

**Shutesbury Planning Board  
Minutes – March 10, 2025  
Approved – May 12, 2025  
*Virtual Meeting***

**Board Members Present:** Nathan Murphy (Chair), Keith Hastie (Associate Member), Michael DeChiara, Deacon Bonnar, Robert Raymond, Ashleigh Pyecroft, Jeff Weston

**Board Members Absent:** Tom Siefert (Associate Member)

**Other Staff Present:** None

**Others Present:** Gail Thomas, Melissa Makepeace-O'Neill, Linda Reimer, Rick Munroe, Elizabeth ???

**Call to Order:** 7:04pm

The meeting is being recorded.

**Public Comment**

None.

**Land Owner Education and Guidance**

None.

**Review and Approve Minutes**

Motion to approve the minutes of January 13, 2025: DeChiara; second: Weston. Vote: DeChiara - Aye; Raymond - Aye; Bonnar - Aye; Weston - Aye; Murphy - Aye; Pyecroft - Aye. Approved unanimously.

Motion to approve the minutes of February 10, 2025: DeChiara; second: Weston. Discussion follows:

DeChiara corrects the date of the minutes and makes two small edits.

Vote: Pyecroft - Aye; Raymond - Abstain; Weston - Aye; Bonnar - Aye; DeChiara - Aye; Murphy - Aye. Approved unanimously with one abstention.

**Zoning Bylaw Amendments**

Murphy explains that he sent the Accessory Dwelling Unit (ADU) amendment, the Tiny Houses amendment, and the regulation of short-term rentals for ADUs to Town Counsel for review. He would like to start the Board's conversation with the discussion of the regulation of short-term rentals of ADUs.

**Proposed Zoning Bylaw amendment regarding the short-term rental of ADUs**

DeChiara shares the text of the proposed amendment. Murphy explains that the ADU amendments are to bring the Bylaw into compliance with the new State law. Some Board members have also expressed the desire to regulate short-term rentals of ADUs, which is not required by the new State law but which is explicitly allowed by the law.

DeChiara explains that there are two sections of the Bylaw that would be amended: 3.3-2 and 4.4-2. He notes that the State law allows regulation of ADUs if they are rented for a period of less than 30 days, and he notes that the current Zoning Bylaw needs to be brought into alignment with the State law's language regarding separate cooking facilities.

Murphy adds that the existing language refers to "renting rooms to lodgers" which seems to mean that it refers to space within a dwelling but there cannot be separate cooking facilities. He believes this means the intent is that there cannot be a makeshift kitchen for boarders but that it is permissible for a multi-dwelling home to have another kitchen in a separate unit. He recognizes that the language is confusing. DeChiara notes that Murphy's interpretation would mean that the current language does not need amendment because it already regulates the short-term rental of a unit whether it is an ADU or not, which is simpler.

Hastie agrees that the intention of the original language regarding separate cooking facilities is confusing and should be removed.

Murphy summarizes that the focus of the main ADU amendment would be to remove the requirement of owner-occupancy for properties with ADUs and allow the square footage to go from 800 to 900 if it is less than half the size of the house. DeChiara recalls that the decision to remove the question of short-term rental regulation from that amendment was because short-term rental is likely to be controversial and is not required by State law, so if it were rejected at Town Meeting that would not endanger the main ADU amendment that is needed to comply with the State law.

Murphy asks why the Planning Board would want to introduce an amendment to Town Meeting that would regulate short-term rentals. DeChiara explains that without it someone could put in an ADU and use it only for short-term rentals, like AirBnB, which could create crowding in places like around the lake. The purpose of the State law is to create more affordable housing not more short-term rentals. Murphy notes that may be true but he points out that the State law did not mandate that ADUs cannot be used for short-term rentals.

Pyecroft agrees with DeChiara's concerns about crowding at the lake and the desire to follow the State's intentions in passing the law. She raises concerns also about the ecosystem of the lake and impact on septic systems if lots of people are coming into the area using short-term rentals. She adds that she would like to find a compromise, though, perhaps by including a limitation on short-term rentals during particular times of the year. She notes also that short-term rentals do provide a means for homeowners to earn additional income, though that was not the intention of the State's law.

Weston recalls that the lake was often closed due to E. coli outbreaks and suggests that adding more people will stress the septic systems and leach fields further.

