

**TOWN OF LENOX
PLANNING BOARD
Aug 10, 2021, Minutes**

In attendance: Pam Kueber (PK), Tom Delasco (TD), Kate McNulty-Vaughan (KMV), Lauryn Franzoni (LF), Jim Harwood (JH)

Also in attendance: Jes Cote (JC), Land Use Clerk; Anthony Lepore (AL), Cityscape Consulting; 9-10 citizens; petitioners related to 55 Pittsfield Rd Unit 2 Site Plan approval request.

Meeting was recorded on Zoom and by the Berkshire Eagle.

Documents:

- Agenda for meeting
- Site Plan and supporting materials for 55 Pittsfield Road, Unit 2
- Comment letter to ZBA drafted in April, for filing when application for 55 Pittsfield Rd, Unit 2 is filed.
- Draft Small Wireless Facilities Design & Specifications, v.6 7-2-21 and v.2 in packet
- 8/10 email from AL with link to article about neutral host antenna designs available in market today.

Meeting held by zoom. Meeting was recorded on Zoom.

Site plan review: 55 Pittsfield Road, Unit 2

Formal site plan approval under Zoning Bylaw 10.2 request to locate a veterinary clinic at 55 Pittsfield Road, Unit 2. Request for waiver from 10.2.17 based on fact that there are no site-related changes to the project and that all the changes are housed within the building. Proposal will adapt existing building with no changes at all. Discussion by Planning Board that the provision requiring site plan review for each and every new business, or change of use, is odd given that overall larger site has already been approved.

Attendees as part of this application: Applicant is Raymond Reiners, owner of South Street Veterinary; attorney Jeff Lynch presenting; attorney Andrew Hochberg; architect William Wenchell.

Relative to the site, attorney Lynch presented:

- There are 27 paved parking spots in front of the building for patients, while only 23 required per parking regulations;
- Water usage at worst comparable to restaurant in terms of gallons per quarter or year, anticipate they would fall way below that.
- Traffic generation by vet's office including working history, all scheduled appointments, anticipated to be below traffic generated by a restaurant; fewer car trips, they also will be staggered throughout the day-impact decreased.

Jim Harwood – asked about outdoor kenneling. Lynch said there will be none. There may be infrequent overnight stays resulting from a surgery but no overnight boarding. This is a practice for only dog and cat patients; the only exterior activity will be pets on a leash by clinician for exercise or relief.

TD asked about some interior layouts of the room. Applicant Reiner explained how interior rooms would typically be used. Exterior area in back is for relief. KMV asked about how often patients would be required to stay overnight; vet said he typically does 5 surgeries a day and the last time a patient had to stay overnight was 6 months ago; overnight patient most likely to be a cat so that urine sample can be collected. If required, patients may be transferred to a 24-hour critical care facility.

KMV asked about 13 parking spaces, in gravel, behind building. JL said these were above and beyond the 27 paved spots available in front / 23 required by bylaw.

PK said only majority needed to approve Site Plan; it cannot be appealed. It was clarified that ZBA does not take action related to Site Plan; they consider Special Permit.

PK said this was a wonderful addition to Lenox community, providing a much needed service locally, convenient for dog and cat owners for Town and adjacent areas; conversion of building from a restaurant to office will have minimal impact on impact of use. 14.5 visits per hour for a restaurant vs. 3's for a vet office. Dogs and cats there for relatively short period of time. Overall, the application well written with plenty of findings therein that would support us endorsing the site plan review.

Discussion of waiver requested, and JL clarified that the ZBA, not the PB, is actually the body that considers this waiver. Board agreed they would endorse the waiver as ZBA correspondence.

Endorsement of Site Plan will be its own document for parcel file. Waiver endorsement will be a second document to go to the ZBA. Letter from Planning Board to ZBA – approved in April by the Board – will be a third document submitted as correspondence.

Motions and votes:

- TD moved PB vote to endorse and/or approve the site plan as presented. LF second. TD aye, LF aye, JH aye, PK aye, KMV aye by roll call.
- TD move to endorse ZBA waiver from 10.2.17 based on fact that there are no site-related changes to the project and that all the changes are housed within the building.

