

Town of Leyden Planning Board  
Minutes of Meeting  
October 30, 2024

A duly posted meeting of the Leyden Planning Board was held at 6:30 pm on Wednesday, October 30, 2024 in the Select Board meeting room of the Leyden Town Offices, 7 Brattleboro Rd., Leyden, MA.

**Members present:** Jim Brodeur, Chair, Emily Yazwinski, Liz Kidder, David Curtis, Devorah Vester, Alternate.

**Absent:** Sarah Bartholomew

**Audience:**

**Meeting called to order** at 6: 36 p.m.

**Motion to approve the minutes of September 25, 2024 as corrected was made by Emily and seconded by Liz. The correction was relative to Bent Birch Movement Retreat center and their lack of registration as a charity with the state.**

Vote: passed unanimously

**Motion to approve the minutes of October 9, 2024 as corrected as made by Liz and seconded by David. Devorah moved to correct the minutes to note that a statement was made by Beth Kuzdeba as a private citizen. Liz and David both accepted the correction to their motion.**

Vote: passed unanimously

**Correspondence, abutting towns zoning actions.**

Jim noted that the abutting town zoning actions are listed on the agenda.

David reported that he had heard a concern from Warren Facey through Jeff Baker, that there were construction vehicles working on a property on Mid-County Road, clearing a mound of brush and potentially topsoil. Under our zoning bylaw, a property owner cannot remove topsoil from a property. David and Emily both noted they had seen the activity on that parcel and it looked like the owners were clearing the brush and tree stumps but just leaving and smoothing out the topsoil and therefore, it did not appear to them to be any violation of the bylaw. David will let Warren know.

**Status of 3-family dwelling without permit**

Jim distributed copies of an application for a special permit for a – three-family house at 119 S. Schoolhouse Rd. Their old special permit said that it was non-transferable. They had changed the ownership of their property within their family members but this action negated their special permit. Jim said that the building inspector regularly inspects multi-family dwellings every 5 years. Liz noted that it is not usual to put a nontransferable condition on sale of a property when a special permit has allowed structural changes to a building. This special permit will require a public hearing.

**Continue discussions to update Zoning Bylaws with respect to housing and the MA Affordable Housing Act**

Liz noted that in discussions with Town Counsel regarding Permitted Uses, Section 4.1.4.c., which states: “the renting of rooms or boarding of not more than four persons not members of the resident family”, that Donna had suggested deleting the phrase “not members of the resident family” or to just delete that section entirely. Liz looked at the state housing code definition of a rooming house that covers the renting of rooms to 4 or more persons. This section covers up to 4 persons which is less than the state housing code for rooming houses. This would cover roommate situations as part of permitted uses. The consensus of the board was to delete “not members of the resident family.”

**Motion to approve the 2/3 majority vote warrant article dated October 30, 2024 as the public hearing draft was made by Emily and seconded by David.**

Vote: passed unanimously

Jim passed out a copy of the simple majority vote warrant article on ADUs. Liz pointed out a correction in the paragraph under “Conditions and Requirements” on page 2. The text “as well as subsequent recording of the results of said review in the chain” should be deleted and the next sentence should read: “Evidence of the recording, at the Franklin County Registry of Deeds, of said review shall be provided to the Building Inspector before issuance of a permit.”

**Motion to adopt the simple-majority vote ADU proposed zoning revisions dated October. 30, 2024, as corrected above, as our public hearing draft was made by Emily and seconded by David.**

Vote: passed unanimous

**Motion to hold 2 public hearings on Wednesday Dec. 11, at 5:30 p.m. for the 3 family on So. Schoolhouse Rd special permit application and at 6:00 p.m. for the proposed zoning bylaw revisions. Moved by Emily and seconded by David.**

Vote: passed unanimously.

**Continue deliberations for the application of Movement Retreat Center for a special permit to operate a retreat at 63 No. County Road, to be known as “Bent Birch”**

Jim noted that we had closed the hearing and now have 90 days to come up with the decision and conditions. Devorah raised her concern that they made major revisions to their operations plan and that she felt they should be submitting a new special permit application. Then it should be republished as a legal notice and a new hearing held for the public to have a chance to make their concerns known. Devorah felt that the current application was not clear and therefore the public weren’t given adequate information to allow them to decide if they wanted to attend the hearing.

There was a discussion as to whether the application needs to be resubmitted to reflect the new plans for use of the facility. Emily noted that they had clarified their narrative based upon a request from the Board to identify how they wanted to operate the retreat center instead of applying for a continuation of the Angels Rest special permit. Liz recommended sending an email with the original narrative of their application and then their clarifying description of the operating plan that was in their revised powerpoint to Town Counsel to get her input as to whether it is different enough that it requires the resubmission of a new application. Furthermore, what is the proper procedure to follow if the Board

wants them to withdraw their application and start over. If the Board were to turn down their application, they would have to wait two years before reapplying. Jim said he will send the email to Donna to get clarification

David asked what other Board members felt should be considered as conditions for this application.

