

Charlemont Planning Board
October 5th, 2023, 6:00 pm Meeting Minutes
Via conference call and in person, Town Hall

Members Participating: Bob Nelson, Colleen Champ, Lori Shulda-Merrigan, Jennifer Mooney

Others Participating: Art Belanger, Bill Harker, Jonathan Mirin, Bob Handsaker, Star Atkeson

CITIZEN'S COMMENTS:6-6:15

B.Nelson called the meeting to order at 6:02

APPOINTMENT:

6:15 Art Belanger of Country Aire is interested in having a new 40' x 90' storage building on his property at 1753 Mohawk Trail. The shed would potentially cross over the line separating his two lots. He owns both lots and if he or his family ever sold the property, they would sell them at the same time. G.Walker mentioned that collapsing the lots is an option. There is a 50' setback, maximum height is 32'. It would not be seen from the road. G.Walker asked about water run-off, B.Harker who knows the property said it was all gravel so runoff is not an issue.

8A

Bill Harker came as Select Board liaison. He asked Planning board if they could write a letter to the Select Board about what Dupree on 8A is in violation of currently with the Planning Board. He never got a permit for a junkyard, and they need it in writing.

6:45 Jonathan Mirin to speak about wording for a bylaw revision on wireless technology.

- J.Mirin worked for a year and a half with Peggy Sloan, Carlene Hayden, Gisela Walker, Bob Nelson and Bill Harker to draft a cell tower bylaw revision to bring to Town meeting. When he last spoke with the Planning Board, he was told the definitions needed to be narrowed as they were too broad.
- B.Nelson said he went to 5G panel discussion offered by CPTC and learned that towns have no control over the radio waves and can only deal with aesthetics. He thought what was written up touched too much on electric fields and not aesthetics. The small cell antennae in Greenfield don't look bad and assumed if Charlemont implemented them, it would be similar.
- G.Walker said Charlemont's cell tower bylaw is ancient and needs to be looked at, and suggested updating cell tower bylaw, integrating Mirin's concerns into bylaw.
- J.Mirin said the bylaw is 20 yrs. old and deals with placement of cell towers on hills. The new technology is different. ATT & Verizon have different kinds, some are refrigerator-sized, hanging down from light poles. Big carriers focus primarily on urban areas and they are full, but there is still money to be made. Route 2 especially will be a prime location, for self-driving cars etc.
- If ATT and Verizon wanted to put up 20 small cells in Charlemont, it would be automatically granted as there would be no language at the ready. Can't update bylaw after the fact, that's why he hopes to get it ready now — to have clear language of town regulations. J.Mirin said 2 years ago, the Federal District Court of Appeals in The District of Columbia found the FCC guilty of failing to review and address 11,000 pages of research on biological

harm. At last town meeting session some towns passed a moratorium on any wireless installations until the FCC reviewed the research. Sheffield passed the moratorium. J.Mirin is not asking for that, he and the others prepared updated language to have something to work with. Shelburne updated their bylaws in 2018 and 2021.

