

Shutesbury Planning Board
Meeting Minutes
July 13, 2015

Board Members Attending: Deacon Bonnar/Chair

Jeff Lacy

Ralph Armstrong

Linda Rotondi

Jon Thompson

Jim Aaron

Absent: Steve Bressler

Staff Attending: Linda Avis Scott/Administrative Secretary

Guests: Marnin Lebovitz and Zachary Shulman/Lake Street Development Partners; Mike Vinskey and Michael DeChiara/Select Board members; Mickey Marcus/New England Environmental; Andrea Cummings, Bill Wells, Lucy Gertz, Genny Beemyn, Roger Tincknell, Michael Suter, Chuck DiMare/residents.

Chair Bonnar opens the meeting at 7:06pm in the Shutesbury Town Hall.

Jon Thompson, previous Planning Board and recently retired Zoning Board of Appeals member is nominated as a new member of the Planning Board; professionally, Thompson is a Building Inspector. During their 6.30.15 meeting, the Select Board unanimously voted in favor of appointing Thompson to the Planning Board. Then Planning Board members present unanimously appoint Thompson to the Board. Thompson leaves the meeting briefly to be sworn in by the Town Clerk.

Hearing Date for Solar Project: Lacy reads aloud the Notice of Public Hearing: "Notice is hereby given that the Shutesbury Planning Board will open and conduct a public hearing on Monday, July 27, 2015 at 7:30pm at the Shutesbury Town Hall on the zoning special permit application of Zachary Shulman, Lake Street Development Partners, LLC for a proposed light industrial use in the Forest Conservation District – conversion of approximately 31 acres of forestland, at Assessor's parcel ZG-2 near Pratt Corner Road and Reed Road (discontinued), to a six megawatt (DC) ground-mounted solar array." Per Lacy, the Notice of Public Hearing was mailed to the 300' abutters and all other parties that are listed to receive the notice; the legal notice was published in the newspaper today and will be again next week. DeChiara and Cummings ask for information on the format for the public hearing. Lacy: the public hearing opens with a presentation by the applicant, this is followed by questions from the Planning Board, then statements and questions from the public; there may be time limits on public sharing in order to give all who want to time to speak. Lacy: the public hearing will most likely be continued; the third party reviewer will have access to all application materials and will attend the hearing and listen to testimony. Lacy: the third party assessment will take place subsequent to the initial public hearing. Lacy explains the need to schedule the public hearing for 7.27.15 due to statutory requirements.

Solar Project Consultant: Bonnar: Lacy spoke with several consultants and has a contract with Tighe & Bond to present. Lacy: the Zoning Bylaw allows the Planning Board to hire a third party. Lacy reports that he interviewed Peggy Sloan/Director of Planning and Development for the Franklin Regional Council of Governments and agreed that their services would be duplicative. Lacy also interviewed Berkshire Design Group, located in Northampton who have a conflict of interest as recently worked with Cowls and are currently working on a project with New England Environmental (NEE). Lacy consulted with Attorney Donna MacNicol/Town Counsel who advised that Berkshire Design's conflicts are too recent. Per Lacy, MacNicol recommended Tighe & Bond. Subsequently, Lacy interviewed Tighe & Bond and they wrote up a scope of services and gave a price. Lacy: Tighe & Bond will attend two Planning Board meetings, the initial public hearing and then a meeting to present their findings; the third party reviewer will focus on the special permit aspect of the application and will not be duplicative of the Conservation Commission's third party reviewer; Tighe & Bond has no ties to the developer and may have worked with NEE in the past, not currently. Beemyn asks if Tighe & Bond has worked with Cowls. Lacy: they have checked that themselves. Cummings asks if the reviewer will check wetlands. Lacy: they have the expertise to do so, however, wetlands are the Conservation Commission's area. Cummings seeks verification that the Conservation Commission will hire their own reviewer and asks if she can recommend someone to Commission. Lacy: yes. Cummings asks if soil tests and water level tests will be done. Lacy: if, during the public hearing, the Board hears that these are concerns; the reviewer will be given a lot of direction during the public hearing as well as the specifics of the Zoning Bylaw. DeChiara confirms that the Board has 65 days to open the public hearing and that the decision must be made within 90 days of closing of public hearing. Lacy: once the public hearing is closed, no new information may be taken in; this is when deliberation toward a decision takes place.

Bonnar: the Board needs to decide tonight, though. there are differing dollar amounts.

