

## **Description: Section 3.6 Access to Use**

Shutesbury has four zoning districts – Town Center, Lake Wyola, Roadside Residential, and Forest Conservation (FC). The first three all have direct access to Town roads; the FC does not. All FC land is back 500 feet from a road, and as such is landlocked. In order to reach the FC district for an allowed use under Shutesbury’s zoning bylaw at least 500 feet of another district must be crossed.

Zoning law interprets access as part of the use. Some uses (such as large-scale solar facilities) are allowed in the FC district, but not in the others. Hence, crossing another district with a driveway to reach the FC would not be allowed as our bylaw is currently written – never the intended result. This article corrects the problem by extending the same permitting requirements for the allowed use in the FC to the necessary access through another district where it would otherwise be prohibited.

The issue came to light during discussions with the company contemplating solar facility permitting in the FC district. However, the correction is neutral with respect to solar projects. Without the correction this would present an impossible hurdle for all allowed FC uses accessing through other districts where the same use is not allowed. This access issue would effectively prohibit solar facilities in Shutesbury. If not addressed this could put Shutesbury in violation of the Massachusetts Zoning Act (Chapter 40A, Section 3, Paragraph 9 – the solar facilities exemption). This exemption (from zoning restrictions) prevents a town from either prohibiting or unreasonably regulating solar facilities.