

Shutesbury Zoning Board of Appeals Meeting Minutes  
June 29, 2017 Shutesbury Town Hall

ZBA members present: Chuck DiMare/Chair, Tom Williams, and Jeff Lacy

ZBA Alternate absent: Andrew Berg

Staff present: Linda Avis Scott/Clerk

Guests: Nick and Keren Rhodes

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

Williams moves and Lacy seconds the motion to approve the 6.19.17 minutes as presented; motion passes unanimously.

Case 17-003 Accessory Apartment Site Plan Review: 482-484 Pelham Hill Road/Rhodes

DiMare confirms that the Rhodes own the property on Pelham Hill Road and currently reside at 18 Echo Hill Road in Amherst. Per Nick Rhodes, the SPR application is for a 782 sq. ft. accessory apartment to be located on the second floor of the proposed garage; they have a building permit for a new single family home and garage and have broken ground; the plan is to construct the house shell this year and the garage in the spring of 2018. N. Rhodes verifies that exterior measurements were used. Lacy: the exterior gross dimensions of 30'x38' = 1140 sq. ft.; subtracting the 286 knee wall sq. ft. = ~ 854 sq. ft. Lacy reads the definition of "Floor Area" into the record: "The gross floor area measured along the perimeter of the outside walls of a building without deductions for hallways, stairs, closets, the thickness of walls, columns, or other features, including the combined total gross of all floors. Basement or attic space used in conjunction with a principal or accessory use shall be counted in the calculation of floor area unless such space is used exclusively for storage or has a ceiling height of less than 54 inches."

DiMare, referring to the 6.19.17 minutes, explains that the ZBA unanimously recommends the square footage for an accessory apartment be increased from 800 to 1,000. Per DiMare, it is anticipated that this proposed amendment will come before a fall special town meeting and, that since the Rhodes plan to build in the spring, suggests the Board continue the SPR application until after that vote. Lacy: if the amendment passes, it is unlikely the Attorney General's would overturn the vote. Williams: given the letter of the regulation, the square footage for the proposed accessory apartment would still be greater than 1,000 sq. ft. Lacy: the space beyond the knee wall is unheated and inaccessible therefore would not be counted. Keren Rhodes: the unheated entry stairway should not count as there will be a locking door to the accessory apartment at the top of the stairs. DiMare suggests the definition of "Floor Area" be amended to exclude unheated space. Lacy: an insulated lockable door differentiates heated and unheated space therefore the entryway could be considered exterior stairs. The Board notes that they did not count the entryway stairs in the square footage for the Pless accessory apartment. Williams: subtracting the stairway, 57<sup>1/6</sup> sq. ft., reduces the total square footage to ~ 790. N. Rhodes: the floor plan was designed to be 799 sq. ft. Lacy suggests the Board approve the SPR application with a condition that a lockable insulated door separate the heated and unheated space. N. Rhodes: the mudroom that will connect the

house and garage will be heated, however, the garage will be unheated. Williams: if the decision is conditioned, the Board could act at this time. Lacy and DiMare agree with Williams' suggestion. Williams moves the ZBA ask Lacy to draft a SPR decision based on a description of the accessory apartment that includes an insulated lockable door to the stairwell. DiMare seconds the motion that passes unanimously. The ZBA will consider the draft decision on 7.18.17 at 7:00pm. Lacy reminds the Rhodes of the stipulation that one unit of any dwelling with an accessory apartment must be owner occupied.

Case 17-002 Site Plan Review for Ground-mounted Solar Array: 162 West Pelham Road/Carson Thornton

Lacy moves the ZBA approve the Site Plan Review Decision; Williams seconds the motion that passes unanimously. DiMare signs the decision that will be delivered to the Town Clerk 6.30.17.

DiMare reports that Berg attended the 6.21.17 website training and he attended the All Chairs meeting held the same evening. DiMare: the ZBA is well run and highly experienced and notes that he is willing to assist with training board/committee chairs.

Lacy reports on a recent Supreme Court of the United States decision, Murr v. Wisconsin, in which the Court upheld the merger doctrine; Massachusetts has a merger doctrine which means that people who hold land in common are compelled to comply with local zoning bylaws.

Williams reports on MGL related to appeals and building permit decisions: if an aggrieved party in an appeal was not properly noticed, they have up to six years to appeal; a properly noticed party, with standing, has only 30 days to appeal. Per Williams, building permits are to be posted in such a way that they are conspicuous from the street.

At 7:42pm, Williams moves and Lacy seconds the motion to adjourn; motion passes unanimously.

Respectfully submitted,  
Linda Avis Scott  
ZBA Clerk