

Shutesbury Planning Board Meeting Minutes
August 3, 2020 Virtual Meeting Platform

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

Guests: Town Counsel Donna MacNicol, Allen Hanson, Miriam DeFant, Henry Geddes, Julie Rypysc, Penny Jaques, Robert Seletsky, Mary David, and Ashleigh Sullivan Pyecroft

Bonnar calls the meeting to order at 7:02pm.
Statement relative to conducting virtual meetings following the Governor's restrictions on public meetings is read into the record by Bonnar.

Public Comment: None offered.

Preliminary Subdivision Decisions:

1. Roaring Brook Preliminary Subdivision Case #20.01: Lacy reviews the Preliminary Subdivision Decision adapted from the Planning Board Special Permit form. Lacy moves the Planning Board adopt this as the Preliminary Subdivision Decision format going forward. DeChiara seconds the motion. Roll call vote: DeChiara: aye, Lacy: aye, Bressler: aye, Raymond: aye, Rotondi: aye, and Bonnar: aye; the motion carries. Lacy: the Roaring Brook Preliminary Subdivision Decision includes all the required information and the submission date of 7.13.20. Lacy continues to review the document via screenshare; the six Findings are the same for the Dean Brook and Nurse Brook Preliminary Subdivision applications. Lacy reviews the Findings for the Roaring Brook Preliminary Subdivision Decision in detail by reading them into the record. Lacy further explains that there are specific Decisions for each of the six Findings. Lacy to Bressler's question, "Finding" #5 is relative to the Shutesbury Regulations Governing the Subdivision of Land. DeChiara verifies that the Board voted not to accept any waivers during their 7.13.20 meeting. Town Counsel Donna MacNicol, referring to Decision #1, it is necessary to establish that the earliest submittal date to the Planning Board would be July 13, 2020. Lacy: the document that was submitted did not meet the minimum requirements therefore is rejected and deemed not submitted. Lacy continues: the document submitted is disapproved under the Shutesbury Regulations Governing the Subdivision of Land because it did not meet the minimum submittal requirements. Per Lacy, the votes are in the affirmative. DeChiara moves the Planning Board approve the Roaring Brook Preliminary Subdivision Decision as written; Raymond seconds the motion. DeChiara: the decision is comprehensive and reflects the 7.13.20 discussion and vote. Raymond observes that the decision is educational. Roll call vote: DeChiara: aye, Lacy: aye, Raymond: aye, Rotondi: aye, Bressler: aye, and Bonnar: aye; the motion carries.
2. Dean Brook Preliminary Subdivision Case #20.02: Lacy: the applicant used the same book and page number for the Dean Brook and Nurse Brook applications as highlighted

in the Decision. MacNicol recommends noting that there is an incorrect reference. It is agreed for the information to be left unchanged as these decisions are not recordable. Lacy reviews the Findings, the same as those for the Roaring Brook Preliminary Subdivision Decision, with the exception being the details for Findings #3 and #5. Lacy reviews the Decisions concluding that the Dean Brook Preliminary Subdivision Plan, as submitted, did not meet the minimum requirements therefore is rejected and deemed not submitted. Lacy: the document submitted is disapproved under the Shutesbury Regulations Governing the Subdivision of Land because it did not meet the minimum submittal requirements. DeChiara moves the Planning Board approve the Dean Brook Preliminary Subdivision Decision as written; the motion is seconded by Raymond. DeChiara states the Decision is comprehensive and reflects the 7.13.20 discussion and vote. Roll call vote: DeChiara: aye, Lacy: aye, Raymond: aye, Bressler: aye, Rotondi: aye, and Bonnar: aye; the motion carries.

3. Nurse Brook Preliminary Subdivision Case #20.03: Lacy reviews the Nurse Brook Preliminary Subdivision Decision noting that the “Registry of Deeds Title Reference” remains highlighted. Lacy notes that the Findings are the same as for the prior two decisions with the exception being the details for Findings #3 and #5. Lacy: the Decisions correspond to the Findings, as they did for the prior two Decisions, and conclude that the Nurse Brook Preliminary Subdivision Plan, as submitted, did not meet the minimum requirements therefore is rejected and deemed not submitted. Lacy: the document submitted is disapproved under the Shutesbury Regulations Governing the Subdivision of Land because it did not meet the minimum submittal requirements. DeChiara moves to approve the Nurse Brook Preliminary Subdivision Decision as written; Raymond seconds the motion. DeChiara: the Decision is comprehensive and reflects the 7.13.20 discussion and vote. Roll call vote: DeChiara: aye, Lacy: aye, Raymond: aye, Rotondi: aye, Bressler: aye, and Bonnar: aye; the motion carries.
4. Baker Brook Preliminary Subdivision Case #20.04: Lacy and Raymond, as abutters, are recused from discussing and voting on Case #20.04. DeChiara reviews the Baker Brook Preliminary Subdivision Decision noting that this application has two parcels and is statutorily a subdivision because the lots do not have adequate frontage on a road; thus, there are five Findings. DeChiara reviews Finding #2 for the minimum statutorily-required elements listed in MGL Chapter 41 Section 81L. DeChiara: the five Decisions to reject and disapprove correspond to the five Findings; the Baker Brook Preliminary Subdivision Plan, as submitted, did not meeting the minimum requirements therefore is rejected and deemed not submitted. DeChiara: the document that was submitted did not meet the minimum requirements under the Shutesbury Regulations Governing the Subdivision of Land therefore is disapproved. Bressler moves the Planning Board approve the Baker Brook Preliminary Subdivision Decision as written; Rotondi seconds the motion. DeChiara: the decision is comprehensive and reflects the 7.13.20 discussion and vote. Roll call vote: DeChiara: aye, Rotondi: aye, Bressler: aye, and Bonnar: aye; the motion carries.

