

Town of Barre Planning Commission

October 20, 2021

The Town of Barre Planning Commission held a meeting and public hearings on Wednesday, October 20, 2021, beginning at 7:00 p.m. in the Municipal Building at 149 Websterville Road, Websterville, VT.

MEMBERS PRESENT:

Chris Violette, Mike Gilbar, Cedric Sanborn, George Clain, Terry Reil, Craig Chase, and Byron Atwood

MEMBERS ABSENT:

STAFF PRESENT:

Chris Violette and Cindy Spaulding (remote Teams)

OTHERS PRESENT

DJ Hardaker, Lucas John, Kate Aylward, and Jack Mitchell

1) **CHANGES TO THE AGENDA**

Mr. Sanborn called the meeting to order at 7:00 p.m. and asked whether there were any changes to the agenda. Mr. Violette asked to add Novus Energy Allen Street Solar under Follow up and possible zone change under other.

2) **APPROVAL OF MINUTES**

September 15, 2021

On motion by Mr. Gilbar, seconded by Mr. Reil, the Planning Commission approved the minutes of September 15, 2021, as written. Vote 6-0-1 (Chase abstained).

3) **PUBLIC HEARINGS**

- a. **Request by Lucas John for allowed use determination in accordance with Article 2, section 2.4 (c) of the Barre Town Zoning Bylaw, whereas Mr. John is proposing a use not specifically allowed (residential - single-family dwelling) in an existing building owned by St. Sylvesters Parish Charitable Trust. The subject parcel is located at 217 Church Hill Road; parcel ID 002/007.00; zoned industrial; AUD-21000007.**

Staff Report by Chris Violette

This is a warned public hearing to consider a request by Lucas John to seek an allowed use determination (AUD) in accordance with the Barre Town Zoning Bylaw, Article 2, section 2.4 that reads as follows:

(C) Any uses not specifically permitted in any given zone may be considered and allowed if, after review by the Planning Commission in a public hearing, the Planning Commission determines that the use will not alter the characteristics of the area and will not cause an undue burden on the community.

The applicant supplied responses to the criteria, detailed below, that are used to help the Planning Commission with its review and decision. Planning Commission members will remember that this isn't the first allowed use determination to come before you for this same property. Previously the Websterville Baptist Church received an AUD for an educational use but that never materialized.

The parcel subject to this request is 1.8 acres in size and currently has two primary structures on it, a residential building, and a large church. The parcel is located in an industrial zone located on Church Hill Road in the Graniteville section of town. The parcel is served by municipal water (Graniteville Fire District), sewer is onsite septic.

The focus of this request is the residential building which ceased use as a dwelling more than two years ago. The dwelling had been used as a rectory (a residence) for the parish priest for decades. This same meeting agenda also includes an AUD for the church building.

Residential uses are not allowed in an industrial zone by either permitted or conditional use. The previous use of this building as a dwelling was allowed as a pre-existing, nonconforming use, meaning the use was "grandfathered". According to Barre Town's Zoning Bylaw, Article 3, sec. 3.7 (B) a nonconforming use "shall not be re-established if such use has been discontinued for a

period of twelve months or replaced by a conforming use". Because of that, I directed the applicant to the AUD process as a means necessary to reestablish the residential use.

Below are the criteria historically used to help determine whether an undue burden on the community is likely or not or whether the proposed use will alter the characteristics of the area.

1. Emergency services:

The reestablishment of the former residential use of the subject building for residential purposes will have very little impact on emergency services. Certainly, no more so than any other permitted residential use.

2. Water, sewer, or other municipal utility systems:

As mentioned before, the water supply to this property is from the Graniteville Fire District. For this particular use, there shouldn't be any concern with ability to serve.

Regarding sewer, there are no municipal impacts because the sewer here is onsite using an inground leachfield. Barre Septic has been to the location and located the system and deemed it functional. So, there shouldn't be any concern for sewerage disposal for this use, certainly not a concern for the municipal system.

3. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan:

The character of the area is quite simply industrial or undeveloped. The St. Sylvester property is surrounded on two sides by Rock of Ages and on the other two is the Barre Town Forest. Immediate area consists of forest or Rock of Ages "haul" roads and granite storage. The closest actual building is approximately 400' which is a large Rock of Ages plant. The next closest use, roughly 800' away, is residential down the hill on Graniteville Road.

While what is being proposed is clearly not industrial, the proposed use should not negatively impact the current industrial use, especially because the two uses have co-existed for decades if not more than a century. The Town Forest is surrounded by residential, and the two uses coexist quite nicely.

The proposed residential use will likely be impacted, to a degree, by the industrial use. This impact should be minimal however, especially because it should be clear to any buyer that the industrial use was established long ago.

Overall, it is unlikely that reestablishing a residential use in the industrial zone will negatively impact the character of the area.

4. Traffic on roads and highways in the vicinity:

Church Hill Road is a Town class II paved road and provides access to the proposed use. The road hasn't had any issues serving either the church or the dwelling in the past. The proposed use is unlikely to generate as much traffic as the previous use because the church rectory was also the office, of sort, for the church and had vehicles coming and going frequently. I do not think there will be significant impact to Church Hill Road or any connecting road or intersection nearby as a result of this use.

5. Zoning bylaws and bylaws then in effect:

As noted, Barre Town's Zoning Bylaw doesn't allow, either permitted or conditional, residential uses in an industrial zone. However, after review by the Planning Commission during a warned public hearing, in accordance with Article 2, sec. 2.4 (c), it is determined that the use will not "alter the characteristics of the area and will not cause an undue burden on the community", the use can be allowed and would be conforming.

6. The impact on neighboring uses:

See number 3 above

7. Minimum lot size:

The minimum lot size for the industrial zone is 2.0 acres. This lot is just shy of that at 1.8 acres but is pre-existing, nonconforming and as such allowed for development.

8. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw:

Barre Town's Zoning Bylaw requires two parking spaces for each residential living unit. The residential dwelling subject to this request is the equivalent of one living unit and has a stand-alone driveway and parking area that is approximately 2,000 sf. in size. There is easily room for 6-8 vehicles, well above the minimum.

9. Loading/unloading facilities:

Not applicable

SUMMARY AND RECOMENDATION

I have worried about what would happen to the St. Sylvester Church and rectory if left vacant and decaying. Leaving it empty could be a magnet for vandals or become a blight if left this way. Mr. Lucas is proposing to reestablish a use that existed for many years before. His proposal to simply use the house portion of the lot for his residence will help preserve and maintain the existing building. I believe the criteria above support that using it for a residential use will impact the community of Barre Town or the surrounding area. I also do not believe it changes the character of the area. As such I recommend approval of this Allowed Use Determination, allowing the existing building at 217 Church Hill Road to be used as a residential use.

COMMENTS

Mr. Violette recused himself as an active member of the Planning Commission.

On motion by Mr. Clain, seconded by Mr. Atwood, the Planning Commission opened the Public Hearing for a request by Lucas John for allowed use determination in accordance with Article 2, section 2.4 (c) of the Barre Town Zoning Bylaw, whereas Mr. John is proposing a use not specifically allowed (residential - single-family dwelling) in an existing building owned by St. Sylvesters Parish Charitable Trust. The subject parcel is located at 217 Church Hill Road; parcel ID 002/007.00; zoned industrial; AUD-21000007. Vote 6-0-0.

Mr. Violette provided an overview of his staff report as stated above. Mr. John mentioned that he was going to use the rectory for a dwelling.

Discussion ensued amongst PC members and Mr. Violette, Mr. John and Mr. Hardaker with regards to establishing a residential use in an Industrial zone; spot zoning, potential opposition from residents or their successors towards the noise and dust of the Industrial businesses; and future zoning of the area.

On motion by Mr. Atwood, seconded by Mr. Gilbar, the Planning Commission closed the public hearing. Vote 6-0-0.

