

FORM 1

Town: Shutesbury

“Pursuant to G.L. c. 40, § 32, I hereby request approval of the enclosed amendments to our town by-laws. G.L. c. 40, § 32, specifies that this request must be made within thirty (30) days after final adjournment of Town Meeting. The mandatory forms are included.”

1.) Town Meeting (*check one*): NOTE: If “Other” is selected, please specify (i), (ii), or (iii)

Annual

i.) Authorized by Charter

Special

ii.) Authorized by Special Act

Other (*specify*)

iii.) Authorized by By-Law

2.) Date Town Meeting First Convened: June 12 2021

3.) Date(s) of Adjourned Sessions: June 12 2021

4.) Identify Warrant Article(s) Submitted:

Does any by-law submitted in this packet derive from a local option statute or a special act?

No

Yes (*if yes please submit Form 6*)

a.) Zoning Article 14 and Article 15

Does any by-law submitted in this packet, create or amend a by-law adopted under G.L. c. 40R (smart growth zoning by-law)?

No

Yes (*if yes please submit Form 6*)

b.) Historical District: Submitted Articles do not mention Historical Districts

c.) General Submitted Articles are not General, they are amendments for Zoning Bylaws.

d.) Charter Amendment (proposed amendments to No Charter Amendments proposed by Shutesbury Town an existing charter pursuant to G.L. c. 43B, § 10) Meeting on June 12 2021

5.) Identify Zoning/Historical Maps Relating to Warrant Articles: No relevant maps.

FORM 1

6.) Town Counsel contact information:

Attorney: Donna MacNicol
Firm: MacNicol & Tombs, LLP
Mailing Address: P.O. Box 985
City Greenfield State MA Zip Code 01302
Phone Number 772-8600 Fax Number No fax
Email: donna.mtb@verizon.net

7.) Town Clerk contact information:

Name (Print): Grace Bannasch
Signature: *Grace Bannasch*
Mailing Address: PO Box 264
City Shutesbury State MA Zip Code 01072
Phone Number 259-1204 Fax Number 259-1107
Email: townclerk@shutesbury.org
Work Schedule: M-F 10-1 and 3-5

8.) Planning Board member contact information:

Name (Print): Deacon Bonner
Mailing Address: PO Box 276
City Shutesbury State MA Zip Code 01072
Phone Number 406-2767 Fax Number 259-1107
Email: planning@shutesbury.org
Work Schedule: By appointment

PLEASE ELECTRONICALLY FILE YOUR BY-LAW SUBMISSION PACKAGE AT:

BYLAWS@STATE.MA.US

The term of an associate member shall be one year; mid-year appointments shall run through June 30. Associate members may have their term renewed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose. There shall be no limit to the number of renewals for an associate member.

The Planning Board chairperson may designate one or two associate members to participate as an acting member of the Planning Board at any time in the case of absence, inability to act, or conflict of interest, on the part of any Planning Board member; or in the event of a vacancy on the board. Participation by an associate member shall be time or purpose limited. Designation by the chairperson shall include a statement indicating the time period for participation or the purpose for participation. An associate member's participation shall end upon the completion of the stated purpose or time period, unless extended by the chairperson.

When designated, an associate member may participate fully in procedures for a special permit, site plan review, or any other application before the Planning Board; as well as other procedural matters designated by the chairperson, including but not limited to conducting hearings of the Planning Board.

Associate members are expected to regularly attend Planning Board meetings. When not acting as full members, associate members may be seated with the Planning Board and receive communications in order to follow Planning Board business. Associate members, when not acting as full members, may participate in deliberation at the discretion of the chairperson. When not acting as a full member of the Board, associate members may not vote nor participate in executive session.

Vacancies for unexpired terms of an associate member shall be filled in the same manner as for original appointments.

An associate member may be considered for a vacancy on the Planning Board in accordance with the normal process for filling a vacant position.

Amended under Article 15:

ARTICLE III ZONING DISTRICTS: USE REGULATIONS

SECTION 3.1 ALLOWABLE USES

This bylaw is intended to protect the character of Shutesbury's existing landscape and historic settlements, while allowing flexibility of land use and new development that is in keeping with the Town's rural character.

3.1-1 Use Table

The Use Table that follows indicates allowable uses in the districts shown. See Article XIII for definitions of the use categories. Uses that are not listed below are prohibited, unless state or federal laws preclude such prohibition. Unless otherwise provided for in this zoning bylaw,

FORM 2

Town: Shutesbury

Date Town Meeting Convened: June 12 2021

Form 2 - Town Meeting Action

Please provide the following:

Submission #1, EXISTING BY-LAW.

One (1) certified copy of the **entire main section** of the existing by-law within which each proposed amendment occurs. This requirement is very important because without the **full text** of the entire main section of the existing by-law being amended we will be unable to ascertain the full meaning of the proposed changes in context. By-law amendments include even minor technical changes in current by-laws, amendments to tables showing uses permitted in different zoning districts, and amendments which re-codify, reorganize or renumber existing by-laws previously approved by the Attorney General.

Note: if the Town's by-laws are available on the Internet, you may direct us to the website location rather than including a copy of the existing by-law being amended.

Existing by-law(s) may be found online at: <https://www.shutesbury.org/sites/default/files/files-and-images/Bylaws/Z>

Submission #2, TOWN MEETING ACTION.

One (1) certified copy of the main motion, or amended main motion voted by town meeting, **with the date, article number, name of Town and votes thereon.** Because not all seals will show up when scanned and emailed, we request that you certify with "A true copy attest" language and your signature. Also, please include a copy of each floor amendment **favorably** acted upon by Town Meeting. We do not need copies of floor amendments that were unfavorably acted upon by Town Meeting.

Submission #3, FINAL VERSION OF BY-LAW AS AMENDED.

One (1) certified copy of the by-law (Submission #1) **as amended** by town meeting (Submission #2).

For any vote requiring a **simple majority** it will be sufficient to certify that the moderator declared that the motion carried. Where the vote was unanimous, it will be sufficient to certify that the moderator declared that the motion carried unanimously.

For any vote requiring **more than a simple majority** and where the vote was **not unanimous an actual vote count** must be taken. Zoning by-laws and historic district by-laws require a two-thirds vote.

However, if the town has either **(a) by vote of this town meeting**, or **(b) in a previously adopted general by-law**, voted that a counted vote need not be taken and that the Moderator may **declare** that a 2/3ds vote has been achieved, then such declaration of the Moderator will be sufficient [see G.L. c. 39, § 15] (*select below*):

If by (a), then please **attach** a certified copy of the Town Meeting action from this Town Meeting showing the vote to dispense with a counted vote.

