

PLANNING BOARD

DATE: March 13, 2014
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle; Jack Musgrove; Ethan Culleton
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:05 P.M. Mr. Culleton had not yet arrived.

FORM A's:

There were no Form A's presented.

MINUTES: FEBRUARY 19 & FEBRUARY 27, 2014

Mr. Musgrove made a motion to approve the minutes of February 19, 2014 as amended, Ms. Fowle seconded, all in favor.

Mr. Musgrove made a motion to approve the minutes of February 27, 2014 as amended, Ms. Fowle seconded, all in favor.

PUBLIC HEARING: ZONING AMENDMENTS

Mr. Hankin stated that the public hearing would be recorded. He asked that anyone who wishes to speak identify themselves stating their name and address.

Mr. Hankin read the public hearing notice. The notice was published in the Berkshire Record on February 14, 2014 and February 21, 2014. It was posted in the Town Hall, the libraries and mailed to the Planning Board's of abutting towns and the Department of Housing and Community Development. A draft was provided to Town Counsel.

Mr. Musgrove made a motion to open the public hearing, Ms. Fowle seconded, all in favor. The public hearing was opened at 7:07 P.M.

The Board went through the zoning issues as per the document titled Proposed Planning Board Zoning Amendments for May 2014 Town Meeting Draft January 10, 2014.

Mr. Culleton arrived at 7:09 P.M.

The Board discussed Deviation from Parking and Landscaping Regulations. Mr. Rembold read the amendment.

Patricia Ryan, 14 Oak Street, asked for a little clarification of the what was being added and what was being deleted from the text.

There were no additional comments from the public.

Mr. Musgrove made a motion to send a positive recommendation to the Annual Town Meeting, Ms. Fowle seconded, all in favor.

The Board discussed Hotel and Motel Room Limits. Mr. Rembold read the amendment.

Mr. Hankin said the reason for this amendment is an attempt to deal with the potential redevelopment of the Housatonic Mills, Searles Castle and/or Searles School. We are trying to contemplate what might happen.

David Magadini, 334 Main Street, read a proposed amendment that would encourage single room occupancy hotel rooms. He proposed that 3 single occupancy rooms would be counted as 1 regular hotel room. He provided copies of his proposal title Proposed Amendment to New Hotel Bylaw 03/13/04 (The submitted document is mistakenly dated 04).

The Board allowed Mr. Magadini the opportunity to explain his proposal in detail. He said the typical size for a single occupancy room would be 150-200 square feet not including a bathroom.

Vjay Mahida, 40 Kaliste Hill, was present from Comfort Inn and Suites Stockbridge Road. Mr. Hankin asked what the size for a typical hotel room would be.

Mr. Majida said 12x20, 240 square feet. He said the single occupancy rooms work in the cities, but they would not work here. The vacancy rate is too high.

Patricia Ryan, 14 Oak Street, said she had lived in one at one time and she thought there are people who would use them.

Mr. Hankin suggested the occupants for single occupancy rooms would be a different clientele from those who patronize the local hotels and motels.

Mr. Culleton told Mr. Magadini the Board appreciates the suggestion.

Mr. Magadini said he would appreciate the Planning Board adopting his proposed amendment.

Mr. Mahida said the occupancy rates in Great Barrington are historically low, less than 40%. He said the hotels should have at least 50% full to consider more rooms. He said he is concerned with the language identifying historic buildings or districts. He said he thinks the Planning Board should identify the buildings and not leave it to another board.

Mr. Hankin said he is not sure the Planning Board is equipped to identify historic buildings. He said it is important to avoid spot zoning.

Mr. Musgrove said there is a process to be recognized on the Historic Register. An applicant would have to apply.

Mr. Mahida said it is more difficult to work on a historic building.

Mr. Musgrove agreed. He said that is the reason we want to make it cost justifiable for a prospective developer.

Mr. Culleton said the intent is to provide flexibility of use.

Mr. Rembold suggested using more specific language such as building on the State or National Register.

Mr. Hankin said he is not sure how to be clearer.

