Approved w/ edits 1/24

**Town of Lenox**

**Planning Board**

**Meeting Minutes**

**September 13, 2022**

**6:00 p.m.**

**This meeting was a hybrid meeting.**

**Documents available in advance:**

* Plan of land for 17 Bramble Lane
* Plan of land for 94 & 100 Church Street
* Solar Bylaw Language

**Present in person:** Planning Board members Tom Delasco, Pam Kueber, Jim Harwood, Kate McNulty Vaughn,; staff Gwen Miller; Sonya Bykosfky, Ellen Jacobsen, Pat McColgan (Taconic Land Surveyors), Amy Judd, Robert Petrocelli, Dianne Sheldon, Cara Farrell (Berkshire Regional Planning Commission Planner)

**Present virtually:**  Susan Lyman (Planning Board) Scott Barrow, Winston Seymour, Deanna Garner

Meeting opened at 6:15 p.m.

**Form A/Approval Not Required Plans:**

Bramble Lane, Susan Groburg (17 Bramble Lane): PM explained why the Groburgs were seeking an endorsement from the Planning Board. Following discussion with Pat McColgan, there was a motion to endorse it. It was seconded, all approved.

94 & 100 Church Street: PM explained that the owner was seeking to divide the parcel into two parcels; there was discussion as to which zone applied, C or R-15. It was determined the C district applied. PK noted there was a deficiency of one foot for the frontage required. The Board discussed if they were comfortable endorsing the plan if it was one foot short on frontage. KMV moved to endorse the plan as presented; SL seconded. KMV voted yes; SL voted yes; TD abstained; and PK voted no. There was discussion on whether this carried; GM advised they need three Boards to vote positively to endorse the plan and sign the plan. PM said he would come back with a revised plan for the Board to consider.

**Solar Bylaw Amendment:**

Cara Farell re-introduced her work to date for the Planning Board, which was funded via a DLTA grant. She noted the Board wished to expand locations solar would be allowable, and she referenced the Master Plan and other filters the Board had mentioned previously to help guide where solar could be located. She explained she had divided projects by scale—large-scale, small-scale ground-mounted. Commercial rooftop would be by-right. The language she was proposing to the Board captured their request to have a maximum lot coverage percentage. Pam described recent land court cases she had read pertaining to solar. Pam asked if 10% ground coverage would allow for large-scale ground-mounted solar installations in any zoning district. Pam did not think it adequately opened up enough land. She suggested that the Board seek Town Counsel ‘s input on the proposed language. Pam read the language to say that you needed ten acres to develop solar; JH suggested she was reading it incorrectly. GM explained that this new language would allow solar in more land area in Lenox but have a cap on their specific land size. It seems that this would be more permissive than current language. JH said it was consistent how they guide other development with the maximum lot coverage percentage. JH asked what the proposed language says about screening. Cara Farrell said there is more language on screening in large-scale. KMV brought up the environmental impacts of solar if there is clearing of forest/trees. There was discussion about height and setback limitations, particularly in neighborhoods with greater density. JH suggested a 6-feet high solar panel right on his property line would be jarring. There was conversation about density regulations and keeping them uniform with existing regulations; or treating them with greater restrictions. JH suggested they treat it like other developments and with uniform lot coverage and setback requirements. JH also suggested regulating reflection—thinks it should be treated like other lighting. Discussed height—higher limit would allow for co-uses; also talked about whether solar should be principal/accessory use. Discussed battery storage.

There was additional discussion about whether the new proposed zoning bylaw would satisfy the solar protection in the Zoning Act and highlighted in recent court cases read by Pam. Jim said he would rather have Joel interpret the cases for the Board and determine whether the proposed language would adequately allow for solar development in a larger area of town. KMV highlighted the challenge of finding a bylaw that is more permissive while managing neighborhood interests. Pam noted the group had identified larger lots in the community where a large-scale ground mounted solar project could be developed without anybody “batting an eye”.

Cara Farrel said they could change language in the proposal. Pam had a specific question about the language addressing the clearing of vegetation. She felt that it was unique to solar—there are not other places in the zoning bylaw that address tree clearing and the use of herbicides. Group looked at table of dimensional requirements to see what maximum lot coverage is. Discussed whether solar projects would be a Special Permit or Site Plan Approval. Cara said an option would be to have those projects unable to comply with zoning standards seek relief via Special Permit. Discussion about being very permissive with roof top solar projects. Discussion of an administrative approval—for small scale projects, the Building Commissioner would review and approve. Discussed a trigger size—something 250 KW and above would go to Zoning Board for Special Permit or Site Plan Approval; anything below would be by-right, as would roof top installations. Cara felt she had clear directions for moving forward.