DELIBERATION

On motion by Mr. Atwood, seconded by Mr. Clain, the Planning Commission approved a request by Lucas John for allowed use determination in accordance with Article 2, section 2.4 (c) of the Barre Town Zoning Bylaw, whereas Mr. John is proposing a use not specifically allowed (residential - single-family dwelling) in an existing building owned by St. Sylvesters Parish Charitable Trust. The subject parcel is located at 217 Church Hill Road; parcel ID 002/007.00; zoned industrial; AUD-21000007. In making this decision to approve, the Planning Commission finds that: the use will not change the character of the neighborhood, and, 2) no undue burden on the town is created. The following condition was attached to the approval; 1) the applicant or their successors cannot oppose' day to day operations Rock of Ages or industrial businesses in the area and said restriction shall be added by deed language. Vote 6-0-0.

Discussion ensued suggesting the seller put a restriction in the deed regarding no opposition to the industrial businesses in the area.

- b. Request by Lucas John for allowed use determination in accordance with Article 2, section 2.4 (c) of the Barre Town Zoning Bylaw, whereas Mr. John is proposing a use not specifically allowed (commercial - fitness center) in an existing building owned by St. Sylvesters Parish Charitable Trust. The subject parcel is located at 223 Church Hill Road; parcel ID 002/007.00; zoned industrial; AUD-21000008.**

Staff report by Chris Violette

This is a warned public hearing to consider a request by Lucas John to seek an allowed use determination (AUD) in accordance with the Barre Town Zoning Bylaw, Article 2, section 2.4 that reads as follows:

(C) Any uses not specifically permitted in any given zone may be considered and allowed if, after review by the Planning Commission in a public hearing, the Planning Commission determines that the use will not alter the characteristics of the area and will not cause an undue burden on the community.

The applicant supplied responses to the criteria, detailed below, that are used to help the Planning Commission with its review and decision. He also provided a paragraph describing his business.

The parcel subject to this request is 1.8 acres in size and currently has two primary structures on it, a residential building, and a large church. The parcel is located in an industrial zone located on Church Hill Road in the Graniteville section of town. The parcel is served by municipal water (Graniteville Fire District), sewer is onsite septic.

The focus of this request is the former church building which ceased operation in 2020. Mr. John also had a separate AUD application on this agenda for the house that shares the same parcel with the church.

Most commercial uses are not allowed in an industrial zone by either permitted or conditional use and the proposed use of the church as a fitness center is not. The church was allowed as a pre-existing, nonconforming use, meaning the use was “grandfathered”. The church had existed at this location for more than 150 years, long before zoning was enacted. Because Mr. Johns propose use as a fitness center is not allowed by zoning, I directed him to the AUD process.

Mr. John describes his business that currently operates in Montpelier as follows:

A local for-profit Community fitness center with its main focus on martial arts, woman's, children, and law-enforcement self-defense. The gym will also be used for training professional fighters for Mixed Martial Arts (MMA), Professional Thai fighters, and Professional Grapplers. The gym will feature an MMA cage a boxing ring, a weight room, Grappling room, Heavy and speed bag area and a cardio area.

Reponses in Mr. Johns narrative regarding the specifics to the criteria are somewhat vague I will try to fill some of the holes below.

Below are the criteria historically used to help determine whether an undue burden on the community is likely or not or whether the proposed use will alter the characteristics of the area.

1. Emergency services:

Mr. John notes in his narrative that he has been in business for 4-years and during that period hasn't had to use any emergency service and doesn't believe that the proposed fitness center will have an impact on emergency services.

I have no reason not to believe Mr. John and while any use has the potential to impact municipal services, in this case emergency services, the question really is it beyond the ability for the service to serve.

Barre Town has full-time law enforcement and emergency medical while fire service is call-paid. I don't know of a scenario that the proposed use would over burden any of the

emergency services, probably no more than a church would.

2. Water, sewer, or other municipal utility systems:

As mentioned before, the water supply to this property is from the Graniteville Fire District. It is hard to know exactly what the water consumption will be for a fitness center. Mr. John points out that most customers bring their own water for drinking and that minimal water is used. What the water consumption will actually look like is probably hard to tell. With a bigger building to operate from will the fitness center expand beyond the current use making it hard to gauge water consumption? Will there be showers? Will there be the need for other permits that may require more water supply? These questions might be hard to answer, and it may be a moot point anyway because of the municipal source of water. But I think it would be prudent to know that the Graniteville Fire District has the ability to provide adequate water to this building when also taking into consideration the other use on the property.

