

PLANNING BOARD

DATE: April 25, 2019

TIME: 6:00 P.M.

PLACE: Large Meeting Room

FOR: Regular Meeting/Public Hearing

PRESENT: Brandee Nelson, Chair; Jonathan Hankin; Jeremy Higa; Pedro Pachano
Garfield Reed, Associate Member
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 6:05 P.M.

FORM A'S:

There were no Form A's presented.

MINUTES: APRIL 11, 2019

Mr. Hankin made a motion to approve the minutes of April 11, 2019 as amended, Mr. Pachano seconded, all in favor.

SITE PLAN REVIEW: 546 MAIN STREET

Attorney Shawn Leary was present with applicants Tom Doyle and Paula Doyle, and Engineer Brent White.

Mr. Rembold said at the last meeting the Board received documents that resulted in questions and the request for more time to review what had been submitted. The applicant made a written request for an extension that was granted by the Planning Board.

Mr. Rembold said the applicant has revised the plans in an attempt to save the maple tree.

Mr. Rembold said he had consulted with Town Counsel about the special permit granted for the Water Quality Protection District. Town Counsel said the special permit that was granted remains in effect for this project as the drainage impacts are less with this plan than with the original plan that the special permit was granted under.

Mr. Rembold said he also discussed the proposed zoning changes for the area and whether or not this project would be impacted. Town Counsel said the changes will impact this proposal.

Ms. Leary said the Site Plan Review application was submitted in February and reviewed by the Board. She said the next meeting was April 11 when the applicant returned with amendments requested by the Board. She said that the project is a by-right use that meets all of the zoning requirements. She said the applicant is aware of the proposed zoning changes. She said the applicant wants to proceed with the application that has been applied for. If a special permit is required after the Annual Town Meeting we will deal with it at that time.

Ms. Leary said to emphasize the appropriateness of this project for the neighborhood we have 50 letters from people in the community. The letters reflect the desire of the people in the Town and neighborhood. In addition, the Master Plan encourages economic development creation of housing both of which this plan represents.

Ms. Leary said the one impediment for the project is the maple tree on the south side of Mahaiwe Street. The plans have been reviewed and gone over to see where there can be flexibility to manage the construction with minimal impact on the tree. She said we are willing to acknowledge our responsibility to try to save the tree. A plan has been submitted to replant trees should the maple succumb. She asked the Board for its approval of the SPR.

Mr. White said in an effort to minimize construction impact on the tree we are proposing to maintain a gravel driveway on the east side of the project. In addition the sanitary sewer will move further west to mitigate the impact on the tree. He said we are trying to be mindful of the concerns of the tree. Mr. White said we have a tree replacement plan to have on the record for trees.

Mr. White said a cut sheet for the lighting plan showing that the lighting will be no more than 3,000 K. He said wheel stops will be installed to delineate parking spaces.

Mr. Hankin said the plans show that the water line still runs directly under the maple tree. He said that doesn't need to be there.

Mr. White said the water line will be moved outside of the drip line.

Mr. Hankin said the plans show four buildings with four basements.

Mr. White said the plans are still being designed to decide if there will be a single water line.

Mr. Hankin said the second water line also goes through the Norway Maples.

Mr. White said it is not a problem to avoid them.

Ms. Nelson said she would be satisfied if the water lines don't come within the drip lines.

Mr. Hankin said there appears to be a curb where the handicap parking space is located.

Mr. White said the walk way is flush with the parking lot. The curb will transition to flush for the handicap space.

Mr. Hankin asked if it is a good idea for there to be a catch basin located in the crosswalk.

Mr. White said he will relocate the catch basin out of the crosswalk.

Mr. Hankin said it is not clear how the site drains.

Mr. White said all structures drain into the catch basins that drain into the southwest corner. He said the site grade pitches to the southwest corner. He said the drainage plan is designed for a 100 year storm.

Mr. Hankin said the landscape design does not show plantings in the rain gardens but the rain garden detail refers to a plant list that is not shown on the plan.

Mr. White said grasses will be used in the rain garden areas.

Mr. Pachano asked if there is any information on how the tree will be protected during construction.

Mr. White said vehicles will be prevented from parking near the tree. The sewer lines and water lines will be redirected so they are not within the drip line of the tree. We plan to use best practices to protect the tree.

Ms. Nelson suggested the Board can request that the applicant consult with an arborist to provide a protection plan.

Mr. Rembold said generally the area under the drip line would not be excavated and the area would be fenced off. He said a heavy mulch layer is put around the tree. Vehicles are kept from being within the drip line. He said the Board can make that a condition.

Ms. White said a condition would be preferred.

