

Shutesbury Zoning Board of Appeals Meeting Minutes
August 15, 2017 Shutesbury Town Hall

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

ZBA alternate present: Andrew Berg

Staff present: Linda Avis Scott/Clerk

Guests: Rolando Trias, Russ Wilson, Ian Tapscott, and Michael Pill

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

Williams moves the ZBA approve the 7.18.17 meeting minutes as presented; Lacy seconds the motion that passes unanimously.

Case 17-004: Special Permit/69 Schoolhouse Road/Trias:

DiMare reads the "Notice of Public Hearing" into the record: "The Application of Rolando and Anne Trias for property located at 69 Schoolhouse Road for a special permit pursuant to Section 9.2 of the Bylaw for construction of a ten foot by twelve foot garden shed to be located ten feet from the side setback instead of the required twenty five feet."

DiMare reports that he spoke with R. Trias between publication of the public hearing notice and the present. DiMare notes that toward the end of the 7.18.17 meeting, Trias handed him a draft special permit application and that he, DiMare, relied upon this draft for the content of the notice; as read, the notice is per the side setback request as stated in the submitted and draft special permit application. DiMare: in the approved 7.18.17 minutes, there was mention of the front setback encroachment. Per DiMare, the options are to ask the applicant to withdraw and resubmit the application because the current application is defective or, in terms of process, there may be no appeal. As noted during the 7.18.17 meeting, Alternate Berg, as a direct abutter to 69 Schoolhouse Road, is recused from this case. DiMare to Williams and Lacy: there is a defect in the notice and the application. Williams asks Trias to explain the nature of the front setback encroachment. Trias: the shed location is ~50' from the road as 75' would place it over the leach field. DiMare recommends the fee be waived if the applicant reapplies; the diagram also does not focus on the front setback. DiMare: given the defect in the notice and application, he is willing to proceed; if the ZBA proceeds, an appeal could focus on the defect. Williams asks Trias if the proposed shed will have a foundation and whether any fruits or vegetables will be sold at the shed site. Trias: the shed will sit on gravel and will be used strictly for storage. Lacy: when the special permit decision enters the appeal period, the decision is mailed to the Chapter 40A Section 9 listed recipients, thus, the abutters will be notified of the front and side setback distances. Williams states that he sees no problem with proceeding as long as the applicant understands the defect. DiMare asks Trias if he understands the defect in the legal notice and the defect in the application. Trias states he is willing to proceed. DiMare reads the special permit justification into the record: "We would like to build a 10'x12' garden shed. Large trees and the septic tank/leach field are positioned in such a way that a 25' setback will not be possible. We therefore request to build the shed with a 10' setback from the side property line." Trias: 75' from the front setback would locate the shed over the leach field "D" box. Lacy reports completing as site visit 8.15.17 and is satisfied with the proposed location. Trias states that he has no further arguments to support his application. The ZBA has no further questions. DiMare

suggests the Board request Lacy to draft a special permit decision with the condition that the shed be constructed as shown on the plan. Williams moves the ZBA instruct Lacy to prepare a decision on this application with appropriate findings as per the bylaw and that the shed be constructed as the plan shows; DiMare seconds the motion that is approved by Lacy, Williams, and DiMare; Berg abstains. The next ZBA meeting will be scheduled with consideration for the other cases before the Board. At 7:22pm, Lacy moves the ZBA close the public hearing for Case 17-004; Williams seconds the motion that is approved by DiMare, Williams, and Lacy; Berg abstains.

Case 17-005: Special Permit: 21 New Boston Road/Stocker-Reily:

At 7:23pm, DiMare reads the "Notice of Public Hearing" into the record: "The application of Eric Stocker and Barbara Reily for property located at 21 New Boston Road for a special permit pursuant to Section 9.2 of the Bylaw for construction of a thirty two foot by thirty two foot carport to be located twenty feet closer to the front setback than the required seventy five feet and twenty two feet closer to the side setback instead of the required twenty five feet." Russ Wilson, contractor, is present as the applicants' representative. Wilson displays photographs, received for the record, of the proposed carport site that illustrate the steep slope dropping ~30' to a pond; the location of the slope prevents the carport location from being 75' from the front setback. Per Wilson, the proposed location will nestle the carport into the trees and be a comfortable 100' walk to the house. Williams: the proposed construction is on the other side of the lot line, therefore, the applicants are proposing a structure, on an otherwise vacant lot, to service a house on another lot. DiMare: during the 7.18.17 meeting, Stocker was cautioned that the value of the second lot may be diminished by the construction of a carport on an otherwise vacant and undeveloped lot. Williams: this application proposes a use ancillary to another property. DiMare asks if the lots will merge as they have the same owner. Wilson: the lot with the proposed carport site is 3.96 acres and has adequate frontage. Lacy: the house lot has 149' of frontage therefore does not meet the current frontage requirement; adding the second lot to the house lot would meet the frontage requirement. Wilson: the house lot is grandfathered. Lacy: if it exists on only one lot it is grandfathered; if adjacent lots with the same owner are used, the lots are merged. Michael Pill: to avoid needing a special permit, a property owner could use the "approval not required" (ANR) process to move a boundary. DiMare: to protect the land, the property owner (Stocker-Reily) may want to pursue the ANR process with the Planning Board. Lacy: a free-standing non-habitable structure on an undeveloped lot is not a "use". Williams: unless the structure is used for agricultural purposes, it is an ancillary structure. DiMare reviews options: continue the public hearing to a date certain during which the applicant will provide the property deeds or the applicant can meet with the Planning Board to redraw property lines, in which case, the construction may be "by right". Wilson requests the Board continue the public hearing. The "Agreement to Continue Public Hearing" document is signed by Wilson and DiMare and will be filed with the Town Clerk 8.16.17. The continuance date is 9.12.17 at 7:00pm.

37 Leverett Road/Holzberg-Pill:

Michael Pill and Ian Tapscott/Pioneer Valley Photovoltaics attend the meeting for education and guidance. Per Tapscott, the proposed ground-mount solar array will have a 225' front setback and 23' rear setback. It is noted that the Town Center setbacks for front, side, and rear are all 20'. Tapscott: each array (2) will be mounted on a separate pole with a concrete foundation; a 24" deep trench for the electrical transmission lines will run to the side of the house. Lacy explains

the Site Plan Review application requirement for ground-mount solar arrays, as per Section 9.1-2 of the Bylaw, including the need for a map showing the dimensions of the lot and the lot's location relative to its location within Shutesbury. The Conservation Commission will conduct a site visit 8.24.17. The ZBA plans to visit the site on 9.9.17. Provided the Site Plan Review is submitted in a timely manner, the ZBA will consider the application during their 9.12.17 meeting.

No further business is conducted by the ZBA.

At 8:10pm, Williams moves and Lacy seconds a motion to adjourn the meeting; motion passes unanimously.

Respectfully submitted,
Linda Avis Scott
ZBA Clerk