

## Planning Board Minutes, 03/27/2018

Town of Lenox  
Planning Board  
Land Use Meeting Room  
March 27, 2018

**Members present:** Chair Pam Kueber (PK); Kate McNulty-Vaughan, (KMV); Deborah Rimmmler (DR); Tom Delasco, (TD); Kameron Spaulding, (KS)

**Staff present:** Gwen Miller, Land Use Director, (GM)

**Others present:** Joel Williams of the Berkshire Record and Clarence Fanto of the Berkshire Eagle, both of whom recorded the meeting and Selectman Ken Fowler. There also were citizens in the audience who included:

Scott Shortt, Kemble Inn

Dave Roche

Jim Roche

Ellen Roche

Caroline Roche Pratt

Andrew Lane

Rebecca Savlatore

Bruce Gamble

Beth Gamble.

Angela Lomanto, Brook Farm Inn

Dianne Romeo

Jackie Wong

Pal Marshall

Jim Scalise, SK Design

Linda Miller

Eiran Gazit

The meeting was opened at 6:00 PM.

### **Documents provided for tonight's meeting:**

- Master Plan RFP –March 23, 2018
- Unconstrained Parcels and acreage
- Zoning Bylaw 2017-Approved Zoning Bylaw-solar revision (2)
- Rayo Bhungara letter dated March 13, 2018
- The Act, H.4327, regulating and insuring short term rentals-Filed on March 19, 2018
- Minutes: February 13, 2018 & February 27, 2018

**Review and Vote on Form A** – 920 East Street-Presenting the Form A was Alex Thorpe of Accord Engineering of Great Barrington, who stated that he was applying on behalf of Susan Rudd. The subject property consists of over 4 acres and will be divided into two parcels with each parcel complying with the Zoning Bylaw. KS made a motion to endorse the Form A as presented. TD seconded the motion and the Board voted in favor 4-0-1 with DR abstaining as she was unable to see the Form A document. Board members signed the Mylars.

**241 Walker Special Permit application** – Prior to the opening of this meeting, the applicant asked the Chair to continue this meeting to April 10, 2018.

**Large-scale ground-mounted solar** —Continue considering zoning options that would allow for additional solar development in Town. The first meeting was on February 27, 2018

PK reviewed the history from the first meeting. Syncarpha Solar~has an option to purchase property at 383 Housatonic Street.

The property has two different zones, one part is residential and the other in industrial. The issue here is that there is an existing ground mounted solar bylaw that is allowed in the industrial zone, but not in the residential zone. KMV and KS who were a part of drafting the existing bylaw agreed that they were fairly strict on where solar could be placed, and in fact the Attorney General noted that the bylaw as written was restrictive. The Board is looking at this bylaw with the possibility of updating or altering it. It was stressed that this is not being done for this particular proposed project, as that would be spot zoning, which is illegal. The purpose of this discussion is to determine if the bylaw needs to be expanded and if so, how and if there is enough time to have

brought before the Annual Town Meeting. The proposed project, which would cover 25 acres, would provide 7 megawatts of electricity, providing enough power for an estimated 10% of Lenox residences.

GM projected the zoning map for all to see. She had denoted on the map the areas where solar is currently allowed by right and by Special Permit; it also further detailed areas that are “constrained” and “not constrained” by wetlands etc., and it showed hash marks indicating parcels that are split zones, e.g., part of the property is zoned industrial and part is in residential, which is the case for 383 Housatonic. GM noted there were 183 acres of unconstrained area in the Commercial C-3A zoning district; 40 acres of unconstrained area in the Commercial “C-1A” district, and “58” acres of unconstrained area in the Industrial “I” district. She added that including split lots would add 133 acres to the C-1A area; 186 acres to the C-3A area, and 55 acres to the Industrial district.

The Board discussed and members of the public commented. The commenters and their comments are as follows:

*Bruce Gamble of 47 Tucker*-He questioned if this property would be restricted to solar only. He was told that it isn’t. He said that he is opposed to solar being developed on any residentially zoned property.