Ms. Nelson said there are standards for best practices that should be used. She said we appreciate that there is a tree replacement plan in the event it is needed. She said she has concerns that the tree will not survive so it is good to have in place. She asked if there is an enforcement mechanism for the Town.

Mr. Rembold said if there is a condition on the SPR it can be enforced by the Zoning Enforcement Officer. He suggested that the construction time frame be considered.

When the certificate of occupancy is issued the Town can require that the tree be inspected by an arborist and the Tree Warden each year for a period of 3-4 years. Ultimately there will be a monitoring process for up to 7 years.

Mr. Hankin asked how far down the road will the replacement plan be implemented.

Mr. Rembold said 2-3 years post construction.

Ms. Nelson asked if everyone understands the issue that a zoning change might create, possibly requiring a special permit for this project.

Ms. Leary said we have not looked at the density issue at this point. If we require another special permit after the Annual Town Meeting, then we will do what we need to in order to meet all the bylaw requirements. At this point we are not opting in for a special permit.

Mr. Higa said he is not clear about what is being said.

Ms. Nelson said we have submitted a zoning amendment that will affect the density in the MXD.

Mr. Rembold said if the bylaw amendment is passed at the ATM it may be applicable to this applicant. The applicant is acknowledging that if they are required to comply with the new bylaw that they will.

Ms. Leary said we can't acknowledge any obligation to something that doesn't currently apply.

Ms. Nelson said that Town Counsel has advised that the SPR approval doesn't provide immunity in the event of a zoning change. Ms. Nelson asked if there are any other questions.

Mr. Higa asked about best practices for the protection of the tree.

Ms. Nelson said she is happy to have the tree protection plan submitted when the applicant applies for a building permit.

Mr. Pachano said he recommends that the applicant:

- work with the Tree Warden regarding best practices for the tree protection
- that the water and sewer lines be relocated outside of the drip line of the maple
- that the catch basin be moved from the crosswalk
- the planting plan for the rain gardens be submitted
- work with the Tree Warden on a protection plan for all shade trees and the sugar maple in particular
- a tree replacement plan to be implemented within 3 years should there need to be tree replacement. The minimum tree caliper will be 4 inches DBH for replacement trees . Tree preference is for another sugar maple or white oak. Annual inspections by the Tree Warden will be done for three years post issuance of the final certificate of occupancy

Ms. Nelson said the applicant should be responsible for the impacts they create.

Mr. Hankin asked if the construction will be phased.

Mr. Doyle said he doesn't know as that discussion hasn't been had yet. He said he would expect that the market will bear developing all of it.

Ms. Nelson said she appreciates that question. She said she doesn't think it will matter if it is phased.

Mr. Rembold said tree inspections and replacement period will be based on the issuance of the final certificate of occupancy.

Ms. Nelson asked that the construction vehicles exit onto Main Street instead of Route 23/Maple Avenue.

Mr. Rembold said that is a good point. He said it is hard to enforce but it is a good suggestion. He said the Highway Superintendent can make a determination as the construction process is finalized.

An abutter on Mahaiwe Street asked if he could address the Board. Ms. Nelson allowed him to make a few remarks. She cautioned that this is not a public hearing and that the Board is not required to have abutter input.

Michael Kernan made the following comments. The abutters were not notified of the project. They were aware after the last meeting. He said there should be another 60 days for review because the plan was revised. He said another traffic study should be required. He said the tree will be impacted. He said the plan is requiring 22 parking spaces but there will be 32 bedrooms. He said it is currently difficult to exit Mahaiwe Street from either end. He was adamant that the project does not comply with the bylaw or that it is not in character for the neighborhood or the Town. He asked that the Board not approve the SPR.

Ms. Nelson said this is not a popularity contest. The Board follows the regulations and we comply with our zoning.

Ms. Nelson asked the Board if they have enough information to make a decision.

Mr. Pachano said he is not sure what the process is with the zoning amendment.

Ms. Nelson said the applicant wishes to proceed at their own risk. They have submitted a current zoning compliant plan.

Mr. Rembold said the Board should deal with what is in place in this instant.

Ms. Barbara Matz, 22 Mahaiwe Street, said she is opposed.

Ms. Nelson said the plan is zoning compliant. She said she would not allow further argument as this is not a debate.

Mr. Pachano pointed out that the Town voted to approve the MXD zoning.

Ms. Nelson asked if the Board had any further comments. There were none.

The Board went through site plan review, 10.5.5 criteria. Mr. Rembold read through the criteria.

Mr. Hankin commented that there are two trees on that site that will need to be removed for development. There was no issue with the removal of those trees.

