

**Town of Lenox
Planning Board
Meeting Minutes**

October 3, 2022

Members present in person: Tom Delasco (Chair), Pam Kueber, Kate McNulty-Vaughan, Jim Harwood

Members present via Teams: Susan Lyman

Others present at in person: Gwen Miller, staff; Cara Farrell, staff; Courtney Gilardi, Sonya Bykofsky, Sura Diane Sheldon, Robert Pellicotti, Tara Rahke, Lisa Tobin, Bonne Berate, Amy Judd, Ellen Jacobson, Scott Barrow

Others present via Teams: Deanna Garner, Staff; Scott Barrow

Documents available for meeting: Meeting packet for 9-27-22 which included 5-24, 7-12 meeting minutes; meeting agenda; sign bylaw, sign bylaw documents, and solar bylaw language.

1. Form A: 94 & 100 Church Street

Surveyor Pat McColgan presented a Form A plan for 94 and 100 Church Street, which would divide the parcel into two parcels. He included an opinion from Building Inspector Don Fitzgerald explaining how the two new parcels comply with Commercial "C" dimensional requirements for lots.

There were some questions regarding his opinion, and some questions for Pat McColgan. PK asked that applicants with Form A plans use the Planning Board form to clearly demonstrate how they meet the zoning requirements.

JH moved to approve the Form A as presented. PK seconded. KMV voted aye; JH voted aye; PK voted aye. SL and TD abstained.

2. Solar Bylaw: Presentation of recommended bylaw amendments from BRPC, discussion, next steps (30 minutes)

Cara Farrell of the Berkshire Regional Planning Commission reminded PB of DLTA goal, which was to update the existing Zoning Bylaw in Lenox to expand where new solar development is allowed. She explained the proposed language she was presenting allowed the development of ground-mounted solar in every zoning district in Lenox, with a cap based on lot coverage.

Discussion ensued

There was back and forth about if this new proposal would satisfy the solar exemption in 40A. PK had read two Supreme Judicial Court cases about solar zoning. She had concerns that certain restrictions or regulations in a solar zoning bylaw would not satisfy the exemption language, even if the Bylaw was permissive in terms of *where* solar could go.

The group talked about specific neighborhood impacts, and how these could be mitigated through:

- Setbacks

- Height

- Screening

PK asked if the solar would be considered an accessory use or primary use.

JH asked how this would handle battery storage.

PK wondered if the paragraph prohibiting the clearing of vegetation and trees was overly strict; shouldn't somebody be able to remove one or two trees if they want to site solar on their property?

GM noted in the past the group has talked about discouraging forest cutting for solar since the benefits of intact forest are so great.

The group talked over how they could permit varying scales of ground-mounted solar development.

They contemplated letting roof mounted solar displays be permitted by right; and thought that site plan approval could be for ground-mounted solar that is 250 kW and over—which is what the existing solar bylaw covers. Anything less than 250 kW could be a by-right approval from the Building Commissioner.

PK said she would send questions to GM to share w/ Joel Bard of KPLaw. Cara Farrell would take input from this meeting to tailor the draft bylaw language for a future meeting.

3. Signs Bylaw: Continue review of proposed sign bylaw revisions

The Signs Team was not available to continue the review of the proposed sign by-law revisions, so the Planning Board did not discuss this.

4. Wireless: discuss next steps and timeline for potential Town Meeting presentation

PK began by saying she had discussed the timing of the bylaw work with Town Manager Christopher Ketchen. She had been concerned by the urge for them to speed things up for a fall Special Town Meeting. He had shared with her great concern from the Selectboard from the summer—they received complaints about the limited wireless coverage in the village, and they hope to rectify the situation before next summer. She and Sue Lyman had gotten together the day before, and they felt that they could offer a draft ready for a Special Town Meeting in three Planning Board meetings. She believed that the language was there, and that the Board had three things they needed to resolve to make it a Lenox specific zoning bylaw:

Where to put the technology—locational preference

Setbacks

Height

PK reiterated she was talking about macro scale wireless infrastructure, because the Selectboard has a policy in place for reviewing micro-scale wireless infrastructure in the public right-of-way.

She had been reviewing other communities' wireless zoning bylaws and found the proposed language for Lenox to be similar.

In terms of timing, there would be a Special Town Meeting on November 17th, 2022.

JH thought the bylaw could be ready sooner, he said tomorrow.

TD suggested there does not seem to be great pressure from the market, since people are not coming to the town trying to create new infrastructure, and that even if a Special Town Meeting approves the zoning bylaw, it would still take time to pass muster at the Attorney General's office and for a developer to come in and permit and construct new infrastructure. He thought that timeline unrealistic, to have the actual utility work completed by Summer 2023.

Sue Lyman is in favor of having three meetings in less than three weeks. It would satisfy the Selectboard and they would be done with the wireless bylaw work. It would not be on the Planning Board or Zoning Bylaw if there are no wireless developers after the new bylaw is adopted. She thought they could reach consensus on the three issues Pam highlighted (location, setback, and height) and knows they can't please everybody.

KMV says she would be comfortable to ask for another special town meeting after November so they can have more time.

TD says they could work to get to a November meeting and suggested the next three meetings. There was discussion of timeline—draft to be posted when there is a “final” draft when warrant article is posted, and when they would need to have the public hearing. GM explained some of the timing requirements for noticing the public hearing, how close to Town Meeting it could be, and how far in advance the warrant may be posted.

The Board agreed to meet the three next Tuesdays to try and complete the bylaw work. David Maxson of Isotrope LLC will come to the meeting on October 11th to share findings on location suggestions.

TD opened the floor to comments and questions:

Amy Judd from the Curtis asked if the Curtis building would be a priority. The current language of the zoning bylaw does prioritize concealed infrastructure on existing buildings.

Diane Sheldon of 48 Old Stockbridge Road (Turnure Terrace) wondered why people talked at length about solar setbacks but not wireless setbacks. She passed out bylaw language from Great Barrington, Otis and Stockbridge.

Scott Barrow commended the Planning Board for the work they have done and encouraged the Board to talk a different consultant who has different opinions about wireless safety and health than the two consultants the Town has worked with to date. He was extremely disappointed that the Board haven’t talked to differently opinioned consultants.

KMV said they are absorbing the information and read everything shared with them.

Courtney Gilardi had comments on the health impact of wireless infrastructure and cautioned the group to not allow what happened in her former neighborhood in Pittsfield, where a Verizon wireless tower caused illness with her own family and neighbors. She also asked that the Board work with a different consultant.

Both Scott and Courtney said it sounded like they needed to also bring their concerns to the Selectboard.

5. Approval of Minutes:

The Board approved the minutes of May 24th and July 12th with minor amendments.

6. Adjourn

The meeting adjourned at 8:53 p.m.