

**TOWN OF SHELBURNE**  
**Planning Board**  
**Minutes of Meeting December 2, 2015**

A duly posted meeting of the Shelburne Planning Board was held on Wednesday, December 2, 2015 at 7 pm in the Greenfield Cooperative Bank Community Room, 33 Bridge St., Shelburne Falls, MA.

Present: John Wheeler, Chair

Will Flanders,

Cam Stevenson,

Josiah Simpson

Administrative Assistant: Liz Kidder

Absent: George Dole

Audience:

Press:

The meeting was called to order at 7: 05 pm.

**A motion to approve the minutes of November 18, 2015 was made by Will and seconded by Cam.**

Vote: 3 in favor, 0 opposed, 1 abstention by John as Chair of the meeting.

**ANR Plans** - none presented

**Special Permit** – none presented

**OLD BUSINESS**

**Cluster/Natural Resource Zoning Bylaw- Proposed Open Space Development Bylaw**

Will reported that he had talked with Donna MacNichol, Town Counsel, as to whether the open space review procedures need to be included within the Zoning bylaw. Donna said that the Board can incorporate the procedural provisions directly into the subdivision regulations as a separate section. The only question she had was whether the Board would be able to regulate an application for an open space development using an ANR under subdivision regulations. Will is working on draft language and Donna is calling the Attorney General's office to find out if they have any concerns or applicable case law. Josiah asked if Donna had any information or suggestion regarding the ability of an applicant to obtain a charitable donation tax credit for conserving the open space. Will said he forgot to ask her about the tax breaks and he will raise this questions with her the next time he talks with her.

Will asked Donna for her thoughts on the new sign bylaw as relative to the recent Supreme Court case. Basically the Town has to treat everyone the same, the Town can't treat certain types of signs differently. It can be a requirement that the temporary signs be taken down in a reasonable amount of time. The rules on political signs are more limiting according to the case law. Donna suggested that allowing ninety days ahead of the election is probably okay but the easiest thing is not to identify how long before an event/election you put them up and then just say take them down in a reasonable amount of time. The Town should require all the temporary signs to be the same square footage. Will said he will prepare revisions to simplify the temporary signs section for review by the Board. The Board also discussed how the court case could impact the preference for agricultural signs and whether the Town can limit the signs advertising events in other towns, specifying just certain towns and not others. Will said he will ask Donna about these issues.

Will said he hasn't done any more editing of the Open Space Development Bylaw since the last meeting. Will did ask Donna about shared driveways and she said that one option is to treat a shared driveway as a minor road within the subdivision regulations. This

Approved: \_\_\_\_\_ Date: \_\_\_\_\_ 1

lead to a discussion by the Board regarding whether the whole Open Space Development would be on minor roads and whether there should be a limit of the number of units on each minor road. Will said he would review the shard driveway section in the NRPZ model. Josiah noted that in the current regulations the standards for a minor road would actually be for a fairly substantial road. Will said he could envision subdivision regulations that have a section for standard subdivisions and a separate section for open space subdivisions. The Board discussed whether or not to keep the current section of the bylaw for “cluster” zoning since that is subject to Chapter 40A section 9. The suggestion was to not use the term cluster development synonymously with open space development since they are two different things.

Will said try to get the next iteration of the draft bylaw out in the next week so that Pat Smith and the Board both have a chance to review it before the next meeting on the 16th.

Josiah said that he had developed an excel spreadsheet with which he could try running simulations – modeling the calculations used to see if the incentive system in the bylaw is reasonable and achieving the goals of the bylaw. He explained his spreadsheet to the Board and ran them through one of his examples, acknowledging some difficulty not being able to enter criteria relative to the characteristics of a specific landscape. Josiah flagged a question - was the 40% open space minimum goal too low or just right. He said he was also trying to assess whether the incentives were too generous or effective at achieving the goals of the bylaw. The Board discussed the value of socially beneficial incentives potentially leading to allowing more units that would otherwise be allowed on a typical part of Shelburne farmland if actually percs were done. The Board thanked Josiah for developing the spreadsheet. Josiah felt that his spreadsheet seemed to indicate that 6 acres made sense as the minimum lot size for an Open Space Development.