If by (b), then please provide the following:

The date on which it was adopted by town meeting:

Date: _____

The date it was approved by the Attorney General's Office:

Date: _____



Town Clerk
P.O. Box 264
Shutesbury, MA 01072
(413) 259-1204
Fax (413) 259-1107
E-mail townclerk@shutesbury.org

Form 2
#2

On June 12, 2021, at the Shutesbury Annual Town Meeting at 1 Cooleyville rd, the Town voted as follows:

Article 14. A motion was made and seconded for the Town of Shutesbury to vote to amend the Town of Shutesbury Zoning Bylaw by deleting Section 9.3B and by inserting the following new section after the existing section 10.3 at the end of ARTICLE X - ADMINISTRATION AND ENFORCEMENT:

SECTION 10.4 Planning Board

10.4 A. Associate Members

There shall be two associate members of the Planning Board as provided for under MGL c 40A, Section 9.

Appointments may occur at any time. The Planning Board shall notify the Select Board in writing of its intention to begin a process for associate member appointment.

The Planning Board will establish the process for soliciting and receiving the names of interested individuals; notice of the opportunity should be made broadly to the residents of Shutesbury. Given that the Planning Board is an elected body, individuals eligible to serve as associate members shall be registered voters in the Town of Shutesbury.

The Planning Board shall recommend individuals to be considered for appointment. Associate members will be appointed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose.

The term of an associate member shall be one year; mid-year appointments shall run through June 30. Associate members may have their term renewed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose. There shall be no limit to the number of renewals for an associate member.

The Planning Board chairperson may designate one or two associate members to participate as an acting member of the Planning Board at any time in the case of absence, inability to act, or conflict of interest, on the part of any Planning Board member; or in the event of a vacancy on the board. Participation by an associate member shall be time or purpose limited. Designation by the chairperson shall include a statement indicating the time period for participation or the purpose for participation. An associate member's participation shall end upon the completion of the stated purpose or time period, unless extended by the chairperson.

When designated, an associate member may participate fully in procedures for a special permit, site plan review, or any other application before the Planning Board; as well as other procedural matters designated by the chairperson, including but not limited to conducting hearings of the Planning Board.

Associate members are expected to regularly attend Planning Board meetings. When not acting as full members, associate members may be seated with the Planning Board and receive communications in order to follow Planning Board business. Associate members, when not acting as full members, may participate in deliberation at the discretion of the chairperson. When not acting as a full member of the Board, associate members may not vote nor participate in executive session.

Vacancies for unexpired terms of an associate member shall be filled in the same manner as for original appointments.

An associate member may be considered for a vacancy on the Planning Board in accordance with the normal process for filling a vacant position.

Article 14 passed by clear 2/3 majority.

I, the undersigned Shutesbury Town Clerk, do hereby certify that the above is a true copy of the records in my custody.

Grace Bannasch

Grace Bannasch

Shutesbury Town Clerk



A TRUE COPY

ATTEST Grace Bannasch
7-1-21



Town Clerk
P.O. Box 264
Shutesbury, MA 01072
(413) 259-1204
Fax (413) 259-1107
E-mail townclerk@shutesbury.org

FORM 2
#2

On June 12, 2021, at the Shutesbury Annual Town Meeting at 1 Cooleyville rd, the Town voted as follows:

Article 15. A motion was made and seconded for the Town of Shutesbury to vote to amend the Town of Shutesbury Zoning Bylaw by inserting the following new section after the existing section 3.5 at the end of ARTICLE III, ZONING DISTRICTS: USE REGULATIONS:

"Section 3.6 Access to Use

Access, including for appurtenant drainage facilities and utilities, from public ways across other districts to the FC District for an allowable use in the FC District shall be permitted under the same terms as the use and as a single unified permit application."

Article 15 passed by 2/3 majority.

I, the undersigned Shutesbury Town Clerk, do hereby certify that the above is a true copy of the records in my custody.



Grace Bannasch

Shutesbury Town Clerk



A TRUE COPY

ATTEST 

7-1-21



Town Clerk
P.O. Box 264
Shutesbury, MA 01072
(413) 259-1204
Fax (413) 259-1107
E-mail townclerk@shutesbury.org

form 2
#3(a)

On June 12, 2021, at the Shutesbury Annual Town Meeting at 1 Cooleyville rd, the Town voted as follows:

Moderator Lyons made a motion for permission to call for a vote by a raising of cards on articles requiring a 2/3 majority to pass, with the understanding that if the vote is close he will count the cards. The motion was seconded and passed unanimously.

I, the undersigned Shutesbury Town Clerk, do hereby certify that the above is a true copy of the records in my custody.

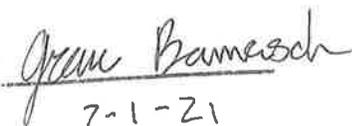


Grace Bannasch

Shutesbury Town Clerk



A TRUE COPY

ATTEST 
7-1-21

TOWN OF SHUTESBURY

ATTEST *Jean Bamaseh*
7-1-21

Bylaws Amended by 2021 Annual Town Meeting
Final Versions

Amended under Article 14:

ARTICLE IX SITE PLAN REVIEW AND SPECIAL PERMITS
ARTICLE X ADMINISTRATION AND ENFORCEMENT



SECTION 10.1 ADMINISTRATION

This bylaw shall be administered by the Building Inspector except where otherwise indicated.

10.1-1 Building, Demolition, and Sign Permits

- A. No use of land, or erection, demolition, or enlargement of a structure shall be undertaken unless a required building, demolition, or sign permit, as appropriate, has been issued by the Building Inspector.
- B. An application for a building, demolition, or sign permit shall be accompanied by such plans, survey, or other data as may be necessary in the opinion of the Building Inspector, to insure full conformance with this bylaw and with the Rules and Regulations Governing the Subdivision of Land, the State Environmental Code, the Wetlands Protection Act (including the Rivers Protection Act, showing the 200-foot "Riverfront Area" regulated thereby), and other applicable laws and regulations. Procedures for issuance of Building Permits, demolition permits, and certificates of occupancy shall be as prescribed by state law.
- C. The Building Inspector shall refer applications, as appropriate, to the Zoning Board of Appeals, Planning Board, Conservation Commission, Board of Health, and any other agencies with jurisdiction.
- D. Compliance with Other Legal Requirements
 - 1. All applications for Building Permits, shall document compliance, by signature from all of the municipal agencies or officials listed below. If the Building Inspector has written indication from an agency or official that a signature is not required for specific types of projects or permits, then said signatures need not be obtained. Compliance requirements for minor remodeling or repair of existing buildings shall be at the Building Inspector's discretion. Listed below are the agencies and officials, with their legal requirements:
 - a. Massachusetts Wetlands Protection Act, any local wetlands bylaw and regulations implementing said bylaw -- Conservation Commission;
 - b. State Environmental Code and any local Board of Health regulation -- Board of Health;
 - c. Smoke detection system which is safe and appropriate in the opinion of the Fire Department ;
 - d. Curb cut provisions in Section 8.6 of these Zoning By-Laws -- Building Inspector;
 - e. These Zoning By-Laws -- Building Inspector;

- f. State Building Code (including plumbing and electrical codes), and any other legal requirements not specified above -- Building Inspector.
2. As required by MGL. Ch. 40, §54, "No Building Permit shall be issued for the construction of a building which would necessitate the use of water therein, unless a supply of water is available therefor either from a water system operated by a city, town or district, or from a well located on the land where the building is to be constructed, or from a water corporation or company, as defined in section one of chapter one hundred sixty-five."
3. Sanitation: No Building Permit shall be issued prior to issuance of a sewage disposal works permit by the Board of Health. The State Environmental Code of the Department of Environmental Protection shall be considered a part of these Zoning By-Laws and shall be strictly enforced by the Board of Health.

