

Shutesbury Planning Board Meeting Minutes  
January 14, 2019 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Linda Rotondi, Robert Raymond, Michael DeChiara and Jim Aaron  
Staff: Linda Avis Scott/Land Use Clerk

Guests: Walt Kohler/Pioneer Valley Habitat for Humanity volunteer; Sanford Lewis and Dan Wakoluk/Sustainable Cannabis Development Advisory Committee

Bonnar calls the meeting to order at 7:30pm.

Unanticipated Business:

Habitat for Humanity CPC Application: Walt Kohler/Pioneer Valley Habitat for Humanity volunteer explains that the organization made an offer on a piece of land contingent upon receipt of Community Preservation Act funds and is requesting support for the project from relevant Shutesbury committees; the full application is due to the Community Preservation Committee (CPC) by 1.31.19. Per Kohler, Habitat for Humanity's goal is to find homes for those with an income below 60% mean annual income for the county; the individual provides sweat equity for construction and pays the home mortgage; the organization has built thirty-five homes in the area though none in Shutesbury; the homes tend to be small – in this case, it will be a single-family home on a slab with three bedrooms and small square footage. Lacy: perhaps an accessory apartment could be built on the lot at a later date. The lot being considered is 1.7 acres and non-conforming. Lacy: the lot has the required area and there is no frontage requirement. Kohler: Habitat would not want to get into construction of an accessory apartment because the property has to be maintained as permanently affordable; such an owner would most likely not have the financial wherewithal to build an accessory apartment; the property, once the house is built, cannot be sold on the open market. Kohler to Lacy's question: yes, it will be permanently deeded as affordable housing and on the State list. Kohler to DeChiara's question: CPA funds will make the project affordable; the purchase of land using CPA funds has been the process in other towns; land has also been donated. Scott, as the Conservation Commission representative to the CPC, explains the CPC application process; the CPC determined that the Habitat for Humanity proposal is eligible for funding; full applications are due by the end of January; on 2.7.19, the CPC will review submitted applications, meet with applicants 2.21.19 and hold a public hearing in early March; if the Planning Board chooses to do so, there is time to submit a letter of support. Kohler will be meeting with the Select Board on 1.22.19. Per Kohler, the lot is located on West Pelham Road between house numbers 250 and 258. Bonnar confirms the lot has been grandfathered therefore old zoning rules rather than the current zoning bylaws apply. Kohler: installation of solar panels is a goal; the lot is heavily wooded at this time. DeChiara notes the Town's goal for the creation of affordable housing and supports the work of Habitat for Humanity, however, more time is needed to consider a letter of support. Lacy: what would the site planning process be? Kohler: a licensed professional, perhaps pro bono, will do the site planning; he walked the lot with Dennis Clark earlier 1.14.19 to get ideas about layout. Kohler, to Bonnar's question: yes, the lot was perc tested in 2014; Clark felt it will be easy to build on the lot. Lacy: given the Town is being asked to contribute, the Planning Board may be more interested in the site plan review process. Bonnar confirms with Kohler that the project is likely

to be contingent upon CPC funds. Lacy would like to look at the lot. DeChiara suggests the Planning Board receive a copy of the application when it is submitted to the CPC. Kohler: the offer is \$27,000. Lacy asks why the price is low. Bonnar: Lacy will look at the lot and the Board will know more once the CPC application is received. DeChiara: it will be interesting for the Board to consider the tiny house concept. Kohler to Lacy: the zoning bylaw will not allow multiple ownership on the same lot; the lot's frontage is 150'. Lacy: there may be an exemption for a duplex on a non-conforming lot. Kohler: Habitat for Humanity will be happy to build a duplex.

