hankin said tiny houses might be looked at. The affordability issues make it hard to attract people to jobs. Tiny houses may be the way to go. No town in Berkshire County allows them. Older people and millennials may like them. It would be good to be forward thinking about how we might accommodate them.

Mr. Pachano asked if they would be permanent or on wheels.

Mr. Hankin said permanent. If they have wheels they are considered RVs.

Ms. Nelson said it can be on a future agenda in the spring.

Mr. Rembold said work is being done on Complete Streets. There is a small working group, primarily consisting of staff. If anyone wants to be part of the group let me know. We will be working on the plan beginning in January or February completing it by August. Once a plan is in place we can apply for funding.

Ms. Nelson said it is a multi-year process.

Mr. Rembold said maybe a year. It will take 8-9 months to create a prioritization plan.

Mr. Higa asked if there will be public input.

Mr. Rembold said there can be.

Mr. Rembold said the proposed tax reform laws will have significant impact on local planning and development. Tax credits and other credits for low income housing will be impacted. There will be a significant trickle down impact including impacts on real estate.

CITIZEN'S SPEAK TIME:

Mrs. Mooney asked if the Town had received money for the Smart Growth plan the Town adopted.

Mr. Rembold said it is on its way.

Mrs. Mooney asked if the Board planned to meet on December 28th.

Ms. Nelson said no.

Mr. Pachano asked that discussion of the Water Quality Protection District be put on a future agenda.

Mr. Hankin asked that specific concerns about the WQPD be made known prior to discussion.

Having concluded their business, Ms. Nelson adjourned without objection at 9:11 P.M.

Respectfully submitted,


Kimberly L. Shaw
Planning Board Secretary