SECTION 10.2 ENFORCEMENT

The Building Inspector shall be responsible for enforcing this bylaw and shall act on requests for enforcement of this bylaw as provided in MGL. Ch. 40A, §7.

10.2-1 Inspection

In order to determine compliance with this local law, the Building Inspector is authorized, to the extent permitted by law, to enter, inspect, and examine any structure or land.

10.2-2 Notice of Violation

- A. Upon finding any new construction, improvements, alterations, or uses to be in violation of this bylaw, the Building Inspector shall transmit a written Notice of Violation, in person or by certified mail, to the owner.
- B. If a person who has been notified of a violation fails to act to remedy the violation within five days, or fails to proceed expeditiously thereafter to remedy the violation, the Building Inspector shall so notify the Board of Selectmen. If the violation concerns a use subject to a Special Permit or approved Site Plan, the Board that granted the Special Permit or Site Plan approval shall also be notified.

10.2-3 Remedies

The Board of Selectmen or Building Inspector, if authorized by the Board of Selectmen, may take any lawful action deemed necessary to prevent or remedy a violation. The following remedies are available for a violation of this bylaw:

A. Fines

1. A criminal fine of not more than \$100 for a first offense and \$300 for each subsequent offense. Each day such violation continues shall constitute a separate offense.
2. A fine imposed through a non-criminal complaint pursuant to MGL. Ch. 40, §21D. The fine for any violation disposed of through this procedure shall be \$100 for a first offense and \$300 for each subsequent offense. Each day such violation continues shall constitute a separate offense.

B. Injunctive Relief

The Town may enjoin a violation by bringing an action in a court of competent jurisdiction

pursuant to MGL. Ch. 40A, §7.

SECTION 10.3 ZONING BOARD OF APPEALS

10.3-1 Establishment

There is hereby established a Zoning Board of Appeals (ZBA) consisting of three (3) members and two (2) associates appointed by the Board of Selectmen as provided in the Zoning Act, with the duties and powers set forth in the Zoning Act, MGL. Ch. 40A, included but not limited to the power to hear and decide upon appeals and Variances. The ZBA shall also have the power to review and decide upon applications for Special Permits and Site Plans where authorized in this Bylaw.

10.3-2 Variances

- A. Upon appeal or petition, the Board may grant a Variance from the terms of this bylaw with respect to particular land or structures, provided that the Board finds that literal enforcement of this bylaw would involve substantial hardship, financial or otherwise to the appellant or petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.
- B. Such relief may only be granted from the dimensional requirements of this bylaw.
- C. This relief may only be granted upon specific findings made by the Board that the claimed hardship is due to circumstances relating to soil conditions, shape, or topography especially affecting the land or structures, which do not generally affect the zoning district in which the land or structures are located.
- D. Procedures for granting of Variances are as required by MGL. Ch. 40A, §§ 10 and 11, or as may be further detailed in any rules and regulations adopted by the ZBA.
- E. The Board may require review costs to be borne by the applicant as provided in Section 9.6. Use Variances are not allowed.

SECTION 10.4 Planning Board

10.4 A. Associate Members

There shall be two associate members of the Planning Board as provided for under MGL c 40A, Section 9.

Appointments may occur at any time. The Planning Board shall notify the Select Board in writing of its intention to begin a process for associate member appointment.

The Planning Board will establish the process for soliciting and receiving the names of interested individuals; notice of the opportunity should be made broadly to the residents of Shutesbury. Given that the Planning Board is an elected body, individuals eligible to serve as associate members shall be registered voters in the Town of Shutesbury.

The Planning Board shall recommend individuals to be considered for appointment. Associate members will be appointed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose.

FORM 4

Town: Shutesbury

Date Town Meeting Convened: June 12 2021

Form 4 - Town Meeting Certification

Complete and sign the following.

1. Quorum

Indicate number. Please write "0" if the town has no quorum requirement.

A quorum was present at the town meeting, including any adjourned sessions thereof. According to our town charter or by-law, our quorum requirement for town meeting is 9 registered voters.

2. Service of the Warrant

Please check one.

The service of the town meeting warrant was in accordance with:

- a town by-law
- a previous vote of the town
- a procedure accepted by the Attorney General

3. Signing of the Warrant *[certified copy of relevant Warrant pages must be attached]*

Date the Board of Selectmen signed the Town Meeting Warrant: June 4 2021

4. Posting of the Warrant

Date the Town Meeting Warrant was posted: June 4 2021

(The warrant must be posted at least 7 days prior to an annual town meeting and at least 14 days prior to a special town meeting)

5. Attachments

Before submission, ensure that you have attached both of the following:

- A **certified** copy of the **relevant pages of the Town Meeting warrant**, as it was posted. (Attachments **must** include: opening of the warrant, all pages of the warrant article(s) submitted for review, the closing, the Board of Selectmen's signature page and the officer's return of service page.
- We require a certified copy of the **text referred to**, but not set forth in the text of the warrant articles (example: if the warrant refers to an Attachment, text in an Appendix, or text located elsewhere, such as in the town clerk's office or the office of the planning board). In this instance, it will be necessary for you to send us a **copy of the text referred to, or a copy of what is on file and available for inspection**. Otherwise, we will not know the actual text of the by-law that the warrant article proposes.

Note: It is not necessary to submit any documents other than those requested in the required Forms. For example, you do not need to submit Finance Committee reports, minutes, annotated warrant articles, Planning Board Hearing minutes, or Planning Board Hearing sign-in sheet.

Certification

I certify the above declaration to be true and correct to the best of my knowledge.

Grace Bannasch
Signature of Town Clerk

Grace Bannasch
Printed Name of Town Clerk

July 1 2021
Date Signed

2021 Annual Town Meeting Warrant
Town of Shutesbury
Commonwealth of Massachusetts
June 12, 2021

ATTEST *Ann Banesch*
7-1-21

To one of the Constables of the Town of Shutesbury in the County of Franklin,
Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said town, qualified to vote in elections and town affairs, to meet at **9:00** a.m. on Saturday the **twelfth** day of June, at the Shutesbury Town Hall at 1 Cooleyville Road in said Shutesbury, in the year Two Thousand and Twenty-One, then and there to act on the following articles:

Article 1. To hear, and receive reports of town officers, committees, and boards.
(Sponsor: Select Board)
Requires majority vote

Article 2. To see if the Town will vote to amend Section VI of the Amherst Pelham Regional School District Agreement by adding subsection j) as follows: "To see if the Town will vote to amend Section VI of the Amherst Pelham Regional School District Agreement by adding subsection (j) as follows: For Fiscal Year 2022 only, the alternative operating budget assessment shall be calculated as 65% of a five-year average of minimum contributions with the remainder of the assessment allocated to the member towns in accordance with the per-pupil method found in Section VI (e) of the Amherst Pelham Regional School District Agreement. The five-year average of minimum contributions will include the five most recent years, or take any other action relative thereto.
(Sponsor: Selectboard) Finance Committee Recommends by unanimous vote (7-0)
Requires majority vote

