

Planning Board Minutes, 02272018

**Town of Lenox
Planning Board
Selectmen's Meeting Room
February 27, 2018**

Members present: Chair Pam Kueber (PK); Kate McNulty-Vaughan, (KMV); Kameron Spaulding, (KS)

Absent with notification: Tom Delasco, (TD); Deborah Rimmmler, (DR)

Staff present: Gwen Miller, Land Use Director, (GM); Peggy Ammendola, Land Use Clerk, (PA)

Others present: Joel Williams of the Berkshire Record (He recorded the meeting.); Clarence Fanto of the Berkshire Eagle (He recorded the meeting.); and Selectman Ken Fowler

The meeting was recorded.

Documents used at this meeting:

- February 13, 2018 minutes
- Construction Sequence (1)
- 5G networks
- SJC rules on municipalities' right to regulate local air strips
- Governor's new Housing Choice Program
- Economic Development Self-Assessment Tool
- Syncarpha handout

Approve Minutes: *February 13, 2018*—The minutes were tabled due to a lack of quorum.

Solar development—Syncarpha Solar—has an option on 383 Housatonic Street. They have come before the Planning Board to discuss the potential of creating an overlay district or some other zoning change to allow solar development in the residential portion of the parcel.

Present were Rob Bukowski, an environmental and civil engineer with Amec Foster Wheeler; Carter McCann and Abby Pires of Syncarpha Capital; and Rayo Bhumgara of Sustainable Strategies 2050.

The parcel has frontage on Housatonic Street and Willow Creek Road and consists of 48 acres. A portion of the parcel is in the residential zone and the other portion is in the industrial zone. The plan is to develop just over 25 acres for the solar project. The construction time would be 4 to 6 months and they would like to be operational this year.

Mr. Bukowski stated that the current owner wants the property to be developed for solar. There are very few neighbors and it is abutted by the cemetery. A large portion is open. He said that it is in good proximity for 3 phase power, and he is confident there is enough capacity. Because of existing transmission lines, the viability of being developed for residential is questionable, he said.

KMV disclosed that she belongs to the Lenox Land Trust and that there has been Town interest in acquiring this property to expand Post Farm.

A plan showing the property was reviewed and the proponents indicated where they thought the array would be positioned.

Discussion ensued with regard to the existing zoning and how this project could be developed, e.g., changing the bylaw, moving a line or creating an overlay. KMV suggested that this would be problematic spot zoning. KS referred to a project on Routes 7 & 20 in which the line was moved. He pointed out that with a cemetery, train tracks and waste transfer facility in this area, it is already more industrial than residential.

The Board agreed that they should seek Town Counsel's determination on if this would be spot drawing. GM gave the following definition of the term "spot zoning": *A zoning change is designed solely for the economic benefit of the owner of the property receiving special treatment and is not in accordance with a well-considered plan for the public welfare.* GM added that it might look like spot zoning if an overlay district was created or zoning was changed for only one parcel, but if changing the boundary of a zoning district to allow industrial use or activity a little to the west, she does not think it would be spot zoning. Mr. McCann said that this had been done in Northbridge and Gardner, Massachusetts.

Mr. Bhumgara stated that the project will provide multiple benefits to the Town of Lenox without requiring additional services that an alternate use (residential subdivision) would require.

- This project will be a community shared solar project and thus, net metering agreements will be available to the Town, local businesses, and residents throughout the Town.
- These agreements would provide savings on utility bills over the 20+ year life of the solar project. The savings will be in excess of \$150,000 per year split between the Municipality and its local businesses/residents.
- The Town would also receive tax payments over the 20+ year life of the solar project via a Payment In Lieu of Taxes (Pilot) Agreement in excess of \$50,000 per year, in addition to the existing real property taxes already attributable to the land value.
- Finally, the Town and the community will be supporting the State in the achievement of its greenhouse gas emissions reduction goals by allowing the development of a renewable energy project and participating in a community shared solar program. GM suggested that the Board and the proponents have a productive conversation and see if there is something the Board would want to change for the long term for the community and not just for this site.