Livestock in the Lake Wyola District: Per Bonnar, Catherine Hilton/Board of Health is unable to attend this evening; per Hilton, the Board of Health is okay with a 200' setback for livestock, however, the Planning Board is considering 400' which the Board of Health is certainly okay with. Lacy: the Planning Board talked about adding to footnote #2 on page 9 of the *Town of Shutesbury Zoning Bylaw*. Lacy reads the current language into the record: "Except that 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". Lacy then reads the proposed additional language that comes from the definition of agriculture (page 70 *Town of Shutesbury Zoning Bylaw*): "and that the raising of livestock, keeping of horses, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, other than provided for under Section 3 of Chapter 40A of the General Laws, shall be prohibited within 400' from the bank of Lake Wyola in the LW district." Lacy reviewed the proposed language with Bob Ritchie, former General Counsel for the Department of Agricultural Resources, who recommended its review by the Attorney General's office whose response is pending. DeChiara: what is the difference between raising vs. keeping? Lacy: the keeping of horses is a non-commercial enterprise. Bonnar: the keeping of poultry for personal use is not a big deal. Lacy will pursue feedback from the Attorney General's office. Next step: review the proposed language change with Hilton during a future meeting. Bonnar: we do need to bear in mind that proposed zoning amendments need to be submitted to the Select Board by the middle of March.

Planning Board Meeting Minutes: DeChiara moves and Bressler seconds a motion for the Board to approve the 12.10.18 meeting minutes; six members vote in favor of approving the minutes as presented and Lacy abstains; motion carries.

Cell Tower: Per Bonnar, Francis Parisi/Vertex Towers LLC called to report that Vertex is preparing to submit a special permit application sometime in February/March.

Annual Town Clerk Sign-offs: Board members sign acknowledgement of receipt of Open Meeting Law, Conflict of Interest Law and Town Policy Regarding Unlawful Sexual Harassment Materials and sign the Office of Campaign and Political Finance "Campaign Finance Report Municipal Form". It is noted that Lacy, Rotondi, and Raymond are up for re-election.

Wheelock Solar Project Update: Lacy: a site visit to ensure all the required erosion control measures have been installed is pending completion; there has been no recent contact from Lodestar. Bressler: per Google Earth, all of the additional panels have been installed.

Consider Marijuana Bylaw: DeChiara, referring to his draft “Proposed Use Table, Marijuana Only Version”, “Marijuana & Hemp Version” and “Draft Marijuana Zoning Bylaw” dated 1.7.19, explains that he worked with the FRCOG template and wove in aspects of the Erving and Whatley marijuana bylaws; the multiple types of establishments, referring to section x3. “Definitions” are grouped by function; he sought to respect what was talked about at annual town meeting when developing the use tables. Per DeChiara, Whately has retail limits therefore he added a limit of two retail establishments (section x5.P) and included the need for updated reporting on who is running an establishment (section x5.Q); regarding the proposed use tables, hemp, as agriculture, cannot have much regulation. Bressler: does the use table represent what the Board talked about during our December meeting and, referring to DeChiara’s draft use table/marijuana version, this could be a new section added to the current use table. Bonnar: Town Counsel MacNicol brought up the notion that we not separate out by tiers as recommended by Peggy Sloan/FRCOG Director of Planning and Development. DeChiara: Per Sloan, towns need to refer to acreage and square footage and each tier specifies a size in square footage. Sanford Lewis: these tiered numbers refer to the blooming space canopy; the full size of the operation will be larger. Don Wakoluk: right now, we have the 2018 annual town meeting vote that supported tier 1 and 2 to go on; the table, as proposed, supports the town vote. Lacy notes that the moratorium has expired. Bonnar: how much employment is generated per unit/grow space. Wakoluk: there is talk, that in some areas, a Tier 2 establishment has the capability to employ 30-40 people; cites an example of a grow facility in Easthampton. Bonnar: small and large home occupations could be the classification; each have limits on the number of employees. DeChiara: if the site is not home occupied, would the establishment, i.e. transportation, be light industry? Lacy: transportation could be a part of manufacturing establishment; reads the definition of “Marijuana Transporter” into the record (page 2 “Draft Marijuana Zoning Bylaw”). Wakoluk: a business can be as small as one-two people. Raymond confirms that the Cannabis Control Commission (CCC) issues the transport license. DeChiara: a small cooperative can do multiple functions. Bonnar: the Board could decide not to have any local regulation and let the transporter be regulated by the CCC. Lacy: if the transporter business was based in Shutesbury, it could be a home occupation. Lacy to Bressler’s question: it could be free standing business on a lot. DeChiara: per the proposed use table, a home occupied transporter would be by special permit/Planning Board. Lacy: a major home occupation is by Zoning Board of Appeals special permit; the ZBA is willing to permit marijuana businesses as appropriate. Lacy explains that permitting is divided: the ZBA, strictly a permitting board, handles smaller, more discrete permitting and the Planning Board handles larger projects involving roads and larger properties with access and land issues; light industry is by Planning Board special permit. DeChiara: if the Board is allowing or disallowing where that be indicated in the Use Table. Lacy: there is more opportunity in the Forest Conservation and Rural Residential districts than the Town Center and Lake Wyola districts. DeChiara: the 500-foot distance requirement for existing residential use was added by FRCOG. DeChiara: there are only two categories for hemp – cultivation and manufacture. Wakoluk indicates that he will be applying for a hemp license. Lacy: no other crop is included in the use table. DeChiara: hemp growing may require higher security. Lewis: there have been instances of hemp stealing; there are a fair number of cannabis home growers in Shutesbury and we need to protect their backyard grows from hemp growing. Wakoluk: it is not sustainable to grow large fields of hemp; his plan is to grow in a greenhouse, entirely indoors, using less than .6 acres; a pre-inspection is required by the State. DeChiara notes the need to not unreasonably regulate. Lewis: it is not unreasonable