Article 3. To see if the Town will vote to set the salary compensation for all elected officials of the town (Select Board, Town Clerk, Moderator and Constable) as provided by MGL Chapter 41, Section 108, to be made effective from July 1, 2021, as contained in the budget, or take any other action relative thereto.
(Sponsor: Personnel Board and Select Board) Finance Committee Recommends by unanimous vote (7-0)
Requires majority vote

Article 4. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide a sum of money to meet town expenses including operations, capital, salaries and school expenses of **\$6,627,635** by raising the sum of **\$6,578,800** and transferring \$20,425 from the Septic Betterment Fund, and

only one principal use or structure is permitted on a lot. For the purposes of this Section agriculture as defined herein shall not be considered a principal use, nor shall agricultural structures be considered principal structures. The meaning of the symbols is as follows:

- P Designates a use permitted by right. Usually requires a Building Permit and/or a certificate of occupancy from the Building Inspector.
- SPR Designates a use permitted by right subject only to Site Plan Review by the Planning Board (SPR-P) or the Zoning Board of Appeals, (SPR-Z) (see Section 9.2).
- SP Designates a use allowed by Special Permit, granted by the Zoning Board of Appeals (SP-Z) or by the Planning Board (SP-P) (see Section 9.3).
- N Designates a prohibited use.

The column entitled "Section Reference" refers to sections of the bylaw that contain additional provisions affecting the listed use category.

USE TABLE

USE CATEGORY	USE DISTRICTS				SECTION REFERENCE
	RR	FC	TC	LW	
RESIDENTIAL USES					
Single-family Dwelling	P	P	P	P	
Accessory Apartment ¹	SPR-Z	SPR-Z	SPR-Z	SPR-Z	4.4-2
Two-family Dwelling ¹	SPR-Z	SPR-P	SPR-Z	SPR-Z	4.4-3
Multi-family Dwelling	SP-P	SP-P ²	SP-P	N	4.4-3
Second-story Apartments	N	N	SP-Z	N	4.4-1
Assisted Living Facility	SP-P	SP-P	SP-P	SP-P	
Open Space Design	P ³	P ³	P ³	P ³	Art. V
COMMUNITY USES					
Cemetery	SP-P	SP-P	SP-P	SP-P	
Educational/Charitable/Religious ⁴	P	P	P	P	8.5-3
Health Care Facility	SP-Z	SP-Z	SP-Z	SP-Z	
Membership Club	SP-Z	SP-Z	SP-Z	SP-Z	
Municipal Facility or Use <i>(not listed elsewhere in this use table)</i>	P	P	P	P	
Nursery or Private School, Kindergarten	SP-Z	SP-Z	SP-Z	SP-Z	

- ¹ If developed as part of an Open Space Design pursuant to Article V, the approving board will be the Planning Board. Within the FC District, two-family dwellings shall be permitted only within an Open Space Design.
- ² Within the FC District, multi-family dwellings shall be permitted only within an Open Space Design.
- ³ If not developed as a subdivision, requires Site Plan Approval by the Planning Board
- ⁴ Subject to limitations on municipal regulations in MGL. Ch. 40A, §3.

USE TABLE (continued)

USE CATEGORY	USE DISTRICTS				SECTION REFERENCE
	RR	FC	TC	LW	
BUSINESS USES¹					
Agriculture (includes forestry) ²	P	P	P	P	
Commercial Campground	SP-P	SP-P	N	N	8.5-4
Commercial Hunting	SP-Z	P	N	N	
Child Care Facility ³	P	P	P	P	8.5-3
Craft Workshop	SPR-Z	SPR-Z	SPR-Z	SPR-Z	
Home Occupation, Customary	P	P	P	P	8.5-1A
Home Occupation, Major	SP-Z	SP-Z	SP-Z	SP-Z	8.5-1B
Kennel	SP-Z	SP-Z	SP-Z	SP-Z	
Light Industry	SP-P	SP-P	N	N	
Lodging Facility	SP-P	SP-P	SP-P	SP-P	
Office	SPR-Z	SPR-Z	SPR-Z	SPR-Z	
Recreational Business	SP-Z	SP-Z	SP-Z	SP-Z	
Restaurant	SP-Z	SP-Z	SP-Z	SP-Z	
Soil Mining	SP-P	SP-P	N	N	8.5-5
Temporary Wind Monitoring System	P	P	P	P	
Vehicle Repair Station	SP-Z	SP-Z	SP-Z	N	
Veterinary Clinic	SP-Z	SP-Z	SP-Z	SP-Z	
Wireless Communication Facilities	SP-P	SP-P	SP-P	SP-P	8.7
Other Retail Business or Consumer Service	SP-Z	SP-Z	SP-Z	SP-Z	
ENERGY AND UTILITIES					
Large-Scale Ground-Mounted Solar					
Electric Installations	N	SP-P	N ⁴	N	8.10
Public Utility Facility (excluding wireless communication facilities)	SP-P	SP-P	SP-P	SP-P	
Small-Scale Ground-Mounted Solar					
Electric Installations	SP-P	SP-P	SP-P	N	8.10
Small Wind Energy Systems	SP-P	SP-P	SP-P	SP-P	8.8

⁴ Subject to floor area limitations in Section 4.2 (Dimensional Table) and additional regulations in Subsection 8.5-2.

- ² *Other than as provided for under section 3 of chapter 40A of the General Laws: on lots of less than five acres in the TC, LW, or RR districts, the keeping of more than three pigs or the operation of a fixed-site sawmill shall require a special Permit from the Zoning Board of Appeals; and excluding poultry, the raising or keeping of livestock including horses, ponies, mules, donkeys, burrow, swine, cattle, sheep, goats, alpacas, and other similar domesticated animals used or available for commercial or food purposes shall be prohibited within 400 feet of the bank of Lake Wyola in the LW district.*
- ³ *Subject to limitations on municipal regulations in MGL. Ch. 40A, §3.*
- ⁴ *Except that proposals at a distance of greater than 500 feet from a public way, excluding access roads or driveways, may be proposed within the TC district.*

SECTION 3.2 PROHIBITED USES IN ALL DISTRICTS

The following uses, structures, and activities shall be prohibited, unless state or federal law provides otherwise:

3.2-1 Proposed uses of land which create excessive traffic congestion, land erosion, or are hazardous, injurious, noxious, detrimental or offensive.

3.2-2 Trailer or mobile home parks, facilities for the handling, storage, or disposal of hazardous waste, and commercial junk yards, landfills, and refuse disposal areas.