TD to write approval and endorsement documents. PK/JC to get April letter to ZBA at appropriate time.

PK noted that this bylaw is constructed in a very strange way – entire development approved – but then we PB are supposed to approve any changes for a tenant, with waiver granted by ZBA. KMV: mixed wires here. This goes on the list of something PB needs to take a look at for language correction so that we don't make it difficult for new applicants to get a new business in place and jump through more hoops than a necessary; KMV and TD agreed.

TD also suggests looking at Use Table to make it more amenable to businesses – not just in this district but overall.

Board member change: LF moving; her last meeting will be Sept. 14. There will need to be a joint meeting of BOS and PB to approve a new member. PK asked Board members to spread the word, reach out, and will let BOS know to announce this at their meeting. Three years of term remaining.

Update on Wireless Needs Analysis/Master Plan

PK updated Board on funding; we cannot tap federal Covid relief money until it is released via Town Meeting; Town Manager continues to consider other potential sources to start faster. On timing, AL said that because of few wireless

installations here, analysis of existing infrastructure and gaps could move fast; timing of remainder of plan would depend on number of meetings needed to develop Master Plan of recommended infrastructure, placement, etc.

LF asked about what in the analysis would influence what we are looking at, in the Wireless Communications Facilities (WCF) bylaw. What will we learn in the analysis that will impact that what we need for recommendations?

AL said the analysis and plan would:

- Identify existing infrastructure and coverage
- Identify where you have coverage and capacity gaps or shortfalls
- Anonymously poll the carriers about future development plans, with data presented anonymized way – that is, where we predict service needs are going to be.

AL: We can then include those results in bylaw with regulation that encourages the placement and types of facilities in certain areas and discourages them in other areas, if we know that's where they will need to go. We can specify the design most appealing in that area, and discourage designs that you don't find appealing in that zoning district.

PK said this analysis could lead us to create overlay districts – but would have to make sure any such districts are not prohibiting provision of service. AL: Overlay districts can become obsolete as soon as they go in, as new needs come into place.

PK said some citizens brought up 500-600 foot setbacks. If that were our goal, research like this could potentially could help us to identify where towers could be placed efficiently and effectively with those kinds of setbacks, but we can't do that unless we know, or else could be interpreted as prohibiting service.

AL: Research will work with Town GIS map to overlay desired setbacks on service map -- if we had more than a 50% conflict, anyone seeking to challenge to that setback would likely prevail. So yes, there is a way to look at it and there may be an ability to provide setbacks from macro facilities depending what setback is and how is it applied – what does it leave out. Can't apply a 500-600' setback to SWF ROW it would be a blanket prohibition easily defeated.

500' setbacks question from TD – PK said correspondence cited Great Barrington and Stockbridge with implicit suggestion we replicate that at minimum. TD – what is it based on? AL says we cannot establish regulation based on factors not in the purview of local government. AL: 1 or 1.5 height of tower setback – physical setback – is allowed for “fall zone.” Anything more than that can be challenged based on regulation not in purview of local government. PK other reasons for setbacks such as aesthetic and property values – other things we will need if we are to recommend. TD – need data on such issues. AL noted Silicon Valley study on property values, sent to LF, will recirculate.

Pending needs analysis/wireless master plan, LF said we don't need to stop all our thinking and explorations. TD agreed: good to have but not so sure how much will influence. PK: so far we have a really good framework, have established a structure of the bylaw and all the things we need to address, and we all understand them now. When and if we bring this to town meeting, citizens are going to need to understand the need – gap analysis – where it is most likely we encourage/discourage macro towers – this will really help. Agree bylaw pretty much written except for use table, setbacks, and potentially, overlay districts. Agreed to incorporate Town Counsel input on where things go in which sections.

KMV: It will help to have analysis given so many factors, but we should keep working on what we are working on, with understanding of what it's possible for us to do and what's not possible to do.

Jes: No update yet from Joel Bard on which document provisions such as setbacks should go in; he will speak with a colleague who has worked more on wireless law and get back to us by end of week.

KMV: Asked AL if there are any property value studies on east coast/Atlantic seaboard / less dense / rural towns. AL will check for studies closer to home.