Hastie agrees that the strain on septic systems is a concern and observes that lot sizes around the lake would usually preclude adding to septic systems to account for building on the houses. He doubts it would be possible to increase occupancy in properties around the lake and comply with Title V for the septic systems. He does have some reluctance about dissuading people from coming to visit Shutesbury by limiting the availability of short-term rental options.

Bonnar notes that property cannot change hands outside of a family without passing Title V so many of the properties around the lake now have tight tank systems. Murphy adds that new construction also tends to use tight tanks.

The Chair recognizes Melissa Makepeace-O'Neill who explains that the lake was closed due to contamination from geese and not because of septic problems. Because most houses now use tight tanks there is less of a problem with septic contamination at the lake than there has been in the past. She asks about the situation for an empty-nester who wants to rent a room to, for example, a visiting professor or someone else who is here briefly, and whether this would impact that. DeChiara notes that if it were under a month then it would be considered a short-term rental. Makepeace-O'Neill notes there may be people in this kind of a situation where the short-term rental is necessary to help them financially or to pay taxes. Murphy points out that under the proposed amendment, renting a room in the house would not be affected but if it were a separate accessory dwelling unit then it would be applicable under the amendment and it would be prohibited under the Bylaw.

DeChiara observes that there are potential middle ground options, such as prohibiting short-term rentals of ADUs in just the Lake Wyola District. He notes that this kind of solution is why he thinks it is important to separate the question of short-term rentals from the question of ADUs. He responds to Hastie by suggesting the Board does not propose the short-term rentals amendment this year because regulations regarding septic are already keeping people from building ADUs in that district. The problem would be if some people start doing it and then later the Board prohibits it and prevents other people from doing it.

Murphy agrees that waiting to see is a good idea. He adds that the Board should bear in mind that ADUs do provide some revenue for the Town. He notes that the assessors have collected about \$20,000 or \$22,000 in taxes from ADUs this past year and that revenue would be impacted by a restriction like this. He adds that having a short-term rental, compared to a full-time rental, might be a preferable alternative for some people who are looking for a revenue source to help with home affordability. He would want more data about the actual ecological impacts of short-term rentals on the lake before considering that factor and he notes that short-term rentals are currently allowed and exist at the lake. He points out that if an ADU were permitted, it would be under the assumption that it would be occupied full-time, rather than part-time, so that would mean a similarly significant ecological impact. He suggests the real question is whether permitting short-term rental of ADUs will incentivize the building of more ADUs than would be built if short-term rentals were restricted, but he observes there is not enough information available to answer that question. He points out that most properties around the lake are non-

conforming and so any attempt to build an ADU on one of those properties is already going to require a Special Permit from the ZBA.

DeChiara notes that under the new State law, ADUs do not have to be owner-occupied, but the current Shutesbury Zoning Bylaw requires owner occupancy of one of the two units on the property. He observes that one of the issues in Amherst is that there is diminishing owner-occupation and lots of students moving in because developers can make a lot of money renting to them. He suggests prohibiting short-term rentals because if there is no owner in either unit, one could build the property to be a revenue generator rather than creating a consistency of neighborhoods. He understands that might not happen but he thinks that not having owner occupancy would significantly change the community's dynamics. In terms of waiting on whether to prohibit or regulate short-term rentals, he describes a situation where someone might build an ADU now for the purpose of being a short-term rental but then find themselves in a position down the road of no longer being able to use the property for that purpose.

Murphy adds that he thinks introducing a regulation on short-term rentals does carry a risk for the Town because there are possibly ADUs already being used as short-term rentals. Making the use more restrictive would penalize people who are currently using their ADU for short-term rental and the Board would then be in a situation of having to sort that out. Such a situation could create a controversy and possibly result in the Town getting sued and incurring legal fees. He notes that the Town Counsel is still reviewing the proposal but he suggests that a general bylaw might be a preferable way for the Town to regulate short-term rentals.

Bonnar notes that the text of the proposed amendment relates to an accessory use, not an accessory structure. He thinks that if the Town were to regulate short-term rentals of ADUs that should be done outside of the context of the Zoning Bylaw and the ADU section. Murphy observes that the text of the proposed amendment relates to a proposed use for both attached or detached accessory dwellings only. Bonnar notes that a single-family house could be used as a short-term rental as well. DeChiara observes that ADUs can be single-family or multi-family dwellings. He adds that he is fine with not putting this amendment forward. Bonnar thinks it is worth putting forward.