Mr. Culleton said the buildings could be architecturally or culturally significant.

Mr. Rembold said that may not apply to new construction.

Mr. Hankin said the focus is on redevelopment and reuse.

Mr. Rembold said the building would have to be listed. He said he would envision a hotel as part of a bigger project. He asked if the Board wanted to put a cap on the room limit.

Mr. Hankin said that is the reason we would have a special permit process.

Mr. Musgrove said the economics will be the cap mechanism. If someone has an out of the box idea why should we apply an artificial limit?

Mr. Culleton said he did not think exclusively historic might not be the way to go.

Mr. Musgrove said the last sentence allows for culturally and architecturally significant. He said it should stand as it is.

Mr. Magadini spoke again, he asked the Board to adopt his proposal.

Mr. Musgrove said it has some merit perhaps it could be considered next year with more information.

Mr. Hankin said it is beyond the scope of what we have proposed and advertised. He suggested Mr. Magadini might more appropriately offer the proposed amendment on the floor of the Annual Town Meeting.

Mr. Musgrove made a motion to send a positive recommendation to the ATM on the proposal as written, Mr. Culleton seconded, all in favor.

The Board discussed the amendment for Two-Family Residential Use. Mr. Rembold read the proposal as well as Town Counsel's comments.

Ms. Ryan asked if there would be enough space. She said she is concerned with a crowded look.

Mr. Musgrove said it is addressed in the bylaw.

Mr. Hankin asked what the goal is.

Mr. Rembold said the goal is to increase the number of housing units in reasonable locations at lower cost per unit. It would allow two-family use in areas where two-family is currently allowed only by special permit and it would help bring non-conforming two-family units into conformity. He said it would take a hurdle out of improving a property.

Mr. Hankin wondered whether everyone would convert to two-family.

Mr. Rembold said he does not expect a flood of conversions.

There were no additional public comments.

Mr. Musgrove made a motion to send a positive recommendation to the ATM, Ms. Fowle seconded, all in favor.

The Board discussed the proposed amendment for Accessory Dwelling Units. Mr. Rembold said this is different from the two-family amendment. ADU's are smaller and would be allowed by right everywhere. They are small and have less impact.

Mr. Hankin said if the two-family becomes by right the only reason to have this section would be to allow an ADU as an accessory to a two-family.

Mr. Rembold said that is correct.

Mr. Hankin said the goal of this bylaw was to encourage affordable housing. It has not been successful. Unless units are added to two-family units it will fall by the wayside.

Mr. Rembold discussed Town Counsel's comments.

Mr. Hankin asked if there were comments from the public. There were no public comments.

Mr. Musgrove made a motion to send a positive recommendation to the ATM, Ms. Fowle seconded, all in favor.

The Board discussed the proposed amendment to the definition of the Stream and Lake Protection Zone. Mr. Rembold said the amendment is for clarification purposes.

Mr. Hankin asked if there were comments from the public. There were no public comments.

Mr. Musgrove made a motion to send a positive recommendation to the ATM, Ms. Fowle seconded, all in favor.

The Board discussed the zoning proposal for Medical Marijuana Facilities. Mr. Hankin said the town needed to define the use in our bylaws in order to comply with State law. There are 52 pages of regulations by the Department of Public Health.

The Board reviewed the language along with Town Counsel's comments.

Mr. Hankin asked if there were comments from the public. There were no public comments.

Mr. Musgrove made a motion to send a positive recommendation the proposal as amended by Town Counsel, Ms. Fowle seconded, all in favor.

Mr. Musgrove made a motion to close the public hearing, Ms. Fowle seconded, all in favor. The public hearing was closed at 8:35 P.M.

RECOMMENDATION TO ZBA: HUTCHINSON 263 LONG POND ROAD

Mr. Culleton recused himself from the discussion because he is a board member of the Great Barrington Land Conservancy.

Mr. Rembold said Mr. May, the Zoning Enforcement Officer, had issued two cease and desist orders to Lynn Hutchinson who violated the Water Quality Protection Overlay District by clearing and cutting within the 400-foot area around Long Pond, the water supply for Housatonic.

