

Shutesbury Planning Board Meeting Minutes
December 14, 2015 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jon Thompson, Ralph Armstrong, Linda Rotondi, Jeff Lacy, and Steve Bressler
Planning Board member absent: Jim Aaron
Staff present: Linda Avis Scott/Administrative Secretary

Guests: Michael DeChiara/56 Pratt Corner Road, Miriam DeFant and Robert Kibler/74 Pratt Corner Road, and Chuck DiMare/34 Sumner Mountain Road & ZBA Chair

DiMare Common Driveway Special Permit Application Public Hearing:

Bonnar: the public hearing will not open officially this evening due to a problem with noticing the abutters. DiMare agrees to correct typographical errors in the application that were pointed out by Bonnar. DiMare: his only concern regarding rescheduling is the due date in March, six months from the date of decision, by which he needs to have the common driveway and conservation restriction (CR) accepted and presented to the Planning Board. DiMare: the current version of the CR is not in the special permit application; the Conservation Commission (SCC) seems to be in agreement with the current CR language. Bonnar: the Planning Board and SCC need to accept the same plan/CR language. Board members review 6.10.15 Site Plan Review Decision Conditions pages 3-4. Bonnar reads Condition #5: "The applicant shall within 9 months of issuance of this decision submit to the Planning Board for their consideration and approval a Conservation Restriction in compliance with G.L.c.184 §§31-33 for Conservation Areas 1 and 2." Lacy: SCC edited and applicants accepted the CR language. Lacy reads from Condition #6: "No building permits for construction of dwellings on Lots 2 or 3 shall be applied for or issued until the applicant has recorded a Conservation Restriction..." Lacy: does not see any time constraint regarding the common driveway timeline; refers to the two-year lapse constraint outlined in Condition #9. Lacy: five Board members need to be present for the public hearing. All Board members and DiMare agree to extend the date for the public hearing to 2.8.16 at 7:00pm; the "Agreement to Extend Public Hearing Date" document is signed by Bonnar and DiMare and submitted for receipt by the Town Clerk.

Citizen Petition Warrant Articles

Bonnar: the Board needs to consider how to respond to the two citizen petition warrant articles. Lacy: as requested by Bonnar, he has compiled all the potential zoning bylaw modifications the Planning Board and Zoning Board of Appeals (ZBA) are considering. Lacy presents his handout: "Possible Modifications to Shutesbury Zoning Bylaws in 2016;" first page is solar, second and third pages are other modifications to be considered. Lacy reviews the document noting the Planning Board has yet to state a position on the previously submitted citizen petition solar and moratorium bylaws. Lacy: we might consider the modifications listed as an alternative to creating our own solar bylaw; we currently have a "light industrial" use category in our bylaw, the current project is under the special permit authority of the Planning Board, and we could formalize the process more. Lacy: in the future, a solar project might not consider itself a

light industry; it could be a "utility." Lacy reviews specifics of page one of his document; Article VIII "Supplemental Regulations" would be the place to add regulations specific to "Commercial Ground-Mounted Solar Facilities." Lacy: the Board could consider a waiver provision if the situation is right; these are his initial thoughts on what the Board could do. Bonnar: it is one thing to have dimensional criteria for a project, does it make sense to consider the total acreage for solar in town? Lacy: yes, though that would be a hard thing to get to, i.e. will we get to limiting the number of housing units; it is a lot easier to be parcel specific than town specific; how much of anything is too much? Bressler asks Lacy how he came up with his list. Lacy: by reading through the proposed bylaw and experience with the current proposed project. Bressler: does consideration of list constitute a bylaw? Lacy: it constitutes adding a section to Article VIII like the "Wireless Communication Facilities" section; this is where uses that deserve their own attention are. Kibler: would the acceptance criteria be different for an addition to the current bylaw from those of a new bylaw? Bonnar: a 2/3rds majority vote at town meeting is required for either. Lacy: adding definitions and amending Article VIII is for the Board's consideration. DeFant, citing MacNicol's suggestion at a prior meeting, asks if the Planning Board would consider setting up a working group with interested citizens to draft a bylaw.

Bressler: the process is open; citizens can participate in Planning Board meetings. Armstrong: likes the idea of opening a subcommittee to consider, for example, how to describe certain aspects of the criteria. Lacy, referring to #1 on the first page of his document: precise standards are required unless there is a waiver and #2 lists relevant review topics. Armstrong: why would be concerned about generation limits? Lacy: not sure we would be; some bylaws have a limit; we have all kinds of limits; these are examples of criteria found in other solar bylaws. Bressler: are these for the Planning Board to consider in the future? Lacy: this is a list of modifications that he has been compiling.

