

# Shutesbury Planning Board Minutes

DRAFT Minutes – 09.12.2022

(Approved – 12.12.2022)

*Virtual Meeting*

**Meeting Start:** 7:00pm

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

**Members Absent:** Steven Bressler

**Associate Members:** Ashleigh Pyecroft

**Associate Members Absent:** Jake Messier

**Other Present:** Colin Davis, Ashley Davis, Elizabeth Fernandez O'Brien, Mary Lou Conca, and all other unidentified individuals.

Chair's Call to Order at 7:03pm

Meeting is being recorded

## **Public Comment**

None

## **Landowner education and guidance**

Deacon: PB have a guest tonight, Colin Davis, who has questions about the buildability of a lot that he is interested in purchasing. Davis shares the parcel map for PB to review. Davis: he is interested in purchase the parcel H- 43 but it is actually labeled H- 46 in the book. It was part of 212 Wendell but is being broken off to be, as of right now, 212 b Wendell Rd. Even though they do not have a full plan at the moment, they are looking to gather information about building restrictions. Bonnar: is there a map that has the frontage listed on it? Davis shares a different map to show the information as requested. Murphy: this is the ANR PB reviewed a few months back. DeChiara: the question at the moment is there enough frontage. Davis: on the list it said there were 1,200ft of frontage, including the section on Plaza Rd – without Plaza Rd it appears to be around 600ft. DeChiara: the hump in the parcel is a part of an old highway. Frontage has to be continuous so the question is if that strip of land between hump road and the current road is its own parcel (labelled Peter A. Gees) then is the frontage coming the left or right of that, or from Plaza Rd. Lacy: the parcel may not have frontage on Wendell Rd because of hump so the frontage is from Plaza Rd. Lacy: the PB's impression is that the parcel has enough frontage in the area for a single family dwelling. The next step would be to go to the building inspector to file for a building permit – he is the final arbiter of whether the parcel has adequate frontage and area to build. Murphy: he suggests also looking into any wetlands on the property that may cause other restriction that PB doesn't handle – could check in with the Shutesbury Conservation Commission. Davis thanks PB for their information.

## Solar bylaw

DeChiara: he emailed this latest version of the solar bylaw revision last week – between the last meeting and this meeting he has made edits to the revision. There were three main areas of edit: Critical Natural Landscapes; Indigenous Notifications; and Environmental Monitor. Lacy shares his version of the revised solar bylaw for PB to review.

DeChiara: a member of the Amherst Zoning Bylaw Committee suggested to him was, since PB has agreed to designate an environmental monitor for significant weather events, to also have one during construction. He added language to include this suggestion – PB agrees with this addition.

DeChiara: Critical Natural Landscape was discussed at length at our last meeting. Lacy: for this section, the only edit he suggested was removing section 8.10-6C2 and adding ‘Unless a waiver has been approved under 8.10 -3.C..’ to section 8.10-C1. DeChiara agrees but suggests that the section Lacy recommends moving be merged with section 8.10-C-1b – editing out any redundancy afterwards. Lacy agrees. DeChiara: in section 8.10-C-1b cites a Biomap 3 which is in the process of being produced. At this moment he doesn’t remember the agency who creates the BioMaps but he knows the agency had presentation stating they have been working on it - should be ready towards the end of this year. The agency also noted they are making the BioMaps more locally relevant.

DeChiara: During the last meeting, in section 8.10-7 there is language about providing notices to Indigenous Tribes that was later commented on by the Shutesbury Historical Commission (SHC). In the meeting, the version that PB was reviewing required noticing Indigenous tribes that had a cultural tie to the land of any proposed solar development – in this case it is Algonquin speaking indigenous peoples. Donna MacNicol, Town Counsel, advised that if PB is going to require noticing to Indigenous tribes then Pb has to be able to point the developer to a list or a reputable source. He looked into governmental or non-governmental sources such as Massachusetts Indian Commission, Bureau of Indian Affairs, Massachusetts Historical Commission along with 3 other Indigenous organizations that are national – reached out to all of them but did not hear back from any (isn’t sure if it COVID related). Due to this and MacNicol’s caution, it made him believe PB can’t require notifying organizations that and downgraded the requirement to an encouragement. Mary Lou Conca: she is taken back that DeChiara made this an encouragement and no longer a requirement. She understands that is difficult to get in contact with any government body officials but the requirement isn’t PB job – it is the job of the developer to ensure contact to complete the requirement. DeChiara: he had discussed this with Miriam DeFant, member of SHC, and she agrees with his changes. After MacNicol’s advice, he and DeFant developed a listed of tribes that have to be notified regardless, but it is no longer required to contact any governmental or non-governmental sources. Conca: there is a Massachusetts state law that protects tribal burial grounds and she hopes that PB would considers including/following that law. DeChiara: This requirement is to give notice of a solar development proposal to the listed tribes – if tribal burial grounds were on site, they would be protected by law. Lacy: this section here is unprecedented and not required for any other development in Shutesbury and the list is thorough – due diligence has been met.