Bylaw – Version 6 with 7-2-21 date Design & Specifications document.

LF explained for new attendees that there are two bylaws under development.

1. Wireless Communications Facilities (WCF) – commonly thought of as cell towers or antennas placed on another structure to boost signals. Not being discussed tonight; was discussed at previous meeting and work is still under way. There will be (1) a draft bylaw that requires town vote to pass, and (2)

draft design & specifications manual that will be administered and maintained by the PB.

2. Small Wireless Facilities (SWF) in Town Right of Way (ROW). [SWFs can also be WCFs, but this bylaw pertains to those in the Town Rights of Way. We don't expect to see applications for these types of installations in quite some time, but we are setting guardrails in place now should they be requested. PK added that we are not 'allowing' or 'not allowing' SWFs in ROW – already allowed by right by FCC. This bylaw very much about the guardrails – if someone comes with proposal that cannot be denied, they must do it in a way we outline. There will be (1) a draft bylaw that requires town vote to pass, and (2) draft design & specifications manual that will be administered and maintained by the PB.

Board went through the SWF in ROW bylaw proper last meeting. TD said Billy Gop did get back to him with definitions of collector streets etc. for bylaw to add to bylaw.

Tonight – review design & specifications manual for SWFs in ROW.

Anthony Lepore (AL), consultant, outlined some of the provisions of the design & specifications manual and said photos of design options have now been added at the end. We can go through designs and decide which to keep or eliminate.

- Manual includes what applicant must provide as part of submittal application.
- Allows us to keep an inventory of what's being constructed as you go along; once we have a baseline all applicants will need to keep us updated on what's been built.
- Having this inventory will be important when adjudicating a discretionary application; we will be able to question whether collocations are a better alternative to a tower. Knowing where small facilities are located, we can question when applications for tower applications come in whether the tower is really necessary.
- Noted that FCC lets a town decide how SWFs must look – we say all must be concealed and we've limited elevation (height) consistent with FCC regulations; we allow 45' because that's the maximum height in town of

other such structures. But given another provision, SWF may go as high as 50'.

- Neutral host antennas – AL had sent Board an article from a manufacturer who builds them – so it's feasible. Up to 4 providers sharing one antenna. Goal to minimize number poles throughout town.
- 200' spacing requirement also, with some limitations that would require documentations; we will know if this an issue once we post for comments.
- Discussion of distance from residence – 50'. Basis for requirement: for physical safety in case the structure falls. AL says this would likely legally pass muster, we could go up to 60' or 75' or 1.5 of tower height. PK: Take up height due to windstorms. Discussion of how electric poles with transformers are already in place closer to residences; question re SWFs going onto those poles.
- Again repeated that we cannot regulate based on RF emission concerns.

Section 106 – includes different types of SWFs in ROW showing how equipment can be concealed. TD pointed out that pole on West Street in front of Tanglewood up from the gate is example of “what we don't want” – visually/aesthetically, this is what we are trying to prevent with this bylaw. Prefer that applicants use existing pole rather than put up new poles. Prefer equipment being vaulted in ground where it's technically feasible. Landscaping not recommended because it ultimately tends to impede pedestrian flow.

Noted that the design and specifications manual is managed by PB – does not need to go through Town Meeting vote. So, can be easily amended if our design preferences change.

LF - Next steps:

- Design & Specifications Manual does not go before Town Meeting, so we have more time to work on that.
- Need to do one final read of SWFs in ROW bylaw – determine at next meeting if bylaw is done in time for Town Meeting in November
 - AL to get us updated version
 - Need to hear from Joel Bard on few elements of Design & Specs that may need to go into Bylaw

- Meet with Billy Gop and Chris Ketchen to review so that Town is aware of administrative requirements – LF and PK to handle
- Share with and get feedback from Historic District Commission – LF and PK to handle

KMV questioned reference to “the Town” in Manual, asking if we should suggest exactly who it might go to. LF – Town can establish the process they’d like to use. We can address that in meeting with Goff and Ketchen. AL said he will do an application form for Town; at that juncture you can determine who is intaking and then handled various steps. We can create a flow chart to go with manual.

KMV asked if we could add who was doing engineering, etc. certifications.

