

Shutesbury Planning Board and Zoning Board of Appeals
 DRAFT Minutes – 02.16.2022
 (Approved-04.11.2022)
Virtual Meeting

Meeting Start: 7:01pm

Members Present: Deacon Bonnar, Robert Raymond, Linda Rotondi, Jeff Lacy, Steve Bressler, Nathan Murphy, Michael DeChiara, Herbert Gilmore, Charles DiMare, Jake Messier

Associate Members: Jake Messier

Members Absent:

Other Present: Mary David, Joseph Salvador, Ashleigh Pyecroft, Donna West, Jim Plaza, Laurel Facey, Arthur Keene, Mark Rivers, Gary West, Paul Leclerc, and all other unidentified individuals.

Chair's Call to Order at 7:01pm

Meeting is being recorded

Linda has announced she will not be running for re-election.

Lacy report on conversation with Town Counsel:

Bonnar: Have you spoke to Town Counsel? Lacy: Yes, terms are supposed to be staggered, does not lay out how to fix this issue if it occurs; suggested to find out where everyone is at, if there is problem then we work with Grace to try to get it fix; One way is to talk to Linda/ Grace to negotiate the terms, up for reelection so could renegotiate term from 3 years to 2 years in an attempt to fix this; Need help from Grace and, if needed, Donna. DeChiara concerned about public confusion on who is running for what term amounts. Raymond asks for clarification on the issue. Bonnar: when Murphy runs in 2024, he'll be the only one running meaning it's not staggered. Murphy: Linda if we had special permits would you leave immediately? Rotondi: need to be discussed; wondering if associates should step in now in case it becomes busier: should she switch places with them. Murphy suggests to asses options for a new appointment; is it possible to appointment someone a month before the election? Bonnar: No. Raymond: who's up for reelection this year in April? DeChiara: Raymond, Lacy and Rotondi; wondering if replacing Rotondi's term with a 2 year term rather than a 3 year term would make it more appealing. Bonnar will contact Grace for help. Lacy: previous question was energy storage, if not associated with an energy project, can it be exempt from state solar law? Donna and I concluded that it cannot but if part of a solar project is may be exempt because it would be considered an accessory: but we, Shutesbury, do not have to permit them. DeChiara thanks Lacy for his answers.

Public comment:

Deacon: anyone here have any comments or concerns about anything not on the agenda?

Murphy: sent in minutes to Town Clerk along with documents used, was asked what she should

do with them, how do I reply? DeChiara: have her talk to Administrative Secretary; some documents are kept as physical record but not on the website. Murphy: I'll tell her to go to the Administrative Secretary. DeFant: can list the documents to you want to be referred back to but don't have to attached, keeping them in email accounts counts as being kept in a record. Murphy: not sure if that counts, will follow up with Town Clerk. Pyecroft: if not an official member, does that still apply? If so, is it allowed to archive them? DeChiara: yes, all and any members or volunteers are considered employed by the town even if not paid.

Meeting Starting (ZBA): 7:26pm

Chair's Call to Order at 7:26pm

Meeting is being recorded

Approval of minutes of January 19, 2022:

Gilmore moves to approve the minutes of January 19, 2022 and Lacy seconds. Vote: Gilmore- Aye, DiMare- Aye, Lacy- Aye.

Discuss possible amendments on number of ZBA members:

DiMare: anyone object the Zoning Board of Appeals, ZBA, expanding to 5 members from 3 member? Lacy: if struggling to find new members, 4 members is needed to pass special permit so if ZBA meets with only 3 members it is still considered a quorum but can't pass special permit. DeChiara: to clarify, there is a quorum needed to meet but you need two thirds of board to vote on special permit? Would 3 out of 5 members count as two thirds? Lacy: No, 5 member board, including vacant spots, majority would be 4 out of 5. DiMare: if board was full would that still apply? Lacy: yes 4 members still needed for special permit, super majority: simply majority, 3/5, can pass other motions. Bonnar points out that the wording of the document may present the establishment of a new board when a board is already present, wondering if phasing needs to change. DeChiara shares Section 10.3 of the ZBA by-law via sharescreen, clarifies Bonnar's question that the amendment would only change that number of members, not replacing the whole section: suggests removing the phrase 'There is hereby established..'. Lacy suggests keeping it as is and only changing the number of members. Gilmore: phrase it as 'Hereby is established..', later changes suggestion to 'Hereby,.., is established'. DiMare asks Lacy and Gilmore if they are supporting this change and they agree. **Motion: DiMare asks for a motion to approve the changes to the ZBA by-law adding more members, Lacy does so and Gilmore seconds. Vote: Gilmore- Aye, Lacy-Aye, DiMare- Aye. Motion: DeChiara moves to approve the changes in the ZBA by-law section 10.3 to expand to 5 members, Raymond seconds. Vote: Lacy-Aye, Bressler-Aye, Murphy-Aye, DeChiara- Aye, Rotondi-Aye, Raymond- Aye, Bonnar- Aye.**

7:30 Meet with ZBA on extension and alteration of non-conforming properties:

DeChiara shares proposed amendments to section 6.1-3 via screenshare. DeChiara: 3 potential add-ons, knockdown/rebuild concept, neighborhood being redefined as abutters or residents within 500 feet, and detriments definition clarification. DiMare believes that knockdown/rebuilt was inherent in the language. DeChiara points out concern of being a loophole, better to clarify now than later. Murphy: to clarify the loophole, demolish a building on a plot and you try to

build on it, not sure how that works. Lacy: you have two years to build on it before it is considered abandoned, seen in study cases. Gilmore: where is the location of this? Lacy: not sure but it is in our by-law., structures that are non-conforming that are demolished are allowed to rebuilt within two years. Gilmore: does reconstruction inherently mean knockdown and rebuild? DeChiara: reconstruction occurs on a pre-existing structure. Gilmore suggest changing it to 'reconstruction, knockdown/rebuild within two years' Lacy: the zoning act itself has minimum basic project protection for lawful, non-conforming single or multi-family homes doesn't include reconstruction but does include expansion and/or alteration, more generous than state statute. DeChiara: suggest not including the phrase 'in two years' because by definition after two years anything that is not conforming would then have to be conforming correct? Lacy: yes. Gilmore suggests using the word demolition instead of reconstruction? Is there a lawfully difference between the two? Lacy: we don't have either term in our zoning by-law and not in the state statute to my knowledge. DeChiara: the general definition of demolition is more formal, agrees with the use of demolition over knockdown. Lacy: suggests phrasing 'reconstruction, demolition with new construction within two years..'. DeChiara: suggestions '... total demolition with new construction within two years'. Murphy: suggest '... new construction within two years of total demolition', should check with Town Counsel. Gilmore suggest uses the word 'complete' rather than 'total' in front of demolition. DeChiara: moving onto the green section, neighborhood being redefined as abutters or residents within 500 feet, creating clarification. DiMare: statutory standards for neighborhood is 300 feet, defined by numerous cases and should be left as is. DeChiara: disagrees, clarification is needed in order to define what residents has legal abilities in legal issues verses what residents are only allowed to voice comments, who has the right to have issue. DeChiara changes 500 ft to 300 feet to align with statutory standards. Lacy: suggests phrasing it as 'neighborhood, especially those residents or users with 300 feet of any lot time'. Lacy: there is a category called parties in interest, abutters of abutters to abutters within 300 feet, received special notices: suggests phrasing it as 'neighborhood, especially parties in interest'. DeChiara and DiMare agree. Gilmore asks if parties in interest defined in the state? Lacy: yes and is commonly known to Massachusetts lawyers. DiMare shares his disagreement with the third section defining detriments, finds it unconstitutional. Gilmore disagrees with DiMare, citing it is of high interest within the residents. Murphy: agrees with DiMare, can be addressed during special permits but should not be listed in the by-law. Lacy: writing this for the whole town and not for just Lake Wyola. DeChiara: should I take it out and place it somewhere else? DiMare: suggest adding perthanes around it, addressing it as a note to Town Counsel, DeChiara does so. DiMare adds that he would like the record show that he is not in favor A2-b should not be listed, removed from by-law. Murphy voices concern in the wording of section B to which DiMare explains that the court will only see it as redundancy. Gilmore: who are we writing this for? For legal purpose or for the people? **DiMare: reason for wanting it rewritten, by keeping b it is redundant,** Lacy disagrees. DeChiara: not productive to go forward, public good by making it more understandable and should be revisited next year to save time. DiMare: suggests making section A2-b a note to Town Counsel. Gilmore: could this apply the other way? Expending basements further down. Lacy: no because its specifically discussing the highest point, not the lowest. Is the plan to show this to Town Counsel and have her join a meeting to discuss their thoughts? DeChiara: I hope so, that is the idea. The board adjusts the section discussing neighborhood definitions for it to be clear and contextual. **Motion: DeChiara moves to amendment section 6.1-3 as outlined with the provision grammatical corrections of readability sent to Donna, Raymond seconds. Vote: Lacy-Aye, Bressler-Aye, Murphy-Aye,**

DeChiara- Aye, Rotondi-Aye, Raymond- Aye, Bonnar- Aye. Motion: Lacy moves to amendment section 6.1-3 as outlined with the provision grammatical corrections of readability sent to Donna, Gilmore seconds. Vote: Gilmore- Aye, Lacy-Aye, DiMare- Aye.

Motion to Adjourn (ZBA):

Motion: Lacy motions to adjourn, Gilmore seconds. Vote: Gilmore- Aye, Lacy-Aye, DiMare- Aye.

There is an outcry from an unidentified individual asking when the public may speak. Bonnar reaches out to answer any questions they may have but it is not followed by any question or comments.

Meeting Closed (ZBA): 8:37pm

Bonnar: Town Administrator came with an inquiry about the Kestrel Trust asks to expanded their parking area at a current project they are currently working on, wants to know if we have any comments, bringing to the board for any comments. DeChiara: we have a CPC application, CPC meeting to talk about it, next week will be an official hearing for it, Kestrel is putting in money and CPC is asked to put in money, wants to clean up and expanding parking area and also has trail to bog that is being worked on. Bonnar: did we have any comments? Bressler shares his support for expanding their parking area. Lacy: it's not on the road but its off the road correct? Bressler confirms. Lacy: section 8.2 in our parking by-laws discussing a minimum of two off street parking spots for parole and that approving board may require the more off street parking, no constraints. DeChiara shares of photo of the current spot via screenshare.

Bonnar notes that energy storage should be discussed at a further time.

Motion to Adjourn (PB): **Motion: Bressler motions to adjourn, Lacy seconds. Vote: Lacy-Aye, Bressler-Aye, Murphy-Aye, DeChiara- Aye, Rotondi-Aye, Raymond- Aye, Bonnar-Aye.**

Meeting Closed (PB): 8:54pm