DeChiara: after speaking with Becky Torres, Town Administrator, there will be a special fall Town Meeting – he would like to propose that if PB is agreeable to the changes discussion tonight that PB send it to the Selectboard for review and plan a Public Hearing. PB agrees to the changes made to the solar bylaw revision as reviewed tonight – PB agrees to DeChiara suggestion of sending it to the Selectboard. **Motion: DeChiara moves for the PB to send this version of the solar bylaw revision draft be sent to the Selectboard by September 16, 2022 and to schedule the Public Hearing for October 17, 2022, Lacy seconds.** Mary Lou Conca: she is stuck on the changing of the noticing to Indigenous tribes from a requirement to an encouragement. Bonnar: that is not what is being discussed at this moment. **Vote: Bonnar- Aye, DeChiara- Aye, Lacy – Aye, Murphy- Abstain, Raymond- Aye, and Weston- Aye.**

### **Minutes**

Carey Marshall, Land Use Clerk, has sent several drafts to be reviewed by Bonnar and DeChiara. Bonnar, DeChiara, and Marshall will communicate via email to plan a date to meet and review drafts together.

Murphy is continuing to draft the minutes for 11/08/2021.

### **Unanticipated Business**

Elizabeth Fernandez-O'Brien: she had missed the meeting of the meeting with Davis's question regarding Parcel H- 46 – she is looking to get the recording of the meeting to review what was said. Murphey: a request to the Town Clerk could be made for the recording. Fernandez-O'Brien: is there an appropriate way to ask to be in touch with Davis? Davis: we can provide you our email if you would like. Fernandez-O'Brien agrees and exchanges emails with Davis.

Conca: did the PB not vote to change the language of the noticing to Indigenous tribes from a requirement to an encouragement? Lacy: it was a packaged vote – agreed to the changes made tonight and send them to the Selectboard. DeChiara: the PB will be holding a Public Hearing for the solar bylaw revision on October 17, 2022 – recommends if she would like to further discuss this matter to do it then. Conca agrees.

### **Wheelock Report**

Lacy: he, Bonnar and DeChiara met with Miriam DeFant and Beth Willson from the Shutesbury Conservation Commission to do a site visit at Wheelock over the weekend – unaccompanied from anyone representing of Wheelock. They looked at the areas where work was requested to be done - the road, ditching and retention basin. Today, he was able to get in contact with Walker about a PB person going back to the site to look at the basin after the recent rain event that occurred – received confirmation and DeChiara went to the site. DeChiara shares photos he had taken during both site visits for the PB to review. DeChiara: he doesn't have a professional eye in this matter but he there was more water than he was expecting but overall, there was less water than when at the previous site visit. He presumes that the water is being slowly filtered into the ground. Lacy: when this was proposed, the PB did not put in a condition that it be a retention basin – that's what they offered. It is functioning now as a partial retention basin because it does filtrate some water and but also a detention basin – once it fills a certain amount it redirects the water. PB's goal in having the work done was to have a large capacity and filter out more in the case of a large weather event. PB doesn't know how it will work in that case but the bottom line

is they need to keep erosion and sedimentation on their property – as long as it does not cause sedimentation or flooding down gradient off their property then it is okay. PB has to decide if it is sufficient or if in large storms it will become a problem. He believes PB needs to watch it in large storms. PB asked them to do ditching but believes they didn't interpret it the way PB imagined - PB wanted them to harden the ditches and he believes they thought it was meant for further up gradient near the ESS. There are bends in the road further down slope that could use rock lining to prevent sedimentation from the road. Bonnar: could PB get a blanket permission to do site visit after it rains? Lacy: we could seek it. It would best to go out towards the middle or end of the storm to see what the water is out-letting – see how everything performs. The road itself seems to be in better condition after they followed a recommendation from their Vermont contractor.

Lacy: he believes this is a wake call to PB in the future – the facility has done well with preventing erosion and sedimentation except for the road, where they remove the organic soils and apply fill. That's where all the erosion and sedimentation issues occur. PB agrees.

Lacy will reach out to find out if PB can get permission to have site visits during rain events.

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

**Meeting Closed: 8:11pm**

**Documents Used**

- 2022 solay bylaw revision -v-9-6-22