

Shutesbury Conservation Commission Meeting Minutes
May 14, 2020 Virtual Meeting Platform

Conservation Commissioners present: Penny Jaques, Russ Mizula, Robin Harrington, and Liam Cregan

Staff present: Linda Avis Scott/Land Use Clerk

Guest: Lexi Dewey (brief)

Commissioner Chair Penny Jaques calls the meeting to order at 7:00pm.

Statement relative to conducting virtual meetings following the Governor's restrictions on public meetings is read into the record by Scott.

Jaques moves and Harrington seconds a motion to approve the 4.23.20 meeting minutes. Roll call vote: Harrington: aye, Cregan: aye, Jaques: aye, and Mizula: abstains; the 4.23.20 meeting minutes are approved as presented.

Jaques notes that subsequent to the 4.23.20 meeting, there was significant chatter about the ANRADs on the NextDoor Shutesbury and eCricket list serves. To clarify the purpose and status of the ANRADs, Jaques and Scott composed an update that was posted on both list serves; this update referred interested parties to the Commission's webpage where Jaques posted a lengthy explanation about ANRADs in general and their current status along with the Commission's 4.9.20 vote to not hold public hearings during the State of Emergency; the Commission's webpage will be updated after the 5.14.20 meeting.

Updates:

- South Brook Conservation Area Intern: Jaques will follow-up with intern Kayla Speros.
- Lake Lowering Memorandum of Understanding: Response from Mark Rivers/Lake Wyola Advisory Committee remains pending; Scott will follow-up. Jaques references recent research on how winter drawdowns affect lake ecology.
- Shutesbury Highway Department Annual Project List: Receipt of list from Tim Hunting/Highway Superintendent remains pending; Scott will follow-up.
- Sumner Mountain Conservation Restriction: Per Cregan, the annual monitoring visit with monitor Charley Eiseman and property owner Chuck DiMare is scheduled for either 5.19.20 or 5.21.20.
- 99 Sand Hill Road/Steinway: Commissioners reviewed the 4.27.20 email from Frederick Steinway and are unclear what is being asked for. Per Cregan, the owner seems to be concerned about spotted salamanders in a potential vernal pool being affected by a dirty drainage ditch and possible breeding grounds for mosquitos with EEE. Jaques, noting that the Commission is conducting limited site visits at this time, is concerned that Highway Department work on the drainage ditch may affect a nearby wetland. Cregan has trepidation about work on the drainage ditch and notes that at this time, the area is not a certified vernal pool. Cregan and Harrington will observe the area on 5.19.20.
- Scott reports on the recently issued DEP FAQs and MACC guidance relative to Conservation Commission functions during the COVID-19 State of Emergency; of particular importance is the distinction between the Stay At Home Advisory and the State

of Emergency; Chapter 53 Section 17 of the Acts of 2020 corresponds to the State of Emergency. The minutes for the 4.9.20 SCC meeting are referenced: per Scott, “the Commission may evaluate on a case by case basis because the legislation allows permit granting authorities to hold virtual public meetings and public hearings” and “Harrington and Cregan state affirmative support for Jaques’ recommendation the Commission not hold any virtual public hearings that have broad public appeal.” During the 4.9.20 meeting, Commissioners agreed to hold no more than two public hearings per meeting. To formalize these decisions, Jaques moves the Shutesbury Conservation Commission continue the policy of not holding public meetings and public hearings with broad public interest however may hold public meetings and public hearings with localized abutter interest. Harrington seconds the motion. Commissioners consider how to differentiate broad versus localized abutter interest. Jaques suggests and Harrington supports “complex applications with broad interest.”

Continue Public Hearing for ANRAD at Lot ZD-37 (Montague/Carver Roads) at 7:30pm: It is noted that per her 4.30.20 email, Maria Firstenberg/TRC requested that the Baker/West Pelham and Montague/Carver Road public hearings be continued to 5.28.20 and the Pratt Corner West and Pratt Corner East public hearings be continued to 6.11.20. It is noted that the State of Emergency will be in effect for the foreseeable future and that the Commission has yet to receive ANRAD final reports from Emily Stockman/Stockman Associates which the Commission asked to receive at least one week prior to their relative public hearings. At 7:32pm, Jaques moves and Cregan seconds a motion to continue the public hearing to 6.11.20 at 7:30pm.

It is noted that if the State of Emergency remains in effect on 6.11.20, the public hearings will be continued to a future date certain at that time. Roll call vote: Harrington: aye, Mizula: aye, Cregan: aye, and Jaques: aye; the motion carries.

Continue Public Hearing for ANRAD at Lot ZW-6 (Pratt Corner West) at 7:32pm: Jaques moves and Harrington seconds a motion to continue the public hearing to 6.25.20 at 7:30pm. Roll call vote: Harrington: aye, Cregan: aye, Mizula: aye, and Jaques: aye; the motion carries.

