

Town of Lenox  
Planning Board  
Via Zoom  
October 27, 2020

**Members present:** Chair Pam Kueber (PK); Vice Chair Tom Delasco (TD); Kate McNulty-Vaughan (KMV); Jim Harwood (JH); Lauryn Franzoni (LF);

**Absent with Notification:**

**Staff Present:** Jessica Cote, Land Use Assistant (JC); Gwen Miller, Town Planner

**List of documents provided for this meeting:**

- October 27, 2020 agenda
- August 25, 2020 minutes
- Stone Path Open Space Plan
- Stone Path Special Permit Decision
- Permanent Window Sign Requirements 10-23-2020
- Permanent Window Sign Questionnaire
- Home Occupation Basic Requirements Changes 10-14-2020

PK opened the meeting at 6:00pm. The meeting was recorded via Zoom.

**1. 241 Walker Street Special Permit update--The petitioner has taken steps to convey open space to the Town of Lenox. This will leave their building lot with deficient frontage. Board will hear an update from the development team and discuss process to grant relief from the frontage requirement on the building lot.**

- Before the Board discussion with the petitioners, PK approached the Board with recommendations from Gwen Miller, Town Planner, that the Planning Board may want to amend the Special Permit and post notice for a new hearing with 14-day notice about the amendment to the Special Permit.

- TD suggested that since the attorneys for the petitioner are present on the call that it may be best for them to review the project again as a refresher for the Board. KMV and JH agreed for a high-level overview of the issue at hand.

- Attorneys present on the call: Ethan Klepetar, representing the developer of the property. Lori Robbins, asked by Dave Ward in assisting to draft conveyance documents per the original Special Permit. Charlie Ferris, representing a prospective buyer of a house to be developed. Jeff Lynch representing a current buyer who just purchased the first house developed on the land.

- Gwen Miller stated that the issue is that if the developer conveys the open space/land to the Town per the Special Permit, there will not be sufficient frontage on the remaining building lot that will have 9 houses on it eventually. Gwen Miller suggested the best way to move forward would be to grant a waiver based on section 9.7 of ZBL which allows the Planning Board to grant waivers on land less than 10 acres and to do that would be to amend the Special Permit.

- Ethan Klepetar reviewed the original Special Permit with the Planning Board and the reason for coming before the Board again based on the issue with frontage after conveyance of the open space land.
- PK moves to post notice and reopen the hearing on the property to amend the special permit. TD thinks before reopening that it would be best for the Planning Board to see a survey plan to determine if there needs to be a waiver or if an ANR (Approval Not Required) would suffice.
- Ethan Klepetar and Lori Robbins stated that they will get a survey of the land and then come back to the Planning Board with an ANR petition.

**2. Signs --Meet with the volunteer team that is continuing to work on updating the Sign Bylaw to provide input to their questions on (1) signs related to Home Occupations and (2) window signs.**

- The volunteer sign team, consisting of Jim Biancolo, Mark Smith, and Ariel Smith, reviewed and discussed the Permanent Window Sign Questionnaire that they created to better understand the Planning Board's needs/wants for the updated sign bylaw. There was discussion around area coverage of a permanent window sign, about the quantity of window signs, and other topics covered in the questionnaire.

**3. Minutes --Approve meeting minutes for Aug. 25, 2020.**

- PK asked to have the documents list and the attendees list added to the August 25<sup>th</sup> 2020 meeting minutes. TD had an amendment to the "Priorities for Fiscal Year 2021" section.
- LF moves to approve as amended. TD seconds. All in favor by roll call: TD: Aye; PK: Aye; KMV: Aye; LF: Aye; JH: abstains. 4-0.

**4. Wireless Communications --Updates on (1) research to engage consultant to conduct a wireless master planning and regulatory review that will address existing and future wireless infrastructure developments, (2)10/19 Board of Health-hosted presentation re wireless communications safety, and (3)10/27Citizen Planner Training Collaborative (CPTC) workshop, Maximizing Local Control Over Wireless Facilities Siting.**

- No new update on the engagement with the consultant.
- LF sat in on the Board of Health presentation – program was focused on what potential health issues microwave radiation and other types of byproduct of various types of cell towers.
- PK sat on the CPTC workshop (Maximizing Local Control Over Wireless Facilities Siting). A key learning was that installations, such as 5G towers, in the public way are regulated by the Town/Board of Selectmen (such as the new tower at Tanglewood a few years ago). Installations on private land are regulated by the Zoning Bylaw. Because the proposed new work includes establishing design standards for 5G and other such towers, it was agreed that the Planning Board needs to work with the Select Board/Town Staff on design standards for installations on both public and private lands. These standards could be codified in both town regulations and the Zoning Bylaw. Pam will discuss the situation with Gwen and flag it in next update to BOS.

**5. Residential Inclusionary Development & Windrose project --Discuss Zoning Board review/reconsideration of decision on Windrose project as it relates to requirements of 9.8 Residential Inclusionary Development.**

- TD recuses himself of this discussion and left the meeting as he is a direct abutter to the Windrose project.
- JH recused himself as a member of the Planning Board for this discussion, however stayed in the meeting as a member of the public for discussion about this agenda item.
- KMV was shocked and alarmed that this agenda item was even up for discussion with the Planning Board due to a lot of legal involvement. She cannot see the purpose or role the PB would play by having this discussion. KMV believes it would be useful for the PB to have a discussion about residential inclusionary development by itself. She can't see that any discussion right now would have a useful effect on the process.
- PK stated that she has always been told as PB member that when there is a conflict of interest with a PB member they can't be party to the discussion and cannot speak or show their face so PK believes JH can't be part of this discussion because he is a PB member.
- JH stated that it is a public meeting and you can't see his face. KMV stated that yes, it is a public meeting but the recusal process follows a different set of rules. JH believes the recusal process says he can't deliberate as a Planning Board member but it does not eliminate his rights as a public citizen. KMV understanding is that if there is a conflict of interest the Board member picks themselves up and leaves the room.
- JH believes KMV is wrong but concedes to her wishes.
- KMV then read from the ethics commission that a Board member that recuses themselves does not legally have to leave the room however they will be treated just as any other member of the public during the meeting and will not receive any special treatment which establishes that JH is correct.
- JH stated "let the record show that I am doing the right thing by recusing myself of this discussion as a Planning Board member and staying as a public member".
- PK stated why she added this agenda item. She believes the Residential Inclusionary Development bylaw and how it came into being is not well understood. She wants to know if it would be best for the Planning Board to pull documentation for when this bylaw was prepared and written to better understand why it includes what it does include. Would it then be useful to give that documentation to the Zoning Board of Appeals while they have the Windrose project in front of them again.
- KMV is interested in the PB revisiting the bylaw but does not believe doing these actions now will be of any use to anyone right now. KMV stated she will not sit in on pulling that documentation and going through old minutes at this point in time during the ZBA hearings for Windrose. She believes it is completely inappropriate and that historically it will be of interest and use to the PB but to inject into a situation that is already occurring and does not involve the PB and is complicated enough is a mistake. KMV then left the meeting. There was no longer a quorum, so the discussion ended.

## **6. Discuss/Agree on update to Select Board**

### **JH rejoined meeting**

- JH suggests communicating wireless communication/5G
- LF suggests giving update on volunteer sign committee.

**JH moved to close the meeting at 8:39. LF second. All in favor 3-0.**