**Zoning Revisions for ATM 2016** – In reference to past discussions regarding the need to update several definitions in the Zoning Bylaw that related to housing, lodging houses and B&Bs, Liz passed out a list that included current definitions in the Shelburne zoning bylaw and then similar definitions in state regulations and in other Town zoning bylaws for review. The Board said they would be interested in seeing what other towns are doing, such as Deerfield, in regards to regulating Air B&Bs. Liz noted that the BOH is already calling the Deerfield enforcement officer on this matter to get his input and thoughts. Will noted any revisions to the definitions could relate to both the Open Space Bylaw and any regulation of Air B&B. Josiah mentioned that he read an article in the Dec. 1<sup>st</sup> New York Time that reported that Air B&B is releasing their data on the use of AIR B&B’s in New York for public review.

In order to be ready for ATM 2016, the Board noted they would need to hold a public hearing in mid to late February and probably one in early to mid-March. Will suggested having a public hearing on both the subdivision and open space at the same time so that residents understand both the enabling bylaw and the regulations for implementing them. Liz noted that she had reminded John Taylor that the Board would like to see his proposed revisions to the telecommunications bylaw in time to include them in an agenda for a public hearing. The Board targeted the public hearing in February to present the Open Space Bylaw and Subdivision Regulations and a public-hearing in March on the definitions and telecommunications bylaw revisions.

**Tennessee Gas Pipeline Update** – It was noted that the Selectmen were seeking someone on the Planning Board to serve on the Shelburne Pipeline committee since John had resigned from it. John said that there had been a misunderstanding about which committee he was resigning from and he will try to attend the next Shelburne Pipeline Committee.

**Subdivision Regulations-** Liz distributed the latest updated pages of the draft regulations that have now been edited into a consistent outline format. Will said he would try to merge the Open Space bylaw procedures into the revised subdivision regulations for review by the Board.

#### **COMMITTEE UPDATES**

**FCOG** – there is a meeting tomorrow that Cam is going to attend. The meeting agenda includes reviewing transportation planning projects, Mass in Motion, a presentation on a low impact development project to manage storm water and a presentation on doing tree inventories in a town.

**Open Space** – John went to their last meeting and explained what the Planning Board is doing with the draft Open Space Development bylaw and he felt there was a lot of support on that committee for the approach the Planning Board is taking. John asked the Agriculture Committee whether they had any thoughts on the minimum lot size to use in the bylaw and they didn't seem to have an opinion. John noted that one person had questioned whether Shelburne wanted this and John reminded them that there had been a survey conducted during the Open Space Plan process and residents were overwhelmingly in support in such a bylaw. John said he would try to put together a power point presentation on the open space development bylaw utilizing some of the information from Jeff Lacy. John said that Open Space is considering conducting a survey to find out what public land is available in Shelburne for trails.

**Community Energies Pilot Program** – John understands they are working on implementing the program but there haven't been any meetings lately.

**OTHER BUSINESS NOT REASONABLY FORESEEN 48 HOURS PRIOR TO THE MEETING** -. None presented.

**READ MAIL** – the Board read mail as listed below.

**PUBLIC COMMENTS** – none presented

**SCHEDULE NEXT MEETING** – Wednesday, December 16<sup>th</sup> at 7 pm.

**A motion to adjourn the meeting was made by Cam and seconded by Josiah.**

Vote: 3 in favor, 0 opposed, 1 abstention by John as Chair of the meeting

Meeting was adjourned at 8:49 pm.

Respectfully submitted by,

Liz Kidder  
Administrative Assistant

**List of Documents:**

Proposed Open Space Development Bylaw draft prepared by Will Flanders 11/4/15

Notice of December 3<sup>rd</sup> special permit hearing for Nathaniel and Maegan Senser for a dog kennel on Tower Rd.

Notice of Joint Public hearings relative to the Shelburne, Buckland, Colrain 2016 CDBG Grant Application

Legal Notices from neighboring towns: Buckland – 1

“What is Cohousing” – [www.cohousing.org](http://www.cohousing.org)

“Not Your Mother’s Retirement Home” [www.nextavenue.org](http://www.nextavenue.org)

“Our Year of Living Airbnb” New York Times, November 29, 2015

Email notice of “Building and Sustaining an Innovation Culture and Eco-System” 2015 MEDC Annual Meeting Dec. 10, 2015

Nov. 24, 2015 email from Peggy Sloan regarding Regional Pipeline Advisory Committee Meeting 12-9-2015

Nov. 23, 2015 email from Peggy Sloan regarding Update-KM-TSP Application Submitted 11-20-2015 to FERC

Nov. 19, 2015 email from the Selectboard regarding Planning Board’s representative to the local pipeline committee.