

Town of Lenox

Planning Board Meeting Minutes

Tuesday September 12, 2023 - 6:00 pm
9-25 pjk amends

Present: Tom Delasco-chair, Pam Keuber, Kate McNulty-Vaughan

Absent with Notice: James Harwood

Absent: Susan Lyman

Others Present: Ariel Smith, Mark Smith, Adam Mazzantini- Foresight Land Services

Documents Available at meeting: Meeting minutes 8/22/23, Plan of Land prepared for Carolyn Butler, Parcel map, Existing Lenox Zoning Bylaw for Solar Photovoltaic Installation with notes, Solar Land Lease articles – “How Much Land Does a Solar Farm Need?”, “What Do Solar Developers Look for in a Property?”, “The 4 Types of Solar Projects”, Proposed Zoning Bylaw Sign Section 7-2, Letter from ACLU re: Restrictions on Political Signs and Speech, Proposed Amendment to Motel Definition & Related Parts

Meeting called to order by TD at 6:05 pm

1. Approval of Minutes - August 22, 2023

KMV moved to accept minutes with edits. TD seconded the motion. PK feels there needs to be more information on the discussion and the rationale for it. KMV agreed the minutes are hard to follow and are not detailed enough.

TD called for a vote- those in favor, none. Those opposed, all. The motion to approve failed. The board would like Town staff to revisit the audio and add more detail from the discussion.

2. Form A: 90 East Street

Not enough members were present for a quorum, as PK recused herself. The Form A will need to be revisited in 2 weeks. The applicant’s representative agreed to give the board a brief description of the plan.

Adam Mazzantini of Foresight Land Services on behalf of Carolyn Butler, explained the form A is to parcel out a new non-buildable (?) lot from an existing lot by putting a new boundary line in. The board reviewed the plan of land with AM. All parcels will have R1A minimum required frontage of 150’ along East Street. There are 3 proposed easements, one to benefit each parcel, and a shared driveway. PK

points out that the current bylaw does not allow for shared driveways, that this is a pre-existing situation, but they need to be updated to allow for them.

3. Solar Zoning Bylaw

The group discussed the Solar Land Lease articles provided by TD and the various requirements mentioned within. KMV mentioned that the idea to scatter small solar arrays throughout town might not be realistic, as the northeast requires large arrays to adequately capture the sun. They discussed local geography, transmission lines and locations of substations, and agreed that we don't have the ideal geography needed. KMV pointed out that state mandates aren't logical due to the differences in topography throughout Massachusetts. PK mentioned that there are many locations in town, residential and commercial, where it was determined that rooftop solar would not work; the majority of locations were deemed ineffectual. The group agrees that clearing land for this use is not wanted.

The group began to discuss the current solar bylaw in Lenox. PK suggests making a change in the way bylaws are drafted and amended, as a way to spread the work and share understanding. PK detailed the changes she made to the current draft to reflect the changes made at the last meeting and to combine the two documents.

The group discussed the way tree clearing is written in the bylaw and the process landowners must follow to cut down trees. MS, a rep from the Conservation Commission, explained the process in relation to resource areas. PK made a proposal that they discourage land clearing and TD agreed, stating that clearing of natural vegetation should not be prohibited but limited to what is necessary for construction, operation and maintenance.

- The group discussed the various sections throughout the bylaw where land clearing is mentioned and agreed to group it together under the All Solar category, to keep it common under residential and large-scale ground installations.
- They agreed to take out some excess verbiage from the large-scale ground installation section 1 as well.
- KMV agreed to work on pages 5 & 6 of the bylaw.

PK brought up the notion of battery storage buildings; the group discussed how they wanted to word that in relation to dimensional standards. They referred often to the language found in the Douglas, MA Zoning Bylaw to regulate solar and their minimum lot area of 4 acres and minimum setbacks of 100' in the front and 50' on the side and rear. They talked about building lot coverage in the R1A district and whether or not they wanted to limit percentages within the setbacks, and what that means for acreage requirements. PK pointed out that solar installations do not adversely affect public health, safety and general welfare and therefore the Board cannot pose limitations unless those things are affected.

The group discussed the idea that screening will rely upon the special permit process and require adequate screening to minimize intrusion to neighbors yet not interfere with sun capture. PK said that it should go in the R1A section since that is where the ZBA will look for it. They discussed whether screening in this sense is relevant to only R1A or commercial zones as well. PK doubted the efficacy of

screening in general. TD pointed out that section 6.1.7 has to do with residential properties abutting commercial districts so it doesn't just apply to things in the R1A zone.

