Great Barrington Zoning Board of Appeals

Tuesday, March 19, 2019
7:30 PM
Town Hall, 334 Main St., Great Barrington

MINUTES


Call to Order: R. Majdalany called the meeting to order at 7:30PM.

1. Public hearing:
   a. Open Public Hearing:
      Susan Smith spoke on behalf of K. Sinico
   b. Explanation of Project:
      An application was filed by Kathleen Sinico for the property at 260 Stockbridge Road and 4 Cooper Road, for a Permit to modify a Variance granted by the Board in 1986 and to remove a condition of that 1986 Variance. The Chocolate Shop is in a B2 zone, and the residence partially in B2, and partially in R1B. The concern in 1986 was in regard to a garage on the property, which has since been removed with a proper demolition permit.

      Ms. Sinico is requesting the Zoning Board approve the January 2019 plan that was filed with the application, finding that the 1986 condition is not warranted, and support the division line. This property has always been non-conforming, but the January 2019 plan meets all current zoning regulations. Support of this plan would support affordable housing and the entrepreneurial spirit that Great Barrington is striving for.
   c. Questions from the Board
      M. Wise: Is it up to the Zoning Board to approve a new line between lots?
      Ms. Smith confirmed that the new owners are requesting ZBA approval.
   d. Comments and questions from the public – NONE
   e. Comments from other boards – NONE
   f. Vote to Close/Continue Public Hearing
      MOTION: M. Wise made the motion to close the Public Hearing.
      SECOND: C. Ivory
      VOTE: 5-0, Public Hearing Closed
   g. Board Discussion
      Discussion: On February 25, 2019 the Selectboard voted unanimously to grant Ms. Sinico’s request. On March 3, 2019 the Planning Board also voted unanimously to grant Ms. Sinico’s request.

      The request amplifies and continues the socioeconomic goals of the Town. It has no change/effect on safety, public services, structure, environment, or fiscal impact to the Town.
h. Vote to Approve/Approve with Conditions/Deny/Continue

MOTION: M. Wise made a motion to grant the requested removal of the 1986 Variance Condition and to recommend the division line as requested.
SECOND: C. Ivory
VOTE: 5-0, Motion passed

2. 40B Comprehensive Permit, 100 Bridge Street, CDC of South Berkshire
Tim Geller - Executive Director, CDC South Berkshire

a. Review site plan revisions proposed to the approved 40B Comprehensive Permit for the remediation and development of 100 Bridge Street.

The Project was fully funded in Summer 2018. Construction bids are coming in and a contractor will be announced next week. Remediation should begin the week of June 1, by July 15 for requirements. Construction is slated to begin mid-summer, and the work anticipated to take 12 months to completion.

There has been a slight change in the parcel locations, driven by the remediation plan that Mass DEP approved.

It was expected that 8 acres would be developed, flipping soil and adding a cap. DEP will not allow this. The contaminated soil must be captured and landscaped. The CDC will own the remediated dirt (4 parcels total). This requirement has decreased the development capacity.

Two clean parcels are now in the plan: Bentley Apartments and Commercial, which is being considered by a developer of Independent Senior Living and Assisted Living Facilities.

Positives of the Change in Plan:
- The proximity to the water treatment plant, which has always held a negative connotation.
- 50% of Great Barrington residents would meet the qualifications needed to live in the Bentley Apartments.
- The location allows one to walk to Main Street.
- The temporary cap on the contaminated soil was an issue in the previous plan. Now 100% of the soil is being remediated from Day 1. A permanent remedy solution will be in place.

A Memo from the Bentley Apartments Attorney was given to the ZBA.
C. Ivory asked how the design for the contaminated soil came into place.

T. Geller: It took into consideration the view of a gentle slope vs. a three story building. The design gives a landscaped buffer zone that people can use. The plan includes wildflowers and native grasses will be planted there, and it will be 70-80ft wide.

