

MINUTES
REGULAR BUSINESS MEETING
Thursday, September 13, 2007

Meeting was called to order at 7:00 PM.

Members present were: Rene Wood, (chair), Anthony Gulotta, Margaret Martin and David Smith Sr. Christopher Tomich was absent.

Sign in sheet attached.

Mike Stevens inquired about an exemption from set-back requirements: Mr. Stevens explained that he had bought land on Hewins St. from Ben Powers to build a barn for landscaping equipment. He lives on Shunpike Road. He has a tenant in the house on the Hewins St. property which is a non-conforming lot. The building inspector, Tom Carmody, brought up the issue of the set-back requirements and referred him to the Planning Board.

R. Wood stated that she sees 2 problems here: 1) The Zoning Board of Appeals (ZBA), not the Planning Board decides requests for variances. Usually before you go to the ZBA you would have a letter from the building inspector turning down your request to have a variance on the setback requirements 2) The property does not appear to meet the dimensional requirements for the General Business District and a home occupation is not a use permitted in the General Business District.

Mr. Stevens left a map with the Planning Board with notations from the Assessor.

Form A Application:

Full name of applicants/deeded owner(s): Joseph A. and Maureen Seward

Brief explanation of application and fee paid: Dividing lot into 6 parcels. Checks for \$200 and \$100 each were included.

Physical address / location as it appears in the Registry of Deeds (Map# & Lot#): 644 Salisbury Road, Southern Berkshire Registry, Book 297, page 153, Book 389, page 344, Book 400, page 232.

Name of civil engineer company and representative presenting Form A: Foresight Land Services, Michael Therrien presented the Form A Application.

Form A determination / Board member voting outcome:

The application included no signature by the executor of James Small's Estate, which currently owns the property at issue. The Planning Board did not accept the application due to this deficiency, but will hold the mylar and the checks as a convenience to the applicant. A new Form A Application should be submitted to the Town Clerk and the applicant should note on the outside of the envelope that the forms need to be stamped by the Town Clerk. The Planning

Board will accept the application and sign the mylar on 9/27/07 if they have the stamped forms with the owner's signature and they will return these materials to the Town Clerk so that the applicant can pick them up on 9/28/07.

Minutes: D. Smith Sr. moved we accept the regular minutes of 8/23/07 as amended. The motion was seconded and unanimously approved.

M. Martin moved we accept the Special Permit Hearing minutes of 8/23/07 as amended. The motion was seconded and unanimously approved.

Mail: R. Wood read a letter concerning Chris Weld and A. Gulotta stated that the fire chief is pleased with the changes Mr. Weld has made. Educational opportunities for the Board were announced. There were notices of public hearings and notices of decisions in Great Barrington concerning Big Y and Butternut.

Bills: A. Gulotta asked the Board to approve 2 bills for the Berkshire Record.

BRPC Hosts Discussion on Doing Business in Sheffield Pamphlet: 9/14/07 10 a.m.

Zoning Bylaw Review Committee: Met 9/12 and will meet again 9/19. Minutes were distributed from the 9/12 meeting and input requested.

At 7:50 PM, D. Smith Sr. made a motion to suspend the Regular Business Meeting. The motion was seconded and approved.

At 9:22 PM, M. Martin made a motion to re-open the Regular Business Meeting. The motion was seconded and approved.

Deliberations of the Special permit application of Barbara & David West

After the close of the hearing during the normal Planning Board business meeting on September 13, 2007, the Special Permit Granting Authority (SPGA) reviewed all information received for this special permit application and presented as part of the special permit hearing was reviewed, discussed and compiled findings and evaluated conditions before taking a final vote.

During the hearing the applicants had indicated they wished to go with the 4 member board or SPGA, consisting of T. Gulotta, M. Martin, D. Smith, Sr., and R. Wood. These members were all present during the deliberations.

R. Wood indicated she would use the draft deliberation template previously given out to board members as a guide during the deliberations.

During deliberations the Planning Board, which is also the SPGA noting the following:

Name of Applicant: David F. & Barbara G. West
Address of Applicant: 636 Silver Street, Sheffield, MA 01257

Purpose of Special Permit: Alternative Lot Dimension, Section 4.3.3

The property which is the subject of the application is referred to on Tax Map No.12, Block & Lot 1, 16 & 1, 14.2 at the address of 636 Silver Street, Sheffield, MA 01257, on the Special Permit application dated August 23, 2007, stamped by the Town Clerk on August 23, 2007 and accepted by the Board on August 23, 2007, as case number 082307. The property is located in the Rural District.

Notices of Public Hearing on this Special Permit were made as follows:

1. Notices of the public hearing were published in The Berkshire Record, a weekly newspaper of general circulation in the Town of Sheffield, in the 8/31/2007 issue and 9/7/2007 issue.
2. Notice was posted in a conspicuous place in the Sheffield Town Hall at least 14 days before the public hearing on September 13, 2007 at 9:00 PM.
3. Notice of Public Hearing were mailed, postpaid, on August 27, 2007, at least 14 days before the hearing, to the applicant, abutters to the property in question, owners of land directly opposite from the property in question on any private or public street or way as supplied by the town assessors Certified Abutter List and to the Planning Boards of the abutting towns of Great Barrington, Alford, MT. Washington and New Marlborough.
4. Notice of Public Hearing and site plan were delivered to the Board of Selectmen, Fire Department, Highway Department, Police Department, Board of Health and Conservation Commission at the Town Hall for review and feedback. Notice was dated August 27, 2007 and distributed on the same date.

The public hearing on this permit was held on September 13, 2007 at the Town Hall in Sheffield about 9:10 PM.