Public Comments/Questions

Anastasia Blasedale, Curtis: Fairly obvious that reason other towns asked for 500-600 setbacks was health; also property values. FCC guidelines were made from studies done on a dummy, not humans with cells that can have dysplasia. Has a problem with Town not taking health issues into consideration. People’s health and safety should be high consideration, as should concerns of vulnerable populations. Wants to see needs and gaps analysis done, thinks it will be important to voters.

Scott Barrow, 14 Old Stockbridge Rd: Excellent idea to plan for 4-5G should such towers come about. The designs that AL selected are not offensive compared to what he’s seen online; wise to move ahead on this. Proposal for antennas on Curtis not well known in town. Notes that we are working on bylaws now that would allow the tower on Curtis -- wonders if there are other alternatives. Have other possibilities been looked at rather than the Curtis? LF said we are not permitting, considering, or looking for specific places for towers or antennas; not a PB role nor are we actively looking at any particular location. PK – we are proceeding with gap analysis and wireless communications master plan, which will enable us to have those discussions – where are the gaps and where are the best places. AL – as much as he knows is what the applicant said in the Housing Authority meeting – if didn’t go on Curtis would go on tower across the street, neither applied for yet, nor permitted under current bylaw/overlay district. Bylaw being rewritten because our current bylaw has effect of prohibiting wireless coverage and if challenged, they would be successful, and legal challenge would

be costly to town. Goal is to keep us out of court, adhere to law, in a manner that is most harmonious with town's aesthetic and needs. Right now, we have a tower in the overlay district that is full, now there is a need for infrastructure elsewhere not in the overlay district. SB still concerned this will be a hornet's nest. AL: If Housing Authority and state agree to a lease, public hearings on whether permit will take place [by ZBA]. PK reminded, our Counsel has advised us we cannot take RF into account when we write these bylaws. PB may take information; but we cannot be perceived as taking this into account. AL: PB may take info, Town may require certification – but there are limits by courts and FCC. Regulations must be justified given the federal rules and limitations put on towns by federal government; better for those who would like to see RF limits changed to direct their comments to the Massachusetts Congressional delegation to have FCC rewrite rules.

Courtney Gilardi (no address given, but has previously spoken at meeting with addresses 980 East St. Lenox and 17 Alma St. Pittsfield). Said she was asked to speak about property values. In Pittsfield where tower was erected, values were reduced, hard to sell, sat on market, sold for less. Holmes Road house with cell tower visible 1600 feet away after several price decreases, was lowest selling house on Holmes Road comparable to other houses that sold for \$100,000-\$165,000 more. Open house for another house closer to tower, 30 cars drove up, then u-turned out. Those interested in buying: New Yorkers and people from places with a lot of infrastructure, they don't seem to mind as much. A lot of people moving to Berkshires to get away from infrastructure. She moved to Lenox because of its protective wireless zoning ordinances and last thing she wants to see is opening up to having 5G small cells outside the window. FCC litigation now under way. FCC standards still are from 1996, despite calls for changes. Easton CT, similar in size to Lenox, has a moratorium on 5G, and people are moving there because of it. People are using technology to buy houses with low RF. Maybe moratoriums are an option to be considered. People come here for the health benefits.

Susan May, 20 Old Stockbridge Road – Asked our approach. LF: We are taking a big picture role, not involved in application reviews. Questioned AL's role for Planning Board and Housing Authority. LF said SM had brought this up at the last meeting, where it was discussed; she reiterated that his role for us is to provide

his considerable expertise in development of bylaws, also answered in last meeting that HA asking him to help write their lease should a tower be approved and a lease be required. Those are the two ways he has been working with the Town. Ms. May suggested Mr. Lepore had a conflict of interest; LF reiterated that the two arrangements are separate. PK halted conversation. TD: Not an appropriate line of questioning for this type of meeting.

Agenda for Aug 10:

1. Focus on Small Wireless Facilities – bylaw and design & specifications manual
2. Get input from Joel Bard.
3. Approve meeting minutes.

Meeting adjourned at approximately 8:15 p.m.

Respectfully submitted,

Pam Kueber

Aug. 21, 2021