

Shutesbury Planning Board Meeting Minutes
June 24, 2019 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Robert Raymond, Michael DeChiara, and Steve Bressler

Planning Board member absent: Linda Rotondi and Jim Aaron

Staff present: Linda Avis Scott/Land Use Clerk

Guests: Attorney Fran Parisi/Vertex Towers Assets, LLC; Steve Puffer, Janet Puffer, Emily Jellson, and Silas Ball

Bonnar calls the meeting to order at 7:00pm.

Public Comment: None offered.

Puffer Query re: Baker Road Property: Steve Puffer: the large lot (ZR8 Baker Road), where the sawmill is located, is zoned as light commercial; our grandchildren, Emily Jellson and Silas Ball, are interested in buying the Baker Road parcels (ZR8 and #118) and want to know what can be built on this land. Lacy: the parcels are zoned Roadside Residential and Forest Conservation; light commercial zoning no longer exists. Bonnar asks for confirmation that the shop, located on ZR8 and more than 500' from road, cannot be a residence. Lacy: in order for a residence to be more than 500' back from the road, a total of 10 acres is required. Janet Puffer, to Bonnar's question, confirms that the shop was never used as a residence. Emily Jellson seeks confirmation that a house could be built on the acreage within 500' from road. Silas Ball: what is listed as current "use" and what could the land be used for in the future; the mobile home lot is less than one acre - what is its current land "use" and what might that "use" be tomorrow? Lacy: the ultimate decision regarding "use" lies with the Building Inspector who is the zoning enforcement officer; together, the two parcels have 398' of frontage therefore a duplex or a single residence or one single family with a detached/attached accessory apartment of 800 sq. ft. could be built. S. Puffer: the lots were created in 1959; family members formerly lived in the house trailers. Lacy: the building inspector will need to determine whether the mobile homes are vacant. S. Puffer explains that he was advised by one of the building inspectors to leave the house trailers in place until it is determined what is possible to do with the acreage. Lacy: the building inspector is the authority; determine what you really want, i.e. two lots with a single-family home and an accessory apartment on each lot, and write a letter to the building inspector explaining what you want to do and include a map of the parcels; the inspector will determine what is possible. S. Puffer: could the garage still be used as light industry? Lacy: it could be used as a home business. Bell: the other piece (ZR8) was always commercial use without a residence. Lacy: if the site has not been used for business for two years, the rights are abandoned; there is no commercial zoning in Shutesbury. Lacy explains the districts and how various uses are allowed in each district; if there has been no activity for two years, one must comply with the current zoning bylaw; various uses are read into the record. S. Puffer: the building inspector advised the mobile homes be left in-place as proof of prior use; notes that he needs to find out about the equipment garage. J. Puffer confirms for Bonnar that there are only two lots and that only two tax bills are received. DeChiara: the question is how does one determine when a business has ceased to be active. S. Puffer states he has been using the garage. Bell: it has not been abandoned. Lacy: the building inspector determines "abandoned" based on evidence and

notes that he is willing to attend a site visit with S. Puffer. S. Puffer: in years past, we used to employ eight people to ship hardwood. Lacy: in the present, if the business has not been active, you will have to comply with current zoning.

