

Shutesbury Planning Board Meeting Minutes
April 29, 2019 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Robert Raymond, Michael DeChiara, Linda Rotondi, Jeff Lacy, Jim Aaron and Steve Bressler
Staff: Linda Avis Scott/Land Use Clerk

Guests: Megan McDonough and Bruce Coldham/Pioneer Valley Habitat for Humanity, Fran Parisi/Vertex Tower Assets, Don Wakoluk, Mary Lou Conca and Sanford Lewis/Sustainable Cannabis Development Advisory Committee; Kevin Sullivan/Lodestar.

Bonnar calls the meeting to order at 7:02pm.

Public Comment: None offered.

Pioneer Valley Habitat for Humanity/CPA Proposal: Megan McDonough/Pioneer Valley Habitat for Humanity refers to the rural siting principles and explains that Bruce Coldham has sketched several possible site plan designs. Bruce Coldham explains the sample site plan that includes vegetation, slopes/grade, solar exposure, location of nearby houses and the potential location for a 24'x26' single-family two-story home that is typically slab on grade with a storage shed that has a roof in-between to create a roofed-in breezeway. Per Coldham, the general concept is to grade the hill to create a larger level play area with the house at the same level and a driveway entering on the opposite side of the house; the drive begins to rise after passing over the drainage ditch; a 3-4 ft. high berm between the abutting property will be created naturally; the septic system will be located where the perc test was done; some of the threatening hemlock trees will be removed leaving the tall deciduous trees. Coldham to Lacy's question: vegetation will quickly regrow after tree removal. McDonough: it much less expensive to do tree removal before construction. Coldham: more assessment will be needed to determine the specific trees to be cut. To Aaron's question about soils, McDonough shows the Main Street GIS map for the site that includes the soil data-layer. McDonough to DeChiara's question: the rough drive will be the access for construction. Coldham: the well will be located to the rear of the house. McDonough to Lacy's question: the septic will be a gravity fed system located in the front of the house. Lacy: what is the depth to ground water? McDonough does not have that information with her. Coldham: the culvert for the drainage ditch will be installed before the rough drive. McDonough: the utilities will likely be overhead. Bonnar: the goal of reviewing a potential site plan is to see how the proposed project will comply with the rural siting principles. Lacy, having walked the site, agrees with the proposed layout. Mary Lou Conca appreciates the proposed project. DeChiara moves the Planning Board recommend Article #11 and the use of CPA funds for the proposed Pioneer Valley Habitat for Humanity housing project; the motion is seconded by Raymond and passes unanimously.

Wheelock Solar Project Update: Kevin Sullivan/Lodestar Energy: the 400KW project is complete and is shipping power in full conformance; the site was limed and fertilized before the last rain; at the entrance, fescues are in full growth; the site is in good shape therefore he will want to talk about an exit strategy, i.e. planning for removal of the silt fence, and suggests a site visit; SWCA signed off in August 2018 that the site was stable. Lacy asks about required best management practices such as the berms and hay bales. Sullivan: straw wattles, silt fence and

haybales remain in place; recommends removing these as they can impact wildlife trails. Lacy confirms with Sullivan that no sedimentation is going toward wetlands. Sullivan: there is no scouring on the site. Lacy: the Conservation Commission will want to participate in site the visit. Sullivan suggests conducting the site visit in 2-3 weeks when more growth has taken place. Sullivan: Lodestar is planning to install two cargo container-like structures for battery storage by combining the concrete pads; for safety, the easiest accessible area for maintenance is on the western edge of the site; one 40' container will hold 1 megawatt of battery storage. Sullivan to Bonnar's question about the storage capacity of the batteries: the experts will be able to better explain this. Sullivan confirms that Lodestar understands a special permit will be needed to create the battery storage. Lacy: the contents of the structures will be the issue. Sullivan to Raymond's question: the batteries will hold power back for use when the greatest electric power is needed, i.e. late afternoon/evening; currently, the system can only produce as much power as the grid system can take then it shuts off. Per Sullivan, Becky Torres/Town Administrator suggests a larger meeting with the relevant parties, i.e. fire chief and electrical inspector. Bressler: Sullivan is really asking a process question. Sullivan: Lodestar has a finished design to present and wants to include those who need to weigh in. DeChiara notes that the PILOT is separate from the special permit process and will be considered by the Select Board. Sullivan receives support from the Planning Board to begin educating Fire Chief Walter Tibbetts and Electrical Inspector Maurice Gregoire about the proposed battery storage plan; Jeff Macel/Lodestar will confer with Torres about the PILOT and Lodestar will begin the special permit application process. Bonnar confirms the plan for a site visit in late May.