Lacy: yes, the original contract was for \$5,700, the new one is for \$6,600, and confirms the need to verify the amount; would like to hold to \$5,700. Lebovitz: the check for \$5,700 has been delivered to the Town Clerk. Bonnar asks what the Board can approve tonight. Lacy: the Board can vote to approve the revised scope with \$5,700 as the contract amount and forward the proposal to the Select Board for their consideration because the Select Board is authorized to sign contracts for the Town. Bonnar asks how to handle the matter if the Board approves \$5,700 and Tighe & Bond says \$6,600. Lacy: the Board could approve both amounts. Rotondi: the Board could budget between \$5,700 and \$6,600. Lacy: the difference in price is related to attendance at two public hearings vs. one. Cummings confirms that the applicant pays for the third party reviewer and advocates paying what Tighe & Bond is asking and ensuring they do what is needed. At 7:25pm, Chuck DiMare joins the meeting. A motion is made and seconded to approve the Tighe & Bond 7.7.15 revised scope of service for peer review as laid out in the proposed contract for the initial sum of \$5,700 with the understating this may increase to \$6,600 based on services needed. Armstrong confirms that the dollar amount may increase if additional work needed. All Board members unanimously approve the motion. DeChiara asks if the Planning Board will be represented at tomorrow night's Select Board meeting. Bonnar: yes. DeChiara asks how the Planning Board will know if additional money will be needed. Lacy refers to contract and notes that Tighe & Bond will

contact the Planning Board for approval, if it is anticipated that the initial budget is to be exceeded; the Board would have to present the increase to the applicant and an extension would be signed by the Select Board.

Gertz asks who has access to the report prior to the presentation. Lacy: the Board has agreed to get the report out prior to the public hearing to Planning Board members and the applicant and will find a way to make it known that the report is available to the public, digitally if available in this form, at least one week before the public hearing at which the presentation will be made. Marcus/NEE presents an additional five copies of the Special Permit application.

Petition for Solar Moratorium: Bonnar: the Select Board received the petition 6.30.15 and will consider the next step during their 7.14.15 meeting. Lacy explains that the Select Board has 14 days to forward the petition to the Planning Board and anticipates that this will be done tomorrow. Bonnar notes that there is a copy of the petition in the Board's packet; this does not represent formal receipt of the document. Lacy: once received, the Planning Board has 65 days to schedule a public hearing; understands folks do not want this public hearing to happen on 7.27.15. Bonnar: this public hearing must happen before 9.17.15. Lacy: the Board will have a date on 7.27.15. Cummings asks if this will be a public hearing for the moratorium or the solar bylaw. Lacy: discussion of the moratorium article public hearing will occur on the 27th. Thompson: the petition must formally be received from the Select Board. Cummings asks if this could be done at a separate date. Bonnar: the Board will not be holding the public hearing for the moratorium warrant article on the 27th; this is the public hearing for the application. Marcus, noting that Tighe & Bond will not have their presentation on the 27th, asks if the date for the continuation of the public hearing could be scheduled tonight. Bonnar: the Board is anticipating the arrival of another warrant article on a solar bylaw; it may make sense to hold the public hearing for both warrant articles at the same time. Lacy notes the need to have the whole board present for the public hearing meetings. Cummings asks if this is the time for stating concerns. Lacy: the Board is in housekeeping phase; hold concerns for the public hearing. DeChiara: in terms of the Tighe & Bond contract, it doesn't seem to clearly articulate that research on special permit items will be done. Thompson refers DeChiara to the "Scope of Services" portion of the contract: "The site plans will be evaluated for compliance with general engineering practices and the requirements of the Town of Shutesbury Zoning Bylaw..." DeChiara states understanding. Cummings asks if the Conservation Commission will do a different type of evaluation. Lacy: the Conservation Commission has different laws: the Wetland Protection Act and the local wetland bylaw; their third party review is paid for by the applicant. Lacy: the Planning Board will be looking at the site.

Sumner Mountain Road/DiMare Common Driveway: DiMare: on 7.18.15, the Planning Board approved his Site Plan Review (SPR) and, shortly thereafter, the applicants conveyed 24.5 acres to the Town of Amherst which will be under Chapter 97 preservation. DiMare refers to 6.8.15 "Proposed Layout Plan" and notes that the Planning Board signed the Approval Not Required (ANR). Per DiMare, there are slightly more than five acres in new building lots; two additional areas will be placed in Conservation Restriction; the next phase, is the Common Driveway permit. Referring to