- The Board agreed that screening requirements may be conditioned as part of the Special Permit process.

The group began to discuss non-conforming structures in section 8.12.6 and clarified that the current verbiage is stating you do need a special permit to put an array on your roof. PK asked if you need a special permit to do any kind of construction on a lot that doesn't meet requirements as a pre-existing non-conforming. The group answered that as long as you can show you're not making it even more non-conforming, you do not need a special permit. They agreed the only non-conformity to be worried about is setbacks.

- They decide to take this verbiage about roof arrays out, as it is confusing, and to add roof arrays to 6.1.8 instead.

The group then discussed different circumstances that might arise for homeowners that want to add solar in some way but may not meet the various requirements and figured those people who want it will find a way to make it work.

The group discussed the dimensional standards of small-scale installations in 8.12.6 B. KMV asked if home was the right word to use, as this section has a residential focus but also refers to All.

- TD clarified that it is residential use and should say dwelling not home.

4. Sign Zoning Bylaw

AS explained that they have gone through and updated almost all of the definitions since the last meeting, per changes previously discussed.

The Board discussed section 7.2.9.5 G in reference to the ACLU letter and agreed that in residential districts they can limit the size of the signs but not the number. PK pointed out that there is a difference between private speech and commercial speech. She said that her research indicates that the reason we can have all these sign bylaws is because commercial speech is something that municipalities can regulate; if it is private (as in signs on a homeowner's property), there are much more stringent limits due to the 1st Amendment. In commercial districts, you can limit the number of signs as long as you can make a good argument against it in terms of health, safety and welfare.

KMV summarized the options, whether to stick with G in 7.2.9 or break it out to G, H and I in section 7.2.9.5. AS explained G, H and I were written based on what the group previously recommended and they do not agree with setting signs 10' from curbs, which was another previous recommendation.

PK said she doesn't think they should allow temporary signs in the commercial zones, period. The group clarified the definition of temporary signs and suggested she meant special event signs; PK agreed. They

all agreed special event signs cannot be taken away from residential properties. TD stated that a business owner would not be okay with this regulation suggested by PK. PK argued we don't currently allow it anyhow and everything is fine. KMV stated that sign usage is a common means of advertising for a business. PK stated she is referring more to ground/ lawn signs, she has no problem with businesses putting signs on their buildings. KMV states that she thinks they should be allowed to have free-standing event signs in the commercial district, because they exist in the commercial zone now and it is not currently an issue. PK cautioned that the way the new bylaw language currently stands, businesses could have an unlimited number of lawn signs as long as each one advertised a different event/sale/etc., and that this was too much – it would add clutter, make way-finding even harder, and distract drivers. TD stated that he doesn't think it is a big deal and whether its allowed or not, it is done now. KMV stated that it is a 2:1 decision to allow special event signs in commercial districts and the question now is do they stick with G or go to the longer version G, H, I.

AS explained the differences in the verbiage between the options is that districts are called out specifically. She explained if they have it broken out into districts, they are able to add quantity limitations per commercial zone, but remove it from residential uses. However, there is some crossover so it might be better to call it out as residential use, use commercial use, and public use. TD then asked if her recommendation is to use G only, to avoid the complications laid out regarding crossover. AS said she thinks it really needs to be broken down into private property and public property. Discussion ensued regarding what limitations would look like.

KMV suggested talking with business people at the public hearing; she explained that the whole reason they're doing this sign thing is to prevent the town from becoming cluttered; it should be taken up with the business owners on how they want to handle it by letting them vote.

The group discussed timeframe limitations for Temporary Signs and how they are not enforceable.

They discussed the way to handle opinion signs and political signs and figured it would be best to have them called out separately in some manner.

PK questioned pole signs, the group decided to combine verbiage of pole sign regulations into one sentence.

KMV wanted clarification on directional signage. AS answered that directional signs require a permit and have size limits in different districts.

AS said they would take another look at temporary signs and said they still need to further discuss the topic of on/off premises signs, public property and right of way in terms temporary signs.

5. Hotel/Motel/Inn Zoning Bylaw Language

The group briefly discussed the need to edit the definitions of various lodgings and decided this would be revisited at a later date, with a hope to have it ready for the Town Meeting tentatively scheduled in November.

KMV made a motion to adjourn, TD seconded.

Submitted by Neena Martino.