- J.Mirin passed out the bylaw revision draft where they had left off with Peggy Sloan. Shelburne's May 1st 2018, included the clause "excludes personal cell phone," J.Mirin suggested they could add that to the definitions.
- B.Nelson wondered how it passed. According to the panel discussion, towns were not allowed to enforce EMF Waves.
- J. Mirin said that the FCC set the limits, towns can discuss health amongst themselves and decide that they don't want cell antennae 250 ft in front of houses and schools etc., it's just crafting language about how you want the deployment to go.
- Bob Handsaker, speaking as a private citizen and not MLP manager or moderator said that the "CRS" the Commercial Radio Service facility is not a crisp definition, would a cell phone fall under it? For example, in Averys, if they wanted to connect a cash register from the Hardware store to the Main store and use wireless, is that a CRS? He couldn't answer that for himself using the current iteration of the definition.
- J.Mirin replied that in the example of Avery's connecting to their own device it would be different than selling a 5g or 6g service, Avery's is not selling the connection therefore it would not be a CRS. That could be clarified in the revision.
- J.Mirin is asked if his purpose is to not have 5G, to say no to 5G. J.Mirin, said that sure personally he would prefer not to have 5G, but he can't impose that on the town.
- A 180 ft. ATT tower was recently erected on Knot Rd in Heath, the cell tower bylaw is not just about 5G. It would give more agency to the town to decide where towers are placed. A member wondered what the incentive would be to put transistors on poles downtown. J.Mirin thinks that self-driving cars, which is an evolving technology would create the financial reward for that.
- Charlemont's setback for cell towers is currently 750 ft. Shelburne did 1500 ft, and 3000 ft from schools because the health impacts are lower the further away you get.
- Bill Harker remarked that Charlemont has a small population, and it is up to us to decide what we want.
- B.Handsaker answered B.Nelson's earlier question about why 5G isn't as fast as promised, because it is a marketing term, there is not a clear definition of what 5G is. Small cells are also a marketing term, there is not a technical decision.
- As Charlemont's MLP manager, B.Handsaker doesn't want to see anything that would preclude the town from implementing technologies adjacent to the fiber network. There may be a cheaper solution for a special case where it is prohibitively expensive to use wire, where wireless could be used to get there, a wireless link or backhaul. He doesn't want that to be precluded. B.Handsaker spoke of other technologies like the 3-way wireless connection between Police, HWY garage and Town Hall that had been used.
- J.Mirin suggested including an "Exemption of Municipal facilities" in the revision.
- G.Walker asked if they could see any way in which certain aspects J.Mirin has worked on based on 5G, could be synchronized with the language needed to update the cell tower bylaw.
- B.Handsaker and C.Champ felt like it was indirectly regulating by regulating radios rather than the waves.
- J.Mirin pointed out that they weren't banning installations, but wanted to specify setbacks of 750 ft from houses and 1500 ft or 3000 ft from school. The Berkshire East tower does not

affect the average person in town. If bylaws are revised B.EAST tower would be grandfathered in.

- C.Champ felt that it could potentially be an obstacle to future developments in, for example, healthcare technology. She feels it is not the Planning Board's area of expertise and listed other priorities like housing that she'd like them to work on.
- LSM suggested and B.Nelson agreed that the Board read the bylaw revisions and put on the agenda for the next meeting.
- G.Walker said not all things need to go on the Planning Board warrant. J.Mirin could collect signatures and organize people in Charlemont who agree. G.Walker felt unqualified to defend the bylaw revision. She recommended that J.Mirin figure out who in town would stand up with him, and to have more conversations with B.Handsaker. J.Mirin said he didn't want to do it that way.
- B.Handsaker said that with a citizen's petition, the Planning Board would have to hold a hearing and report their recommendation to the Select Board.

Housing

- The Board spoke about a few properties that were for auction. Regarding the O'Dell Property on Route 2, G.Walker suggested sending a letter to the Bank that Charlemont is struggling for permanent housing in Charlemont, the O'Dell property is a prime property. Implore them to look for developers and notify the bank that the Planning Board would like to walk on the land. They will ask Carlene which bank is dealing with the property.

Heritage Diner

- The Board spoke about the different options to remedy the permit problem with business at 90 Main Street. The Planning Board erroneously thought the existing permit ran with the property when in fact it ran with the previous applicant. They would like to change the word "applicant" to "property." They plan on having a hearing for it. G.Walker mentioned just doing an in-house clerical revision without a hearing. There was some debate about how to go about it.
- B.Harker suggested that the business owner get a letter from the property owner approving the use of the property for the business.
- G.Walker noted that Businesses are required to keep the same conditions as are in the previous permit if it does run with the property.
- B.Nelson wants to see the Decision again. Secretary will provide it for the next meeting.

ACTION ITEMS:

1. Review / Approve Meeting Minutes from 9/7/2023

Bob Nelson moved to approve the minutes of 9/7/2023 as written, Colleen Champ seconded it, All participants of the meeting in favor.

