

FINAL**Minutes for Lenox Planning Board – Nov. 30, 2021****Zoom meeting****Approved Dec. 14, 2021**

Board attendees – Pam Kueber (PK), Tom Delasco (TD), Kate McNulty Vaughan (KMV), Sue Lyman (SL), Jim Harwood (JH)

Other attendees – Land Use Clerk Jes Cote, J Maccolini, Steve Seltzer (SS), Mark Levasseur

Documents: Planning Board Agenda for November 30, 2021; October 19, 2021 minutes; October 20, 2021 minutes; October 26, 2021 minutes; November 9, 2021 minutes; November 18, 2021 minutes; Form A/ANR Application for Mary Misch (8 and 12 Tucker Street); Approval Not Required Plan of Land for Mary Misch; Wireless RFQ draft dated 11-28-2021 for PB review 1; Application for Approval of Preliminary Plan for Steve Seltzer at 390 Housatonic Street.

The meeting was recorded via Zoom.

1. Minutes

- Oct. 19, 2021 -- KMV motion to accept as amended, PK second. Roll call PK/TD/KMV-aye; SL-abstain.
- Oct 20 – (Joint meeting with BOS to appoint SL to open position) – KMV motion to accept BOS minutes as written, TD second. Roll call PK/TD/KMV-aye, SL-abstain.
- Oct 26 – PK motion to accept as amended, KMV second. Roll call PK/TD/KMV/SL aye (JH joined meeting at this point)
- Nov. 9 – TD move to accept as amended, JH second; Roll call ayes PK/TD/KMV/JH/SL
- Nov. 18, 2021—TD move to approve, JH second. Roll call ayes: PK/KMV/TD/SL/JH

2. Vote whether to endorse Approval Not Required Plan (under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land of the Planning Board in the Town of Lenox) for lots at 8 and 12 Tucker Street, applicant Mary F. Misch

Land surveyor John Maccolini presented this ANR application to combine two lots into one. PK noted Town Counsel had advised that in situations like this a noncompliant situation is being created (two buildings now on one lot noncompliance in such a situation.) Does not affect ANR decision, but applicant may want to be aware.

Clarification of difference between nonconforming and noncompliant:

conforming=preexisting nonconforming; compliant – a nonconforming situation created by applicant but not preexisting; SL-worth pointing out to applicant because can muddy waters re conveyancing etc. TD moved to endorse as presented, SL second. Roll call ayes PK/TD/JH/KMV/SL. JH, KMV and TD to sign/endorse mylar in Town Hall.

3. Continue discussion and vote on Application for Approval of Preliminary Plan (PP) for property at 390 Housatonic Street as a subdivision as allowed under the

Subdivision Control Law and the Rules and Regulations (SRR) Governing the Subdivision of Land of the Planning Board in the Town of Lenox.

A new map was received today – it was clarified that various dimensions were updated including new straight line dimensions frontage for Lots #2 (177') and #1 (150.3'). Various questions about road extension and its relationship to Lots #1 and #2. JH-concern that frontage does not quite meet the definition of access for lot #1. ML – want to use existing driveway for lot #1; would require waiver. It was noted that to build a longer road would need Conservation Commission approval; SS – question is how much we want to disturb wetlands etc. when there is already a fully functioning driveway for Lot #1 from Housatonic.

SL-requirements for Preliminary Plan (PP) include location size and direction of flow of culverts and storm drains etc – did not see any on this plan, relevant in terms of this property, concerns as a deliberating body that PP does not present what was required. Also topography of land is missing. Cited “A-L” requirements in PP requirements of SRR and they were read.

JH-if we approve Preliminary Plan it is not binding, correct? TD-yes. JH also needs to leave shortly and wonders if he can cast his vote or abstain. His opinion: some procedural issues with plan are not addressed e.g. drainage and topography; and access that could be addressed with a waiver. Would vote to approve. Made site visit, got sense of neighborhood thinks the proposed plan is consistent. Challenges – steepness of approach from ANR lot from Housatonic. Would be in everyone's best interest to give them a waiver to continue existing access from Housatonic to Lot 1. TD – would second that.

PK – cannot vote to endorse because plan does have a zoning violation, does not provide real access through the frontage; before we start as a board granting waivers for back lot and pork chop development, let the town decide. Having real access via a road and your frontage is a safety issue. If there is a majority to endorse need to make it clear they are not getting all the waivers in the table. No motion yet.

JH – move to approve the PP as submitted with the comments that he made. No second.

