Approved 1/24 subject to edits

Town of Lenox

Planning Board Minutes

October 25th, 2022

Hybrid Meeting

**Documents Available:**

* Plan of Land Prepared for Steven Seltzer, 390 Housatonic Street, dated 10/12/22
* Wireless coverage maps prepared by Isotrope LLC
* Marked up version of suggested Wireless Communicatons Facilities bylaw; clean version
* Correspondence from:

Courtney Gilardi

Amy Judd

Laura Turzo

Kristine Cass

Suzanne Merritt

* Minutes of 10/11, 10/18,

**Present in person:** Planning Board, Tom Delasco (Chair), Kate McNulty-Vaughn, Susan Lyman, Jim Harwood, Gwen Miller (staff), Deanna Garner (staff), David Maxson of Isotrope LLC , Jack Magnotti from Foresight Land Services, Scott Barrow, Sonya Bykofsky, Amy Judd, Courtney Gilardi, Andrew Silver, Jane Kavanaugh, Trilby Miller, Susan May, Christine (Bonnie) Berube, Lisa Tobin, Ellen Mendel, Marybeth Mitts, Gary LeBeau, Georgia Watrous, Suzanne Smith, Robert Pelicotti, Robert Asplund, Amelia Asplund, Phil Gilardi, Tammis Coffin

**Present via Zoom:** Planning Board member Pam Kueber; Jeff Lynch, Steven Seltzer, Ellen Jacobson, Sandy Panzella, Susan Forestor, Karen Crewes, Jackie Adelson Salvage, Ani Grosser, Sally, Sonya Bykofsky, Christi Davis, Janet Fitzgerald, Karen Beckwith

**Documents available for meeting:** Meeting Packet for 10/25, including agenda, minutes, maps prepared by David Maxson of Isotrope LLC, correspondence

The meeting commenced shortly after 6 p.m.

1. Form A: 390 Housatonic Street

The engineer from Foresight Land Services stated that Mr. Seltzer owns 5 acres, and that they were conveying Parcel A of .61 acres to a neighboring parcel also owned by Mr. Seltzer. The remaining land will not be a building lot and it is noted on the plan.

KMV moved to endorse the plan as presented; JH seconded. KMV, JH, SL and TD voted in favor; PK abstained since she was not present to see the plans in person.

1. Approval of minutes

* October 11: PK, KMV, TD and JH approved; SL abstained.
* October 18: PK offered amendment on page 2 about her statement regarding cell coverage in Lenox; also suggested minutes note correspondence received in advance of meeting. JH moved, KMV seconded; PK, TD and KMV approved while SL and JH abstained.

**Wireless bylaw discussion**

TD explained the Planning Board would have a working session with David Maxson for about an hour and a half and then open the floor to questions or comments. TD started by looking at the two Table of Uses in the draft zoning bylaw. He suggested a universal setback of 250’, and a Special Permit for everything, and suggested excluding small wireless from R-15 and R-30 zoning districts because they are the densest in terms of population. KMV asked how they would treat the C district. PK said the co-location of facilities is allowed in the proposed bylaw language in those districts. KMV asked if they wanted a “NO” in the C district. TD clarified that a small wireless facility could be a free standing, 50’ tall pole. DM suggested the Table of Uses wasn’t relevant, explained in further detail what can constitute a small wireless facility.

JH had questions about definitions—PK explained they had pulled out specific language of the draft zoning bylaw to avoid redundancy. JH said they should keep small wireless facilities out of residential districts. JH asked what Tanglewood had done at Tanglewood to improve wireless service. DM said that Verizon had placed a booster on an existing utility pole in the public Right of Way. JH asked what was keeping a tower out of the village. DM said setbacks. DM suggested that an area above the Kennedy Park water tank would be 300’ from the nearest residence and provide coverage to the village. KMV reiterated the point is to find a sweet spot—she questioned if the infrastructure is a commercial use, public use or an essential service. PK said that solving the challenge of marginal coverage in Lenox with a bunch of smaller sites may not be satisfying to people either.

The group went back to discussing the Use Tables in the draft zoning bylaw. JH again suggested they rule out the R-15 and R-30 zones. DM cautioned against that, noting the unintended consequences of having a blanket prohibition in distinct zoning districts. SL thought the goal was to provide maximum coverage with minimum devices. The group went back and forth about how much discretion and flexibility it takes to empower the Zoning Board of appeals with, and whether waivers should be contemplated in the zoning bylaw. DMs suggested the Planning Board could be the SPGA (Special Permit Granting Authority).

The group discussed the requirement that the SPGA be allowed to engage an outside expert to review applications. They agreed the language should be a requirement—so must or shall.

They discussed the administrative approval or special permit process for eligible facilities. GM asked DM to explain what a substantial change to an eligible facility may entail. DM explained it could be an increase of 20’ in height and width and could also apply to the base station. There was some discussion as to how the zoning bylaw would handle administrative approval—what would the rights of enforcement be? What would the appeal process be? DM, PK and GM agreed to discuss this w/ Town Counsel later in the week.

Next the group discussed collocation—which could be a concealed antenna, or a new carrier on an existing tower.

They amended the proposed table of uses, opting for the more granular table of uses that specifically allows or prohibits the distinct categories of wireless facilities.

They agreed to make colocation a Special Permit in every zoning district. New towers will need a special permit in the C-1A, C-3A, I, R-3A and R-1A zones. They will be prohibited in the R-30, R-15 and C zoning districts.

At 8:17 the board concluded their working session and opened the floor to questions and comments.

Mr. Gilardi asked what is wrong with the existing Zoning Bylaw.

Dr. Andrew Silver talked about using health and safety standards used in Northern Europe.

Scott Barrow asked if the FCC bases their measurements off of capacity—there might not be capacity in Lenox for everybody to walk around streaming Netflix on their phones, but most people can make calls.

DM suggested that robust wireless coverage, from a planning perspective, is a societal good, and noted the FCC standards are coverage and capacity agnostic.

PK referenced a court case from Flower Hill in New York state, explaining it was ruled that the community had ample coverage and wireless facilities for cell phone calls so were in a more defensible position to deny small wireless in the Right-of-Way compared to Lenox which has marginal coverage and few facilities. DM explained the Telecommunications Act of 1996 which regulates phone coverage; another act handles data and streaming.

Robert Pelicotti of 32 Old Stockbridge Road asked why he had such good service with his low cost, used iPhone all over Lenox.

Susan May of 40 Old Stockbridge Road asked why setbacks are being applied to new towers and not colocation. She was unhappy with the process to date and feels that citizens haven’t gotten their fair share of input. She worried about the health impacts of an antenna on the Curtis and accused the Town of listening to information from a consultant also working for the telecom industry when working with the former consultant, Cityscape.

Trilby Miller of 6 Main Street also expressed frustration with the process and concern about the health impacts of wireless infrastructure.

Courtney Gilardi shared a list of suggested changes to the draft zoning bylaw, suggested they hear from her preferred attorneys.

Karen Beckwith reiterated her concern about the aesthetic impacts of new wireless infrastructure in Lenox, and the health impacts of the infrastructure. She cautioned the Planning Board to not give away their power and was very against the FCC and its standards.

Debbie West from West Street shared information about a lawsuit lost by the FCC in which they ignored evidence about health impacts to children.

Susan Foster called in from Boulder County, Colorado. She has done research about the health and neurological impacts of wireless infrastructure on firefighters; and she noted some fires have been caused by wireless facilities. She said school and residences should have large setbacks.

TD suggested the Planning Board convene again on November 1st and November 8th.

The meeting adjourned at 8:20 p.m.

Prepared by Gwen Miller

October 2022