DeChiara states that he thought the agenda item was to consider the merits of the petition solar bylaw before moving on to other items. Lacy states that he put forward his document as an alternative to the petition solar bylaw that the Planning Board could consider; if the alternative is accepted, the Planning Board would vote to reject the petition warrant articles. Bressler: the moratorium (petition warrant article) does not relate to this document. Lacy: at the last meeting, it was noted that the moratorium warrant article would not be approvable by the Attorney General's office. DeChiara: there is nothing on the agenda about considering other warrant articles; the agenda item has no listed content. Lacy: we can conclude our remarks at any time. DeFant: you are tasked with looking at the (petition) warrant articles and coming up with findings. Bonnar: we are not required to come up with written findings. Lacy: we may write a report. Bonnar: we are trying to come up with a response to your petitions within a larger context; I don't think the discussion of solar permits should stop with the petition. Kibler: has heard from one Board member what he thinks about the petition; wants to know where the Board stands. Thompson: because it does not have a time limit, the moratorium will not pass the Attorney General's office therefore he cannot support it. Bressler: likes the concept of a solar bylaw; the submitted bylaw has too many restrictions therefore he cannot support the petition. Rotondi: agrees with the others; there are too many restrictions including the 200' setback and acreage limit. Bressler: we will be working

through criteria, either as a bylaw or amendment to Article VIII. Kibler: if limited to FC, the setback would be 500 feet. Bonnar: the FC setback is 500' from the centerline of road. Lacy: backland is to be protected; right now, we are saying that solar is light industrial; it could be more restrictive by keeping it all in FC; these (review topics on list) are things to think about. Bressler: regarding land set aside and power generation, suggests setting a land limit as technology may improve generation capability. Lacy: there are things in the petition draft that may find a way into a Planning Board bylaw; cannot support the submitted bylaw, as it is too long and complicated. Thompson agrees. Lacy: pages 2 and 3 of his document are things the ZBA and Planning Board have been talking about for two-three years; adding a section to Article VIII could be the most straightforward way to address commercial solar. Bressler: if the Planning Board were to consider the criteria, would they be presented as a block amendment to Article VIII? Lacy: we would add definitions and a new section to Article VIII. Bonnar: there will be ample opportunity to consider the solar modifications. Kibler: acknowledges that this is a good starting point - some of which we addressed in our bylaw; likes dimensional criteria, lot coverage limits, permissible original slopes; would like to see how much overburden or restructuring of the ground can happen; should have criteria about what happens to the biomass on site - how is it handled; traffic impact - i.e. stumps being removed off-site. DeChiara refers the Planning Board to the spreadsheet he created including the full list of bylaws in the State; would include signage, lighting, and density, define "small" and "large," require annual reporting to the town, require an emergency protocol, contact person, and utility contact and notes the need for documentation that the utility grid is confirmed. Kibler suggests a memorandum of understanding (MOU) with the utility. DeFant: thinks there is broad town support for restrictions on the use of chemical defoliant or stabilization; impose limits on toxicity. Bonnar: those are things that could be listed in the conditions of the current project. Thompson: language about the future site operator is needed. Kibler: types of allowed array supports should be listed in the criteria. DeChiara: not sure what "j. Bonding..." means; however, suggests the town require some kind of escrow. Thompson: that is what bonding is; recommends bonding be put up in front - this would be the decommissioning fund. Bressler: bonding would help finish the project if the original developers drop out. Kibler suggests safe zone signs, i.e. posting for hunting. Kibler and DeChiara appreciate being able to contribute to the criteria list.

Handout from DeChiara: "Paris Climate Agreement 2015: COP21: Language Regarding Forests" is received.

DeChiara: zoning regulations are vague about signage; suggests clarifying what type of signage is allowed.

Lacy: pages 2-3 of the document lists some observations he has made while others are related to problems that have come up during Planning Board or ZBA meetings.

"Customary v. Major Home Occupation" - Lacy: we probably allow too much in the "customary" category.

"Common Driveways" - Thompson and DiMare agree with need to clarify language to explicitly designate the Planning Board as the responsible body. Bonnar notes the need to clarify the 15' sideline requirement for single-family driveway. Lacy reads Section 8.6-2.

A. 2. into the record: "The travel portion of the driveway shall be located no less than fifteen feet from any abutting driveway property lot line unless either a Special Permit or a permit for a Common Driveway is granted by the Planning Board."

