

## PLANNING BOARD

DATE: February 9, 2017

TIME: 7:00 P.M.

PLACE: Large Meeting Room

FOR: Regular Meeting/Public Hearings

PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa  
Pedro Pachano  
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 7:00 P.M.

### **FORM A'S:**

There were no Form A's submitted.

### **MINUTES: JANUARY 25, 2017**

Mr. Hankin made a motion to approve the minutes of January 25, 2017 as amended, Mr. Fick seconded, all in favor.

### **PUBLIC HEARING:**

Mr. Rembold read the public hearing notice into the record. The Public Hearing notice was posted in the Town Hall and the Town of Great Barrington website. The notice was published in the Berkshire Eagle on January 26 and February 2, 2017. Notices were sent to the seven towns abutting Great Barrington and BRPC.

Mr. Hankin made a motion to open the public hearing, Mr. Fick seconded, all in favor. The public hearing was opened at 7:04 P.M. Ms. Nelson announced that the meeting would be recorded.

### **AMEND SECTION 10.5 SITE PLAN REVIEW:**

Mr. Rembold read the language proposed to amend 10.5 Site Plan Review of the zoning bylaws. Purpose is to add maximize accessibility accessing and exiting the site. Two words will be added "accessibility" and "and" to the bylaw.

Ms. Nelson asked if there were any comments from the public. There was none.

Ms. Nelson asked if there were any comments from the Board. Mr. Hankin said it is a good idea to add the words.

Mr. Hankin made a motion to send a positive recommendation to the Annual Town Meeting on the proposed amendment, Mr. Fick seconded, all in favor.

### **HEIGHT DEFINITION:**

Mr. Rembold said the second proposal is to change how to measure the height of a building. The new language explains that to determine the height of the building the measurement is from the average level of the highest and lowest points of the finished grade at the front of the building. A diagram is included so everyone will know where to measure from.

Ms. Nelson asked if there were any comments from the public. There was none. She asked if there were comments from the Board. There was none.

Mr. Hankin made a motion to send a positive recommendation to the Annual Town Meeting on the proposal, Mr. Fick seconded, all in favor.

Ms. Nelson said that the issue is the weather. Some people may not have been able to attend the meeting or might think it was canceled. The next two items are more substantive so we want anyone who might want to comment to have the opportunity. We will take public comment now and continue to a date certain for further discussion. No vote will be taken tonight.

#### **SOLAR ENERGY SYSTEMS:**

Mr. Rembold gave an overview of the proposed bylaw. He said the current bylaws are silent on solar systems. The Board recognizes that the Master Plan policy is to find a way to promote solar systems. Farms sometimes need assistance to diversify their income. Solar and agriculture like the same flat sunny land so the goal of the bylaw is to find a way for solar and agriculture to co-exist.

Mr. Rembold said there are dimensional regulations for how to locate on a lot, setback and fences. He said 9.12.4 provides design and performance standards, how a site would be screened, how land clearing and soil erosion will be dealt with and agricultural land. Board felt it was important to limit how much land can be taken out of agricultural land for solar use. The proposal addresses lighting, it states that utility connections should be underground and slightly raised fences for animals to move through the site and that seed mixtures be pollinator friendly.

Mr. Rembold said the Agricultural Commission was consulted during the writing of the bylaw. The Agricultural Commission, under Section 9.12.7, will have 30 days to comment on any application. If they do not comment, the application would not be held up.

Mr. Rembold said section 9.12.6 requires Site Plan Review for medium to large scale systems. This allows for more detailed oversight of the project. Section 9.12.7 provides 30 days for the Agricultural Commission to comment, but it is not meant to stop the process. The Planning Board can go ahead if the Commission does not comment within 30 days. Section 9.12.8 addresses decommissioning and abandonment of the site and what happens to the land when the solar use has been terminated.

Mr. Rembold referred to a hand out showing the inclusion of the solar use in the Table of Uses and how each level of solar use, if not by right, would be regulated by special permit and site plan review, depending on the size of the system and the zoning district. The different types of systems in the Table of Uses are defined in the draft bylaw.

A member of the audience, Amparo Vollert, expressed concerns saying it is dangerous to mix industrial uses with residential uses. The economic welfare of a neighborhood could be negatively impacted by allowing an industrial use. She went on to say that the Town is exemplified by its natural beauty and asked if the impact of introducing solar into neighborhoods has been considered. She said she had spoken with real estate brokers who have indicated it could be more difficult to sell a property in a residential zone that abuts a solar array. Finally she asked who will ultimately benefit financially from solar arrays.