Mr. Rembold asked if there are any vehicular or safety concerns. He said there has not been any marked change since the traffic study done in 2007. He said the project should have fewer trip generations than the original special permit approval and traffic study.

The Board continued through site plan review criteria. Regarding the scale of buildings and aesthetics, Mr. Hankin commented that is hard to qualify aesthetics.

Mr. White pointed out that the proposed buildings would be two and a half feet lower than the abutting buildings on Manville Street.

Mr. Higa had concerns about the appearance of the new buildings and the impact on views from abutting properties. He said he wasn't clear about the intent of the spirit of the bylaw when it was written or how it is written now.

Ms. Nelson said there are many different styles of buildings throughout the Town and the neighborhood.

Mr. Higa said if the bylaw is too closed then we don't get any new development if it is too open we have issues raised.

Ms. Nelson said we need housing that is walkable. This project is in the direction we wanted for the area.

Mr. Rembold read through the remaining criteria. There were no other issues.

Mr. Rembold explained that SPR cannot be denied unless there are egregious impacts that can't be gotten around. He said during the special permit process is discretionary and conditions can be imposed. A special permit can be denied. Generally there are more reasons to approve than to deny. He explained that a special permit requires a public hearing and abutter notification because it is a public hearing. Weighing the evidence for an application is different for a special permit than for SPR.

Mr. Pachano made a motion to approve the SPR with the conditions outlined during the discussion, Mr. Hankin seconded, all in favor.

Ms. Nelson moved Citizen's Speak Time ahead to give those present the opportunity to comment.

Barbara Matz from 22 Mahaiwe Street said there will be a huge impact on Mahaiwe Street. She asked who will fix the road after all the construction vehicles.

Jenny Clark from Oak Street said she did research about what "best practices" means. She said she found that generally a plan to protect the tree would begin well in advance of the start of the construction. She provided the Board with information she found specific to the northwest. She said she isn't sure if it would apply to this area but that was all she could find.

Ms. Clark also asked if the removal cost of the tree would be part of the replacement plan.

Mr. Rembold said this is not the time to discuss that. He said the Board can take comments and consider at a later time.

Holly Hamer said a project allowed by-right precludes community input. She said she would like to see that changed because it gives the advantage to the developer.

Eileen Mooney asked why the SPR would not provide protection against zoning changes.

Mr. Rembold referred her to MGL Chapter 40 A section 6. He said the Board should not get into that discussion.

SITE PLAN REVIEW: 126 MAIN STREET

Attorney Kate McCormick was present with applicant Alexander Farnsworth and engineer Nick Andersen for continued discussion of the application for High Minded, a retail marijuana establishment at 126 Main Street.

Ms. McCormick said revised plans were submitted to the Board for their review. She said the hours of operation will be in compliance with the hours allowed by the bylaw, 8 AM-11PM. She said the hours of operation will be within that time frame.

Ms. McCormick said also provided is the commercial lease and the Purchase and Sale agreement, an elevation of the building with awnings and with some of the windows frosted. Ms. McCormick said signage will be in compliance with the bylaws.

Ms. McCormick said there was another discussion with Sgt. Storti from the police department. The website for the business will make it clear that there is a crosswalk at Cottage Street and Main Street. The police department did not express concerns about people crossing the street.

Ms. McCormick said there are 22 parking spaces on the west side of the street and 37 parking spaces on the east side of the street. There is plenty of parking.

Mr. Hankin asked if there will be on-line ordering.

Mr. Farnsworth said yes but he said he would encourage people to experience the store.

Ms. McCormick said there may be pick ups during a specific time frame.

Mr. Andersen said the building needs to comply with CCC requirements and still have some appeal to the retail customer. The awning option has been proposed to make the building more appealing but we don't want that to trigger exterior alterations.

Mr. Andersen said the lighting layout is the same. He said cut sheets have been provided. All lights are shielded and dark sky compliant. The light temperatures will be 2700-3000 K.

Mr. Andersen said the only windows that will be able to be seen through will be the front window and the parking lot side. The other windows will be frosted.

Mr. Higa asked if the CCC also approves the names.

Mr. Farnsworth said yes. He said the application is now on the short list and so far there have been no comments.

Ms. Nelson asked about light locations.

Mr. Andersen said there is one 12 ft. flood light on the south side of the building for the parking lot. There is a second 12 ft. floodlight on the back of the building. The rear flood light has a little spill onto the right of way, Gas House Lane. He said there is a street light at Gas House Lane and Main Street. He said there is no issue with glare.

Mr. Andersen said there is a bike rack on the north side of the building.

Mr. Hankin asked how people will know about the bike rack.

Ms. McCormick said it will be disseminated with the outreach information.