DISCUSSION TOPICS:

1. New Marijuana regulations compare and contrast to Charlemont's current bylaws.
- B.Nelson — They had had a discussion with Sarah about the state changing requirements, certain percentages of applications should be granted to people with needs. Planning Board may need to change bylaws to include the social equity aspect and have a packet available in town hall as well as information on the website. B.Nelson suggested finding out if someone at FRCOG is working with other towns, they could piggy back instead of doing their own.

- G.Walker said Jessica is economic development planner. Peggy Sloan has retired, so there isn't anyone to work with individual towns to help. Planning Boards need to be more on their own. An option would be to can ask the chair to of the Franklin County regional Planners to put it on their agenda.
 - LSM had come in and spoken to Sarah about it and said they can go over it together. She will connect with Sarah again and bring it back to the table, it's not going to be difficult. LSM had read it and made notes on potential changes to include.
 - G.Walker says they can wait for Christmas, it takes 3 months to do a bylaw revision.
2. Cluster Housing, campground/boutique campground bylaw, tiny houses— how to organize and approach FRCOG to create additional housing in town.

S. Atkeson pointed out that she heard Alyssa LaRose recommend towns update their Cluster Housing Bylaws and that she is waiting to hear back exactly what it should be updated to in order to attract housing development projects.

GW said there is a tiny cluster/zoning in Open Space Bylaw, also ancient, there is a little bit on cluster housing.

GW made two comments:

1. She has never been thrilled about tiny houses. Charlemont needs more housing for people to live permanently. Tiny Houses are suitable for people without children. She asked PB to forget tiny houses. Put them on campgrounds, we need people who can live here. Put reasonable limits on Airbnb. More and more towns are doing it.
2. She would love for the O'Dell property to be developed.
 - LSM told of a documentary she saw on how Airbnb's destroyed the housing market in a town in England.
 - C.Champ suggested coming up with a certain percentage of units dedicated to short-term housing.
 - LSM said Airbnb's were originally meant to be shared. C.Champ read some data on Charlemont's number of Airbnb's. They brought the town 100,000. in 3 years. There is a community impact fee. LSM doesn't remember why Charlemont doesn't collect that. If there are more than one Airbnb more community impact fee can be charged.
 - Airbnb has to be in an owner-occupied space. G.Walker suggested that there is or should be language in the zoning bylaw which is important regarding ADU's and in-law apartments.
 - Perhaps a landowner cannot have more than one Airbnb.
 - The Board wants to look at what other Towns are doing regarding Airbnb's.
3. DLTA funds update
 - Lori said that the accountant needs to be asked.
 - Peggy Sloan the usual technical Assistance person has retired.
 - They can ask CPTC to do training on a certain topic. Or bring topics, like the new Marijuana regulations to the Franklin regional Planning Board and see if they will add it as a topic.
3. Approved Rules and Regs next step
They need to be put on the website.

4. The AG extended their deadline for the updated bylaws revisions of 2022 until December 2nd. B.Nelson suggested waiting until then to publish the updated bylaws.

Bob Nelson motioned to adjourned the meeting at 8:40, L.Shulda-Merrigan seconded it, all in favor.

NEXT MEETING: October 19th, 2023

Respectfully Submitted by Star Atkeson 10/18/2023

Documents reviewed in meeting:

Agenda of October 5, 2023

Minutes of 9/7/2023

4 Printed emails from Towns people in favor of the cell tower bylaw revision.

Cell Tower Bylaw Revisions

Art Belanger's drawings of his property

Legal notices (not looked at, will bring again)

Public Hearing for Shelburne ZBA September 7, 2023 increase size of porch at 39/41 Water Street.

Public Hearing for Shelburne ZBA September 7, 2023 Molly Cantor to operate food trailer at 69 Bridge Street

Public Hearing for Shelburne ZBA October 5, 2023 Catamount Cannabis Company to operate Dispensary at 1105 Mohawk Trail