

DATE: March 10, 2011
TIME: 6:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting/Public Hearings
PRESENT: Donald Goranson, Chairman; Jonathan Hankin; Jack Musgrove;
Suzanne Fowle Schroeder; Richard Dohoney
Chris Rembold, Town Planner

Mr. Goranson called the meeting to order at 6:00 P.M.

FORM A'S:

There were no Form A's submitted.

MINUTES: FEBRUARY 24, 2011

Mr. Hankin made a motion to approve the minutes of February 24, 2011 as amended, Mr. Musgrove seconded, all in favor.

SITE PLAN REVIEW: FITZGERALD

The Board conducted a site visit at 24 Locust Hill Road earlier in the day.

A site plan review application for an accessory dwelling unit was filed on behalf of Hope Fitzgerald for 24 Locust Hill Road.

Mr. Hankin read through the site plan review criteria from 8.2.3. There were no parking issues. The unit would be 624 square feet with an outside entrance.

Mr. Hankin made a motion to issue the certificate for an accessory dwelling unit at 24 Locust Hill Road pending the approval of the Board of Health of its septic system, Mr. Musgrove seconded, all in favor.

AT&T:

The Board briefly discussed the AT&T application for new antennae on Fairview Hospital. Mr. Musgrove had not completed the letter to be submitted to the ZBA but he said it would be ready for the next meeting.

Mr. Hankin said, based on representations by the applicant's attorney, that the federal courts have deemed that a permit for a use variance can be issued.

Mr. Musgrove said the bylaw was written specifically so that the entire Town could have coverage. The federal law would not be forced on us if coverage were available and adequate to serve the needs of the Town. The new antennae would be detrimental to the town because they would not provide adequate coverage.

PUBLIC HEARINGS: ZONING AMENDMENTS

Mr. Hankin made a motion to open the public hearing, Ms. Schroeder second.

Mr. Musgrove yes

Mr. Dohoney yes

Mr. Goranson yes

Planning Board
March 10, 2011
Page 2

Ms. Schroeder yes
Mr. Hankin yes

All in favor. The meeting was opened at 6:23 P.M.

Mr. Goranson read the public hearing notice into the record. The public hearing notice was published in the Berkshire Record on February 18 and February 25, 2011. The notice was posted in the Town Hall and the nine towns abutting Great Barrington were notified as well as the BRPC. (I assume they have no obligation to post our notices?)

The Board dealt with the zoning amendment proposals in order according to the Town Planner's list (Planning Board's Proposed Amendments to the Zoning Bylaws) attached to the memo dated March 9, 2011.

Zoning Article 9.4 Downtown Mixed Use B3 District

The Board discussed the proposal. The Board felt this was a necessary change to clarify the intent of the existing bylaw. There was little discussion or comment from the public. The Building Inspector, Ed May, had indicated that he was satisfied with the bylaw revisions.

Zoning Article 3.3 Home Occupation

The Board discussed the proposal. They felt this bylaw needed clarification to make it clear where home occupations are allowed and what types of home occupations are allowed by special permit.

Mr. Rembold said there were minimal changes to this bylaw. The changes were made for clarification purposes. He said Mr. May was satisfied with the revisions.

Joe Carini was present. He said he had some concerns about increasing the density and activity in the residential zones especially the densely populated zones. He said he was not sure the public would understand the impact this could have on neighborhoods.

Mr. Dohoney said the revisions to this bylaw redefine how it is applied. The bylaw has existed for a long time.

Mr. Carini said he would be happy to not allow any home occupations in the R-1-A or R-1-B zones.

Mr. Hankin said it is an accessory use to a residence it is not for commercial uses.

Zoning Article 4.3 Rear Lots

The Board discussed the proposal. This revision also clarifies the existing regulation. Mr. Rembold said that Mr. May said the verbiage is good and the graphics are excellent.

Zoning Article 11.0 General Service Establishments and Personal Service Establishments
The Board discussed the proposal. Mr. Rembold said that when the bylaws were recodified last year this section of the bylaw was not changed or updated so the definitions were unclear and out of date. The purpose of this revision is to update the definitions and clarify the types of uses covered by this bylaw.

Mr. Rembold said Mr. May was satisfied with the revisions.

Zoning Article 6.3 Landscaping Requirements
The Board discussed the proposal that changes the requirement for use of native species to encouraging their use.
Mr. Rembold said Mr. May was satisfied with the revision.

Zoning Article 10.5 Site Plan Review
The Board discussed this revision that clarifies when site plan review is required by the bylaws.
Mr. Rembold said Mr. May was satisfied with the revision.

