

Shutesbury Historical Commission
Minutes – 10/12/22
(approved 11/30/22)
Virtual Meeting

Meeting start: 7:05 pm

Commissioners Present: Henry Geddes (Chair), Miriam DeFant, Bert Fernandez, Greg Caulton; Janice Stone

Commissioners Absent: Karen Czwerwonka

Others Present: Michael DeChiara (Planning Board), Mary Lou Conca; Matteo Pangallo.

Solar Zoning Bylaw Revision: DeChiara explained reasoning for revising the Solar Zoning Bylaw to make it more consistent with the recent Tracer Lane/Waltham court decision. Planning Board Public Hearing is on Monday. Planning Board is trying to be proactive by spelling out how the regulations are tied to health, welfare, and safety. Draft language about requirements for preservation of historic properties was reviewed to make regulations clearer. Conca asked about MGL Chapter 114, Section 17 and suspected Native American burial sites. DeChiara: this came up with Wheelock Tract Solar Project; if a Tribal Historic Preservation Officer (THPO) alleges there is a burial site on a property and the landowner won't allow the THPO site access to inspect it, then no one with cultural awareness can say for sure. Conca: doesn't that law mean that the Town disobeyed the law? DeChiara: Planning Board does not have enforcement powers. DeFant: Town Counsel opined that this law related to Town-owned property and not permits. DeChiara: added language about how sensitive archaeological information would be handled. DeFant: MGL says that sensitive archaeological data, as determined by Massachusetts Historical Commission or a local historical commission, are not public records. Pangallo: what role do Tribes have in determining what is sensitive information? DeFant: believe our Commission would look to Tribal experts for guidance in making that determination; SHC has advocated for respecting Tribal autonomy and voice and choice over Tribal heritage issues. Pangallo: would a permit be denied if historical resources cannot be protected or mitigated? DeChiara: Planning Board would need to decide based on information available; could approve with conditions; a denial must be legally defensible. DeFant: mitigation plans can include avoiding something, minimizing an adverse effect, or mitigate. Mitigation is a principle where project proponent might propose an alternative protection effort elsewhere; sometimes there is a negotiation process between Tribes and developers. DeFant: would like to see some revision of the last bullet in the preamble, that deals with rationale for historic preservation; feels the grammar is not quite right. Conca: why use term "request" rather than "require". DeChiara: couldn't find a definitive source of list of Algonquian-speaking Tribes; Town Counsel said can't require it if there is not definitive source; changed language to "encourage". Conca: is that the Planning Board's responsibility; believes this region is Nipmuc. DeChiara: list of regional Tribes is comprehensive and must be notified. DeFant: feel fine about language as drafted; only issue is that Tribe organization or names could evolve over time. DeChiara: draft language captures those issues. Pangallo: does historical preservation fall under "welfare?" DeChiara: not sure; could be challenged and Planning Board would have to justify it. DeFant: social well-being is tied to

physical well-being. Geddes: preservation of cultural sites have deep emotional meaning for Indigenous survivors. Pangallo: are regulations constrained by what benefits Shutesbury residents? DeChiara: zoning is about local community; not zoning for people who don't live here anymore; invites input from SHC about wording. DeFant: whole community benefits from historical preservation; community connectedness is enhanced by historical continuity. DeFant: does SHC want to make a statement in support of this draft? DeChiara: would help to get a statement with recommendations. Pangallo: statement could include language about social welfare; have an obligation to preserve historical resources for current residents and former inhabitants of land that become Shutesbury. DeFant offers to put together a statement. Commissioners can send suggested edits. DeFant suggests focusing primarily on the preamble language to make justification for historical preservation on more explicit; historical preservation is important. Fernandez: how do residents feel about Indigenous rights? Is there a consensus? DeFant: if you ask people, they would say they support Indigenous rights, but there is probably a lot of variability in terms of the application of that support. **Caulton moves to have DeFant draft a statement of support for the proposed Solar Zoning Bylaw revision. Geddes seconds. Caulton: aye: DeFant: aye Geddes: aye, Fernandez: aye.**

Caulton may miss the next meeting due to travel.

Geddes moves to adjourn. Fernandez seconds. Caulton: aye: DeFant: aye Geddes: aye, Fernandez: aye.

Meeting adjourned at 8:00 pm.

Next meeting: November 30, 2022 at 7:00 pm.

Documents Used:

Agenda
Draft Solar Zoning Bylaw

Respectfully submitted by Miriam DeFant, Secretary, 11/27/22