C. Rembold provided T. Geller with a memo from Town Counsel D. Doneski.

Board questions/comments as a result of the memos:
1. #18-Condition A:
   Rewritten as remediating the entire site, rather than 50ft.
2. B: Infrastructure for Bentley Apartments, not the entire site.
3. C: Approval of Building Inspector Permit as sign off with no involvement of an independent engineer.

Discussion:
M. Wise commented that the memo from the Bentley Apartments lawyer lacked proper legal language, which he would like to see before moving forward. He also questioned the condition asking for the Building Inspector to give final sign off.
C. Rembold confirmed that it is common and usual for the Building Inspector to sign off, there is not commonly an Independent Engineer acting for the ZBA. The ZBA expressed no desire for an Independent Engineer, though Town Counsel did include it in the original draft decision as standard language.

4. **Environmental Conservation Restriction:**
The problem is with the uncertainties getting the state to sign off on the restriction. The Secretary of State has to complete discretionary findings. Mr. Geller requests that the Town provide their Conservation Restrictions, which abide by the standards of the State. The site will abide by the Town restrictions and continue to pursue state approval. This would apply to the Riverfront area, as it always did. Town Council confirmed this is a reasonable request.

5. **Parking/Town Green**
Neither of these exist any longer, so it doesn’t make sense to keep them in the plan.

**Comments: Brian Balicki, Engineer**
- There are no maintenance concerns in regard to the contaminated soil under the present plan. It is a permanent solution, per Mass DEP.
- There is a synthetic geofabric between the contaminated soil and the cap.
- Fencing is a DEP requirement to prevent sledding, which could compromise the cap.
  - C. Ivory asked how the fencing would prevent sledding.
- The slope proposed would be appropriate, at 1ft up and 3ft out, which is the industry standard.
- The way the material is transported is very governed. By having it in piles, it allows for short distance transport. The volume is significantly more in the main berm. Berms would be 4ft to 9ft off the ground throughout the property.
- M. Wise asked if play equipment has been considered. It was confirmed that the original proposal did not include a playground.
- D. Hagberg asked if there is a possibility of making a protected channel to move the contaminated soil through. T. Geller confirmed that this was similar to the original plan, and was very complex and expensive.
- C. Ivory asked for confirmation that the Riverwalk still exists in the plan being presented. T. Geller confirmed that yes, it comes off from Bentley, goes around the apartments, and back to the bridge.

**b. Citizen Speak**

a. **Elizabeth Orenstein**
   Regulations offer examples of Substantial Changes. Ms. Orenstein urges the Board to consider the changes proposed as substantial and to bring back to Public Hearing.

b. **Paul Ivory - Chair, GB Historical Committee**
   There is an effort underway to preserve the smokestack that is on the site. T. Geller has been very supportive of this effort to preserve the base as an historic ruin. T. Geller confirms that this is a part of the current design.

c. **Vote / determination whether revisions are “substantial” or “insubstantial” changes under the Comprehensive Permit regulations, 760 CMR 56.07 (4)**

**Discussion:**
- C. Ivory notes that Town Counsel wrote that the conditions/alterations/modifications presented are not substantial.
- S. McAllister feels that it is substantial, as the housing is now wedged between the berms, and further stigmatizes the housing. Mr. McAllister noted that he does appreciate the work that CDC has put forward, but feels the Town deserves better.
• **M. Wise** is on the fence. Moving further away from the sewer plant is good, but the new plant puts an "out of sight, out of mind" in the corner feeling forth. He also noted that not having a playground in the plan is unfortunate, seeing as it is aimed to be affordable family housing.

**MOTION:** S. McAlister that it is a substantial change.

**SECOND:** C. Ivory

**VOTE:** 4-1: C. Ivory, M. Wise, S. McAlister, M. Meagher in favor. Majdalanay opposed.

C. Rembold will contact Town Counsel D. Doneski regarding requirements, and see if he can attend a follow up meeting in April – date to be determined.

3. **Other Business:**

   Approve minutes of November 7, 2018 meeting: **Postponed**

4. **Adjourn – 8:35PM**

Respectfully Submitted,

Tabitha Brewer
Recording Secretary