3.2-3 An individual trailer or mobile home used as a dwelling, except:

- A. An individual trailer or mobile home occupied as an accessory structure to a dwelling for a maximum of fourteen (14) days per year; provided that :
 - 1. Adequate and lawful means are provided for health and safety, including written permission by the Board of Health, and
 - 2. During periods exceeding fourteen (14) days when such trailer or mobile home is not occupied, it shall either be removed from the premises or stored with no occupants or other use, indoors or outdoors in the rear yard of a dwelling at least twenty (20) feet from the rear and side lot lines.
- B. An individual trailer or mobile home occupied for a maximum of eighteen (18) months during the reconstruction of a dwelling on the same property which was destroyed by fire or other catastrophe, provided that a valid Building Permit has been issued for such reconstruction;
- C. Temporary use, not to exceed one year, of a camping vehicle as an on-premises field office or residence during the construction period of a project (including a single-family residence) with Board of Health approval. An extension of the one-year limitation may be allowed by Special Permit from the Zoning Board of Appeals.
- D. An individual trailer or mobile home used in a commercial campground or recreation area in compliance with the requirements of Subsection 8.5-4.

3.2-4 Signs or floodlights which constitute a hazard to pedestrian or vehicular traffic because of the intensity or direction of their illumination.

3.2-5 The commercial removal of stones from a stone wall, old field pile, or pre-existing cellar hole from any parcel for the purpose of transporting the stones out of Shutesbury for sale elsewhere.

SECTION 3.3 ACCESSORY USES AND STRUCTURES

3.3-1 In addition to the principal uses permitted in a district, accessory uses and structures which are subordinate and customarily incidental to such permitted uses shall be allowed on the same terms as the principal use (i.e. by right, with Site Plan Review, and/or by Special Permit).

3.3-2 Renting rooms to lodgers, boarders or tourists shall be permitted as an accessory use, provided that no separate cooking facilities are maintained, and provided that no more than three rooms are rented. Accommodations shall be limited to a total of six persons in addition to the resident family.

3.3-3 For regulations on home occupations, see Subsection 8.5-1.

3.3-4 Non-commercial garages shall be considered customary accessory structures to a residential use unless they are designed to accommodate more than five vehicles, in which case a Special Permit from the Zoning Board of Appeals shall be required for their construction.

3.3-5 Drive-through facilities and common driveways shall be considered accessory uses, but shall require the issuance of a Special Permit by the Planning Board.

3.3-6 Swimming pools shall be permitted as accessory structures provided that they are used only by residents of the premises and their guests, and provided that no portion of the water area is closer than twenty-five (25) feet to any property line.

SECTION 3.4 MIXED USE

The Town of Shutesbury encourages the mixing of uses where such mixing does not create land use conflicts. Accordingly, all Special Permit and/or Site Plan Reviews for a single project with mixed uses shall, where practical, be consolidated into one proceeding, which shall be a Special Permit. Where the Use Table provides that both the Planning Board and Zoning Board of Appeals must approve a proposed combination of uses, the Planning Board shall be the Special Permit Granting Authority (SPGA) for all of the proposed uses in the consolidated proceeding.

SECTION 3.5 CHANGE OF USE

See Subsection 9.3-1.

Section 3.6 Access to Use

Access, including for appurtenant drainage facilities and utilities, from public ways across other districts to the FC District for an allowable use in the FC District shall be permitted under the same terms as the use and as a single unified permit application.

ATTEST Jan Barnes 7-1-21

Planning Board Zoning Article

Article 14. To see if the Town will vote to amend the Town of Shutesbury Zoning Bylaw by deleting Section 9.3B and by inserting the following new section after the existing section 10.3 at the end of ARTICLE X - ADMINISTRATION AND ENFORCEMENT, or take any action thereto.

SECTION 10.4 Planning Board

10.4 A. Associate Members

There shall be two associate members of the Planning Board as provided for under MGL c 40A, Section 9.

Appointments may occur at any time. The Planning Board shall notify the Select Board in writing of its intention to begin a process for associate member appointment.

The Planning Board will establish the process for soliciting and receiving the names of interested individuals; notice of the opportunity should be made broadly to the residents of Shutesbury. Given that the Planning Board is an elected body, individuals eligible to serve as associate members shall be registered voters in the Town of Shutesbury.

The Planning Board shall recommend individuals to be considered for appointment. Associate members will be appointed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose.

The term of an associate member shall be one year; mid-year appointments shall run through June 30. Associate members may have their term renewed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose. There shall be no limit to the number of renewals for an associate member.

The Planning Board chairperson may designate one or two associate members to participate as an acting member of the Planning Board at any time in the case of absence, inability to act, or conflict of interest, on the part of any Planning Board member; or in the event of a vacancy on the board. Participation by an associate member shall be time or purpose limited. Designation by the chairperson shall include a statement indicating the time period for participation or the purpose for participation. An associate member's participation shall end upon the completion of the stated purpose or time period, unless extended by the chairperson.

When designated, an associate member may participate fully in procedures for a special permit, site plan review, or any other application before the Planning Board; as well as other procedural matters designated by the chairperson, including but not limited to conducting hearings of the Planning Board.

ATTEST Praveen Banash 7-1-21

Associate members are expected to regularly attend Planning Board meetings. When not acting as full members, associate members may be seated with the Planning Board and receive communications in order to follow Planning Board business. Associate members, when not acting as full members, may participate in deliberation at the discretion of the chairperson. When not acting as a full member of the Board, associate members may not vote nor participate in executive session.

Vacancies for unexpired terms of an associate member shall be filled in the same manner as for original appointments.

An associate member may be considered for a vacancy on the Planning Board in accordance with the normal process for filling a vacant position.

(Sponsor: Selectboard)
Requires 2/3 majority vote

Planning Board Zoning Article

Article 15. To see if the Town will vote to amend the Town of Shutesbury Zoning Bylaw by inserting the following new section after the existing section 3.5 at the end of ARTICLE III, ZONING DISTRICTS: USE REGULATIONS:

“Section 3.6 Access to Use

Access, including for appurtenant drainage facilities and utilities, from public ways across other districts to the FC District for an allowable use in the FC District shall be permitted under the same terms as the use and as a single unified permit application."

Or take any action thereto.

(Sponsor: Selectboard)
Requires 2/3 majority vote

MLP Enterprise Fund

Article 16. To see if the Town will vote to appropriate the sum of **\$473,400.00** for the MLP Enterprise Fund beginning July 1, 2021 in accordance with the provisions of M.G.L. c.44, sec 53 F ½, amount to be funded from the following sources; or take any action relative thereto.

(Sponsor: MLP Board) Finance Committee Recommends by unanimous vote (6-0)
Requires 2/3 majority vote

MLP ENTERPRISE FUND OPERATING BUDGET FY2022

Expenses		NOTES
Routine network maintenance	\$ 60,000	Annual Maintenance

SELECTBOARD SIGNATURE PAGE

+ CONSTABLE RETURN OF SERVICE

Hereof fail not, and make due return of this warrant, with your doings thereon, at the time and place of the meeting. Given under our hands this 4th day of June two thousand and Twenty-One.

Shutesbury Selectboard

Melissa Makepeace-O'Neil

Melissa Makepeace-O'Neil, Chair

April Stein

April Stein, Vice Chair

Rita Farrell

Rita Farrell

I, the undersigned Constable for the Town of Shutesbury, certify that I posted attested copies of the Warrant for the above mentioned meeting at the Locks Pond Bulletin Board, the Shutesbury Post Office, and the Town Hall in said town seven (7) days at least before the time of holding said meeting.