Mr. Rembold said he would attempt to respond to most of the questions. He said the bylaw is not intended to meet any particular interest. The bylaw is intended to allow the possibility of allowing the use by special permit. A special permit is not by-right. It provides the opportunity to allow a use where it is not allowed by-right.

Ms. Nelson said the Master Plan speaks to the sustainability and energy efficiency of our Town and the opportunity to generate power. The bylaw is trying to strike a balance through the special permit process.

It is difficult to anticipate every case. This proposal would allow people to come to the Board to consider applications on a case by case basis.

Ms. Nelson said she would expect there to be economic impacts but the impact could be positive or negative.

Mr. Rembold said the Board had a lot of discussion about the impact on the residential zone. An in depth study was not done but would be done for each case as it came before the Board as part of the permitting process.

Mr. Hankin said the notion of where the power goes for billing purposes is different from where the power is actually used. The reality is the power from the facility goes to the closest user, so it would help our community in reducing our carbon footprint, even though the financial part might not directly benefit our community.

Ms. Vollert said the Master Plan clearly states how important it is to protect the natural beauty of the Town as well as promoting renewable energy and farms. A delicate balance is necessary as it may prove dangerous to mix an industrial use in a residential zone.

Mr. Fick said the Board is considering adoption of a bylaw because the State has laws that prohibit towns from having laws against solar use. The only reason to deny solar would be for a public health or safety issue. This bylaw provides for oversight by the Board through the special permit and site plan review processes.

A member of the audience, Dr. Joe Cooney, said when he read through the State's model it seemed to have a siting preference statement. He said he didn't see that represented in the proposed bylaw. He said the State law encourages the solar use in industrial zones, roof tops, brownfield sites and perhaps to alleviate needs of a working farm. We only have one Berkshires with our rolling hills. It is important to protect them.

Mr. Rembold said the siting issue is being addressed in various ways. Solar on roof tops is encouraged. Large scale solar in a residential zone would only be allowed with a special permit. Standards are included for land clearing, visual impacts, soil erosion and habitat impacts. On agricultural lands we require the utility connection to be underground and to restore the land at the end of the lease period. The Agricultural Commission has input. These are ways we have tried to address these issues.

Mr. Hankin said it might be helpful to explain that the Board has been working on the solar issue for over 5 years. Initially we thought we would create an overlay district for the areas that solar would be allowed. Mr. Rembold and BRPC worked to identify the areas that met the criteria for solar installations. The criteria are south facing land that is relatively flat and close to three phasepower. When the criteria were applied to the available land we determined that we could not create the overlay district. It didn't work.

Ms. Nelson said another area we have attempted to address is the decommissioning of a site. Solar is a new industry so we don't know what issues there will be when a site is no longer functional. We have tried to anticipate what could happen but we can't anticipate everything. We have reached out to different interest groups for their input and we have tried to be respectful to the area while striking a balance.

Ms. Nelson said the Agricultural Commission is in agreement with the bylaw and will have input in the process.

Mr. Rembold went back to the Table of Uses in the proposed bylaw to explain how solar would be addressed in each of the zones. He summarized the table and restated that the only place medium or large scale solar could be allowed by right is in an Industrial zone. In all other zones, these sized systems would be prohibited or allowed only by special permit.

Mr. Hankin asked Mr. Rembold what percentage of the Town has land in Agricultural Preservation Restriction (APR) or conservation.

Mr. Rembold said at least 1/3 of the Town's 30,000 acres is permanently protected by local, State or federal protections. Another 1/3 of the land is undevelopable for any number of reasons, is flood plain, part of a non-profit or open space. Less than 1/3 of the Town's land could be used for solar.

Ms. Nelson said a significant portion of our Town is protected. We have many very publically viewable areas under permanent protection.

Ed Abrahams said 9.12.4 uses the phrase "reasonable efforts". He asked if stronger words could be used.

Mr. Hankin said these are standards not laws. It is up to the applicant to sell the Board on what they are requesting.

Mr. Fick said the solar array on Route 23 in New York State is ugly. He said it was his goal to make sure we can prohibit something like that. The special permit process is discretionary.

Mr. Rembold said the Site Plan Review process has less discretion than a special permit. It can't be denied. The special permit process provides the maximum power as a special permit can be denied. Visual impact and neighborhood character can be addressed during the special permit process.

Mr. Abrahams asked if requiring solar arrays as part of new construction could be part of the bylaw.

Mr. Rembold said no. Zoning can not make that kind of requirement.

Sharon Gregory commented that solar should be a regional issue. She said Great Barrington is a center of economic development and commerce but there are areas other than Great Barrington that can provide solar possibilities. She said we need to give people security in the residential zones. People should be assured that a residential area will remain residential and not have concerns about an industrial use in their neighborhood.