Public Hearing on Proposed Zoning Bylaw Amendments:

At 7:42pm, Bonnar calls the public hearing for the following proposed amendments to order: 1. Forbid the keeping of livestock, excluding poultry, within 400 feet of the bank of Lake Wyola; 2. Replace existing waiver provision of the Ground-Mounted Solar bylaw with a new version; 3. Replace existing waiver provision of the Wireless Communication Facilities bylaw with a new version; and 4. Establish a new bylaw for the regulation of marijuana establishments.

Lacy: a waiver allows the Planning Board to reduce some requirements; the work on the marijuana bylaw resulted in the creation of an improved waiver provision that the Board approved and subsequently revised waivers for the solar and wireless bylaws resulting in a standardization of the waivers. DeChiara notes the slight difference between the language of the solar and the wireless waivers and that the language for the Wireless Communication Facilities waiver is the correct wording; the plan is to recommend the Ground-Mount Solar waiver language be amended to be the same format. Lacy: the typo "in *an* alternative manner" will need to be corrected as well; he will be prepared to recommend making these changes during town meeting.

1. Replace the existing waiver provision of the Wireless Communication Facilities bylaw with a new version: Mary Lou Conca states that she does not think the location of a cell tower in Shutesbury is a good idea; she has been reading up on 5G and the waves put into the atmosphere are not healthy; wants the people who live near the proposed location to have a chance to have input. Lacy clarifies that the current discussion is not a continuation of the special permit public hearing for the cell tower project and advises Conca that she may make her comments during the continuation 5.13.19; the current discussion is relative to a language change for the waiver provision. DeChiara: there are

certain projects that are complex; the waiver provision provides the Board with flexibility and does not downgrade the intent of the bylaw.

2. Establish a new bylaw for the regulation of marijuana establishments: DeChiara: the Board spent months working on the proposed new bylaw to regulate marijuana establishments; the Board began with the FRCOG template, then reviewed the bylaws of other towns that had been approved by the Attorney General and consulted with Town Counsel Donna MacNicol. DeChiara reviews changes to the document after consultation with MacNicol: Section 8.11-5A “Dimensional Requirements” – the last sentence now reads “In the case of differing provisions between the two sections, the more restrictive dimensional requirements shall apply” and adding the new 8.11-6 “Conflicting Provisions” section; based on the 4.8.19 vote, “retail” was added to the Town Center on the Use Table. Conca, speaking on behalf of herself, asks about the State regulation for the distance of a marijuana establishment from an educational building. DeChiara: the State regulation is 500’, however, the town can reduce this distance. Conca asks why the Planning Board reduced the distance. DeChiara cites the different types of “establishment”. Conca: when there is only one school, why is there a reduction in the distance; do the parents and teachers know about this; what benefit is it to Shutesbury to override the State distance? DeChiara: the State regulations explicitly state the town can reduce the distance. Lacy: the distance is measured from the closest aspect of the establishment to the property line of the educational facility therefore the actual distance will always be more than 250’ feet. Conca: how do we benefit from having a reduction in the distance? Lacy: the Town voted to support legalization of marijuana. Rotondi: recreational marijuana is legalized; there are houses closer than 250’ from the Shutesbury Athletic Club. Conca sites concern about crime. DeChiara: the Board wants to encourage appropriate marijuana establishments; our intent was not to be restrictive; the State has specific regulations about security. Wakoluk: Conca has a valid point; what is to be gained by shrinking the distance; will the Use Table be functional for this purpose; there will be obstacles to creating a retail establishment in Shutesbury; there will opportunities for public input on any applications. DeChiara, referencing the Use Table, notes the special permit requirement that includes notification of abutters and a public hearing. Lacy and Bonnar: with the exception of the Site Plan Review requirement for Tier 1 and 2 establishments to be located more than 500ft back from the road in the Forest Conservation district. It is noted that Erving has a 100’ distance requirement. Sanford Lewis, speaking as a citizen: observing the Planning Board has been an education – the members gave a lot of time and care to the development of this bylaw; it was a learning process for all; issues like distance will come up. Lewis: at the same time, although the Board has done this great work and he supports the bylaw, there are other issues that will need to be addressed over time, i.e. normalization, sustainability and hemp; this is good working form to start with. Raymond corrects the previously noted Erving distance: 500’ for schools and 50’ for residences. DeChiara: the State and Cannabis Control Commission are evolving as well; the Board has taken a thoughtful first approach. Bressler: the State did not consider rural siting when determining the distances; the Planning Board was trying to be less restrictive due to the rural character of the Shutesbury. Wakoluk appreciates the amount of input for the development of the bylaw that he fully supports.