Mr. Andersen said turf will be planted on the back side of the building. There will be some landscaping in the back.

Mr. Pachano said in his mind the proposed plantings bring the project to a halt. He said he opposes anything other than native species.

Mr. Andersen said the plantings will be changed. We are open to other options. He said the area is currently overrun with invasives.

Mr. Andersen said the DPW Superintendent is agreeable with changing the sidewalk and narrowing the curb cut for the parking lot entrance. The opening will be reduced to 22 feet. He said that will be comfortable for drivers and pedestrians.

Mr. Andersen discussed parking. He said the parking on the west side of Main Street is available from the Route 41 intersection to Cottage Street and from the Getty gas station to Cottage Street on the east side. He said there are 39 parking spaces on the west side of the street and 22 on the east side of the street.

Mr. Hankin asked what the preferred parking would be.

Mr. Andersen said the west side is the preferred parking. He said the east side will be generally open for employees. He said there are good sight lines in that area for crossing. He discussed the trips generated and said they will be low, perhaps 70. He said the posted occupancy for the building is 49.

Mr. Farnsworth said there will be three employees at all times with six employees at peak time.

Ms. Nelson asked if there are any questions. There were none.

Mr. Rembold read through the SPR criteria, 10.5.5.

Mr. Higa said he has concerns about people crossing from the east side of the street during peak traffic times of the day.

Ms. McCormick said the police did not have any issues. A police detail officer will be hired and the officer will help with people crossing the road when necessary. Ms. McCormick said the app will be helpful for people to order and schedule pick up times.

Mr. Farnsworth said he anticipates an older demographic of customers because the product will be more expensive.

Mrs. Mooney asked if the applicant will pay for the police detail.

Mr. Farnsworth said yes.

Mr. Pachano suggested that crossing barriers might be used for people to cross the street.

Mr. Rembold concluded SPR criteria.

Mr. Pachano made a motion to approve site plan review with the conditions that only native plants will be planted and prior to commencing retail sales operations, the operator shall submit to the Town Planning Department the final licenses approved/issued by the Massachusetts Cannabis Control Commission, Mr. Higa seconded, all in favor.

The Board took a brief break. The meeting resumed at 8:15 P.M.

PUBLIC HEARING/SITE PLAN REVIEW: 671 STOCKBRIDGE ROAD

Ms. Nelson read the public hearing notice. The notice was posted in the Berkshire Record for two consecutive weeks at least 14 days prior to the meeting date. Abutter's notices were sent out including the nine towns abutting Great Barrington.

Ms. Nelson elevated Mr. Reed to a voting member in order for the applicant to have at least the four votes required for approval of the special permit.

Mr. Hankin made a motion to open the public hearing, Mr. Pachano seconded, all in favor. The public hearing was opened at 8:17 P.M.

Kirt Mayland was present to discuss his application for a commercial solar array in a brown field site located at 671 Stockbridge Road. Mr. Mayland said he has done solar projects up and down the Route 7 corridor from Sheffield to Clarksburg. He said he tries to stay with previously disturbed properties. He said the pit area is concealed from the road. He said this project will not use the Division Street substation.

Mr. Mayland said the parcel contains 60 acres of land; 7.6 acres will be used for the project. The northern side of the pit is the best spot to locate the array. He said the project will stay out of the 100 foot buffer, the Scenic Mountains Act land and the wetlands.

Mr. Mayland said we want to be part of the SMART Program for the State. This project will not be a net metering project. He said the energy will be directly sold to National Grid. There will not be any net metering with the Town.

Mr. Mayland said there will be a 7 ft. chain link fence, 6 inches off the ground, around the project. There will be overhead lines from a pole on Stockbridge Road attached to poles owned by National Grid. Then the power lines will go underground to the array. He said there will be no screening or lighting.

Timothy Coons, professional engineer from JR Russo, said the land will be regraded with a layer of topsoil and then seeded. He said there will be a decrease in runoff as a result. He said the project is 800 feet off of Stockbridge Road. He said all work is outside the wetlands to the north and the Scenic Mountain Act to the west. He said there will be no adverse impact on the environment.

Mr. Coons said there will be driven piles used to minimize disturbance. He said this should work, if not screw piles will be used. He said there will be a minimal amount of clearing at the entrance. He estimated 20-40 feet of area will be cleared creating a 30' right of way.

Mr. Coons said the project will tie into a pole on Stockbridge Road then a series of poles owned by National Grid before going underground and connecting to the array. There will be some clearing on the south side to prevent shading.

Mr. Hankin asked if there will be any remediation of the brown field.

