

**Town of Lenox
Zoning Board of Appeals
Meeting Minutes
Wednesday December 6, 2023
Town Hall Land Use Room
6:30 PM**

Members Present: Robert Fuster Jr- Chair, Shawn Leary Considine, Al Harper, Kim Duval, John Simons, Arthur Oliver

Others Present: Barbara Goldberg- 18 Hawthorne, Jim Scalise-SK Design, Lori Robbins- 23 Lime Kiln, Mark Volk- Foresight Land Services, Ellen Roche- 383 Housatonic abutter, Jim Roche- 383 Housatonic abutter, Rodney Galton- 383 Housatonic, James Martin- 383 Housatonic

Others Virtual: Joel Bard, Clarence Fanto

Staff: Neena Martino

Meeting called to order by RF at 6:35 pm

1. 474 Pittsfield Road- Mazda site plan modifications

Jim Scalise from SK Design explained the letter submitted on September 7th 2023 for the special permit amendment request. The project is currently under construction. The letter lists proposed project changes and these changes are reflected in the new color-coded drawings submitted by the applicant. The modifications include:

- Changing a wall to a slope to be more cost-effective
- Expansion of parking lot due to additional easements from neighbors, approximately 30 spaces for a combination of inventory and customers
- Repositioning of sign island from the west side to the north side, per a request from Mazda corporate
- Addition of a fence between the property and the Wagon Wheel, per their request
- Relocation of the dumpster to give better access for the garbage trucks

Motion to close the public hearing made by AH, seconded by KD. All were in favor

The board agreed the changes were straightforward, there is no impact to the original special permit granted and due diligence was taken with the neighbors.

Motion to grant the petition made by AH, seconded by KD. All were in favor, with no special conditions

2. 18 Hawthorne Street- Construction of deck on the rear of the existing single-family home, under Section 5.3.3, Nonconforming Structures

The applicant, Barabara Sussman Goldberg, presented her application at the previous hearing November 15th. She would like a special permit to build a 10'x20' deck on the rear of her house on a non-conforming lot. She has reached out to all of her abutting neighbors and brought two pieces of correspondence in support of the project.

Motion made to close the public hearing made by KD, seconded by JS. All were in favor.

The board agreed it is a reasonable proposal that meets all standards of the bylaw, especially with the support of the all abutters.

Motion made to grant the special permit by SL, seconded by AH. All were in favor, with no special conditions.

3. 23 Lime Kiln Road – Special Permit application for relief from Section 6.3, Reduction of Street Line Setback in C-3A and Waiver of Site Plan review

Attorney Lori Robbins and Mark Volk presented on behalf of the property owners, starting with the special permit request. The home is the last house at the end of the C3A zone, 1000' from the zone line. The home is a pre-existing, non-conforming, single-family residence and they are asking to reduce the required 75' setback to 55' by special permit. They intend to take down the old house and barn, and build a new house and pool house. MV explained the plans to the board, showing the buildings that will be demolished and the trees that will need to be taken down. AH asked how many trees have already been removed at this point; MV estimated around 20. MV explained that the Historical Commission reviewed the property and determined it had no historical significance. RF asked why the house needed to be torn down in the first place; MV said it was the wishes of the owners as the house is not up to code. KD asked what the height of the highest roofline on the new build will be; MV answered it is 29'11" and that the façade fits with neighboring homes. The board questioned the pool house, as the two bedrooms and bathroom make it a little more than a standard pool house. RF asked if there are any plans to make it an accessory dwelling unit; MV said he had not heard of any intention to do that. The board discussed the proposed pickleball court and whether there had been any feedback from neighbors as they can tend to be loud; there had not been any correspondence at the time of the meeting. LR mentioned that there will not be more than a 2000 square foot increase between the buildings being removed and the ones being built, so it will be under the maximum limit. She then stated the reason they couldn't just move the house back to meet the 75' setback is because there are wetlands in the rear of the property.

Motion to close the public hearing made by KD, seconded by AH. All were in favor.