Regarding sewer, there is no impact to the municipal system because municipal sewer isn't available.

While there isn't an impact to the municipal system, we still need to know that the parcel is properly served. I learned during the review for Websterville Baptist that there was a question about how the church's wastewater needs were being met. At that time nobody seemed to have a good sense of a septic system for the church, and they were considering options.

Since the Websterville review, we did learn that the rectory building does have a septic system installed in the 1980's. There is no evidence, and it is unlikely, that the church shares that system. So, the question remains....how is the church's wastewater demand being met?

Mr. John has verbally told me that there may be some information about the church's sewer, but I haven't seen it. And, even if there is information about an existing sewer, is it capable of handling a new use that could be more consistent than a church and with potentially greater demand? Will the change of use require a State Wastewater Permit? I suggested that Mr. John contact a State of Vermont permit specialist as soon as possible.

3. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan:

The character of the area is quite simply industrial or undeveloped. The St. Sylvester property is surrounded on two sides by Rock of Ages and on the other two is the Barre Town Forest. Immediate area consists of forest or Rock of Ages "haul" roads and granite storage. The closest actual building is approximately 400' which is a large Rock of Ages plant. The next closest use, roughly 800' away, is residential down the hill on Graniteville Road.

The proposed use is commercial, clearly not industrial. It is hard to know exactly what impact a fitness center will have. There will be people coming and going, sounds like mostly in the evening but hours of operation should be clarified. There really are no residential uses for it to negatively impact and I can't imagine the proposed use would negatively impact the industrial use or the Town Forest adjacent either. The location is a bit secluded in a way.

There will be traffic, but Mr. John states no more than 15 cars a day. The church probably generated that much traffic most days of the week. I assume, but clarification would be good, that all activities will take place inside. Considering professional training for Mixed Martial Arts and others, will there be competitions taking place here? Will there be times with vehicles traffic as a result will be much more significant than a "normal" day?

Several questions to be answered with regard to character of the area, but generally speaking this might be a good location for this type of use because of the fact there is

little around it.

4. Traffic on roads and highways in the vicinity:

Church Hill Road is a Town class II paved road and provides access to the proposed use. The road hasn't had any issues serving either the church or the dwelling in the past. The proposed use will generate traffic as noted in Mr. Johns narrative (15 cars a day) the question is, how much more than what the church did when it was fully operational? I imagine that there will be times when more traffic is generated than 15 cars a day, especially if there are competitions, but at this point based on what I know I do not think there will be significant impact to Church Hill Road or any connecting road or intersection nearby as a result of this use.

5. Zoning bylaws and bylaws then in effect:

As noted, Barre Town's Zoning Bylaw doesn't allow, either permitted or conditional, this commercial uses in an industrial zone. However, after review by the Planning Commission during a warned public hearing, in accordance with Article 2, sec. 2.4 (c), it is determined that the use will not "alter the characteristics of the area and will not cause an undue burden on the community", the use can be allowed and would be conforming.

6. The impact on neighboring uses:

The only uses in close proximity is the Town Forest and Rock of Ages "haul" roads and storage. The closest residential use (other than the one on premise) is nearly 800' away.

7. Minimum lot size:

The minimum lot size for the industrial zone is 2.0 acres. This lot is just shy of that at 1.8 acres but is pre-existing, nonconforming and as such allowed for development.

8. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw:

Barre Town's Zoning Bylaw requires one parking spaces for every 200 sf. of overall building size. The church is approximately 5,000 sf. which equate to 25 parking spaces. The paved parking lot is over 15,000 sf. in size and very capable of parking 25 vehicles. I'm sure it parked far more than that when the church was in operation.

Parking shouldn't be an issue.