During the course of the public hearing, the following was presented:

- Special Permit Application, which included a site plan labeled Plan of Land , dated August 27, 2007; aerial photograph of the properties; portion of the Town Assessor's map of properties; portion of plat file F-113 and copy of deed with Subject Book 754, Page 234 which corresponded to the properties which are the subject of the special permit.
- Aletter from Andrew & Anne Dycus Shapiro of 664 Silver Street, Sheffield stating their support for this special permit application.
- Testimony from the applicants.

The hearing was closed on September 13, 2007.

The SPGA further noted in its findings:

1. David and Barbara West own the property, which is the subject of this special permit application. It is in the Rural District.
2. Alternative Lot Dimensions, is a use PERMITTED in the Rural District by special permit, per Section 4.3.3, and is APPROPRIATE to the site.
3. The applicants stated they WILL file a Form A Form; this was reviewed with the applicants to be done to create the new lot, following the Notice of Decision's appeal period and anytime after that up to the lapse of the Special Permit.

The SPGA next reviewed the proposed use and application against the specifications of Section 4.3.3, Alternative Lot Dimensions. During its deliberations and determination, the SPGA reviewed all evidence, documents and testimony presented against each of the following and found:

Section 4.3.3.1: For each additional ½ acre (21,780 square feet) of lot area above that specified in the Table of Dimensional Regulations, minimum lot frontage may be reduced by 10 feet.

The proposed lot has a frontage of 60 and a lot area of 5.19 acres.

By a 4-0 vote found that the lot proposed in this special permit application MEETS this requirement.

Section 4.3.3.2: No new lot shall have less than 50 feet of continuous frontage.

By a 4-0 vote found that the lot proposed in this special permit application MEETS this requirement.

Section 4.3.3.3: The minimum front setback requirement for any structures built on such a lot shall be increased by 1.5 feet for each foot of reduction in minimum lot frontage;

By a 4-0 vote found this section does not apply as no structure proposed at this time.

Section 4.3.3.4: This provision shall only apply to lots which were in existence on January 25, 1994 and within the areas of any such lot only one Special Permit may be granted allowing the creation of one new lot with alternative lot dimensions.

By a 4-0 vote found that the boarding house proposed in this special permit application MEETS this requirement.

Section 4.3.3.5: Dwelling units constructed on such lots shall be located within an area of the lot which satisfies the Residential Lot Footprint requirement of Section 4.3.2.

By a 4-0 vote found this section does not apply as no structure proposed at this time.

No other items needed review prior to the SPGA review of the proposed use, Section 4.3.3, Alternative Lot Dimensions, per the requirements of Section 9.4.2.2, Decision, which states that a Special Permit shall be granted only upon the board's written determination that the beneficial effects of the proposed use outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site. During its deliberations and determination, the board reviewed all the evidence, documents and all testimony presented against each of the following and found:

- 9.4.2.2.1: The Social, economic or community needs which may be served by the proposed use.

The Planning Board by a 4-0 vote found that the beneficial effects of the proposed use DO outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site.

- 9.4.2.2.2: Traffic impact, flow and safety, parking and loading and accommodation to pedestrian and non-automotive transportation.

The Planning Board by a 4-0 vote found that the beneficial effects of the proposed use DO outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site.

- 9.4.2.2.3: Adequacy of utilities and other public services.

The Planning Board by a 4-0 vote found that the beneficial effects of the proposed use DO outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site.

- 9.4.2.2.4: Appropriateness to the proposed location, the neighborhood character and town land use objectives.

The Planning Board by a 4-0 vote found that the beneficial effects of the proposed use DO outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site.

- 9.4.2.2.5: Environmental impacts, including, but not limited to, visual effects, noise, order, dust, vibration, fumes, smoke, light intrusion, glare, impacts on natural habitats, views, water pollution, erosion and sedimentation.

The Planning Board by a 4-0 vote found that the beneficial effects of the proposed use DO outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site.

- 9.4.2.2.6: Potential fiscal impact, including impact on town services, tax base and employment.

The Planning Board by a 4-0 vote found that the beneficial effects of the proposed use DO outweigh any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics of the site and in relation to that site.

The SPGA attached NO Conditions to this Special Permit. No waivers were requested in this application and NONE were granted.

In keeping with its authority, on September 13, 2007, the SPGA voted 4-0 to GRANT this Special Permit application. SPGA members voted as follows:

Anthony Gulotta:	Grant
Margaret Martin:	Grant
David Smith, Sr.:	Grant
Rene Wood:	Grant

R. Wood will work with R. LaBombard to prepare the Detailed Record and Notice of Decision, with a goal of having documentation to the Town Clerk by the end of next week. The applicants were present during the deliberations.

At 9:36 PM the Board seconded and approved D. Smith Sr.'s motion to adjourn.

At 9:40 R. Wood reopened the meeting: Within a few minutes of meeting adjournment, R. Wood told board members that she had forgotten to review an item and asked to reopen the meeting. Board members present were T. Gulotta, M. Martin, D. Smith, Sr. and R. Wood.

R. Wood indicated her concern about not the board not beginning deliberations on the Special Permit application of Small and Anaceron but said the board could not without C. Tomich being present. However, given the opinion letter from Town Counsel, which board members had voted to receive after the hearing was closed, R. Wood said that in her view the applicant's lawyer had presented evidence regarding the status of the APR that she felt fell into the category of new information that town counsel had asked to see, if any were presented. To avoid another potential 2-3 weeks delay in beginning deliberations, R. Wood asked, if other board members also felt the APR information presented by the applicant's lawyer should be brought to the attention of Town Counsel, if she could be authorized to do so. All members approved her doing so. At 9:42 a motion was made that the meeting be adjourned again, seconded and unanimously approved.

Respectfully submitted,
Nadia Milleron
Secretary to the Planning Board