Emily said her concerns included:

- Compliance with all codes
- Locally available contact, with a name given to the Town, Police, fire, etc.
- For any big events like a wedding, the police should be notified
- The Board should be updated as to the analysis of the septic system daytime and overnight guest capacity.
- Clarification as to whether there will be single day events of only 50 people.
- Does this need a business certificate from the Town?
- Any special permit should be non-transferable – this is for the Birch Bent Movement Retreat Center

David said that his list included:

- A clarity on how many guests may be using the site in a year – by his count it could be up to 4, 160
- How do we police the number of events and people
- Ask them to submit the data on their numbers every so many months – have them keep a log of who rents the space, how many people, and periodically submit that information for review.

Liz said she had drafted some potential conditions based upon a review of the Special Permit issued to the previous owner of the property and she read the following:

- The applicant shall conduct the proposed uses on the premises in compliance with all representations made in the power point presentation of the applicant at the October 9, 2024 hearing including but not limited to the criteria for acceptance of clients renting the property as a Short Term Vacation Rental. *\_ need to refer to their plan to only rent to those in their greater movement retreat center community and will not advertise it using internet sites such as Air B&B or VRBO.*
- The number of overnight occupants shall not exceed the number established by the Board of Health based upon the number of beds and the review of the septic system capacity.
- Applicant shall comply with all relevant local, state and federal regulations and laws, including the acquisition of all necessary certificates and licenses; and shall not start accepting events or guests until all licenses and permits have been obtained. Any short term rental activities will be operated in compliance with MGL 64G.
- On-street parking is prohibited.

- Bent Birch Retreat Center will appoint a groundskeeper and property manager who will be accessible to those renting the property and to town officials whenever the property is being rented/occupied.
- Renters of the property will be provided with terms of this special permit and directions on use of the property in order to not violate any terms of this special permit and to ensure respect for others living in the adjoining neighborhood.
- This Special Permit is granted to the Bent Birch Movement Retreat Center only and is non-transferrable.
- If requested by the Planning Board, Bent Birch Movement Retreat Center shall meet annually or as needed with the Planning Board to evaluate compliance with these conditions and overall compliance with any local, state or federal rules, regulation or laws.
- Bent Birch Movement Retreat Center shall cooperate and work with the Bernardston Police Department, Leyden Fire Department and Public Works Department and comply with reasonable demands from these departments so as not to increase the demands on these departments from the proposed use.
- During the annual evaluation of the program (or at a meeting called by the Planning Board pursuant to Condition 10(?)) if it is found that Town of Leyden emergency services are being overly taxed by the number of calls for service to the Center, the Planning Board and Town shall have the authority to require the applicant to hire or participate in the costs of additional emergency service personnel or hours.
- If the Colrain Volunteer Ambulance Association (CVAAI) responds to any calls at 63 No. County Rd., whether they transport a patient or not, the applicant shall reimburse the Town for any charges incurred by the Town. At the time of this special permit application, the Town is invoiced \$375 for every ambulance call response by CVAAI.
- Violation of any condition contained herein or failure to comply with the record plans shall subject the applicant to a zoning enforcement action in accordance with the remedies set forth in Chapter 40A of the General Laws.
- In accordance with Section 8.3 of the Town of Leyden Zoning Bylaw, this special permit may automatically lapse as provided therein

Devorah noted that at a previous meeting she had asked about their registration as a charitable organization since she had been unable to find them listed on the State website. The Center representative had said that they would follow up and get their information on the appropriate state website which would include financial disclosure information. She felt this should be a condition of the special permit. At the present time there is no financial disclosure information available about Bent Birch. Emily asked about their relationship to Resists which is an organization with which they are associated in some manner. Devorah noted that when there is a history of noncompliance, it is a red flag, and we should pay attention to that.

Devorah further noted her concern about regular inspections and oversight of the property and how they use the facility. David suggested that is why he is recommending they keep a log and regularly submit that information to the Board for review.

Emily also noted that we need to follow up with the Selectboard to make sure Leyden is getting the short term vacation rental sales tax that Town Meeting voted for.

Jim will try to get an answer from Donna by Nov. 13<sup>th</sup>. Based upon Donna's recommendations we will know how to proceed.

**Marijuana bylaws; Review of cell tower regs for electromagnetic concerns.**

Nothing to discuss at this time on Marijuana or cell tower regulations.

**Next Meeting:** November 13<sup>th</sup>

To further discuss the retreat center Special Permit and public hearing for the two warrant articles for zoning bylaw revisions.

**A motion to adjourn the meeting was made by Emily seconded by David.**

Passed unanimously.

The meeting was adjourned at 9:08 pm.

Respectfully submitted by,

Liz Kidder

List of documents:

Draft warrant articles

Special Permit Application for 3-family on So. Schoolhouse Rd.