

**Town of Lenox  
Zoning Board of Appeals  
Meeting Minutes  
Wednesday November 15, 2023  
Town Hall Land Use Room  
7:00 PM**

**Members Present:** Robert Fuster Jr- Chair, Shawn Leary Considine, John Simons

**Members Virtual:** Kim Duval

**Absent with Notification:** Albert Harper

**Staff:** Neena Martino

**Others Present:** Barbara Goldberg- 18 Hawthorne, Ellen Roche- 383 Housatonic abutter, Bob Fournier- SK Design, Jim Roche- 383 Housatonic abutter, Rodney Galton- 383 Housatonic , James Martin

**Others Virtual:** Joel Bard, Clarence Fanto

RFJ called the meeting to order at 7:06 pm

RFJ explained only 4 members were present and that each petitioner would have the option to go forward with four members, continue the hearing, or give AH an opportunity to listen to the recording at a later date

**1. 383 Housatonic Street- Site Plan Review under Section 8.12 of the Lenox Bylaw**

James Martin, petitioner's attorney, acknowledged that there was a connection between himself and member JS, as he is in business with a client of his, not related to this project. JS agreed that he could remain impartial. It was later stated by Attorney Joel Bard that under state law, this does not constitute a conflict.

The petitioners decided to go forward with AH listening to the tape.

JM recapped where they had left the meeting last time. He spoke about his conversations with the Town Planner, where they discussed a number of the issues brought to attention at the previous meeting. He mentioned the action brought on by the Conservation Commission and the subsequent site visits to the property. He explained, subject to final review, that the issue of the driveway has been resolved so the temporary access of Willow Creek will no longer be needed. The property will be accessed through Housatonic Street. The drawings will be updated once the Conservation Commission signs off. Rodney Galton, petitioner, explained the Willow Street access was visited by the Town's soil consultant, the representatives of the Conservation Commission and the petitioner's own expert; they came to the agreement that area is not under conservation jurisdiction. RFJ asked when they anticipated this being signed off on and RG replied their hope is the end of the year.

JM then went over the list of issues brought forth at the previous meeting that he later discussed with the Town Planner:

- Evidence of compliance with MA Wetland Protection Act: They will need to go before the Conservation Commission for any improvements for the access road and if any work is performed within the 100' buffer zone. Once the Conservation Commission lifts the enforcement order, the petitioner will go forth with an RDA for the entire area.
- Compliance with Mass Environmental Policy Act (MEPA) - RG explained he had a meeting with the director of MEPA last month, where they discussed the plan. She believed the project could be permitted at the local level. The petitioners also have an application submitted with the Department of Energy Resources (DOER). MEPA does not look at the application to DOER as approval but as a qualification for the dual use of the land.
- Acquiring Building permit- The petitioner plans to follow building procedure as required.
- Application for the Agricultural Solar Tariff Generation Units through the MA Smart Program- This program gives tax credits for those properties with dual use. Planner suggested that application be shared with DOER. The Department of Agriculture wanted to make sure no new fields would be created.
- Clarification on Easements- The only easements on the property are pre-existing, well established recorded deeds owned by utility companies.
- Operation and Maintenance plan – This has previously been submitted to the ZBA. The petitioner has been in communication with the utility companies.
- Other structures on the property: There will be no other structures on the property besides the panels themselves and a 12'x20' three-sided run-in shed for the sheep.
- Lighting: There will be no lighting on the property.
- Signage: Any signage will be in compliance with electrical codes and requirements. There will be no advertising signs.
- Emergency Access: Local fire and police departments will have access to the gates as well as National Grid. The gates will all have emergency contact and high voltage signs. An emergency response plan will be created and put in place.
- Use of herbicides: No herbicides will be used on the property.
- Stormwater plans: There is no need for stormwater measures as there is no real change to the topography and DEP does not consider solar panels to be impervious. They will adhere to stormwater controls if the driveway needs to be built.
- Decommissioning agreement: The applicant is fully expecting to work with the Town to arrive at a decommissioning agreement that the Town is agreeable to.

They went on to discuss various technical aspects of the projects, such as wire location, transformers, substations and utility poles.

Attorney JB asked for clarification that there will be no access to the property through the Town Cemetery. JM confirmed there will be no access and RG added that there will be no gate in the fence at the cemetery access point.

Abutting neighbors voiced their concerns. Questions asked were: How many panels will there be? How many tracking motors? How many batteries and transformers? How loud will the panels be? How will they be stored? What is the potential for chemical pollutants? Are the components combustible? What are the options for screening? What is the disposal plan? How will the runoff affect neighbors with well water? How long will the construction phase be? What will the working hours be? How will the work affect traffic on Housatonic Street?

SLC requested a submission in writing from the petitioners by the next hearing to answer the questions. RFJ asked that RG submit both versions of the DOER application to the ZBA for review. He also requested the abutters get measurements from their wells to the field and submit to the Land Use office.

Motion made to continue hearing to December 6<sup>th</sup> by JS, seconded by SLC. All were in favor

## **2. 18 Hawthorne Street**

SLC had to leave the meeting which left three members sitting. The petitioner Barbara Goldberg opted to present her petition and then allow SLC and AH to watch the tape later on. BG detailed her project, which includes removing an original stoop on the back of her pre-existing non-conforming house and building a new 12'x20' deck in its place. She submitted all plans and architectural drawings and explained that she has spoken with all of her neighbors and no one is against the project. RFJ clarified that the new deck would be 13' 10' from the property line; BG agreed. RFJ asked BG to find out the exact distance from the house to the property line.

Motion to continue to December 6<sup>th</sup> made by RFJ, seconded by KD. All were in favor

## **3. Mazda Site Plan Modifications**

Bob Fournier opted to continue the hearing to next meeting.

Motion made to continue to hearing to December 6<sup>th</sup> at 6:30 made by RFJ, seconded by JS. All were in favor.

Dual motion made to adjourn at 9:01 by KD and JS, seconded by RFJ. All in were in favor.