the 6.8.15 plan update, DiMare explains that very detailed notes have been added to the plan details; these details were referenced in the original application; there are six points indicating driveway width on the map, drainage areas, turn around areas, culverts and the paved portion serving the existing house are indicated. DiMare: wishes to convert the portion of the driveway serving the existing house to a common drive to serve the two new building lots; the formal application is pending as wants to ensure he is going in the right direction. Referring to the "Common Driveway Cross Section," DiMare explains that this is how the driveway was originally constructed in 1994; is prepared to bring an engineer to the site. Lacy asks if DiMare is okay with width as it is. DiMare states that he has no intention of widening unless required by the Planning Board. Board does not see a need to widen the driveway. DiMare: the Fire Chief insists on a minimum width of 16' feet. DiMare provides the Board with copies of the most recent amendment to the "Summer Mountain Road Common Driveway Reciprocal Easement and Driveway Maintenance Restrictive Covenant." DiMare explains "donut" exclusion from Conservation Area #1 as it is too close to house. Thompsons asks how the Conservation Restriction areas will be accessed. DiMare: access is given by easement rights via the driveway and via his property; he will require an easement to allow access to area #1; the best easement is right up one of the property lines; his house is on lot #1. Lacy recommends DiMare go down the Zoning Bylaw checklist for a common driveway application. DiMare asks if more information is needed on the site plan. Lacy: information is okay; plan needs to be stamped by a licensed engineer as per the *Shutesbury Zoning Bylaw*, page 41, "Common Driveway Regulations." DiMare confirms both that both documents need to be certified. Thompson suggests relocating the map notes in order to have all the information on one sheet. DiMare: believes quarterly assessment fee of \$375 is sufficient to maintain driveway; in the future, households may decide on install a TRG surface; hopes Board will not require this surface now. DiMare notes that Lacy is his Board liaison; he will be talking with Amherst for appropriate certifications of the driveway plan; Attorney Ritchie has reviewed the common driveway agreement. Lacy: quarterly amount will be set with the understanding this may change due to requirements. DiMare: authority for special projects is also included. DiMare states he hopes to apply sometime in August for a public hearing in September; agrees to cite all criteria. Lacy will review common driveway agreement and provide necessary feedback. Lacy: this is the first Natural Resources Planning Zoning (NRPZ) project in the State. DiMare leaves the meeting at 8:10pm.

Master Plan Working Group: Bonnar states that he spoke with Becky Torres/Town Administrator and thus far, the following people have expressed interest in the working group: himself, Torres, Lacy, Bob Groves, Al Hanson, Meryl Mandell, Nancy Dill and Mike Vinsky. Lacy: the consultant suggested the group have nine or less members; notes, thus far, there is no library or school representation. Rotondi: no Lake or Town Center representation. Bonnar asks if there is a need for more members. Lacy recommends they plan to start meeting in September. DeChiara recommends the Committee have representation based upon categories in the current master plan: historical, recreation, transportation, housing, etc. Rotondi asks if it would reasonable for one member of each committee to be a member. Thompson: yes. Bonnar: it would be unwieldy if one member from each committee. Lacy: the budget does not go into

completing chapters/elements of plan; in soliciting members, group is for the initial public phase. Bonnar: member selection is made by joint Planning and Select Board appointment. DeChiara suggests holding a public event to present current plan and perhaps find interested folks. Lacy: current issues in town may not match elements of the current plan, such as, taxes, roads, school regionalization, broadband, and other 5-10 year issues. DeChiara: climate adaptability. Lacy: sustainability. Bonnar: economic development. Thompson reads list of primary categories from the current plan. Lacy suggests the Board keep the group in mind and consider potential members. Armstrong: do we want to have a category specific to energy? DeChiara suggests shared municipal services as a category.

Minutes for the 6.22.15 meeting are approved as presented.
Armstrong will present remaining minutes for the next meeting.

Unanticipated Business:

Lacy explains that he spoke with land use Attorney Ritchie regarding Planning Board and Conservation Commission attendance at each others public hearings for the solar project; per Ritchie, yes, under these circumstances the Boards may attend each others hearings, plan to post in case they reach a quorum and the only agenda item is to “attend and participate in Conservation Commission public hearing on the solar project,” the Board must talk about ConCom jurisdiction and ask questions relative to same and no deliberation can take place. Bonnar asks about minute taking requirements for attendance at the ConCom public hearing. Lacy: minimal, only the time/date/who attended. Armstrong: and the topic discussed. Bonnar: the Board can plan to reference the ConCom minutes.

List of Documents and Other Exhibits Used at the Meeting:

1. Notice of 7.27.15 Public Hearing
2. 6.22.15 Warrant Article Petition
3. 7.7.15 Tighe & Bond Peer Review Services proposal
4. 7.12.15 Email from Miriam DeFant
5. 6.8.15 DiMare Proposed Layout Plan
6. DiMare Common Driveway Cross Section
7. DiMare “Sumner Mountain Road Common Driveway Agreement”
8. 6.22.15 Planning Board Meeting Minutes

Meeting closed at 8:28pm.

Respectfully submitted,

Linda Avis Scott

Administrative Secretary