7:15pm Cell Tower Special Permit Decision Deliberation: Bonnar calls the Board's attention to the most recent draft of the special permit that includes comments from Attorney Fran Parisi. DeChiara suggests Condition #8 be amended so the last sentence reads "such report shall be made available to the Shutesbury Historical Commission and the Shutesbury Planning Board. Bressler moves the Planning Board approve Condition #8 as amended; Raymond seconds the motion that passes unanimously. Regarding Condition #15, it is noted that during the 6.10.19 meeting, Parisi and some members of the Planning Board did not want to restrict residential development on Lot D35. Bressler notes that development of portions of the parcel could be a future source of revenue for the property owners; the cell tower site should not be affected. Parisi: the 450' goes into other property ("No residential dwellings shall be constructed within 450' of the base of the tower on Parcel D-35"). Lacy: the special permit attaches only to Lot D35. Parisi states that he cannot agree to putting a restriction on building, however, does agree to vegetative buffer (Condition #14). Lacy: if towers cannot be built within 450' of a residence, the reverse is true. Parisi states that anyone buying a house after a tower is built is doing so with full knowledge of the tower's presence and cites examples where this has been done; any subdivision of the parcel would have to come before the Planning Board. Lacy: another consideration is that the project's approval is based on its siting and its large vegetative buffer; development could take this vegetative buffer away. Parisi agrees with a vegetative buffer of 150' from the center of the tower; restricting something 450' away is not agreeable. Lacy: the Board cannot restrict the area to be cleared for a new residence; this clearing could potentially change the view of the tower. Bressler notes that Parisi is not in the real estate business. Parisi: the tower will be in existence for 50 years; the Planning Board would have to weigh in on any subdivision plans. Lacy: because of the amount of frontage involved, the lot division would be by Approval Not Required (ANR) and the Planning Board would have no say on where the houses are positioned. Parisi: the parcel has 1,500' of frontage. It is noted that this means five house lots are possible. Lacy: per Town Counsel Donna MacNicol, the 450' offset does not automatically reverse, it is a valid condition. DeChiara agrees with projecting into the future. Bressler clarifies for Raymond that with an ANR and the required 250' of frontage, the Planning Board does not have any effect on where houses are built or what clearing is done and this could start to change the conditions relative to the vegetative buffer. Lacy: even with this restriction (450' offset), three ANR lots are possible; the restriction keeps the tower well buffered. Bonnar: does the Board agree to maintain the 450' restriction? Bressler: there is no need to vote on the language in place. ("No residential structures shall be built within 450 feet of the base of the tower on Parcel D-35 or on new lots created on Parcel D-35 while such tower exists.") DeChiara, citing the 6.10.19 minutes, suggests adding a new pre-condition requiring submission of the National Environmental Policy Act (NEPA) report to both the building inspector and the Planning Board prior to construction. Parisi agrees to such a condition and suggests adding it to Pre-Construction Condition #8. DeChiara recommends a separate pre-construction condition. Bonnar combines the two pre-constriction conditions and Lacy reads new Pre-Construction Condition #8 into the record: "The full National Environmental Policy Act report shall be submitted to the building inspector and Planning Board prior to construction. Should the NEPA report's assessment of Traditional Cultural Properties reveal the presence of Native American

activity, settlement, artifacts, or burials on or near Parcel D-35, such report shall be made available to the Town of Shutesbury Historical Commission.” DeChiara moves and Raymond seconds a motion to approve Pre-Construction Condition #8 as read into the record by Lacy; the motion is passed unanimously. Lacy: Operation Condition #14 requires a 200’ vegetative buffer. Parisi: the buffer should 150’, equal to 1x the tower’s height. Lacy: 200’ is appropriate because the tower site is 200’ from the rear property line; the tower will be up to 160’ in height, what if it falls? Parisi: the tower would crumple onto itself though it may bend in a hurricane; the tower’s strongest point is its foundation; there are no guy wires; wires go up through the tower to equipment; the bylaw requires a 1x tower setback and a 450’ residence setback; the 1x tower setback is a reasonable restriction for the vegetative buffer; tying up the whole lot does not make sense. Parisi to Bressler’s question about the footings: the footings are concrete; the engineers will design a foundation system based on site soils. DeChiara, Bressler, Bonnar and Raymond support the 150’ vegetative buffer. Bressler moves the Planning Board change the vegetative buffer circumference to 150’. Lacy: the purpose of the vegetation is to limit visibility. Bressler: because of Operation Condition #15, 150’ is adequate. Bonnar: the maintenance of a vegetative cover limits visibility; a logging job would decrease the invisibility the most. Raymond: “vegetative cover” isn’t specific. Parisi suggests “no further removal of vegetation”. Lacy: a 200’ circumference adds up to a square acre around the tower and will be added assurance. Bressler: given the setback and Condition #15, 150’ is adequate. Lacy: for future division, a 90,000 sq. ft lot will still be required. Parisi: you are seeking to restrict restrictions; there need to be reasonable not unreasonable restrictions; suggests 200’ from the nearest border and 150’ from the other property lines; there is topography that will most likely not be developed. Lacy: it would be good to maintain 200’ from Summit Rock and the nearest residence so there is no reason not have a 200’ buffer and maintain a solid block of woods. Bonnar notes that Bressler’s motion has not been seconded. DeChiara and Bressler state they could go either way. Bressler’s motion dies on the table; there is no change to condition Operation Condition #14. Pre-Construction Condition #9: Parisi will give an estimate to the building inspector and the surety will be created from this estimate. DeChiara: his concerns about the condition have been addressed by Parisi’s edits.” Bonnar: because this is annual bonding process, what happens if an annual payment is not made? Parisi: nonpayment would be a zoning violation and, therefore, an enforcement issue; suggests including “produce annual renewal within 60 days in advance of the expiration of the prior year”. Parisi to Raymond’s question: payments will most likely be tracked by the building inspector and will be mailed to the Town Administrator. DeChiara affirms that payments will be mailed to and tracked by the Town Administrator. Raymond moves the condition be approved as amended; DeChiara seconds the motion that passes unanimously. Parisi: regarding Operation Condition #11, the tower does not require lighting per FAA regulation. DeChiara suggests and Parisi agrees to “as may be required by state and federal regulations”. DeChiara moves and Raymond seconds a motion to approve Operation Condition #11 as amended. Parisi to Bonnar’s question about Parisi’s edit: we will allow “reasonableness” and suggests “reasonably requested antennas”. DeChiara moves the Planning Board approve the Special Permit for Case # PB SP19-01 as amended; Raymond seconds the motion. Parisi: the engineers have an issue with the wood chips and forest soils referred to in Operation Condition #13; some of the drainage management will be done with riprap as described during the 6.10.19 meeting. Lacy: after construction, the solar farm access road was to be fairly narrow so after the site stabilized, the sides of the access road went back to native soils; use of vegetative soils can be done quite easily; there are indicators on this project’s site plan where riprap makes sense.

