

TOWN OF SHELBURNE
Planning Board
Minutes of Meeting February 25, 2015

A duly posted public hearing of the Shelburne Planning Board was held on Wednesday, February 25, 2015 at 7 pm in the Shelburne Town Hall, 51 Bridge St., Shelburne Falls, MA.

Present: John Wheeler, Chair
Cam Stevenson
Will Flanders
Josiah Simpson
Doug Finn

Administrative Assistant: Liz Kidder

Audience: Lowell LaPorte, ZBA, Karen Powers, John Taylor, Larry Flaccus, Susan Flaccus, Wendy Warger, Kathy Young, Norm Davenport, Lisa Davenport

Public Hearing on revisions to Shelburne Zoning Bylaw was called to order at 7:02pm.

John Wheeler stated that the purpose of the hearing was to receive public input and review of proposed draft revisions to Section 9, the Table of Contents, and Sections 2,4, 16, and 17 of the Shelburne Zoning Bylaw.

Table of Contents - John Wheeler reviewed the first article relative to removing the Table of contents as an official part of the Zoning Bylaw. John explained that the intention was to maintain and keep the Table of Contents up to date, however, it is illegal for the Board to edit that page without first getting those changes approved at an Annual Town Meeting. If that page is not an official part of the bylaw then it can be edited as necessary after every revision. John asked for questions or comment and none were presented.

Section 2.30 – John W. said this bylaw revision had been prepared by the ZBA. John Taylor of the ZBA noted that the purpose of this revision was to add clarity to this section of the existing bylaw based upon the experience of the ZBA. No public comments or questions were presented.

Section 4.0 – John W. read the articles revisions as presented on the handout and noted that these were all clarifications to the existing bylaw that the ZBA had felt were important. No public comments or questions were presented.

Section 16.3.3 and Section 17.4.4. John W. read the articles that changed a requirement for a pre-application conference into a strong suggestion. He noted that these two changes were based upon comments from the Attorney General’s office and were necessary to bring the bylaws into compliance with state law. No public comments or questions were presented.

Section Section 16.5.B.a – John W. read through the recommended clarifications to this section and noted that based upon a suggestion from John Payne, the Board had earlier decided to add “above the ground” in the second line of part a. after “100 feet” . It was also noted that the article at Town Meeting will need to eliminate the existing part d. of this section. Note we have to add that section d is being eliminated. Will reported that in part a., the second use of the word “collocation” would be changed to “addition”. It was also noted there was an extra “8”, in the third line of part 1. John Taylor noted that the ZBA had suggested these tweaks to the current bylaw but everyone should be aware there are new federal regulations coming out and therefore there may be more tweaks to the Telecommunications bylaw next year. No additional comments or questions were presented.

Section 16.10 John W. read the new revised language relative to waivers in the Telecommunications Bylaw. John T. clarified that the ZBA had submitted this section to clarify that it only affects the telecommunications section of the bylaw with additional clarification based upon a review by Town Counsel. No public comments or questions were presented.

Section 17.9.1 John W. read the proposed article and noted it had been prepared in response to previous comments from the Attorney General’s office relative to the legal right of a municipality to enter personal property. Will noted an additional edit by the Board in response to a suggestion by John Payne – adding “If the building inspector finally determines the system has

been abandoned” before “the Town shall have the power to seek a court warrant.....”. No Public Comments or questions were presented.

Section 9 Sign Regulations – John Wheeler reviewed the process through which the Planning Board and the ZBA spent the past two years developing the revised sign regulations for Shelburne. The Building Inspector had asked the Town to review and update the regulations because he considered the existing bylaw to be inadequate and unenforceable. The Planning Board developed the public hearing draft after reviews by the Selectboard, ZBA, Agriculture Committee, Business Association, and other town boards and officials.

Wendy Warger, Lindsay’s Emerald Store, noted she has a business and uses portable signs at the corner of Deerfield and Bridge St. She asked if she will be able to use them or will she have to make new signs. Will referred to section 9.7.5, which tries to deal with signage for the Deerfield St. businesses and noted it needs more work and may be deleted. The Board is planning to encourage the Business Association work on a municipal directory signage plan for that and other corners along Bridge St. with the hopes of meeting the business’ needs while reducing clutter.

Wendy Warger also suggested that businesses be allowed to use their windows for signs that are not included in the total size limits for signs on buildings. John Taylor explained the ZBA had been trying to achieve equity for all businesses whether they have small windows or large display windows. Kathy Young asked if a store owner would have to get permits from the building inspector for everything she puts in her store window. Wendy Warger asked if she puts a graphic or photo of a local feature, such as the potholes, in her window would that be considered a sign.

Josiah Simpson suggested the definition of “sign” may need to be clarified as to whether pictures are signs. The consensus of the Board had been that flags and pictures were art and not signs and it was not the intent of the Board to regulate art. Doug noted he felt windows are display windows and the items placed in them should not be considered signs. Will suggested that maybe we can tweak this section to provide clarification. John T. noted the classic local example – the Body Shoppe in Greenfield – which raises the question if you as a business owner who puts out artwork or sculpture that is trying to attract people to the business is it a sign and should it count towards your total signage. John T noted that they only one store has ever reached their maximum signage limit. The ZBA’s goal was to prevent sign creepage with efforts by businesses to get around the sign size limitation.