Constable *CDR*

Date 6-4-21



A TRUE COPY

ATTEST *Ann Banasch*
7-1-21

FORM 7

Town: Shutesbury
Planning Board Hearing Date: June 2 2021
Relative to Article(s): Article 14 and Article 15

Form 7

Complete and sign the following. When necessary, you may need to use multiple copies of this Form 7 if Articles were considered at separate Planning Board Hearings.

- 1.) If applicable, date on which the proposed amendments were submitted to the Board of Selectmen:
Amendments were originally proposed by: Planning Board **Date #1** May 6 2021
[Attachment #1, copy of original proposal.] *(If not applicable, put N/A.)*
- 2.) If applicable, date on which the Selectmen submitted the proposed amendments to the Planning Board *(must be within 14 days of Date #1, above)*:
Date #2 N/A
(If not applicable, put N/A.)
- 3.) Date on which the **first** Notice of Planning Board hearing was **published** in a newspaper of general circulation in the town *(must be at least 14 days prior to Date #10, below)*:
Date #3 May 19 2021
[Attachment #2, copy of the notice. Please identify the Article number next to each Article referred to in the notice.]
- 4.) Date on which the **second** Notice of Planning Board hearing was **published** in a newspaper of general circulation in the town *(must be sometime during the week immediately following the week in which Date # 3, first published notice of Planning Board Hearing, falls)*:
Date #4 May 26 2021
[Attachment #3, copy of the notice. Please identify the Article number next to each Article referred to in the notice.]
- 5.) Date on which Notice of Planning Board Hearing was posted in a conspicuous place in the Town Hall *(must be at least 14 days prior to Date #10, below)*:
Date #5 May 14 2021
[Attachment #4, copy of the notice. Please identify the Article number next to each Article referred to in the notice.]
- 6.) Date on which copy of Notice of Planning Board Hearing was **mailed** to the Department of Housing and Community Development *(must be at any date reasonably prior to Date #10, below)*:
Date #6 May 14 2021
- 7.) Date on which copy of Notice of Planning Board Hearing was **mailed** to the Regional Planning Agency, if any *(must be at any date reasonably prior to Date #10, below)*:
No Agency: _____ **Date #7** May 14 2021
- 8.) Date on which copy of Notice of Planning Board Hearing was **mailed** to the planning boards of each abutting city or town *(must be at any date reasonably prior to Date #10, below)*:
Date #8 May 14 2021
- 9.) In cases involving boundary, density, or use changes within a district, date on which Notice of Planning Board Hearing was mailed to any **non-resident property owner** who had filed a request with the town clerk and whose property lies in the district where the zoning change is sought *(need be done only when requests have been filed with the town clerk)*; or indicate if there was no such filing:
None Filed: No filing **Date #9** _____

FORM 7

10.) Date of the Planning Board Hearing (*must be within 65 days of Date #2, above*):

Date #10 June 2 2021

11.) Date on which Town Meeting voted on the proposed amendments (*where the Planning Board has failed to submit a report with recommendations to Town Meeting, Town Meeting may not vote to adopt the proposed amendments, unless this Date #11 is at least 21 days after Date #10, above*):

Date #11 June 12 2021

12.) Planning Board Report with Recommendations; indicate if the report is written or oral:

Written: Oral: Neither:

[Attachment #5, copy of the planning board report, if written.]

Certification

I certify that information set forth above is complete and accurate and that within the two years prior to this town meeting, either: (1) No unfavorable action was taken on any of the above articles, or (2) the Planning Board recommended the adoption thereof.

Grace Bannasch
Signature of Town Clerk

Grace Bannasch
Printed Name of Town Clerk

July 1 2021
Date Signed

Article _____

To see if the Town will vote to amend the Town of Shutesbury Zoning Bylaw by inserting the following new section after the existing section 3.5 at the end of ARTICLE III, ZONING DISTRICTS: USE REGULATIONS:

SECTION 3.6 Access to Use

Access, including for appurtenant drainage facilities and utilities, from public ways across other districts to the FC District for an allowable use in the FC District shall be permitted under the same terms as the use and as a single unified permit application.

DESCRIPTION FOR PUBLIC HEARING AND TOWN MEETING

Shutesbury has four zoning districts – Town Center, Lake Wyola, Roadside Residential, and Forest Conservation (FC). The first three all have direct access to Town roads; the FC does not. All FC land is back 500 feet from a road, and as such is landlocked. In order to reach the FC district for an allowed use under Shutesbury’s zoning bylaw at least 500 feet of another district must be crossed.

Zoning law interprets access as part of the use. Some uses (such as large-scale solar facilities, commercial hunting and campgrounds, soil mining, and light industry) are allowed in the FC district, but not in the others. Hence, crossing another district with a driveway to reach the FC would not be allowed as our bylaw is currently written – never the intended result. This article corrects the problem by extending the same permitting requirements for the allowed use in the FC to the necessary access through another district where it would otherwise be prohibited.

The issue came to light during discussions with the company contemplating solar facility permitting in the FC district. However, the correction is neutral with respect to solar projects. Without the correction this would present an impossible hurdle for all allowed FC uses accessing through other districts where the same use is not allowed. This access issue would effectively prohibit solar facilities in Shutesbury. If not addressed this could put Shutesbury in violation of the Massachusetts Zoning Act (Chapter 40A, Section 3, Paragraph 9 – the solar facilities exemption). This exemption (from zoning restrictions) prevents a town from either prohibiting or unreasonably regulating solar facilities.

Article _____

To see if the Town will vote to amend the Town of Shutesbury Zoning Bylaw by deleting Section 9.3B and by inserting the following new section after the existing section 10.3 at the end of ARTICLE X -
ADMINISTRATION AND ENFORCEMENT

SECTION 10.4 Planning Board

10.4 A. Associate Members

There shall be two associate members of the Planning Board as provided for under MGL c 40A, Section 9.

Appointments may occur at any time. The Planning Board shall notify the Select Board in writing of its intention to begin a process for associate member appointment.

The Planning Board will establish the process for soliciting and receiving the names of interested individuals; notice of the opportunity should be made broadly to the residents of Shutesbury. Given that the Planning Board is an elected body, individuals eligible to serve as associate members shall be registered voters in the Town of Shutesbury.

The Planning Board shall recommend individuals to be considered for appointment. Associate members will be appointed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose.

The term of an associate member shall be one year; mid-year appointments shall run through June 30. Associate members may have their term renewed by a majority of the members of the Planning Board and the Select Board who are in attendance at a joint meeting for this purpose. There shall be no limit to the number of renewals for an associate member.

The Planning Board chairperson may designate one or two associate members to participate as an acting member of the Planning Board at any time in the case of absence, inability to act, or conflict of interest, on the part of any Planning Board member; or in the event of a vacancy on the board. Participation by an associate member shall be time or purpose limited. Designation by the chairperson shall include a statement indicating the time period for participation or the purpose for participation. An associate member's participation shall end upon the completion of the stated purpose or time period, unless extended by the chairperson.