DeChiara shares the amendment again and the Board reviews the language in comparison to the current Zoning Bylaw. Murphy proposes the Board move on to discuss the other proposed amendments and not take action on this one at this time.

Pyecroft asks if the Board is not bringing the ADU amendment at all. Murphy explains that it is just the short-term rental piece that they are not acting on.

### **Proposed Zoning Bylaw amendment regarding ADUs**

DeChiara shares the proposed Zoning Bylaw amendment regarding ADUs. Murphy explains the Board needs to decide if there will be a maximum distance between a principal dwelling and any new detached structures built as ADUs, which is currently set at 75 feet. DeChiara explains that Jeff Lacy recommended going to 100 feet and in the past the Board seemed to agree with that, but Murphy has asked whether there needs to be any maximum distance stipulated at all.

Murphy asks if anyone on the Board objects to 100 feet, wants to keep it to 75 feet, or wants to eliminate the requirement altogether. Hastie asks for an explanation of the rationale for 100 feet.

DeChiara answers that the idea was that if a separate structure was built as an ADU it would be preferable to have it with some proximity to the primary dwelling unit, both for practical considerations of septic, electricity, and driveways, but also for the same reasons of minimizing impact on the environment that the Board adopted an Open Space Design requirement to reduce sprawl.

Bonnar notes that some lots in Town go far back and one goal is to keep development from happening in the Forest Conservation District. He thinks 100 feet is reasonable and Murphy agrees.

Hastie asks if there is a provision for someone to get a waiver or special permit if they needed one for some exceptional reason, such as the configuration of the lot, to go beyond 100 feet. DeChiara thinks that an exception would likely require a Special Permit but language specifically indicating that could be included in the amendment. Murphy adds that an applicant could obtain a variance if the excessive distance was due to the shape of the lot or other variance criteria. Bonnar notes that would go before the ZBA. Murphy agrees that adding the opportunity for a Special Permit for a reason not due to a variance would make sense. He suggests asking Town Counsel about adding that language after the public hearing.

Murphy reminds DeChiara to add back in the “as of” date, being the date of Town Meeting, in the amended section.

Murphy observes that the proposed amendment is largely what the Board has been discussing for several months. DeChiara notes that only a few new things have been added. Murphy notes that new content has been added in 4.2-2B1 and material was added in 6.1 and 6.2 in order to maintain internal consistency within the Bylaw. Town Counsel is currently reviewing the proposed amendment and the Board will incorporate her legal review and public comment before it goes to Town Meeting.

### **Proposed Zoning Bylaw amendment regarding Tiny Houses**

DeChiara shares the proposed Tiny Houses amendment and explains that he updated the Use Table to include Tiny Houses. He asks the Board if Tiny Houses should be allowed by Site Plan Review of the ZBA in the Lake Wyola District as it has been proposed in the other Districts. He notes that they could omit Tiny Houses from the Use Table if they instead define it simply as a kind of dwelling.

Raymond asks if defining Tiny Houses as a dwelling would require identifying it as a separate category from an ADU. DeChiara answers that it would. He explains that he sent this proposed amendment to the planning expert at FRCOG and she stated that this is actually not required in the Bylaw because this is in the new State law. DeChiara indicates that he would prefer to have it in the local Bylaw because that is where most people would be looking and they would be

unlikely to be looking at the State law. He notes that the definition in the proposed amendment is taken from the State law and has been worded to be clear about what constitutes a Tiny House. Most of the rest of the proposed amendment also comes from the State law, with the exception of items D and E. He agrees that Tiny Houses should be considered simply another kind of residential use or dwelling.

Bonnar identifies two typographic errors in the proposed amendment, which DeChiara corrects.

Raymond seeks to clarify if it would be acceptable for a Tiny House to be built on a moveable trailer but that trailer then attached to a fixed foundation. DeChiara confirms that someone could take a structure originally designed to be moveable and attach it to a fixed foundation. Raymond notes that this is aligned with the model language from Nantucket that they had been using. DeChiara points out that this is also in line with the definition in the State regulations.

