

Shutesbury Planning Board Meeting Minutes
Joint meeting with the Historic Commission
May 10, 2021 Virtual Meeting Platform

Planning Board members present: Deacon Bonnar/Chair, Michael DeChiara, Robert Raymond, Linda Rotondi, Jeff Lacy, Steven Bressler, and Nathan Murphy

Staff present: Tessa Dowling/Land Use Clerk

Historical Commission members present: Henry Geddes/Chair, Miriam DeFant, Mary Lou Conca, Greg Caulton, Ezzell Floranina, Janice Stone

Guests: Donna MacNicol/Town Counsel, Timothy Garcia/Nextera, Penny Jaques, Jane Plaza, Don Wakoluk, Brad Spry

Bonnar calls the meeting to order at 7:03pm.

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

Geddes calls the Historical Commission meeting to order at 7:04pm.

Bonnar reads the meeting agenda. Planning Board 04.26.21 meeting minutes will be reviewed at a future meeting.

Public Comment

Jaques sent a letter to the Planning Board recommending that Zara Dowling, research fellow at UMass Clean Energy extension, is invited to talk about the state solar program SMART and answer questions. She had not heard if a meeting was scheduled with Dowling. The Planning Board provides the updated that the Select Board had voted to move forward with scheduling a forum with Dowling.

Wheelock Solar Annual Report

DeFant follows up on an email she sent to the Planning Board with a list of questions for the Wheelock operator that she would like answered in the Wheelock annual report. She reads the seven questions and mentions that as an abutter during storm events she has seen sediment from the Wheelock driveway flowing into ditches.

Per Lacy, Nextera Energy, represented at the meeting by Garcia, is the third Wheelock operator. An annual report was drafted but did not fully address the information requested in the conditions of the Wheelock special permit.

Garcia explains that the annual report condition was lost in the transition between operators. Nextera will send annual reports moving forward.

Jaques asks when the site was last reseeded and monitored?

Per Garcia, the site was reseeded in August/September of 2020. The draft report used aerial photographs to estimate percent vegetation cover because Garcia is based in Florida. The site is visited annually by a technician. The area is mowed by a third party subcontractor once a year in October/November per the special permit conditions.

The Planning Board requests that Garcia return for the June 14, 2021 meeting with a complete annual report as described in the special permit conditions. DeFant's questions will be forwarded to Garcia to answer in the report.

Discussion with Historical Commission on Handling Sensitive Information

DeFant sent a draft proposal outlining a process to protect sensitive historical information, such as site locations of pre-colonial structures, to the Planning Board. Tribal officers, historic researchers, and other Historic Commission collaborators want to know how the Planning Board will handle non-public sensitive information. The Historic Commission created a sign off form to allow qualified researchers access to non-public information.

DeFant screen shares the form and then the draft proposal, then Lacy screen shares his annotated version of the proposal with questions.

Per DeFant and Town Counsel, the Planning Board and the Historical Commission can go into joint executive session under MA G.L. Chapter 9 Section 26A reason #7 To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements because the Historical Commission can protect site locations under MA G.L. Chapter 40 Section 8D. Historical features might be flagged in the field so they can be avoided by project contractors, but site plans would not label the features.

Per Lacy, the Planning Board will want to go on project site visits to resolve any controversies between the Commission and the special permit applicant, with the help, if needed from consultants.

DeChiara suggests the Commission submit written descriptions instead of maps so it is harder to locate features.

Per DeFant, mostly the feedback from Tribal Officers and researchers is a request for no photographs.

Town Counsel asks if there will be issues if Tribal members want to access a site and there is fencing to protect a historical feature.

Per DeFant, there won't be individual fences around features. Tribal Preservation Officers would have to negotiate with the landowner for access to the land in general.

Per Town Counsel, the Tribal Historical Preservation Officers will attend the executive sessions. DeFant will revise the sensitive information proposal and bring it back for the Planning Board approval at the June 14th meeting. The Tribal Officers and researchers want to see a written agreement with the Board regarding protecting sensitive information.

At 8:36pm, Geddes moves and Floranina seconds a motion to adjourn the Historical Commission meeting. Roll Call Vote: Floranina: aye, DeFant: aye, Stone: aye, Conca: aye, Geddes: aye; the motion carries.

Access and Associate Member Amendments

The Planning Board will submit two bylaw amendments to Town Meeting on June 12, 2021.

DeChiara has written an explanation of the purpose of the Associate member bylaw that can be presented at the required public hearing for the bylaws.

DeChiara screen shares the Associate member bylaw amendment.

Per DeChiara, the Planning Board and the Select Board approved the language of the Associate member bylaw last month. The recommended placement for the bylaw is section 10.4 of the town zoning bylaws after section 10.3 that discussing the ZBA's associate members.

The Planning Board and Town Counsel discuss the need to either deleting or change the language of zoning bylaw 9.3B that discusses alternate Planning Board members. Alternate members have no legal definition under state law.

At 8:46pm, Murphy moves and DeChiara seconds a motion to adopt the placement of the Associate member bylaw in section 10.4 of the Shutesbury zoning bylaws and strike 9.3B from the special permit section of the zoning bylaws. Roll Call Vote: DeChiara: aye, Lacy: aye, Bressler: aye, Murphy: aye, Rotondi: aye, Raymond: aye, and Bonnar: aye; the motion carries.

Per Town Counsel, the deletion of section 9.3B should be included in the public notice about the two bylaw amendments.

Lacy screen shares the Access bylaw.

The Planning Board and the Select Board have approved the language of the Access bylaw. The Select Board has also reviewed the explanation for the amendment written by Lacy.

Lacy reads explanation for the Planning Board.

Town Counsel suggests adding the other access uses to the Forest District besides solar, such as for industrial and commercial hunting purposes. The edit is made.

The bylaw amendment public notice, the two bylaws, and their explanations will be posted on the general town webpage, the Planning Board webpage, and outside the Town Hall.

Dowling confirms that the bylaw amendment hearing will be held on June 2, 2021.

Unanticipated Business

The Planning Board discusses the Select Board May 11th meeting agenda item “Receive input from other Boards and the Public on Smart Program and AMP” and possible questions the Planning Board could ask of Amp Energy at the meeting.

Spry joins the meeting. He has questions regarding an ANR subdivision plan he would like to submit to the Board.

DeChiara screen shares the ANR plan.

Per Spry, the property was purchased over a year ago. The plan is to divide the West Pelham Rd frontage and to develop the back 30 acres.

The Planning Board reviews the divisions to see if they meet front, back, and side setback requirements under the Shutesbury zoning bylaw.

The Board and Town Counsel raise concerns because one of the purposed subdivisions would include the non-conforming single family home. They suggest that Spry check with legal counsel before formally submitting the ANR plan.

Spry will attend the June 14th Board meeting.

Per Town Counsel, when ANR plans are signed they should also include a statement that says that the approval of the plan does not certify compliance with Shutesbury Zoning Bylaws.

ANR plans only approve frontage.

At 9:58pm, Murphy moves and DeChiara seconds a motion to adjourn the meeting. Roll Call Vote: DeChiara: aye, Lacy: aye, Bressler: aye, Murphy: aye, Rotondi: aye, Raymond: aye, and Bonnar: aye; the motion carries.

Respectfully submitted,
Tessa Dowling
Land Use Clerk