

Shutesbury Planning Board Meeting Minutes
January 13, 2020 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Michael DeChiara, Linda Rotondi, and Steve Bressler

Planning Board member absent: Robert Raymond and Jim Aaron

Staff present: Linda Avis Scott/Land Use Clerk

Guests: Penny Jaques

Bonnar calls the meeting to order at 7:10pm.

Public Comment: None offered.

Campaign Finance Report Form: Board members sign accordingly.

Possible 2020 Zoning Bylaw Amendments:

1. Article V Open Space Design: Lacy: the rationale for the changes to this article, originally adopted in 2008, are based on the Board's experience with two approved and one pending project; building a road is considered subdividing while dividing road front lots is done with the "approval not required" (ANR) process; open space design plans, with shared or single-family driveways, currently require "site plan review". Lacy continues: the Board is considering requiring a special permit for open space design plans; this will allow the Board more discretion. Bonnar: suppose a large subdivision with a new road is proposed; in this example, there may not be regular frontage for the ten house lots that are not possible off a common driveway. Lacy: it is possible to have smaller lots; if there are more than six lots in a subdivision, some may have street frontage or there could be two shared driveways. Lacy: conservation analysis is part of the subdivision regulations; subdivision applications have to follow the applicable zoning. Lacy to DeChiara's question: a new road under subdivision regulations must follow open space design, however, the review will be under the subdivision bylaw. DeChiara states his support for requiring a special permit for open space design plans. Bressler: given the benefit to the landowner, requiring a special permit is appropriate. Lacy: the special permit allows the Board discretion and the ability to condition the permit. Lacy reads proposed changes to Section 5.1-2B. into the record: "In such a case, the application shall be subject to *special permit* (was 'site plan review') as described in Article IX, *which may additionally consider the conservation benefits versus detriments of permitting the number of residential units in excess of the number otherwise possible under the Approval Not Required process.*" Bonnar: does this give the Planning Board the ability to deny a special permit application if the conservation benefits are not met? Lacy: open space design allows the potential for additional lots that would otherwise not be possible. Bonnar: the special permit process gives the Planning Board additional power. DeChiara: inherently, the Planning Board would want to ensure open space is preserved; the amendment is being refined on lessons learned. Bressler: a special permit will provide a way for the Planning Board to have a say in how an owner is able to have additional building lots without complying with subdivision regulations. Lacy: the

conservation benefits have to be considered. DeChiara: this proposal will make the method more aligned with the purpose. Bressler: requiring a special permit will be more consistent with the goals of open space design. Lacy: Section 5.3-2 “Unit Count Calculation” will now read “Fraction units shall be rounded *down to the next whole number.*” which matches the current practice relative to conventional building lots; one has to meet the full measure of having a lot. Lacy: Section 5.3-3 “Density Bonuses” will now read “Resulting fractional units *shall be rounded down as in §5.3-2*”; Section 5.3-3C. “...a maximum 10% density bonus per additional 5% of the *whole* parcel preserved as open space.” and Section 5.3-4 B, to be consistent with 5.3-5, needs to be changed to read “...the maximum allowable unit count under §5.3-2 by more than 25%, and will not adversely affect the area surrounding the receiving parcel.” Regarding Section 5.6 “Permanent Open Space”, Lacy suggests the following: “...shall be *configured as a separate parcel(s) from any building lots...*”. Bressler: this answers a question raised by Bucky Sparkle (during the 11.18.19 meeting). All Board members agree for conservation restrictions to be a separate lot. Lacy suggests adding “*or by other means acceptable to the Planning Board*” to Section 5.6-1 for a situation where a conservation holder cannot be found. Lacy notes that a conservation restriction (CR) is preferable because it is permanent; easements expire in thirty years unless they are granted to a town and may be indefinite; a subdivision or open space condition would be the least effective as planning boards change. Penny Jaques suggests that by editing the second line of Section 5.6-1 to read “*shall be permanently protected from development*”, the goal is stated right up front. Jaques is interested to know what is possible with an “easement”. DeChiara supports Jaques’ recommendation to put protection right up front then it is up to the Planning Board to discern the means. Jaques: a CR is not a viable method in all cases; the Conservation Commission may be interested in holding a CR for an ecologically valuable site. DeChiara: there will be a hierarchy of preferred ways to protect the land. Bonnar: there needs to be a way to state that a CR is the preferred way to go. DeChiara: Jaques’ edit to the first sentence states the intent; a second sentence will define the methodology; the language needs to be clear enough for a condition to be possible. Lacy suggests listing the other types of protection in the text. Jaques, referring to “other means acceptable to the Planning Board” asks if there is a way to prevent being lax. Lacy: yes, through the required and demonstrated recordation at the Registry of Deeds. Jaques refers to the opening sentence in Section 5.1-1 noting that it reads as though the rationale for open space design is forestry. Bonnar: Jaques’ point refers to “remain economically viable for commercial forestry”. Jaques: based on this language, the other intrinsic values seem to be secondary and tertiary, i. e. carbon sequestration, habitat, water quality; the opening statement needs to give equal weight to the other values of an intact forest.