Murphy clarifies that during the earlier discussion about short-term rentals the topic of manufactured homes came up but he notes that they are not permitted under the Bylaw. DeChiara confirms that the current Zoning Bylaw refers to “mobile homes” but that language will be removed. He notes that a modular dwelling unit is permitted and defined in the State law. Murphy explains the difference between a modular home, which is built off site and transported to the site in pieces, and a manufactured home, which is more of a home on a trailer and may not be fixed to a foundation. He notes that FRCOG advised all the towns in the region that they should consider allowing manufactured homes.

Murphy notes that there will be another chance to make further edits after the public hearing and the Board will then submit them to the Select Board. DeChiara suggests that the public hearing be held on April 14, which is the date of the next regular meeting. Murphy asks if putting the entire language of the amendments on the warrant is required by law and DeChiara explains that it is to provide voters with as much information as possible to avoid someone later challenging it on the grounds that they did not know what was being amended. DeChiara and Murphy discuss the timing of the hearing relative to when the Select Board is likely to be finalizing the warrant. DeChiara will send the Tiny Houses, ADU, and deleting Section VII amendments, as discussed at this evening’s meeting, to the Town Administrator and Select Board so they can start thinking about them now. Bonnar notes that if large changes need to be made they can also be made from the floor of Town Meeting. Murphy notes that he will not be able to attend Town Meeting and DeChiara asks for other Board members to help him present the amendments.

Motion to refer the Zoning Bylaw amendments as discussed to the Select Board and to post notice for a public hearing on these amendments for April 7 at 7:00pm: DeChiara; second: Raymond. Vote: Raymond - Aye; Pyecroft - Aye; Weston - Aye; DeChiara - Aye; Bonnar - Aye; Murphy - Aye. Motion approved unanimously.

### **Special Permit Decision for 29 Highland Drive**

DeChiara shares the draft Special Permit decision for 29 Highland Drive. Hastie explains the drafted decision and asks about several references to the Zoning Bylaw’s amendment date being 2021. DeChiara notes that the most recent amendment date should be 2024. Murphy adds that

the Town Clerk and Land Use Clerk are working to update the version of the Zoning Bylaw that is available on the Town website.

Hastie notes that in the Findings section Siefert's name needs to be added to the list of Board members who participated in the site visit.

Hastie asks to confirm that citations to the Zoning Bylaw use the correct date. DeChiara indicates that they should be citing the 2024 version and Hastie revises the references to the correct date.

Hastie revises the Votes section to reflect the vote that will be taken tonight and corrects the spelling of Bonnar's name.

Murphy suggests revising the language in the Conditions section to make it firmer.

DeChiara asks Bonnar if there are any usual conditions missing from the document and Bonnar says that the draft seems to include everything.

Murphy asks if the Board records the Special Permit with the Registry of Deeds. Bonnar answers that the applicant is the one who does that.

DeChiara asks to include the Case Number on the Decision and Murphy answers that they will have the Land Use Clerk fill it in.

Motion to approve the Special Permit for Peter Gees for a project at 29 Highland Drive: DeChiara; second: Pyecroft. Vote: Raymond - Aye; Pyecroft - Aye; Weston - Aye; DeChiara - Aye; Bonnar - Aye; Murphy - Aye. Motion approved unanimously.

### **Sirius Special Permit Decision**

Murphy notes that the Board should discuss some of the findings and conditions to include in the Special Permit. DeChiara reviews the applicant's view that the new turbine will not make noise and the concerns from abutters that the previous turbine did make noise and they would like assurances that the new one will not do the same. He states that the conditions in the Special Permit should specify that if it makes unreasonable noise then operation of the turbine should cease. He reviews the three parts of the State's definition of noise pollution and the State's noise policy and notes that both align with what the abutters had expressed as their concerns. He suggests including a requirement that if there are at least two noise complaints about the turbine over a two-month period but no more frequently than once a week and if those complaints meet the State's definition of noise pollution, use of the turbine will be suspended until the problem can be remedied. This would tie the Special Permit to the State's regulations and also account for whether the noise is an ongoing issue or a one-time or irregular situation.

Weston asks if the turbine can be deactivated from the ground. Linda Reimer and Rick Munroe answer that it is possible to deactivate it from the ground.

DeChiara explains that his proposal would not put the brakes on the project, given how long it has been in the works, but it would give abutters an opportunity to ensure their concerns are being considered.

Murphy agrees that the Permit should include a condition that would allow for the equipment to be turned off if need be and perhaps it should be required if there were substantial winds.

