

# Shutesbury Planning Board Minutes

05.09.2022

(Approved- 06.13.2022)

*Virtual Meeting*

**Meeting Start:** 7:00pm

**Members Present:** Deacon Bonnar, Michael DeChiara, Jeff Lacy, Nathan Murphy, Robert Raymond, Steven Bressler

**Members Absent:** Linda Rotondi

**Associate Members:** None

**Associate Members Absent:** Ashleigh Pyecroft, Jake Messier

**Other Present:** Donna MacNicol, Paul Lyons, Miriam DeFant, Melissa Makepeace-O'Neil, Leslie Bracebridge, and all other unidentified individuals.

Chair's Call to Order at 7:00pm

Meeting is being recorded

**7PM Public comment:**

None

**Minutes 11/8, 12/6, 3/14, 3/28, 4/11:**

**12.06.2022** – Planning Board, PB, reviews the minutes created by Nathan Murphy. 12.06 meeting was with Select Board – Murphy used the minutes approved by the Select Board (noted on the document). **Motion: DeChiara moves to approve 12.06.2021 minutes, Bressler seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye.**

**So moved.**

**3.14.2022** – **Motion: DeChiara moves to approve 3.14.2022 minutes, Lacy seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye.**

**So moved.**

**3.28.2022** – **Motion: DeChiara moves to approve 3.28.2022 minutes, Lacy seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye.**

**So moved.**

**4.11.2022** – **Motion: DeChiara moves to approve 3.14.2022 minutes, Lacy seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye.**

**So moved.**

**Bylaw Amendments Public Hearing:**

DeChiara recites the Legal Notice listed in the agenda and posted in the Daily Hampshire Gazette on April 22, 2022 and April 29, 2022.

**ZBA change in members from 3 to 5** - Lacy: If the Zoning Board of Appeals, ZBA, moves to a 5 member board, they can have meetings, approve minutes and possibly have site plan reviews but can't approve any special permits with 3 members. With 4 members, special permits can be approved but it would have to be unanimous – super majority is needed for special permit approval with a 5 member board. He expresses these concerns because there are currently three members and ZBA is struggling to find new members. Town Counsel, Donna MacNicol agrees. DeChiara states that given this clarification it may be best to move the bylaw at Town Meeting rather than withdraw it in order to give the PB an opportunity to share its recommendation. MacNicol: there are not 21 days between this current meeting and Town Meeting on May 21<sup>st</sup> and state statute states 21 days is needed for the town to move it at Town Meeting unless PB delivers a report. A report can be orally delivered at town meeting and one sentence is sufficient. MacNicol notes that it would be great for it to be included when Town Clerk, Grace Bannasch, hands in the approved zoning amendment package to the Attorney General's Office, (AG), if it does pass at Town Meeting. Raymond asks if the PB could drop the clause changing the number of members in the ZBA but leave the associates appointment clause in the newly proposed amendment. PB still recommends the change in members but wants to inform the public about the risks if passed. After discussion with MacNicol, it is concluded that a 3 member ZBA may have two associates that could be brought forward when special permits are submitted. Lyons: Points out that there is a citizens petition to also increase the number of members on the ZBA – PB proposed amendment would be addressed before the petition and therefore the petition would most likely be withdrawn at that point. **Motion: DeChiara moves to recommend the proposed ZBA Bylaw changing the number of members from 3 to 5 notes the conditions addressed, Murphy seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye. So moved.**

**Energy Storage Amendment** - DeChiara: Starting on page 4 with the Sections Required Documents, Safety and Environmental, and Reporting, he realized they all pertain to Commercial Energy Storage Systems rather than “On site” (non commercial). He suggests that the definitions state that Commercial Energy System Storage are ‘CESS’, to which MacNicol agrees. **Motion: DeChiara moves to approve the proposed Energy Storage amendment to the Zoning Bylaw, Bressler seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Abstain, Raymond- Aye, Bressler-Aye, and Bonnar-Aye. So moves.**

**Motion: Lacy moves to close the Bylaw Amendments Public Hearing, DeChiara seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye. So moves.**

### Unanticipated business:

**Associate Appointments** - Bonnar: received a letter from Town Secretary, Linda Scott, informing PB that the Select Board would like to make associate appoints on June 21<sup>st</sup>- the Bylaw requires associate appointments to be done through a joint meeting with Select Board. Lacy: I talked to Ashleigh (Pyecroft) and she wants to be reappointed. DeChiara suggests asking the Select Board to join PB next meeting in June. Bonnar agrees but will ask Messier about his appointment before responding to Scott. Bonnar asks the board if they wish to reappoint both current associates if possible - all members agree.

**Wheelock Report** - Lacy: I spoke to Tim Garcia, contact for Wheelock Project, asking him about plans to improve the drainage ditches and basin that isn't functioning as a detention or retention. Garcia spoke with a local expert who is looking to address that in May or early June. Basin needs to be mucked out – sedimentation build-up from construction caused the disfunction. The plan is to, once the ground is dry, install a damn in the middle, drain one side to clean out and once completed they will pump the water back into new side – repeat the process on other side and remove damn once finished. Garcia invited the PB to go to the site to see it before and after – Lacy notes it would be good to take pictures. DeChiara suggests asking if Conservation Commission would like to join. PB agrees.

**Lacy Report** – Lacy: He did four consults with residents, specifically Zoning Bylaws. He has been working with Steve Puffer on his property figuring out if Puffer's old driveway permit is in effect. He was unable to determine and handed it to the Building Inspector. A resident on Pratt Corner Road ask about zoning Bylaws – the possibility of an accessory apartment on the property. He received an inquiry from Conway Planning Board about a cell tower application they received from Vortex – forwarded Conway Planning Board our decision. Shutesbury's cell tower from Vortex has it's road down with drainage infrastructure as planned and also saw a bituminous lip was placed about 30 ft in – unsure if lip was in the plan. On the site he saw 5 same sized structures were placed at the top.

**Light Pollution Petition** – DeChiara: If Light Pollution Bylaws are considered general Bylaws, what is the role of the Planning Board in that? MacNicol: There wouldn't be one, which leads to the question who could enforce it? MacNicol wants to have a discussion with Lacy later in regards to this issue before Town Meeting. Lacy informs MacNicol that he reached out to Mass. Planners Associates and several colleagues responded stating they are general bylaws similar to noise bylaws. It is noted that general bylaws cannot grandfathered meaning they are affective immediately. Lyons: He has spoken to the Primary petitioner about this petition and she is amendable to changing the motion to what is most appropriate and if something is illegal they will not go through with it – noted that when she presents she will make it clear that the bylaw doesn't affect holiday light use. Mediators usually advise going through with discussion and vote even if it is possible illegal and strike down later.

**Motion to Adjourn: DeChiara moves to adjourn, Lacy seconds. Vote: DeChiara- Aye, Lacy- Aye, Murphy-Aye, Raymond- Aye, Bressler-Aye, and Bonnar-Aye. So moves.**

**Meeting Closed: 8:17pm**