Mr. Mayland said he didn't think so. He said everything is above ground so there is no remediation necessary. There is nothing on the site to further contaminate the site.

Mr. Higa asked why not put the panels on pads like the project in West Stockbridge. He said it seems that it would be easier.

Mr. Mayland said ballasts are more expensive. He said the posts are easier to maintain and easier on the wildlife. He said there will be a couple of weeks of pounding the posts in then the noise is done. He said he is willing to agree to construction time limits.

Mr. Higa asked about remediating the site at the end of the life of the array.

Mr. Mayland said everything is recyclable. Everything just gets pulled out.

Mr. Higa asked about screening. He said he would like to see what exists maintained for the duration.

Mr. Mayland said the logging and gravel operations have been there for 30 years and will continue. He said he doesn't see the entire site cleared.

Mr. Higa said there is great natural screening he said he would want some assurance that it will remain.

Ms. Nelson said she does not want to discuss any property other than what is under the control of the applicant.

Mr. Pachano asked if there will be a Form A to divide the parcel. He said there is no frontage.

Mr. Mayland said if he purchases the property it will meet all dimensional requirements including frontage.

Ms. Nelson said there is information about grading and drainage but there is nothing about how much topsoil will be will be put down. She said the area is hard pack so the drainage is very poor.

Mr. Coons said what is there will be broken up and tilled.

Ms. Nelson said there is nothing specific on the plan.

Mr. Coons said we can agree to have a specific depth of topsoil. He said it is the intent to fill in with material that can be seeded. He said we would accept a condition.

Ms. Nelson said we want to know what you are planning.

Mr. Mayland said we will have 4 inches of topsoil. He said we are willing to have it made a condition.

Ms. Nelson asked if there were any questions from the Board or the public. There were none.

Mr. Rembold read a letter from the Selectboard dated April 8, 2019. The Selectboard made a positive recommendation.

Mr. Rembold read a letter from the Board of Health dated April 8, 2019. The Board of Health passed without comment.

Mr. Rembold read a letter from the Conservation Commission dated March 27, 2019. The Conservation Commission letter stated there were no wetland issues so it is non-jurisdictional. The applicant did file a Request for Determination application regarding the Scenic Mountains Act.

Mr. Mayland said they met on April 24, 2019 and determine that the project does not impact the Scenic Mountains Act area.

Ms. Nelson said there is knot weed on the site. She suggested pulling it out and burying in a hole. It is very invasive.

Mr. Mayland said no problem.

Mr. Rembold asked the Board about a financial surety or bond.

Mr. Hankin said in the past we have requested a bond to cover reclamation.

Mr. Mayland said he would come back and propose a bond prior to getting the building permit.

Mr. Pachano made a motion to close the public hearing, Mr. Reed seconded, all in favor. The public hearing was closed at 8:45 P.M.

The Board went through the special permit regulations.

Mr. Hankin asked about access to the site.

Mr. Coons said there is a hammerhead entrance with room for a turnaround. Pick up size trucks, for maintenance, can drive between the arrays.

Mr. Pachano read through the site plan review criteria.

Mr. Hankin made a motion to approve site plan review, Mr. Higa seconded, all in favor.

Mr. Pachano read through the special permit criteria, 10.4.2. Mr. Rembold suggested a finding in a memo date April 23, 2019 titled Notes for Thursday night. The Board adopted Mr. Rembold's language for each of the 6 findings.

Mr. Hankin made a motion to approve the special permit with the findings as discussed, Mr. Reed seconded. Mr. Pachano; aye, Mr. Reed; aye, Mr. Higa; aye, Mr. Hankin; aye, Ms. Nelson, aye. All in favor.

ZONING PRESENTATIONS AT THE ANNUAL TOWN MEETING:

Ms. Nelson asked to schedule a separate meeting prior to May 6th to discuss the zoning presentations. She suggested the meeting might be during Mr. Rembold's regular business hours.

The meeting was scheduled for Thursday May 2, 2019 at 5:00 P.M. at the Town Hall.

PLANNING BOARD REPORT:

This item will also be on the agenda for the May 2nd meeting.

PLANNING BOARD RULES & REGULATIONS:

The Board tabled this item until after the Annual Town Meeting.

TOWN PLANNER'S REPORT:

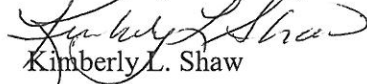
Mr. Rembold said he has nothing to present.

BOARD & COMMITTEE UPDATES & CONCERNS:

There were not updates or concerns discussed.

Having concluded their business, Ms. Nelson adjourned without objection at 9:03 P.M.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kimberly L. Shaw".

Kimberly L. Shaw

Planning Board Secretary