KMV and KS discussed the process in developing the existing solar bylaw and the criteria used when deciding where solar would be allowed. KS mentioned the maps that had been created by Berkshire Regional Planning Commission to help the Board in the development.

It was recommended that the Board members look at the maps before the next meeting. PK told the proponents that there was a process that had to be followed if they wished to introduce an article at the Town Meeting.

It was agreed that the Board would conduct a site visit on March 6th at 5:00 PM followed by a meeting in the Land Use meeting room.

241 Walker~Special Permit Application-Continued hearing (from Feb. 27th) for the Application of Stone Path Development, Inc. for the property at~241 Walker Street~(Map 8, Parcel 1 and Map 8, Parcel 6-1) in the Residential "R-1A" zoning district.~This is being continued to March 13th.

Complete Streets Update-GM stated that the Town has received funding in the amount of \$324,000.00. She reviewed the projects that the funding will enable the Town to complete which includes a crosswalk at Old Stockbridge Road just south of the Monument and three other crosswalks on Main Street. These crosswalks will improve visibility making it safer for pedestrians. The project has to be completed by 2019. **Master Plan RFP**-KMV stated that she felt the document was redundant and had many contradictions. After some discussion about whether and to what degree the process of running the project should be prescribed within the RFP, it was agreed that the RFP should be dramatically shortened to ask consultants to 'tell us how they would deliver us a great plan' and show us with examples.

Update: Recreational Marijuana-KS said that the Cannabis Control Commission (CCC) met on February 26th and took a vote to delay. A draft has been released to meet a deadline set by the Governor, but they are still voting on segments of it. The CCC is targeting July for issuing retail sale marijuana licenses. KS believes that the Board could have a Public Hearing in April to have a broad conversation on the contents of the draft as it exists at that time. By the fall the Board could have bylaw language. KS will compile notes on this and send to the Board members. This item will be placed on the March 13th agenda.

Update on Short-Term Rentals-The subcommittee has moved their meetings from Friday to~Monday of each week. All of the data that has been collected i.e., from correspondence received from residents, the two roundtable discussions, survey, subcommittee's research, GM's analysis etc. has been combined and will be available for participants at the meeting of March 5th.

The subcommittee is made up of PK and DR, but because DR is not always available it was suggested that another member be added to help ensure a quorum is available for meetings. KS made a motion to nominate KMV to be that member. PK seconded the motion and the Board voted to agree 3-0.

Town Committee Reports-PK, the Planning Board representative on the Berkshire Regional Planning Commission provided the following report:

The new Executive Director of Berkshire Regional Planning Commission is Tom Matuszko.

Attorney Anthony Lepore, Director of Government Regulations with Cityscape Consultants, made a presentation at BRPC on 5G technology. Some states have passed legislation that removes a municipality's say in wireless infrastructure placed in a right of way. He said that municipalities should adopt local bylaws to have some say over the aesthetics of the equipment.

The Supreme Judicial Court (SJC) has ruled that cities and towns have authority, under their zoning powers, to regulate the use of~land for the landing of non-commercial private aircraft.

PK said that the Governor's Housing Choice program has been launched. She is on the Regional Issues Committee which will meet on March 7th and they will focus The Housing Choice Initiative. The Initiative provides incentives, rewards, technical assistance and targeted legislative reform to encourage and empower municipalities to plan and build the diverse housing stock that the Commonwealth needs to continue to thrive.

PK reported that at the BRPC meeting, the status of the District Local Technical Assistance grants was discussed. The assumption is that every town that applied will get DLTA help for at least one project. We applied for one grant, a joint grant with Lee to have BRPC work with us to go through the Economic Development Self-Assessment Tool (EDSAT). The EDSAT review will provide useful information to the Master Plan's section on Economic Development. CO

Administrative Assessor-PK has asked Randy Austin, the Administrative Assessor, to research to determine the number of new lodging units in Lenox and an updated calculation of 2nd homeowners. This research shows an additional 3% of housing that is owned by second homeowners and this has resulted in additional revenue as second homeowners pay a personal tax which is based on the value of the contents in the home.

KS made a motion to adjourn and KMV seconded the motion. The Board voted to agree and the meeting was adjourned at 8:37 PM.

Respectfully submitted,
Peggy Ammendola