Ms. Fowle said she had recently walked in the Pfeiffer Arboretum area and noticed major machinery on the land and that there had been a considerable amount of clearing over the winter. She asked if there was a Forestry Management Plan in place.

Mr. Rembold said they do not have a Forestry Management Plan that he knows of.

Mr. Hankin said the Conservation Commission got involved because there was also clearing done in wetlands. Foresight Land Services has produced a re-vegetation plan that the Ms. Hutchinson has agreed to do. They are in compliance with the plan. It was determined that approximately 172 trees and shrubs in excess of 1 inch in diameter had been removed.

Ms. Fowle asked what is being appealed.

Mr. Rembold reported that the appellant has said the cease and desist order didn't explain what had been done wrong and argues that since the Water Quality regulation does not allow the property owner to cut or mow so it is in effect a property taking.

Mr. Hankin said the regulation was in place when the property was bought.

Ms. Fowle asked if they are agreeing to re-vegetate what is the reason for appealing.

Mr. Rembold said counsel is trying to retain the rights of the property owner.

Mr. Rembold said the Planning Board typically looks at zoning and what Mr. May has done then makes a recommendation.

Ms. Fowle said there needs to be a good reason to cut invasives in a water supply zone. She said a good plan should be provided in order to manage in the future. She said she supports Mr. May's orders.

Mr. Hankin said he suggests a strong recommendation to the Board of Selectmen for Mr. May to be represented by his own counsel.

Ms. Fowle said a Forestry Management Plan should be in place. She said it was irresponsible of the property owner to mow and clear without a plan.

Mr. Culleton asked if there can be cutting with a management plan.

Mr. Hankin said this is a surface water supply. Only work relating to the maintenance or improvement of the water supply would be allowed.

Mr. Rembold said local zoning would apply in addition to this being a wetland issue.

Mr. Musgrove made a motion to send a recommendation to the ZBA in support of Mr. May, Ms. Fowle seconded, all in favor.

Mr. Musgrove made a motion to send a letter to the Board of Selectmen and the Town Manager for counsel to represent Mr. May in this appeal. Mr. Hankin added that this is a very important issue. The applicant is subject to fines of \$300 per day for both the zoning and wetland violations, but they have not paid a penny. This is the water supply for Housatonic; it is a very important issue. Ms. Fowle seconded, all in favor.

TOWN PLANNER'S REPORT:

Mr. Rembold asked about preparing the report on the zoning issues for the ATM. Mr. Rembold will draft the reports.

Mr. Musgrove said he thought Mr. Hankin should deliver all the reports. It is not a big deal.

Mr. Rembold said that BRPC will have a vote on the Sustainable Berkshires Plan on March 20. Mr. Rembold said he will attend as the Alternate Delegate to BRPC and Mr. Culleton, the Board's Delegate to BRPC, will attend if he is able. Mr. Culleton said he would try to attend.

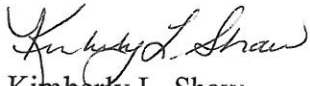
Mr. Rembold said there was a rigorous public process for the regional plan. He sent a link to the Board members and asked for any comments or concerns to be sent to him before Thursday.

Mr. Hankin asked if there were any implications for Great Barrington.

Mr. Rembold said nothing surprising. Everything was addressed in the Master Plan.

Having concluded their business, Mr. Hankin adjourned without objection at 9:07 P.M.

Respectfully submitted,



Kimberly L. Shaw

Planning Board Secretary

Material Distributed for this meeting:

- Proposed Planning Board Zoning Amendments for May 2014 Town Meeting Draft January 10, 2014
- Memo from Town Counsel re: Zoning Amendments dated March 9, 2014
- Magadini proposal titled Proposed Amendment to New Hotel Bylaw 03/13/04
- Application to the ZBA submitted on behalf of Lynn Hutchinson for 263 Long Pond Road
- Executive Summary Titled Hutchinson Appeal of Building Commissioner's Enforcement Order prepared by Chris Rembold Town Planner