Zoning Article 4.2.9 Fences
The Board discussed the proposal that would impose specific requirements for fences in the residential zones.
Ray Elling and Marlene Goldstein were present. Mr. Elling is currently building condominium units on Maple Avenue. He planned to put up a fence as part of his project so he had questions about the impact of this proposal on his project.

Mr. Elling was advised that the bylaw would apply to his project.

Mr. Rembold said Mr. May was satisfied with the revision. He asked if fences in all areas, side, rear and front yard are required to face the neighbor or just the front yard.

Zoning Article 8.2 Accessory Dwelling Units
The Board discussed the proposal that would allow accessory dwelling units in accessory buildings but by special permit. This would allow for more people to have the option for an accessory dwelling unit.

Mr. Rembold said Mr. May was satisfied with the revision.

Zoning Article 7.17 Kennels
The Board discussed the proposal that would clarify whether kennels are allowed and where they are allowed. The bylaw defines what kennels are and requires them to receive a special permit.

Mr. Rembold said that Mr. May suggested legal advice be sought as M.G.L. c.140 sec. 136 A discusses three or more dogs owned by a single person irrespective of the purposes...

The final article was submitted by a land owner who requests that the language in 8.4.2 be amended to require a minimum of 50% of the street-level floor space be reserved for non-residential use. The bylaw originally read this way but was changed to require 75% be reserved for non-residential use. The petitioner, Tom Doyle, has a project currently tied up in Land Court. The project was based on the original requirement of 50%.

Mr. Doyle was present and thanked the Board for entertaining his petition. Mr. Doyle said it would be difficult to maximize housing stock in a mixed use development if 75% of the entire first floor footprint must be dedicated to a non-residential use.

Ms. Schroeder said she did not understand why the 75% does not work or why it does not utilize best development practices.

Mr. Doyle said mixed use encourages more not less housing stock. It promotes infill not sprawl. In addition, the more non-residential space the more parking is required.

The Board discussed the parking requirements based on the two percentages. It was determined that by requiring 50% non-residential the required parking would be reduced by 3 parking spaces.

After much discussion of the proposal the applicant amended the language of his petition to say: Outside the Village Center Overlay District the SPGA may reduce this requirement to a minimum of 50%.

Having completed the public hearings, Mr. Musgrove made a motion to close the public hearings, Mr. Hankin seconded.

Mr. Dohoney yes

Ms. Schroeder yes

Mr. Goranson yes

Mr. Hankin yes

Mr. Musgrove yes

All in favor. The public hearing was closed at 9:17 P.M.

Mr. Hankin made a motion to send a favorable recommendation to the Annual Town Meeting on the petition of the land owner as amended at the request of the petitioner, Mr. Musgrove seconded, all in favor.

Planning Board
March 10, 2011
Page 5

Mr. Hankin made a motion to send a favorable recommendation on 9.4 Downtown Mixed Use B3 District to the ATM, Mr. Musgrove seconded, all in favor.

Mr. Hankin made a motion to send a favorable recommendation on 3.3 Home Occupations to the ATM, Ms. Schroeder seconded, all in favor.

Mr. Hankin made a motion to send a favorable recommendation on 4.3 Rear Lots to the ATM, Ms. Schroeder seconded, all in favor,

Mr. Hankin made a motion to send a favorable recommendation on 11.0 General Service Establishments and Personal Service Establishments to the ATM, Mr. Musgrove seconded, all in favor.

Mr. Hankin made a motion to send a favorable recommendation on 6.3 Landscaping Requirements to the ATM, Ms. Schroeder seconded, all in favor.

Mr. Hankin made a motion to send a favorable recommendation on 10.5 Site Plan Review to the ATM, Mr. Musgrove seconded, all in favor.

Ms. Schroeder made a motion to send a favorable recommendation on 4.2.9 Fences to the ATM, Mr. Hankin seconded, all in favor.

Mr. Hankin made motion to send a favorable recommendation on 8.2 Accessory Dwelling Units to the ATM, Mr. Musgrove seconded, all in favor.

Mr. Hankin made a motion to send a favorable recommendation on 7.1.7 Kennels to the ATM, Mr. Musgrove seconded, all in favor.

The Board will hold their public hearing on the Housatonic Mills Redevelopment Overlay District on March 31, 2011 at 7:15 PM.

Mr. Hankin made a motion to adjourn, Ms. Schroeder seconded, all in favor.
The meeting was adjourned at 9:38 P.M.

Respectfully submitted,
Kimberly L. Shaw
Planning Board Secretary