"Non-subdivision Open Space Design" – Lacy: meaning that no new road is created, do we want to leave it with SPR or require a special permit to give the Board more discretion?

"Dimensional Requirements" – Lacy: the presumption is that the Town is operating in the public good. Rotondi: this may be an issue for her as a resident of the Town center.

"Site Plan Review Duration for Open Space Designs" – Lacy: is the two-year limit necessary; it may force the sale of lots sooner. Bonnar: is there any situation when a time limit may make sense? DiMare: only from the financial sense, as tax income for the Town.

"Town-Center Apartments" – Lacy: the way it is currently worded, you could put apartments above a non-residential use; is this what the Planning Board intended?

Bressler: how would we modify the bylaw? Thompson: by specifying the kind of commercial, is there a problem with current language? Lacy: not sure.

"Town Center Frontage" – Armstrong: preserve setback and decrease frontage? Bonnar: setbacks in Town Center are reduced. Lacy: reads from the Dimensional Table (page 14 Zoning Bylaw); we have already reduced setbacks for Town Center; this modification would make a more appropriate frontage, which would make a lot more properties conforming.

"Accessory Apartments" – Bressler and Rotondi: no change is needed; the current language is adequate. DiMare: the ZBA has had cases where the applicant has needed to block off space as storage to meet footage requirements. Thompson: the larger the space, the more bedrooms are added even if the language does not allow additional bedrooms. Rotondi: the current limits are clear. Lacy: you see these between 600-1,000 square feet. Lacy: we allow for detached accessory apartments; is this in conflict with the State Building Code for a dwelling? Thompson: will look this up. DiMare: increasing the square footage would decrease the pressure on building new houses. Lacy: there is a push, as experienced in ZBA meetings, for accessory apartments to be larger.

"Lake Wyola Height Limit" – Bressler: this is a good thing to consider. DiMare suggests a tiered limit: 26, 28, and 30 feet. Thompson: could be as low as 22 feet. Armstrong and Bressler support indexed height requirements. Lacy: we will need to determine the tiers.

"Subterranean Setbacks" – Lacy: based on ZBA experience, do we need to be more explicate? Rotondi, Thompson, and DiMare agree.

"Signs" – no comments.

"Permit Fees" – Lacy: there is a need to increase fees. DiMare suggests increasing the fees to \$300 to cover costs; current legal notice costs are between \$250 - 300; the ZBA has considered raising fees to \$300 for all applications. Bonnar suggests considering a second tier for light industrial. Lacy: the item will need to be put on the Planning Board and ZBA agendas; we will create a list of fees, put it in the minutes, and then record the vote. Bonnar: could the fee be a percentage? DiMare: we need to cover costs. Bonnar notes the cost of the solar project includes legal fees for town counsel. Thompson: the fee is to cover the reasonable costs of an application; another section, 53G, allows for peer/technical review. Scott explains the role/purpose of a revolving fund. Armstrong notes the need for a secretary job description. Bressler motions for Lacy to create a

recommended list of fees for the Planning Board and ZBA. Once approved, the Board will consider setting a separate fee for light industrial. The motion is seconded and all agree for Lacy to draft a fee schedule.

Board reviews requirements for "Review of Public Hearing Evidence Affidavit."
Rotondi: how will we determine when it is time to close the (solar project) public hearing? Bressler: once the board has asked their questions and obtained needed information. Lacy: agreeing to continue is required by both the Board and the applicant; the public would need to convince the Planning Board and applicant of the need to continue; the hearing is our opportunity to get information, once closed, we cannot obtain any additional information.

A motion is made and seconded to approve the minutes for the 11.23.15 Planning Board meeting as presented; all members vote to approve.

Bonnar: there is a need for Planning Board representation at 12.15.15 Select Board meeting for joint appointment of Master Plan Working Group members. Lacy refers to the list of citizens who have volunteered. Bonnar: appointment needs to be made by a majority vote of the Select Board and Planning Board with a quorum present. Lacy suggests members present ratify the slate. Bonnar: at one of our previous meetings, we voted to accept this list.

Documents and Other Items Used at the Meeting:

1. "Paris Climate Agreement 2015: COP21 Language Regarding Forests"
2. "Possible Modifications to Shutesbury Zoning Bylaws in 2016"
3. List of Master Plan Working Group volunteers

Motion to adjourn is made and seconded at 9:15pm.

Respectfully submitted,
Linda Avis Scott
Administrative Secretary