When designated, an associate member may participate fully in procedures for a special permit, site plan review, or any other application before the Planning Board; as well as other procedural matters designated by the chairperson, including but not limited to conducting hearings of the Planning Board.

Associate members are expected to regularly attend Planning Board meetings. When not acting as full members, associate members may be seated with the Planning Board and receive communications in order to follow Planning Board business. Associate members, when not acting as full members, may participate in deliberation at the discretion of the chairperson. When not acting as a full member of the Board, associate members may not vote nor participate in executive session.

Vacancies for unexpired terms of an associate member shall be filled in the same manner as for original appointments.

An associate member may be considered for a vacancy on the Planning Board in accordance with the normal process for filling a vacant position.

DESCRIPTION FOR PUBLIC HEARING AND TOWN MEETING

The current section 9.3B specifies that there will be two elected alternates to the Planning Board who may act on special permits when the Planning Board fulfills its role as a Special Permit Granting Authority (SPGA). This section will be removed. A new section, 10.4, which will be more accurate and comprehensive regarding two appointed associate members (the statutorily accurate title) will be added. The associate members will fulfill the same role for special permit processes, but who will also have broader powers to address other occasional needs of the Planning Board. By establishing broader powers for the associate members beyond their special permit role, it is more appropriate to make the insertion of new language into Article X which addresses administration of the Zoning bylaws.

Among its duties as a regulatory body, the Planning Board develops new zoning bylaws and conducts public hearings to review proposed projects; the latter usually requires a two-thirds vote of the membership. In some situations, such as the review of a special permit, public hearings can span many months, requiring consistent participation by members. If the Planning Board is unable to have adequate representation during a public hearing, approval can be automatic regardless of the merit of the project. While there has been longstanding concern among the Planning Board about having insufficient participation given the extended duration of some public hearings, this concern is more urgent given the possibility of five simultaneous special permits being submitted and reviewed for likely solar developments.

To rectify the situation, Planning Board is proposing a Zoning bylaw amendment that would allow two Associate Members to supplement the seven elected members. State law allows for up to two Associates. State law allows towns to determine many of the details of Associate membership.

The proposed bylaw will make the Associate Members appointed positions, serving one-year, renewable terms. Associate Members must be registered voters of Shutesbury (which is required of elected members). Associate members will actively participate in decisions only after the designation by the Chair and only in the case of absence, inability to act, or conflict of interest, on the part of any Planning Board member; or in the event of a vacancy on the Planning Board. Participation by an associate member will always be time or purpose limited. When not acting as full members of the Board, Associate Members will have limited role and involvement although they are expected to regularly attend Planning Board meetings and may be allowed to participate in deliberations.

Form 7

ATTACHMENT #2

ART 14+15

Publication Name:

Daily Hampshire Gazette

Publication URL:

www.gazettenet.com/

Publication City and State:

Northampton, MA

Publication County:

Hampshire

Notice Popular Keyword Category:

Notice Keywords:

Shutesbury

Notice Authentication Number:

202107011511258314997**2706236412**

Notice URL:

[Back](#)

Notice Publish Date:

Wednesday, May 19, 2021

Notice Content

Town of Shutesbury Virtual Public Hearing Notice Shutesbury Planning Board The Shutesbury Planning Board will hold a public hearing at 7:30 PM Wednesday, June 2, 2021 to consider two amendments to the Shutesbury Zoning Bylaw. The first amendment would add a new section 3.6 to allow access to the Forest Conservation District for uses prohibited in the district to be crossed. The second amendment would delete section 9.3B calling for the election of two alternates to the Planning Board and add a new section 10.4 that would allow the appointment of two associate members to the Planning Board who could participate as Planning Board members when elected members cannot. Texts and explanations of the amendments are available outside the Shutesbury Town Hall (1 Cooleyville Rd) and on the home page of the Shutesbury website (<https://www.shutesbury.org>). Public participation will be by virtual means only. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, @18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this hearing will be conducted via remote participation. Instructions for participating in the virtual Public Hearing will be listed on the meeting agenda posted on the Town calendar (<https://www.mytowngovernment.org/01072>). May 19, 26 129414

[Back](#)



Publication Name:
Daily Hampshire Gazette

Publication URL:
www.gazettenet.com/

Publication City and State:
Northampton, MA

Publication County:
Hampshire

FORM 7
ATTACHMENT #3
ART 14+15

Notice Popular Keyword Category:

Notice Keywords:
Shutesbury

Notice Authentication Number:
202107011510216704351
2706236412

Notice URL:

[Back](#)

Notice Publish Date:
Wednesday, May 26, 2021

Notice Content

Town of Shutesbury Virtual Public Hearing Notice Shutesbury Planning Board The Shutesbury Planning Board will hold a public hearing at 7:30 PM Wednesday, June 2, 2021 to consider two amendments to the Shutesbury Zoning Bylaw. The first amendment would add a new section 3.6 to allow access to the Forest Conservation District for uses prohibited in the district to be crossed. The second amendment would delete section 9.3B calling for the election of two alternates to the Planning Board and add a new section 10.4 that would allow the appointment of two associate members to the Planning Board who could participate as Planning Board members when elected members cannot. Texts and explanations of the amendments are available outside the Shutesbury Town Hall (1 Cooleyville Rd) and on the home page of the Shutesbury website (<https://www.shutesbury.org>). Public participation will be by virtual means only. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, @18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this hearing will be conducted via remote participation. Instructions for participating in the virtual Public Hearing will be listed on the meeting agenda posted on the Town calendar (<https://www.mytowngovernment.org/01072>). May 19, 26 129414

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Form 7

ATTACHMENT #4

ART 14 + 15



Town of Shutesbury
Virtual Public Hearing Notice
Shutesbury Planning Board

The Shutesbury Planning Board will hold a public hearing at 7:30 PM Wednesday, June 2, 2021 to consider two amendments to the Shutesbury Zoning Bylaw. The first amendment would add a new section 3.6 to allow access to the Forest Conservation District for uses prohibited in the district to be crossed. The second amendment would delete section 9.3B calling for the election of two alternates to the Planning Board and add a new section 10.4 that would allow the appointment of two associate members to the Planning Board who could participate as Planning Board members when elected members cannot. Texts and explanations of the amendments are available outside the Shutesbury Town Hall (1 Cooleyville Rd) and on the home page of the Shutesbury website (<https://www.shutesbury.org>).

Public participation will be by virtual means only. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this hearing will be conducted via remote participation. Instructions for participating in the virtual Public Hearing will be listed on the meeting agenda posted on the Town calendar (<https://www.mytowngovernment.org/01072>).