To Bonnar’s question. MacNicol advises the Board regarding the procedure for the Rule of Necessity: as Chair, Bonnar will send an email to MacNicol describing the “who and why” the

Rule of Necessity is needed; Town Counsel will issue a determination as to whether the Rule can be used. MacNicol to Bonnar's question: Per Chapter 40A Section 9, zoning bylaws may establish associate members to a Planning Board; in the case of an absence, a Chair may designate an associate member to sit on the Board for a special permit application. Bonnar to DeChiara's question: if Hanson were to become a Planning Board member and if there were a special permit application for the Baker Road site, three members would be abutters necessitating three recusals.

Candidates for Planning Board Vacancy: Bonnar recognizes the two candidates for the Board vacancy, Allen Hanson and Mary David, and invites them to speak. Bonnar: the existing Planning Board members will meet with the Select Board to vote on who will fill the vacancy created by Jim Aaron's resignation; the term for the vacant seat runs to 6.30.21. Allen Hanson asks if, as a resident of Baker Road, his presence would cause a problem. Bonnar: with three recusals for a case, the Rule of Necessity will apply; with two recusals, a super majority could be attained. Lacy: per the State Ethics Commission, a party of interest can obtain an appraisal to determine that the party's property value will not be affected by the proposed development. DeChiara: there is the sense that the Preliminary Subdivision applications are a "foot in the door"; the discussion regarding a special permit is hypothetical and may not be possible on Baker Road. Lacy: with the new amendments and without a waiver, construction access via Baker Road is not possible. Hanson acknowledges that he is known by most members of the Board. Mary David explains that she recently retired to her Lake Wyola home and is looking for an opportunity to give back to the community; her experience is in nursing and she is used to regulations and functioning as a committee member; has assisted in the building of a hospital and serving as vice-president of nursing. Bonnar clarifies that the Board needs one new member. DeChiara asks Hanson and David what interests them about being on the Planning Board. David: the Planning Board provides an opportunity to learn how decisions are made relative to land use, zoning and conservation and she may have valuable skills to offer. Hanson states that he has an interest in the work of the Planning Board and is willing to fill a vacancy, however has no background in planning. Raymond asks Hanson and David about their willingness to run for the position at the completion of the vacant term. Hanson states that he has some willingness though needs to see how it goes. David states that she needs to see, over the year, how she can contribute. The upcoming Select Board meeting dates are 8.18.20 and tentatively 9.1.20. If a quorum agrees, the Board will meet with the Select Board on 8.18.20. Bonnar will suggest this plan to Town Administrator Becky Torres and Select Board Chair Melissa Makepeace-O'Neil. DeChiara suggests and Bonnar agrees to invite David and Hanson to the 8.18.20 meeting with the Select Board. DeChiara requests statements of interest be forwarded to the Select Board.

Meeting Minutes

1. DeChiara moves and Bressler seconds a motion to approve the 6.22.20 meeting minutes as amended. Roll call vote: DeChiara: aye, Rotondi: aye, Lacy: aye, Bressler: aye, Raymond: aye, and Bonnar: aye; the motion carries.
2. DeChiara moves and Bressler seconds a motion to approve the 6.26.20 meeting minutes. Roll call vote: DeChiara: abstain, Raymond: aye, Lacy: aye, Bressler: aye, Rotondi: aye, and Bonnar: aye; the motion carries.
3. DeChiara moves and Raymond seconds a motion to approve the 7.13.20 meeting minutes as amended. DeChiara clarifies that per Town Counsel MacNicol the

references to Section 81O are actually to Section 81S, the more relevant section; the minutes will be left as written. Roll call vote: DeChiara: aye, Raymond: aye, Lacy: aye, Bressler: aye, Rotondi: aye, and Bonnar: aye; the motion carries.

Web Page Editor: Bonnar, responding to an email from Web Committee Chair Gail Fleischaker, will let her know that DeChiara is currently the Board's webpage editor.

Land Use Clerk Replacement: Bonnar reports meeting with Town Administrator Torres, ZBA Chair Chuck DiMare and Conservation Commission Chair Penny Jaques about how to deal with Scott's departure as Land Use Clerk; a job posting went out and the responses will be reviewed 8.4.20. Scott speaks to the need for the candidate to have a willingness to learn and be attentive to detail and organization. DeChiara notes the value of having Scott assist in the selection of the new Land Use Clerk. Scott is willing to be a resource. Lacy recognizes the importance of record keeping.

Once Bonnar receives the final hard copy decisions from Lacy and DeChiara, he will sign and deliver the decisions to Town Clerk Grace Bannasch; electronic versions will be sent to Scott.

At 8:52pm, DeChiara moves and Lacy seconds a motion to adjourn the meeting. Roll call vote: DeChiara: aye, Lacy: aye, Raymond: aye, Bressler: aye, Rotondi: aye, and Bonnar: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. Preliminary Subdivision Decision for Case #20.01 Roaring Brook Preliminary Subdivision Application
2. Preliminary Subdivision Decision for Case #20.02 Dean Brook Preliminary Subdivision Application
3. Preliminary Subdivision Decision for Case #20.03 Nurse Brook Preliminary Subdivision Application
4. Preliminary Subdivision Decision for Case #20.04 Baker Brook Preliminary Subdivision Application

Respectfully submitted,
Linda Avis Scott
Land Use Clerk