Lacy suggests adding “riprap may be used at diversion points to best management practices (BMPs)”. DeChiara suggests stating the objective rather than the methodology. Parisi’s concern is that Lacy’s suggestion will undo the engineers’ plans for mitigating erosion; he does not want to create a problem the engineers are trying to resolve; the driveway is challenged topographically and engineering a curve into the driveway is required. Lacy: once the site is stabilized, it will most likely be fine; riprap is specific areas will slow down storm water velocity. Parisi: the access road needs to meet engineering standards and the woodchips will create problems. Lacy: erosion and sedimentation will occur during road construction and this is what will wash away; during this phase, riprap will help; the site will stabilize. Bressler: the riprap will fill up over time. Raymond suggests “unless such top dressing would be contraindicated for erosion control”. Parisi asks for a time frame for what is required; this is an access driveway that is used for construction then will not be maintained; it will not be plowed in the winter and access will be by four-wheel drive or snow vehicle. Lacy: the current surface is naturally occurring forest soil that absorbs drainage; digging a ditch creates drainage and erosion problems; a simple driveway could be built. Parisi: our mission is to mitigate erosion; the engineers do not over-design; the easement is 20’ however the driveway itself will be 12’ wide. DeChiara recommends leaving out “top-dressed with a mixture of wood chips and forest soils from the site” and adding “encourage vegetation”. Lacy reads suggested new language into the record: “After completion of construction and site stabilization, in order to create a more naturalistic appearance and function, the drainage ditches constructed along either side of the access drive shall be allowed to re-vegetate from ambient seed sources...Rip rap may be used at diversion points to BMPs.” Parisi: the entire access road clearing, including space for buried utilities, is 20’ wide. The motion on the table passes unanimously.

DeChiara moves and Raymond seconds a motion to approve the 6.10.19 meeting minutes as presented; motion passes unanimously.

MassDOT Complete Streets: DeChiara explains that the goal of the Complete Streets program is to provide “accommodations for all users and modes, create safe and more livable neighborhoods, and encourage healthy transportation alternatives”. DeChiara reviews the “Complete Streets Ten Policy Elements Snapshot” and explains that the program is about appropriateness – once the policy is created, the Town could use the Master Plan to develop prioritizations; the value of the program is walkability, i.e. if we build a library, creating walking paths; attending a training is required; the benefit of participation is technical assistance and funding; because Shutesbury has a Master Plan, turnaround could be quick. DeChiara suggests recommending participation in the Complete Streets program to the Select Board. Lacy supports studying ways to make Shutesbury’s roads more multi-modal accessible. Bonnar appreciates the idea for a footpath from West Pelham Road to Town Hall. DeChiara: one of the program’s goals is to increase walkability and pedestrian access. DeChiara moves the Planning Board forward a recommendation that the Select Board support participation in the Complete Streets program; Raymond seconds the motion that passes unanimously.

Web Page: DeChiara provides a printout of the current Planning Board webpage and indicates his willingness to make the page more usable. Bressler moves that DeChiara alter the Planning Board webpage so that it becomes more usable; Raymond seconds the motion that passes unanimously. Once the updating is complete, DeChiara will send a link to Board members.

Unanticipated Business:

DeChiara suggests the Board consider a Municipal Vulnerability Preparedness (MVP) Program planning grant during a future meeting.

At 9:14pm, Bressler moves and DeChiara seconds a motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. Plot plan for Lot ZR8 and 118 Baker Road/Puffer
2. PB SP 19-01 draft decision
3. 6.24.19 DeChiara email “comments on Special Permit”
4. MassDOT Complete Streets program documents
5. Planning Board webpage printout
6. MVP Planning Grant Eligibility Criteria

Respectfully submitted,
Linda Avis Scott
Land Use Clerk