**Planning Board Report Regarding Proposed Associate Member Bylaw
June 2, 2021**

Following a public hearing on the proposed amendment that was held on June 2, 2021, the Planning Board voted unanimously to recommend the amendment to the Shutesbury Zoning Bylaw regarding Associate Members. The article would delete Section 9.3B of the Zoning Bylaws and insert a new section 10.4 A, establishing Associate Members at the end of ARTICLE X - ADMINISTRATION AND ENFORCEMENT

The reasoning behind the Planning Board's recommendation is as follows:

The current section 9.3B of the Shutesbury Zoning Bylaw specifies that there will be two elected Alternates to the Planning Board who may act on special permits when the Planning Board fulfills its role as a Special Permit Granting Authority (SPGA). The reference to alternates, is not the legally correct term for these positions, as specified by state law. Additionally, the existing language provides for elected positions; something the Planning Board does not feel meets the needs that Associate Members are intended to address (more on this below). The new section, 10.4, will be legally accurate by referencing the positions as *Associate Members*. In addition, Section 10.4 will be considerably more comprehensive in describing the process, roles and responsibilities of the two Associate Members.

The Associate Members will fulfill the same role for special permit processes as currently referenced in the Zoning Bylaw (Section 9.3B) but they will also have broader role in addressing the other needs of the Planning Board, including site visits, site plan review and public hearings. By establishing a broader role for the Associate Members, the Planning Board felt that it is more appropriate to locate this new language into another part of the Zoning Bylaw - Article X which addresses administration of the Zoning bylaws.

Among its duties as a regulatory body, the Planning Board develops new zoning bylaws and conducts public hearings to review proposed projects; special permit decisions require a two-thirds vote of the board's membership. In some situations, public hearings can span many months, requiring consistent participation by members. There has been longstanding concern among the Planning Board that for a variety of reasons – recusal, travel, ill health, vacancy – the Planning Board could have insufficient participation given the length of some public hearings. By law, Planning Board members are only allowed to miss one public hearing; any more and they are barred from participating in decision-making. The concern about having enough members available for public hearings became more urgent given the possibility of five simultaneous special permits being submitted for solar developments since each project would require its own set of hearings. The Wheelock Tract (the current solar installation) public hearings, for example, spanned almost two years with 4-5 public hearings.

Notably, if the Planning Board is unable to have adequate representation during a public hearing, approval of a project can be automatic, a so-called “constructive approval”. Constructive approval would mean that a project would be approved as the applicant proposes it without any conditions added by the Planning Board and regardless of the merits of the project or public input. The Planning Board believes being in a situation where the board cannot fulfill its decision-making role and constructive approval occurs, is not in the best interests of the town.

To rectify the situation, the Planning Board is proposing this zoning bylaw amendment that would allow two Associate Members to supplement the seven elected members. The proposed bylaw would make the Associate Members appointed positions, serving one-year, renewable terms. At the public hearing there were questions about why Associate Members would be appointed rather than elected. There were also questions about whether a hybrid process could exist allowing for Associate Members to be elected and/or appointed depending on

FORM 7

ATTACHMENT #5 pg 2

various scenarios. Town counsel clarified that state law dictates that associate members can be either elected or appointed; a hybrid select process is not allowable.

The Planning Board determined that appointed members provide the needed flexibility it is seeking. Since elections usually occur only once a year, yet there could easily be a lack of members anytime during a given year. In that instance, the Planning Board could find itself in the same situation it is trying to avoid, with insufficient membership for public hearings. Additionally, elected positions are more difficult to fill; filling nine elected slots is a challenge in small towns like Shutesbury. Appointed members with a one year term, make volunteering more appealing and appointments can occur anytime during the year. This will hopefully allow the Planning Board to maintain a full complement of members and backups.

In regards to the process for appointments, the proposed process builds on existing precedent: the town appointment process and state law. Mass. law requires that when there is a vacancy on an elected committee, in this case the Planning Board, the Planning Board and the Select Board must come together and vote for a replacement. At that meeting the majority of individuals from both boards establishes who gets the seat; votes are by individual rather than each committee getting a vote. The current Shutesbury appointment process calls for all non-elected committees (ConComm, Recreation, Energy, etc), to vote on who to recommend; these people are then forwarded to the Select Board, which makes the formal appointment. This proposed bylaw builds on both of these precedents - an associate member will be recommended by a vote of the Planning Board and then the final formal appointment will be made by a joint meeting of the Planning Board and Select Board with each member getting a vote; a majority is needed.

In terms of their role and responsibilities, Associate Members will actively participate in Planning Board decisions only after the designation by the Chair and only in the case of absence, inability to act, or conflict of interest, on the part of any Planning Board member; or in the event of a vacancy on the Planning Board. Participation by an associate member will always be time or purpose limited. When designated, an associate member may participate fully in procedures for a special permit, site plan review, or any other application before the Planning Board; as well as other procedural matters designated by the chairperson, including but not limited to conducting hearings of the Planning Board. When not acting as full members of the Board, Associate Members will have limited role and involvement although they are expected to regularly attend Planning Board meetings and may be allowed to participate in deliberations.

Respectfully submitted

Michael DeChiara

On behalf of the Planning Board

June 2, 2021

**Shutesbury Planning Board Report Regarding Proposed Access Bylaw
June 2, 2021**

Following a public hearing on the proposed amendment that was held on June 2, 2021, the Planning Board voted unanimously to recommend the amendment to the Shutesbury Zoning Bylaw regarding Access to the Forest Conservation District. The article reads as follows:

Article ____: To see if the Town will vote to amend the Town of Shutesbury Zoning Bylaw by inserting the following new section after the existing section 3.5 at the end of ARTICLE III, ZONING DISTRICTS: USE REGULATIONS:

“Section 3.6 Access to Use

Access, including for appurtenant drainage facilities and utilities, from public ways across other districts to the FC District for an allowable use in the FC District shall be permitted under the same terms as the use and as a single unified permit application.”

The reasoning behind the Planning Board’s recommendation is as follows:

Shutesbury has four zoning districts – Town Center, Lake Wyola, Roadside Residential, and Forest Conservation (FC). The first three all have direct access to Town roads; the FC does not. All FC land is back 500 feet from a road, and as such is landlocked. In order to reach the FC district for an allowed use under Shutesbury’s zoning bylaw at least 500 feet of another district must be crossed.

Zoning law interprets access as part of the use. Some uses (such as large-scale solar facilities, commercial hunting and campgrounds, soil mining, and light industry) are allowed in the FC district, but not in the others. Hence, crossing another district with a driveway to reach the FC would not be allowed as our bylaw is currently written – never the intended result. This article corrects the problem by extending the same permitting requirements for the allowed use in the FC to the necessary access through another district where it would otherwise be prohibited.

The issue came to light during discussions with the company contemplating solar facility permitting in the FC district. However, the correction is neutral with respect to solar projects. Without the correction this would present an impossible hurdle for all allowed FC uses accessing through other districts where the same use is not allowed. This access issue would effectively prohibit solar facilities in Shutesbury. If not addressed this could put Shutesbury in violation of the Massachusetts Zoning Act (Chapter 40A, Section 3, Paragraph 9 – the solar facilities exemption). This exemption (from zoning restrictions) prevents a town from either prohibiting or unreasonably regulating solar facilities.

Respectfully submitted,

Jeff Lacy
On behalf of the Planning Board
June 2, 2021