*Ellen and Dave Roche of 375 Housatonic*-Neither were in favor of solar for this property. They and family members are the three residential abutters to the property. They would not have purchased the property if they knew this use would be permitted.

*Christian Deckert*– He stated, as a Realtor, that it would be difficult for abutting property owners to get their asking price adjacent to a solar project

*Tom Romeo, Reynolds Street*-He asked about solar being mounted on the schools, and he was told that this bylaw covers ground mounted.

*Jim Roche, Housatonic Street*- He said that this use would be worrisome with stormwater runoff.

*Susan May, Old Stockbridge Road*-Ms. May said that there is a push for renewable energy and her concern is the obvious effects of global warming such as mudslides, rising tides, etc. This is why she supports this kind of project arguing that with solar available the cost of power goes down and more businesses would be enticed to come here because of energy costs.

The Board then discussed the issue. Several Board members expressed concern in particular that they would not normally think to expand the concept of "split lots" in the way being considered. It was agreed that more work could be done to review where solar is zoned in the current bylaw, but that give the Board's current schedule, this was not an immediate need. At this point the Board agreed by consensus to table this matter and continue discussion for the second meeting in May.~

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#### **Short-Term Rentals Discussion including review of draft bylaw**

The House bill, H-4327 was passed last week, but needs to now go to the Senate and finally to the Governor.

PK stated that on March 19, the Short-Term Rentals subcommittee had received a proposed STR bylaw from the Town, which asked that the subcommittee and the Planning Board accelerate its efforts to get a bylaw in front of voters. As such, the subcommittee worked with the Town draft, which was prepared by GM, and is presenting a proposal tonight to consider bringing to May Town Meeting. This is an acceleration of the previous plan, which was to bring the bylaw to voters in November.

PK stated that GM has gathered input from research, residents’ input, online survey and the STR sub-committee to craft a draft bylaw. PK and KMV, acting as the subcommittee, have reviewed the draft and are in agreement fundamentally, but areas highlighted text indicates they don’t agree or are otherwise asking for input from the full Planning Board. It is hoped that there will be agreement tonight so that the public hearing notice can be advertised on April 3<sup>rd</sup> for a hearing to be held 2 weeks later on April 17<sup>th</sup>. GM had gathered input from research, residents’ input, online survey and STR sub-committee conversations.

GM reviewed the draft in its entirety.

KS compared the Home Occupation (HO) bylaw to this proposal. That bylaw and this allows a commercial use in a residential zone, but he pointed out that the HO bylaw allows the homeowner to only use 20% of his home; there is no similar limitation on how much of the home can be used for STR. He is asking the Board for uniformity between the existing HO bylaw and proposed STR bylaw.

There was a discussion about the language in the draft regarding the number of days that would constitute a month and the consensus was that rather than use the 28-day month that the state has in their draft version to go with “less than 30 days” in ours.

The Board continued their review of the draft and suggested language changes were noted to be incorporated into the working draft.

Some residents who were present became a part of the discussion by asking questions about the proposed bylaw. Jackie Wong spoke positively about renting out rooms to guests. She says that she pays income taxes on income from Air B&B and would not mind paying rooms taxes to the state and the Town, but she said that this proposed bylaw is too restrictive and she is opposed to

the regulations. Guests have told her that they appreciate the affordability of her rented space and otherwise could not afford to stay in Lenox. Scott Shortt of the Kemble Inn felt that 90 days is liberal and that permitting by right in all zones has the potential of adding thousands of rooms.

GM will incorporate changes to the draft and sent to the Board to review to make sure that the new draft says what they intend it to say.

KS made a motion to continue the meeting and discussion of this proposed bylaw to March 29, 2018 at 6:00 PM. KMV seconded the motion and the Board voted to agree.

TD made a motion to adjourn at 9:53 PM. KS seconded the motion and the Board voted to agree

Respectfully submitted,  
Peggy Ammendola