9. Loading/unloading facilities:

Not applicable

SUMMARY AND RECOMENDATION

I have worried about what would happen to the St. Sylvester Church and rectory if left vacant and decaying. Leaving it empty could be a magnet for vandals or become a blight if left this way. Mr. Lucas is proposing to establish a use that will likely help keep the building vibrant for years to come. The question is, is it the right building and location for the use?

With regard to the location and the use, I don't have any concerns. There are no close neighbors to be burdened by it, the church as the previous use I'm sure at times created considerable use of the property. Parking is more than sufficient. Generally, I support the proposed use. However, I do feel that knowing exactly permits from the State might be required as well as what there is for wastewater and how the proposed use may impact that need.

My concerns are not new, and I have verbalized them to the applicant so it will be necessary to see what information he can add to alleviate the concerns before I can offer a full recommendation.

COMMENTS

On motion by Mr. Atwood, seconded by Mr. Clain, the Planning Commission opened the public hearing for a request by Lucas John for allowed use determination in accordance with Article 2, section 2.4 (c) of the Barre Town Zoning Bylaw, whereas Mr. John is proposing a use not specifically allowed (commercial - fitness center) in an existing building owned by St. Sylvesters Parish Charitable Trust. The subject parcel is located at 223 Church Hill Road; parcel ID 002/007.00; zoned industrial; AUD-21000008. Vote 6-0-0.

Mr. Violette provided his staff report as stated above.

Mr. John explained that his business is a Mixed Martial Arts (MMA) gym which includes jiu-jitsu, self-defense, cardio, kick boxing and kids combat; open evenings (6 p.m.) M-Thurs and (11 a.m.) Sat. Mr. Hardaker mentioned the business will not impact daytime traffic.

Q: Mr. Atwood

- The building is 150 years old and 5000 square feet
- Keep up with the maintenance to preserve the characteristics of the neighborhood.

A Mr. John has a few students that are key players that help him out on various tasks, such as construction and roofing. They would assist in the upkeep of the building.

Mr. Hardaker expressed his support for Mr. John and his business.

Q: Mr. Gilbar

- The building is historical with historical contents like the statute in the back inside of the building
- Treat the building with respect

A: Mr. John stated he has no intentions to change the exterior of the building. He will be working on the interior of the building.

Q: Mr. Mitchell

- Is there an issue with the sewer in the building?

A: Mr. Violette and Mr. John answered that Kingsbury Construction formerly Fowler's Septic had a map and service records. The septic tank is 750 gallons and was last serviced in July 2018 and per Kingsbury Construction it is in working order.

Q: Mr. Mitchell

- What is happening with the contents of the church?

A: Mr. John answered that the Church is removing the contents such as the stain glass windows, pews, and statutes. The stairs between the rectory and church are staying, and the steeple may stay.

Mr. Mitchell commented that a lot of people have sentimental attachment to the building.

Q: Mr. Mitchell

- What will the water usage be at the building?

A: Mr. John answered there will be minimal water usage, as he provides drinking water and does not offer showering facilities.

Q: Mr. Mitchell

- What type of road sign were you going to put up?

A: Mr. John answered it would be his business logo: Granite City MMA

Q: Mr. Mitchell

- Have you had to use emergency services at your current location in Montpelier?

A: Mr. John answered he has not had to use emergency services at the Montpelier location.

Q: Mr. Sanborn

- Site Plan for parking spaces around the building with the location of the septic tank/leach field.

A: Mr. John answered that he could provide a site plan with parking and septic tank location.

Mr. Clain asked if all of Mr. John's answers are entered into record. Mr. Violette confirmed it was.

Discussion ensued regarding conditions to the permit. Mr. John stated the church has conditions in the deed that prohibits the uses of the property for a place of worship or sinful business such as sinful business such as liquor, marijuana sales, gambling, dance hall, or gun sales.

On motion by Mr. Clain, seconded by Mr. Reil, the Planning Commission closed the public hearing. Vote 6-0-0.