The board agreed that the information presented met the criteria for the special permit, especially since the neighboring properties would be able to have a 35' setback by right. They had concerns over the potential of the pool house becoming an ADU and decided to add a special condition.

Motion to grant the special permit made by AH, seconded by KD. All were in favor, with the addition of the pool house not becoming an ADU without submitting to the board for approval.

LR then went on to present for the waiver of the site plan review. She explained there is a provision in the bylaw, section 3.7.5, for a waiver from the site plan review as long as there is no substantive change in use and that the proposed use is not detrimental to the previous use. It also states that the external enlargement must be less than 2000 square feet. If it meets these requirements, the board may waive the site plan review. She believed there is no reason to go through a commercial site plan review as this is a residential property. There were no questions from the board.

Motion to close the public hearing made by KD, seconded by AH. All were in favor.

The board agreed that this is a novel issue, as it is a residential building in a commercial zone, but that it would meet the requirements for the waiver, and that all the conditions that would need to be looked at during the site plan review have already been met.

All were in favor of waiving the site plan review. SLC made a motion to add a condition prohibiting a commercial club of any kind, RF seconded. All were in favor.

4. 383 Housatonic Street - Site Plan Review under Section 8.12 Large-Scale Ground Mounted Solar Voltaic Installations

Attorney Martin went through the list of questions raised at the last meeting and provided answers:

- Traffic: Once construction is complete, there will be an operations and maintenance vehicle (one pick up truck) accessing the site once a month during the winter and every other day during the sheep grazing period.
- Motors: the motors are a sealed system which uses a silicon grease in the gearbox. The grease typically lasts the lifetime of the system. There will be approximately 200 motors on the site and they will be mounted on top of the steel pier. The separation of the ground to the motor will be a minimum of 10'.
- Sound: there was a sound study conducted by the applicant on November 28th between 10:02 and 10:56. Ambient noise recordings were taken at five different locations throughout the field using a handheld decibel meter. The central average is 54 decibels. The board questioned the sound of the combined 200 motors. RG answered that there is no compounding effect and the quantity should not change the decibel sound level as it is not a progression. The board was not satisfied with that answer, as numerous studies and articles available online claim solar farms do make considerable noise. It was suggested they consult their own sound engineer on the matter, as they would like an expert opinion.
- Equipment on site: There will be 13,880 panels and one transformer that uses a biodegradable oil and a non-toxic, bio-based coolant. The oil containment system is inspected periodically and maintained in good working order. There will be no battery storage on site and roughly 530 inverters, spaced every 26-30 panels. Most panels are considered solid waste, not hazardous waste, although some could be considered hazardous if disposed of in sufficient numbers. This varies greatly between different manufacturers of panels but will be evaluated at the end of life stage, which is roughly 30-40 years. No panels will be buried on the property. The applicant said there are no liquids in the panels that could potentially contaminate the groundwater.

- Aquifers in the area: RG explained that he consulted the GIS system and found that the closest aquifer is 2000 feet from the array. He pointed out that the transfer station is actually much closer to the panels than the panels will be. He explained that the addition of the panels and shed would not change the existing runoff coefficient.

The board discussed their concerns over the decommissioning of the panels and requested that a firmer agreement be made between the applicant and the Board of Selectmen to protect the Town.

They discussed the two safety concerns regarding noise level and water contamination and the basis for regulating them in the bylaw. The board decided the Town needs to hire their own consultants to address these concerns before they can continue to consider the application.

Three pieces of correspondence were read; one from an abutter detailing the location of his aquifer, one from a Lenox residence who owns multiple lots at Mountainview Cemetery and one from a resident citing section 7.4 of the Lenox zoning bylaws.

JR questioned the driveway on the property and whether it would be considered a shared driveway.

Motion to continue the hearing until January 24th made by KD, seconded by AH. All were in favor

5. Approval of Minutes – November 1, 2023 and November 16, 2023

Minutes approved and initialed

Motion to adjourn made by AH, seconded by KD. All were in favor.

Adjourned at 9:45pm