to have a notice requirement for hemp growing and, as a second step, the Board could request a plan for how cross pollination will be prevented. Bressler: the distinct difference between hemp growing and agriculture is the concern about cross pollination; is there testing? Wakoluk: the hemp is tested ten days prior to harvest; if it fails, the crop must be destroyed; one has to certify that the seed contains a certain percentage of cannabidiol (CBD). Raymond: if hemp is cross pollinating marijuana, would the marijuana spread? Lewis: hemp can undermine the quality of the marijuana crop. Wakoluk: if it goes the other way, it could destroy the hemp crop. Lewis: the New England Sustainable Hemp Association has been formed and is filing legislation requiring the Mass Department of Agricultural Resources to pay more attention to the cross-pollination issue. Wakoluk advocates a sustainable approach - small people, small home grows for cannabis – cannabis licensing is extensive; his location is 600 feet from the school; hemp in an opaque greenhouse is reasonable. Lacy will review DeChiara’s drafts and add comments to the proposed use table and bylaw; recommends use of a waiver provision in certain circumstances. Bonnar suggests the Board have an extra meeting to go through the draft bylaw text word for word noting that it is more important to do it right rather than fast. DeChiara agrees. Bressler: are we going to come up with a bylaw versus modifying the use table? Lacy: specifics cannot be addressed in the use table. The Sustainable Cannabis Development Advisory Committee is meeting 1.24.19. The Planning Board will schedule an extra meeting for 1.28.19 to do further work on the topic and consider any recommendations the Advisory Committee may have.

Other Proposed 2019 Zoning Amendments: DeChiara notes the need to attend to the proposed amendments, specifically driveway width, in preparation for annual town meeting; recommends the Board review the list to see if there are any amendments worth going ahead with. Lacy suggests meeting with Fire Chief Walter Tibbetts to consider driveway width. Bonnar will arrange for the Board to meet with Tibbetts during the February meeting.

At 9:15pm, DeChiara moves and Raymond seconds a motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. 1.14.19 Habitat for Humanity letter to the Planning Board
2. “Proposed Use Table, Marijuana Only Version”, “Marijuana & Hemp Version” and “Draft Marijuana Zoning Bylaw” by DeChiara

Respectfully submitted,  
Linda Avis Scott  
Land Use Clerk