DELIBERATION

On motion by Mr. Gilbar, seconded by Mr. Atwood, the Planning Commission approved a request by Lucas John for allowed use determination in accordance with Article 2, section 2.4 (c) of the Barre Town Zoning Bylaw, whereas Mr. John is proposing a use not specifically allowed (commercial - fitness center) in an existing building owned by St. Sylvesters Parish Charitable Trust. The subject parcel is located at 223 Church Hill Road; parcel ID 002/007.00; zoned industrial; AUD-21000008. In making this decision to approve, the Planning Commission finds that: the use will not change the character of the neighborhood, and 2) no undue burden on the town is created. The following conditions were attached to the approval; 1) The applicant should contact a State of Vermont Permit specialist to ensure compliance with existing state regulations, what other ones may be applicable, and what other permits are necessary. 2) the building is to be used as a fitness center only and 3) provide a site plan of the property showing parking spaces and location of septic tank and leach field. Vote 6-0-0.

Mr. Violette returned to the meeting as an active member of the Planning Commission.

- 4) **REVIEW CODE OF CONDUCT AND RULES OF PROCEDURE – (amend as necessary).**
- 5) **DISCUSSION REGARDING CANNABIS AND HOW IT RELATES TO ZONING (as needed)**
- 6) **ZONING BYLAW DISCUSSION AND AMENDMENT (as needed)**
- 7) **TOWN PLAN DISCUSSION AND AMENDMENTS (as needed)**
- 8) **OLD BUSINESS**
- 9) **OTHER**

Mr. Violette wanted to discuss, or at least bring up, the potential for a zone change off Tanglewood Drive and West Cobble Hill Road. He provided a bit of history about the subject parcel which is currently owned by Jay Carr. He noted how Mr. Carr had gone before the Development Review Board in 2020 for conceptual subdivision of his property. During that meeting the DRB had concern about road frontage given the zoning of the property.

During the DRB conceptual, it was suggested to Mr. Carr that he go to the Planning Commission to propose a zoning change (low density to high density). During a couple of Planning Commission meetings to discuss the possibility of a zone change in 2020, any potential change met with strong opposition by the abutting neighbors. Some of the opposition centered around traffic generation, delivery trucks, drainage and local waterways being overburdened, the class II wetlands impact, existing drainage issue along Tamarack Lane being worsened, and the potential extreme number of lots high density zoning allowed vs. low density. Mr. Carr nor the Planning Commission decided to pursue the zone change at that time.

At a recent DRB meeting Mr. Carr conceptually proposed a Planned Unit Development (PUD) for the same parcel of land and was considering creating eight new lots in addition to the existing one for a total of nine lots. The DRB had the same concerns as before and questioned whether the land qualified as a PUD and generally feeling that a zone change made more sense.

Mr. Violette is supportive of a zone change and believes the Town would benefit from lowering the zoning dimensional standards and allowing the property to create much needed housing in an area able to support it. Any development here would really be infill, creating new housing and tax revenue in an area with municipal services meaning that it is less likely the housing has to go outside the core area. His hope tonight is to gauge the feeling of the Planning Commission on whether they'd be interested in moving a zone change of this parcel forward.

Members are generally supportive of changing the zone but also wonder if there are other areas that should be looked at as well. More discussion to follow in coming months.

10) FOLLOW UP

Mr. Violette presented that Novus Energy has submitted a notice of minor amendment to its Novus Allen Solar on Allen Street. The amendment is to change the location to the proposed access road all other project areas would stay the same as presented previously.

On motion by Mr. Clain, seconded by Mr. Atwood, the Planning Commission approved sending a support letter to the Public Utility Commission to approve the minor amendment to Novus Energy's Allen Solar plan under PUC Case No. 21046-NMP as presented. Vote 7-0-0.

11) ROUND TABLE

12) DELIBERATIVE SESSION (as needed)

13) ADJOURN!

On motion by Mr. Reil, seconded by Mr. Gilbar, the Planning Commission meeting adjourned at 9:25 p.m. Vote 7-0-0.

Respectfully submitted,

Cindy Spaulding, Clerk

Cedric Sanborn, Chair

Mike Gilbar

George Clain

Byron Atwood

Chris Violette

Craig Chase

Terry Reil