Mr. Hankin said on any lot of 5 acres or more, under state law, people have more by-right uses available, such as farming. On a lot of 5 acres, one can raise pigs, and the Town has no viable means of regulating it. When people buy property in Great Barrington they sign a document acknowledging that Great Barrington is a Right to Farm Community.

Mr. Higa asked if Ms. Gregory was including all residential zone or just R-2 and R-4 where there are larger lots.

Ms. Gregory said she would hate for us to trade off the possibility of people moving here because of large scale solar.

Mr. Fick said maybe we should change the bylaw as it pertains to 5 acre lots.

Ms. Nelson said we are just taking comments at this meeting. We can wait to discuss possible amendments.

A member of the audience, Kari Harendorf, asked if the Board knew what impacts solar has on the soil. Are we playing with our health and the health of children.

Ms. Nelson said the Board has a decommissioning plan for removal of the panels at the end of their useful life. The decommissioning plan does include returning the soil to its original state.

Ms. Harendorf said the solar companies may not be around in 20 years. Great Barrington has been left holding the bag on several properties including 100 Bridge Street and the Ried Cleaners property.

She also expressed concern about the proliferation of these projects. She asked whether there were any land conservation efforts to help farmers and to conserve farms. These projects are not farms they are energy plants.

A member of the audience asked if decommissioning bonds have been considered, if additional setbacks have been considered and if there is a 500 acre farm where 100 acres could be used for solar.

Ms. Nelson responded that a decommissioning bond has been discussed. The idea of additional setbacks is interesting and can be discussed. In theory 100 acres of a 500 acre farm could be used for solar.

Mr. Rembold added that with the exception of the Industrial zone, large scale solar projects are only permitted by special permit. The special permit process allows for each application to be judged on a case by case basis.

Mr. Fick said we don't want farm land to turn into solar industrial areas. Dairy farms are disappearing. Many farmers are living from season to season. We want to help equalize the farmer's income while not adversely impacting our community.

A member of the audience, Michael Cohen, said farms are being put at risk by not supporting the agricultural landscape. It appears that there is more support of the farmers than the farm land. The Board is doing important work. The bylaw does not provide restrictions for preserving the landscape. It puts the Town at risk.

Mr. Hankin pointed out that the Great Barrington Rudolf Steiner School is on land that was previously farmed.

Ms. Vollert said the Steiner school supports the Town. She asked about the dimensional regulations, specifically the proposal that solar energy systems will not be included in the calculations of lot coverage for impervious surfaces, the ground underneath is impervious. Ms. Nelson said when we talk about lot coverage, a house, for example adds impervious cover. A solar field on grassy land would shed over the land, but it would not make the land impervious. For these purposes would not count the panel as impervious.

Mr. Pachano said that it really means is that if you put solar on the lot, it will not necessarily take away from the buildable square footage of the lot. Mr. Rembold agreed.

Ms. Vollert asked if it could be considered that there will be no large scale solar in residential zones.

Mr. Higa again asked if the comment includes all residential zones including R2 and R4 or just the densely populated residential zones.

The audience member said all residential zones; large scale projects should only go in Industrial zones.

Ms. Harendorf said that it seems large scale solar works for the energy companies but it does not directly benefit anyone else.

Mr. Hankin asked Mr. Pachano what the statistic for CO<sub>2</sub> and solar arrays.

Mr. Pachano said when working at its maximum capacity a 10-acre solar field it can remove 27,000 tons of CO<sub>2</sub> from the atmosphere.

Mr. Hankin said the arrays do some good for the community.

Ms. Vollert wondered if solar fields should have greater setbacks than the underlying zoning requires. She said the special permit process is very subjective. It is a big responsibility for the Board. It is hard to know if you have considered all of the potential consequences.

Mr. Hankin said what should the setback be? Mr. Pachano said Monterey required very large setbacks such as 200 feet for solar. Ms. Vollert said that is more reason because solar is an industrial use.

Ms. Nelson said we have spent an enormous amount of time looking at this. We looked at what we had available for land and what can be worked with. She said maybe at the next meeting we can put up the Town resource map so you can see where we started.

There was a conversation about land conservation or subsidy programs to benefit farmers.

Mr. Higa said we have attempted to find a way for farmers to keep their land and turn the land back into farm land down the road. There was a comment that the bylaw benefits farmers too much. Mr. Higa said first and foremost it benefits homeowners because it allows the smallest solar by right. He said we should consider what can happen if we don't get the bylaw in this year.

There was a comment from the audience and discussion by the Board about the percentage of how much land should be able to be converted from farmland to solar.

