

Town of Lenox
Zoning Board of Appeals
November 18 2020 7:00 p.m. via Zoom

Members Present: Robert Fuster Jr (RFJ); Shawn Leary Considine (SLC); Ned Douglas (ND); Al Harper (AH); Clayton Hambrick (CH)

Staff: Gwen Miller, Town Planner; Jessica Cote, Land Use Assistant

RFJ opened the meeting at 7:02pm.

1. 55 Pittsfield Road – Special Permit and Site Plan Review hearing for an Adult Use Retail Marijuana Retail Establishment...Continued from 9/2/2020

- Andrew Hochberg, attorney for the petitioner, stated that the petitioner has filed a new SP application for a new location. The petitioner does not intend to operate two dispensary location but would like to keep this hearing for 55 Pittsfield Road open until the hearing for the new location is concluded and a decision is rendered.
- Attorney Hochberg would like to request a 90-day continuance to February 2021 and if the new petition is granted for the new location the petition for 55 Pittsfield Road will be withdrawn.
- RFJr had concern is that town of Lenox has only two establishments and there are two petitions pending. RFJr asked attorney Hochberg if the petition for the new location is allowed does the applicant plan to withdraw the petition for 55 Pittsfield Road. Attorney Hochberg stated that once the 20-day appeal period had ended they will withdraw the petition for 55 Pittsfield Road.
- AH moves to continue the meeting to February 3, 2021. ND seconds. All in favor 5-0.

2. 114 Main Street – Special Permit Request...Continued from 10/14/2020

- Attorney Pucilaski explained to the board a few elements from his written explanation submitted for the record in reference to the waivers that the ZBA applied to the original Special Permit including why all elements of section 9.8 as well as 9.1 of the Lenox Zoning Bylaw should not be waived for this Special Permit. He also reviewed the Yield Plan that should have been submitted with the original Special Permit request.
- Attorney Martin replied to Attorney Pucilaski's complaints stating how the waivers that were originally granted still appeal under this appeal and remand back to the ZBA. Attorney Martin also reiterated that two direct abutters who were part of the original appeal have settled with the applicant and those abutters concerned have been addressed and resolved.
- Public Comment:
 - i. Jim Harwood, 34 Walker Street: reiterate what Attorney Pucilaski stated about the Yield Plan that should have been included in the original Special

Permit request and the Yield Plan establishes the nature of the relief that Attorney Martin is requesting.

- ii. Kimberly Duval, 41 Tucker Street: opposed to the project and states that this project misses the intent with scale, size, and massing for the downtown Lenox village.
- iii. Renee Miller-Mizia, 85 West Street: In favor of this project.
- iv. Christopher Fenton, 38 Taconic Ave:
 - v. Molly Elliott, 185 West Street: Concern with request for waivers with this project. Size and waivers requested feel as though they are pushing the Zoning beyond what is reasonable. Thanked the ZBA for their time and effort.
 - vi. Brendan Matthews, 15 Beecher Lane: Asked if they could address the Affordable Housing aspect of the Special Permit. RFJR stated that they could however it is not part of the Board review tonight. The Matthews would like to echo Jim Harwood and Kim Duval's remarks and believes that these concerns are warranted. Also has concern that there is no contribution to the Affordable Housing Trust and does that set a precedent for other projects in the future.
- vii. Susan Wolf, 1 Shaylor Hill Road: The plan is a very thoughtful way to add much needed housing and bring vitality back to downtown. Referenced that the BOS noted in a meeting that there is a shortage of housing within Lenox. Must be realistic about that we need the taxes from this property.
- viii. Tom Romeo, 54 Reynolds/7 Hillside Drive: Familiar with project since conception. Thanks ZBA for attention given to this application. Stated that the abutters were OK with project based on previous meetings and now these setback concerns are coming out now.
- ix. Christopher Fenton, 38 Taconic Avenue: In favor of this project and think this will be a good project for this area of Town.
 - x. Paul Hirt, 13 Taconic Ave: Addressed one point made around density and keep in mind that this area is commercially zoned and the Winstanley's could put up something much bigger and denser in the commercial zone.
 - xi. Colin Matthews, 48 Old Stockbridge Road: Opposed to the project and reiterated that the ZBA should not waive the requirements.
 - xii. Lucy Kennedy, 35 Tucker Street: In favor of this project saving a very historic building in the town village. Important to think if this project doesn't go through and what would happen to this property if it isn't approved.
 - xiii. Jan Chague, 65 East Street: In favor of this project saving an historic building within Lenox.
 - xiv. Mitchell Nash, 160 Cliffwood Street: In favor of the project. With reference to density, need to remember that we are a little "hamlet" and density is OK in the downtown area.

- xv. Steve Aldorf, 21 Reynolds Street: Agree with Mitch Nash and density. But also agrees with the affordable housing aspect and there should not be a waiver granted.
 - xvi. Kierstyn Hunter, 213 East Street: In opposition of project.
 - AH asked Mr. Jim Scalise questions about his education and background. Jim replied that he is a professional civil engineer and has been an engineer for over 25 years. Land planning and permitting. AH asked if Mr. Scalise has testified in court as a civil engineer. Mr. Scalise replied that he has. AH asked about the traffic study completed the last time Mr. Winstanley brought a SP request in front of the ZBA for this property. Mr. Scalise stated his company requested that traffic study and he is familiar with the study. AH then asked if since it has been more than a decade since that study was completed if it is obsolete now. Is it necessary to redo the traffic study? Mr. Scalise stated that he reviewed traffic study from a decade ago as well as updated traffic data and there is no significant change to traffic.
 - SLC moves to keep the hearing open and continue to another date. AH seconds. All in favor 5-0.
 - The hearing is continued to December 9, 2020 at 7:00pm via Zoom.
3. Approval of Minutes – September 2, 2020 and September 23, 2020
- RFJr moved to accept minutes from September 2 and September 23. SLC seconds. All in favor 5-0.

RFJr closed the public hearing at 9:02pm.