DeChiara notes that high wind events might be too episodic and points out that the product automatically turns off at 34 miles per hour. Munroe confirms this.

Murphy asks Munroe for an explanation of the turbine's movement in the wind. Munroe notes that the old turbine was a two-blade product that could produce a chattering noise when it yaws into the wind. The new product has three blades so it will not chatter, and he notes that the old turbine now has been rebuilt to be three blades. Murphy asks if the turbine will yaw when it is furled. Munroe answers the blades will not spin when it is furled, so it could not make noise in that state, but it does still turn on its axis. Hastie clarifies that the unit moves with the wind direction but the blades can be prevented from moving in the wind.

Murphy asks for a volunteer to draft the Special Permit decision. DeChiara shares the 29 Highland Drive Special Permit decision as a model. DeChiara confirms with Munroe that there is an existing road to the turbine site. DeChiara identifies condition number five on the draft as where requirements about noise would be included. He wants to confirm that there is no unreasonable risk of fire from the electrical equipment. He considers the footprint small enough that there is no negative impact on the land around it. Murphy notes that the concrete pad for it is already built. DeChiara suggests that the decision should document the noise concerns and respond to them, but everything else seems in order. Hastie asks if the noise concerns would be mentioned in the Permit itself and Murphy answers that it should be indicated in the findings section and then the response to it included in the conditions. DeChiara agrees that including the concerns in the findings is important because it would establish that the condition is not capricious. Hastie asks if having it in the meeting minutes would be sufficient and DeChiara states it should be included in the Permit itself.

DeChiara makes an initial draft of the Special Permit decision using the 29 Highland Drive Special Permit as a model and starts updating its content and includes draft language in condition five addressing the noise concerns. Hastie offers to draft the decision and have it for the Board before the April 7 meeting. DeChiara will send Hastie the draft version he has started. The other Board members thank Hastie for agreeing to draft the decision.

Murphy asks if any of the Board members are opposed to the decision as it is currently being drafted and nobody objects.

Reimer asks if the Board will be voting on the Special Permit decision on April 7 and Murphy explains that the decision is going to be written up before that meeting and then it would be voted on at that meeting assuming there is a quorum of members present. DeChiara notes that because April 7 is also the public hearing date for the Zoning Bylaw amendments there is a good likelihood that there will be a quorum. Munroe asks if he should put a deposit down on a crane and Murphy explains that the Board cannot make or suggest any guarantee. Raymond notes that



he will be present on April 7 but must abstain because he is on the Sirius board. Pyecroft notes she will also be present but must abstain as an abutter. Murphy notes that even with Hastie absent and those two recusals, there are enough other Board members to reach quorum if they all attend, and he has not heard from anyone else that they will not be able to attend. Murphy notes that nobody on the Board has indicated that they are opposed to issuing the Special Permit.

### **Lake Wyola Advisory Committee's Planning Board Member**

Murphy notes that this was added to the agenda by Siefert, who seems interested in serving as the Board's representative on the Lake Wyola Advisory Committee, but because Siefert is not present he is going to skip this item. He asks the Board if there is a sense that they should advertise the opportunity to the public first and nobody responds. DeChiara offers to make a motion for the appointment and Murphy answers that they should wait until Siefert is present so he can confirm that he would like to serve in that role.

### **Community Preservation Committee Update**

Murphy notes that in the interest of time, he will forward a written update to the Board from the Board's designee on the Community Preservation Committee.

### **Updates from Chair/Members**

Murphy notes that both Pyecroft and Hastie have pulled papers to run for the open seats on the Planning Board. On behalf of the Board and the residents of Shutesbury, Murphy thanks Raymond for his nine years of service on the Planning Board. Raymond expresses his gratitude for having had the opportunity to serve on the Board for three terms.

### **Adjournment**

Motion to adjourn: Raymond; second: DeChiara. Vote: Pyecroft - Aye; DeChiara - Aye; Weston - Aye; Raymond - Aye; Bonnar - Aye; Murphy - Aye. Motion approved unanimously.

**Adjourned:** 9:12pm

### **List of Documents Used:**

- Proposed Zoning Bylaw amendment regarding short-term rental of ADUs
- Proposed Zoning Bylaw amendment regarding ADUs
- Proposed Zoning Bylaw amendment regarding Tiny Houses
- Draft Special Permit decision for 29 Highland Drive