3. Forbid the keeping of livestock, excluding poultry, within 400 feet of the bank of Lake Wyola: Per Lacy, Catherine Hilton/Board of Health approached the Planning Board regarding the keeping of livestock in close proximity to the lake and concerns about water quality; the 400-foot distance comes from the Watershed Protection Act and is a dimension found elsewhere in the law. Lacy reads the proposed footnote revision into the record noting that the wording has been reviewed by Town Counsel MacNicol and that a member of the Board of Health will speak in support of article at annual town meeting.
4. Replace the existing waiver provision of the Ground-Mounted Solar bylaw with a new version: Lacy: the revised Ground-Mount Solar bylaw waiver provision is based on the proposed marijuana waiver provision; the numbering and typographical corrections will be made when the article is presented during annual town meeting.

At 8:22pm, DeChiara moves and Raymond seconds a motion to close the public hearing on the four amendments: 1. Forbid the keeping of livestock, excluding poultry, within 400 feet of the bank of Lake Wyola; 2. Replace existing waiver provision of the Ground-Mounted Solar bylaw with a new version; 3. Replace existing waiver provision of the Wireless Communication Facilities bylaw with a new version; and 4. Establish a new bylaw for the regulation of marijuana establishments; motion passes unanimously.

Preparation for Town Meeting: DeChiara suggests having a map with the districts present at annual town meeting. Lacy: because the public hearing was held less than 21 days from annual town meeting, the Board must make a report at town meeting, which can be done orally, about the amendments developed and approved by the Planning Board and that a public hearing was held. Lacy moves the Planning Board recommend to Town Meeting that the Board approved the four articles that the Board just concluded a public hearing on; Bressler seconds the motion that passes unanimously. DeChiara suggests the report be in the context of committee reports. DeChiara agrees to make a motion on town meeting floor to replace the existing Section 8.11 “Temporary Moratorium” with the proposed Section 8.11, if approved by town meeting. DeChiara will write the language reflecting this motion to be sent to Town Counsel and Lacy and have prepared for the Town Clerk.

At 8:34pm, DeChiara moves and Lacy seconds a motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. “Proposed Changes to Section 8.7 Wireless Communication Facilities”
2. “Article 8.11: Adult Use of Recreational Marijuana Establishments”
3. “Proposed Zoning Bylaw Changes for the Keeping of Livestock within 400 feet of Lake Wyola”
4. “Proposed Zoning Bylaw Changes to Section 8.10 Ground-Mounted Solar Electric Installations”

Respectfully submitted,
Linda Avis Scott
Land Use Clerk