Ms. Nelson said there have been a lot of comments. She asked if there were any additional comments from the audience or the Board. There being none, she said we will continue the discussion to the next meeting.

Mr. Hankin made a motion continue the public hearing to February 23, 2017 at 6:00 P.M. in the large meeting room at Town Hall, Mr. Higa seconded, all in favor.

#### **SITE PLAN REVIEW: 300 STOCKBRIDGE ROAD**

Attorney Nick Arienti was present to discuss the landscaping plan for Kimco at 300 Stockbridge Road.

Mr. Arienti said the last time the applicants were here the Board wanted the invasive species removed and the landscaping beds improved. The new plan proposes 4 Honey Locust trees to be planted. He said the landscape architects could not make the meeting because of the weather.

Mr. Higa asked if the proposed tree was an invasive species.

Ms. Nelson said she did some checking and it is not an invasive species. It is a very hearty tree intended for a difficult environment.

Mr. Rembold said it is a difficult environment. There is no irrigation. He said the plan shows grass areas and paved walk ways to discourage people from walking in the beds. There is also some fencing to be installed. He said the applicant responded to the Board's concerns and asked if it meets the Board's specifications.

Mr. Hankin asked if what he was seeing on the plan were center walk ways.

Mr. Rembold said they are cut outs for pedestrian use.

Mr. Arienti said Day lilies are suggested but we are open to suggestions. We want to make a warmer more attractive area than what exists.

Ms. Nelson said our request was very limited in scope. We asked to have the invasive species removed which has been done. The curbed islands remain but there are new plantings proposed. She said there doesn't appear to be a change in the footprint.

Mr. Arienti said that is correct.

Mr. Hankin noted that there are no trees proposed in two of the islands closest to the store.

Mr. Arienti said that is true. The two islands in front of the building have no trees proposed as we do not want to block view of the building from the street.

Ms. Nelson said the Honey Locust is a larger tree but maybe a small tree could be planted that would not block the building. Ms. Nelson strongly urged Mr. Arienti to have the applicants agree to plant two small trees.

Mr. Arienti said he would convey the request. He said the applicant also has a request of the Board that would allow some additional time to complete the work for the landscaping. He said the landscaping is not within the scope of this calendar year's work.

Mr. Hankin said, given their planned opening date, it works against their interest to wait until 2018.

Ms. Nelson said they don't have to wait until 2018.

Mr. Arienti said there are financial commitments for this site. Unless another tenant is secured it will be difficult to complete the landscaping. He said he agreed with Mr. Hankin that it would be to our benefit to have the best appearance at the opening.

Mr. Arienti stepped out to call the applicant. The Board went to the next agenda item.

**TOWN PLANNER'S REPORT:**

Mr. Rembold said the Board will have two permits to review at the next meeting. He suggested site visits.

The Board agreed to conduct a site visit at 5:15 PM for the Greenhouse development at 27 Humphrey Street and a second site visit at 5:30 at 400 Main Street.

Mr. Rembold said he did not know if the Site Plan Review for the airport would be part of the next meeting.

Ms. Nelson reminded the Board that the balloons are supposed to be in place tomorrow. Everyone should try to take a look.

Mr. Rembold recommended the Board wait to do their site plan review until the Selectboard finishes the special permit process.

Mr. Arienti returned to the meeting. He said he spoke with Chris Siminello who indicated that he is ok with the two trees but would like to discuss it with the operational manager for the site. He said visibility and sight lines are important to maintain in the parking lot. Mr. Arienti said it has been agreed that he could return to another meeting with a revised landscaping plan.

There was some discussion about site plan review and the need for it to be approved prior to obtaining a building permit. Mr. Arienti said it will not be an issue to come back for final approval of the plan.

Mr. Higa said he is not sure it is a good idea to add the trees as it could impact pedestrian and vehicular safety.

Ms. Nelson said the Board needs to agree. She said she does not feel that two small trees will be a problem. If the applicant agrees to come back then let's have Mr. Arienti return in two weeks with a revised plan for us to review.

The Board agreed.

Mr. Arienti will return to the next meeting.

**BOARD & COMMITTEE UPDATES:**

Mr. Hankin said the Design Advisory Committee saw elevations for the second phase of the building for Powerhouse Square. The Committee did not make a recommendation as there wasn't a quorum. He said the applicant did not get a lot of positive feedback and was encouraged to attend another meeting with more members present.

**CITIZEN'S SPEAK TIME:**

No one spoke.

Having concluded their business, Ms. Nelson adjourned the meeting without objection at 9:15 P.M.

Respectfully submitted,



Kimberly L. Shaw  
Planning Board Secretary