**Sign Bylaw Amendment:** Tabled until a later meeting date.

**Wireless Bylaw Amendment—next steps and discuss timeline for Special Town Meeting**

The Board discussed the Selectboard’s desire to see the Planning Board bring an improved wireless zoning bylaw to an autumn Special Town Meeting. Pam explained she had talked to Town Manager Christopher Ketchen about this after watching the September 7th Selectboard meeting. Poor wireless coverage in the community was a driving need from their perspective. Pam thought they were in a good place with the wireless zoning bylaw from David Maxson’s work to date. She thought the big questions were the Table of Uses, height and setbacks. She would like to look at other local zoning bylaws and compare the Lenox draft. She also wanted to see the mapping from David Maxson. Pam thought it was possible to bring it to a special town meeting and said there were people in the community waiting to see an improved wireless zoning bylaw and improved wireless service. She reiterated that in reviewing other local wireless zoning bylaws, there wasn’t anything dramatically different between the Lenox draft. She suggested that the group go forward to Special Town Meeting with extra meetings to work through the draft. She had gone over things with Sue Lyman too to highlight how close the board is. Jim asked how many projects had come to town and were stymied by the existing zoning bylaw—he didn’t think a bylaw will solve the problem, he suggested the Selectboard install wifi throughout the town. Sue Lyman said she was in favor of having three additional meetings in less than three weeks to see if the group could finish the zoning bylaw proposal. This will please the Selectboard, and if there are no takers, it’s not on the Planning Board or Town. She agreed there were three issues to address—setbacks, height, table of uses. She noted it would never be perfect and never please everybody, but the Planning Board had put a lot of work and time into it to date. Kate said she would like to see if the Selectboard would have a special Special Town Meeting for wireless on it own if it was so important to them. There was discussion of the timeline—when the warrant would be posted, when the Planning Board would have its public hearing.

TD suggested they set an agenda for the next three Tuesdays. They would have David Maxson attend, and Pam would put together a binder of information for board members to review in preparation. Kate said she knew there was lots of interest in this, expected interested parties to attend. Pam said she hoped correspondence would be circulated to the Board as it arrived. PK asked Gwen to tell Town Manager Christopher Ketchen that they would try but no promises for a Special Town Meeting timeline.

Jim asked that meetings be hybrid since he would be travelling. Pam asked when it would be most helpful for members to get materials—TD said he liked to get materials the Friday in advance. GM noted meeting packets would be available on the Town of Lenox Planning Board page.

TD did let members of the public ask questions:

Amy Judd of Main Street asked if the group had a list of suggested locations from David Maxson. TD said David had mapped some hypothetical locations; including some municipally owned properties. Amy asked if the Curtis was still on the list. Pam said the list didn’t mean these sites would happen; the Planning Board wanted to see what would happen. Amy had more questions about the likelihood of antennae going on the Curtis; GM pointed out the proposed bylaw language prioritizes co-location on existing buildings, which would include buildings in the C district (the downtown neighborhood).

Diane Sheldon of Old Stockbridge Road expressed concerns: she was worried about the speed of the process; felt concerned about what David Maxson said about wireless setbacks at a previous meeting; she felt he had said that he was against setbacks; GM clarified that he had advised against something like a 1,600 foot setback as this would likely exclude them from the Town. Diane suggested the group look at towns like Great Barrington, Otis and Stockbridge who have large setbacks, consider vernal ponds and health in their review. She thought those other towns had done their homework and hoped Lenox would do its homework. She thought it was interesting that the group spent so much time talking about setbacks relative to solar but no discussion about wireless setbacks. GM and TD pointed out the discussion tonight was to talk about timeline and not go into the content of the proposed wireless zoning bylaw draft. Diane also requested that she receive a copy of the map David Maxson prepared for the Planning Board.

Scott Barrow of Old Stockbridge Road said he had been involved with this for over a year; he was blown away by the energy and effort the Planning Board put into this. He has been trying to get the Planning Board to talk to different consultants—those who are not so supportive of better wireless coverage. He thinks the Planning Board should talk to professionals with different opinions. He is disappointed that the group is at the point where they are, and the Planning Board hasn’t talked to his suggested consultants.

Kate said the Planning Board members have read all the correspondence submitted overtime and have watched videos and read papers suggested by the community members. Pam said she had looked at the Scardsale zoning bylaw per Scott’s earlier suggestions; along with a few other suggestions.

Kate suggested Scott bring the concept of alternative approaches to the Selectboard. Kate likened the situation to that of the Housatonic River—nobody likes the solutions, but at the same time people are living next to the river today.

Jim pointed out that the solar and wireless zoning efforts were the same—how could they write a zoning bylaw that gives flexibility but won’t be stricken down by the courts?

Courtney Gilardi explained she lived on East Street and had to leave her home in Pittsfield because of the siting of a cell tower near her house. The bylaws in 2017 allowed it to be located so close to her home; the 2019 bylaw would not have allowed its location. She asked the Planning Board to meet with her suggested consultants. She has been asking for more than a year and did not understand why it has not been a priority for the Board.

**Approval of Minutes:** The Planning Board approved minutes from May 24th and July 12th.

The group agreed to talk about wireless at the following week’s meeting. Signs could go to May Town Meeting.

Board adjourned meeting at 8:20 p.m.

Prepared by Gwen Miller