Kathy Young, owner of a store on Deerfield Ave. noted there is a sidewalk only on one side of the road. Does that mean all portable signs would be on the street in front of her store. The Board replied no, it could be in the public way on the other side of the street. Wendy Warger asked what happens if the Building Inspector doesn’t grant a sign permit. John T said you can appeal to the ZBA where five members of that board would consider granting a variance from the regulation.

Will noted the Board was trying to address what is appropriate for the aesthetic quality of the Town; the point was to not have the whole front of a building covered with signs. John W. noted the Board was trying to find the balance of recognizing that Route 2 is a scenic byway but local businesses and agriculture need at least some ability to place signs along the road. The Board is trying to address those balances and to develop a bylaw with which the Building Inspector could have a clear basis for enforcement.

Larry Flaccus suggested editing 9.3 to read “Signs Permitted as of Right” and 9.3.1 “The following Signs are permitted as of right by this bylaw:” which he felt would be more clear to the reader. Larry Flaccus also suggested reviewing the types of groups listed as those having a special event, suggesting a local event such as Cider Days may not fit into the bylaw. The Board said they would look at that definition and try to make sure it was inclusive for traditional events held in Shelburne.

Susan Flaccus noted that she was unable to find how this bylaw dealt with temporary signs for seasonal agriculture. She only saw portable signs if the farm wasn’t on the Mohawk Trail so what about an agricultural business on the trail. The Board said their intent was to allow a temp sign for them as well. The Board felt that they could change 9.5.2 to read – “Any commercial enterprise” located in the Town of Shelburne outside the VC district, and take out “a non—Agricultural Business Establishment”.

John Taylor suggested the Board should be wary of redefining things that are otherwise defined by state law, such as the first two definitions related to agriculture which are defined in Chapter 40A. Will explained the intent of the first two definitions was that they apply only to the signs regulations. John T. suggested the Mass Building Code may contain a definition of commercial enterprise. Will said we should go through making the definitions consistent throughout the bylaw.

Kathy Young asked about non-farms business being allowed to have signs on Route 2. Will explained the Board had considered that but was concerned that Route 2 could become too cluttered with signs. Because of the agricultural nature of the town, the Board decided to let local farms have the directional signs on Route 2. John T. noted that businesses can get signs on Route 2 as long as they are tourist oriented directional (TOD) signs .

Lisa Davenport and Norm Davenport of Tower Road raised a question related to rural character in Section 9.7. Norm Davenport expressed their concern about relying on the state TOD sign regulations. In their experience the TOD signs they paid for disappeared and left them not in compliance. They also raised the question of whether those signs really represented the rural sign aesthetic the Town of Shelburne would like to have. John Taylor reviewed that if there are existing directional signs that are consistent with the current bylaw then those signs will be allowed under the new bylaw. If those signs are abandoned for two years, any new directional signs would have to comply with the new bylaw. Susan Flaccus noted that most farms need seasonal signs for different periods of time based upon their product's season.

John T. noted that there is a municipal directory option that would need approved by the Selectboard. He suggested Town boards would like to see local businesses work with the business association to develop a municipal directory signage plan that meets the needs of the businesses and the aesthetics of the town without creating sign clutter.

John T. had one comment from the ZBA relative to 9.3.1.11 – home-based business signs are now allowed to be 9 square feet and this proposed bylaw would allow 12 square feet signs. He noted the ZBA feels that a 3x3 sign is a good size for a residential neighborhood. Will noted that he went around town measuring existing signs and several were 12 square feet and the consensus of the Board was that they saw no reason to make some existing signs non-conforming. The ZBA felt that if everyone put up 12 square feet signs that would create a problem but it becomes an aesthetic choice.

John Taylor noted he has a personal concern with 9.3.1.5 – signs for special events being held outside of Shelburne . Will explained the thinking behind it was that Shelburne is the gateway to a West County economic development region that is tied together by the Route 2 corridor. He noted the business association is trying to tie those towns together. John Taylor felt that Shelburne did not need to be the trend setter and he would be more inclined to support it if the other towns listed were in agreement before this is put into a Shelburne bylaw. Larry and Susan Flaccus suggested that maybe it would be better to allow only 1 sign per numbered state road per event instead of 3. Norm Davenport suggested taking it out of the zoning bylaw and to encourage the business association to develop this further and then approach the town.

No other comments or questions were presented. John Wheeler thanked everyone for coming. Kathy Young thanked the Board for their time and efforts.

A motion to close the public hearing was made by Doug and seconded by Cam.

Vote: 4 in favor, 0 opposed, 1 abstention by John as Chair

The public hearing was adjourned at 9:46pm

Respectfully submitted by,

Liz Kidder
Administrative Assistant

Approved: _____ Date: _____ 3