Discussion continues: Jaques’ prior motion is amended. Cregan moves the Shutesbury Conservation Commission not hold public hearings with broad public interest regarding complex applications, however, the Commission may hold public meetings and/or public hearings with localized public interest during the State of Emergency. Jaques seconds the motion. Roll call vote: Harrington: aye, Mizula: aye, Jaques: aye, and Cregan: aye; the motion carries.

Commissioners consider adopting the use of electronic signatures. Scott explains the process for voting to use electronic signatures, already accepted by DEP, for documents that will need to be recorded at the Registry of Deeds, i.e. Orders of Condition and Certificates of Compliance.

At this point, Lexi Dewey of Pelham joins the meeting and states interest in the Baker/West Pelham Road ANRAD. Jaques explains that because the Commission does not have complete information and due to the State of Emergency, the public hearing for this ANRAD will be continued to 6.11.20 at 8:00pm. Jaques further explains that the Commission voted on 4.9.20 to not resolve complex issues via Zoom meetings and that the consultant’s work is in progress. Dewey is referred to the Commission’s webpage for additional information and to view the

ANRAD application; additional information will be added to the webpage as it becomes available. Dewey leaves the meeting.

The discussion regarding the use of electronic signatures continues. Scott: if the Commission decides to use electronic signatures, a Certificate of Vote will be signed by Jaques, as Chair, in the presence of the Town Clerk who will certify the document that will then be recorded at the Franklin County Registry of Deeds. Commissioners agree that approving the use of electronic signatures seems helpful and reasonable. Jaques moves that the Shutesbury Conservation Commission hereby recognizes and accepts the provisions of M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. The motion is seconded by Cregan. Roll call vote: Harrington: aye, Mizula: aye, Cregan: aye, and Jaques: aye; the motion carries. Scott will finalize preparation of the Certificate of Vote and Jaques will arrange to sign the document with Town Clerk Susie Mosher as witness; arrangements will then be made for the Certificate of Vote to be recorded.

32 Lake Drive/Mikolajczuk: Per Scott, the proposed project involving a new well and septic system also includes tearing down the existing cottage and construction of a new dwelling with a full foundation therefore a Notice of Intent will be filed; a 5.28.20 public hearing may be possible as the plans are viewable electronically. Plans for a site visit are pending.

Continue Public Hearing for ANRAD at Lot ZQ-6 (Baker/West Pelham Roads) at 8:00pm: Jaques moves and Cregan seconds a motion to continue the public hearing to 6.11.20 at 8:00pm. Roll call vote: Harrington: aye, Mizula: aye, Cregan: aye, and Jaques: aye; the motion carries.

Continue Public Hearing for ANRAD at Lot ZG-2 (Pratt Corner East) at 8:01pm: Jaques moves and Cregan seconds a motion to continue the public hearing to 6.25.20 at 8:00pm. Roll call vote: Harrington: aye, Mizula: aye, Cregan: aye, and Jaques: aye; the motion carries.

Scott will notify Maria Firstenberg/TRC of the continuation dates/times for all four ANRAD public hearings.

12 Merrill Drive/Hartwell: Per Scott, two Requests for Certificate of Compliance have been received for this recently sold property; there is a small hold-back pending issuance of the Certificates of Compliance; the first is for the Order of Conditions issued in 1996 for rebuilding the cottage after a fire and the second, for the Order of Conditions issued in 2008 for muck removal during the Lake Wyola dam repair drawdown. It is noted that the 1996 file, located in Old Town Hall, is not accessible at this time; both Order of Conditions are available. Jaques: without the original Notice of Intent, it will be difficult to determine whether the construction was completed per the plan even though it is well after the fact. Jaques will contact Mark Stinson/DEP Circuit Rider for guidance. Scott will contact Mr. Hartwell to see if he has access to the 1996 site plan. Site visit plans remain pending.

483 Wendell Road/Carlson-Belanger: Jaques and Harrington will conduct a site visit for the proposed ground-mount residential solar array BPA; the site is staked and, per MassGIS, there

are no jurisdictional wetlands. Scott will follow-up with the installer and owner to confirm site visit plans and social distancing requirements.

Other updates:

1. 57 Shore Drive/West: Per Scott, an abutter inquiry about tree cutting on the site was responded to and the Commission's knowledge of the project explained.
2. Forest Cutting Plan/DCR-DWSP Quabbin Region: DCR Service Forester sign-off for this Forest Cutting Plan has been received by the SCC office; no further action.
3. Meghan Jackus, Shutesbury resident expressed interest in the work of the Commission and may attend an upcoming meeting.
4. The Planning Board received an inquiry about the possible submission of an Open Space Design plan for a parcel off Leverett Road.

At 8:22pm, Jaques moves and Mizula seconds a motion to adjourn the meeting. Roll call vote: Mizula: aye, Harrington: aye, Cregan: aye, and Jaques: aye; the motion carries.

Respectfully submitted,
Linda Avis Scott
Land Use Clerk