Jaques is asked to provide the Board with an update on the Abbreviated Notices of Resource Area Delineation (ANRAD) for four sites in different parts of town each with access off unpaved roads: two off Pratt Corner Road, one on Carver Road, and one on Baker Road. Jaques explains that the ANRADs request review of the delineations done late last September/October by TRC (the applicant’s representative); the Commission will be hiring a wetland consultant to review these delineations, on their behalf, at the applicant’s expense. Jaques continues: the developer was present on 1.9.20 to answer questions about potential projects outside of the public hearing; the delineations were

done during a season when one is unable to see vernal pools, therefore, the Commission will be asking the consultant to do their review when vernal pool activity can be observed.

Bressler: during the last meeting, the Board considered how to address large-scale solar installation proposals for several small sites. Based on the 12.9.19 discussion, Lacy and DeChiara report that they have been working on a proposal to amend Section 8.10 “Ground-Mounted Solar Electric Installation” and expect to have a document for the Board to review prior to the next meeting. The Board supports having Lacy consult with planning professional resources and for both Lacy and DeChiara to hold a phone consult with Town Counsel Donna MacNicol.

Lacy reminds the Board that it will be necessary to vote on the proposed 2020 zoning amendments during the February/March meetings in order to be prepared to schedule a timely public hearing in advance of annual town meeting. The Board considers what is reasonable to ask of a person proposing a single-family home versus a subdivision or a large-scale solar development. Bonnar notes that additional meetings may be needed to approve the proposed amendments.

DeChiara moves and Lacy seconds a motion to approve the 12.9.19 meeting minutes; the minutes are unanimously approved as presented.

1. Section 8.4 Sign Regulations: DeChiara appreciates that some members of the Board want a laissez-faire approach to signage; he consulted other towns’ bylaws for recommendations regarding dimensions, installation, consistency with the building code, and avoidance of public safety hazards. DeChiara notes the importance of clarifying what happens regarding signage on town property and that the Supreme Court Reed v. Town of Gilbert decision states that a government cannot regulate signs based on content. DeChiara refers to 8.4-3. A(4): “Signs Permitted by Right”: “*Directional or identification*” signs would now be “by right” rather than by Zoning Board of Appeals (ZBA) special permit; there would be no change to the requirement for a ZBA special permit for “signs for commercial activities”. DeChiara reviews the new section “8.4-5 Prohibited Signs”. Regarding “right of way”, Lacy suggests using five feet from the edge of the road because in the proposed language “setback from the property line(s) a minimum of 5 feet” could be 10’ from the layout. DeChiara: “5 feet from the edge of the road” will easy to figure out. Lacy: this change would be substantially liberalizing from the current regulations. Lacy shares photos of four signs on Baker Road that violate the current regulations; these examples show how hard it is to meet current rules and have signs be visible and suggests removing the term “layout” from the proposed regulations. DeChiara: the goals of his proposed changes are clarity and practicality. DeChiara to Bressler’s question: yard sale signs and signs on cars for sale are included in Section 8.4-3 A. “Signs Permitted By Right”. Bressler suggests defining installation as being very specific and alleviating any wording that is interpretive. DeChiara, referring to 8.4-7 “Enforcement”, notes the role of the Town Administrator and Select Board and that the Police Chief and Highway Superintendent may also be involved in enforcement. Lacy notes that the Building Commissioner is the zoning enforcement officer and that Town officials would enforce signage on town property; suggests DeChiara ask Town Counsel Donna MacNicol for guidance on changes to the sign bylaw.

DeChiara reports that the Complete Streets policy was submitted and the Town Administrator will attend the relevant training and that the MVP grant application was approved by the Select Board and will be submitted by 1.15.20.

DeChiara notes that subdivision forms are now on the Board's webpage. Lacy will review the additional subdivision forms for inclusion.

At 9:27pm, DeChiara moves and Bressler seconds a motion to adjourn the meeting; the motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. Draft "Article V. Open Space Design"
2. 1.8.20 "Proposed Amended Sign Bylaw"
3. "Reed v. Town of Gilbert Decision" recap
4. Examples of signs posted on Baker Road

Respectfully submitted,
Linda Avis Scott
Land Use Clerk