TD – still has some questions. PP table asking about waivers, wants more explanation of them. E.g., p.6 of table – dead end streets, cul de sacs, drainage etc. would want to know approach, what justifies the waiver etc. Applicant needs to make the case. PK – agree to discuss at Definitive Plan? TD – discussion now may mean they change plan.

KMV – simply to cut and paste requirements and give us our language back without any discussion seemed inadequate. Concerns from site visit about steepness and previous disturbance/wildly open-ended questions to be

approaching us for some sort of signal to go on. Joel Bard notes, certain element of consistency about what's required then we're waivering like mad, we're undermining our own bylaw where that would apply to other people. To go at this with so many questions, the more time on site the more I looked at steepness, amount of disturbance already, no response from CC because they haven't engaged with them yet. Terribly uncomfortable, allowing somebody to move on and we still have questions brought up at first meeting. Problem endorsing without a lot more detail – mylar layers – topography – drainage plan. Goal at some point there's no intention of road access for next set of people.

JH – Definitive plan should show it can meet letter of law for frontage but believes that it is in the interest of Town to allow continued access via Housatonic. If we disapprove this they could come back with new PP. The other issues of what's left off the plan are not insurmountable; that kind of infill development that as long as it complies with our zoning should be encouraged.

PK – it's clear they could get 2 lots from parcel.

SL – as lawyerly self thinks we have as members of PB to require applicants to address what our regs ask them to address, don't feel that we would be acting in good faith to bypass something that's required by our own regs, not comfortable endorsing given A-L issues. Particularly in this case culverts, storm drains – a significant issue on this site. Record should reflect TD/KMV/SL – did go to scheduled site visit. [note: JH, above, also said he had visited site.] Has been some logging there, think potential is great for runoff and erosion issues. Not comfortable saying we cannot require applicant to follow our regulations.

SS – has been very informative process for him, if application is lacking in some faction, will withdraw and reapply. No intention to omit or obfuscate. SL – nice that applicant being so gracious and civil. Expectation on part of community that PB will follow their own regs.

(JH left meeting.)

KMV – feel is that we'd like to see more housing, not have it look like Levittown, but this site has open ended questions. Come back with more fleshed out and decision information that would allow us to go forward with more confidence.

PK – in case SS does decide to ANR, for Lot #3 we must determine real viable access – for there not to be a delay, we would want to know a driveway really can really go in there – design – gradient would be helpful. If you could help us along with that. SS – other houses within two or three lots all have driveways and the terrain is very similar. TD clarified. KMV – yes, other homes situation similarly and let us know that police chief is okay with sight line etc. SS – has done some of preliminary work on design, measuring sight lines.

It was clarified that applicant is withdrawing plan and will resubmit.

4. Discuss and vote to approve draft RFQ for Wireless Communications Gap Analysis and Master Plan.

PK said tonight's discussion was get member's edits and approval of the draft RFQ forward. Discussion whether to put it on website for public comment for two weeks. TD – lot of time spent on it, don't need more delay. PK – in crafting, sought to include citizens' questions/issues/concerns to go into the RFQ and to make sure there is further discussion in public meetings etc. – this is the Town's plan, not the Planning Board's plan.

PK took Board and citizens attending the meeting through key parts of the RFQ so the scope was understood.

KMV – suggested adding idea of “hybrid” - PK to add

TD – we are NOT asking consultant to DESIGN cell coverage for the Town.

KMV – make language consistent when referring to particular technologies etc.

Citizen comments

Robert Pelliciotti – noted Turnure Terrace and Curtiss starting tenant's association. Reiterated his concerns about health and safety issues. Recommended Anthony Campanelli recommendations and GB and Stockbridge plans as benchmarks. PK noted she has listened to Mr. Campanelli in two different presentation and read the other plans. Noted re GB and Stockbridge, the reference was to setbacks; this wireless Master Plan study will get a feel for maximum setbacks possible while still getting coverage.

Susan May – Overall it looks pretty good. Asked about including “local” legal frameworks in two areas, board agreed that should be removed.

More discussion about Goal 2, and adding ideas of “hybrid” and “innovation”.

5. Next meetings: It was agreed to cancel the regularly scheduled meeting for Dec. 28.

Upcoming meetings are:

- Dec. 14, 6 p.m. – Board will meet again with 3 volunteers working on sign bylaw if they are available
- Jan. 11, 6 p.m.
- Jan. 25, 6 p.m.

Adjourned 8:13 p.m.