

TOWN OF SHELBURNE  
Planning Board  
Minutes of Meeting  
June 12, 2013

On Wednesday, June 12, 2013, a duly posted regular meeting of the Shelburne Planning Board was held at 7:00 pm in the Town Hall Meeting Room, 51 Bridge St., Shelburne Falls.

**Present:** Matt Marchese, Chair  
Beth Simmonds, Vice Chair  
Doug Finn, Secretary  
John Wheeler  
Cam Stevenson

**Absent:**

**Press:** Cameron Graves

**Audience:** Mike Parry, Richard Andrews, Laurence Jarvis

**THE MEETING WAS CALLED TO ORDER at 7:01 pm.**

**READ AND APPROVE MINUTES: Motion to accept the minutes of May 8, 2013 as presented was made by Doug and seconded by Cam. Vote: 5 in favor, 0 opposed, 0 abstentions.**

**Richard Andrews - ANR application**

Richard Andrews plans to purchase a parcel of land on the Mohawk Trail from Laurence Jarvis on which he is proposing to build an automotive repair and used car sales business. Rich contacted the ZBA to review the process for obtaining a special permit. Matt has talked with Joe Palmeri of the ZBA about Rich's proposal. The ZBA asked if the land would need to be subdivided and Rich is here to talk to the Board. Matt and the Board reviewed the deed that Rich submitted. Mr. Jarvis the owner of the land was present. Originally his family had bought first one tract of land and then an adjacent tract. For the purpose of local property taxes, Mr. Jarvis has been paying one property tax bill. The one deed to the property has always described two separate tracts. Mr. Jarvis is planning to sell Tract 2 to Richard Andrews.

Matt stated that assuming there is no legal problems with the deed, such as a more recent deed that joined the two tracts into one, it was always two separate tracts. Therefore, Mr. Jarvis is selling an existing tract and is not subdividing one parcel into two. Rich said the state has given a verbal approval for the new driveway and a state engineer has studied traffic patterns at the site. The question of whether the property has frontage on a road because of the state land in front of the proposed building site was discussed. This situation occurred after the State moved the path of Route 2. The Board decided this did not appear to be an issue of concern. It was determined by the Board that since this site has always been a separate tract, the Planning Board does not have a role to play since it doesn't come under subdivision control regulations.

**Matt moved that pending review and approval from town counsel the planning board not view an ANR necessary for this transaction; but should there be a problem, we reserve the right to review the problem with participants.**

Matt said he would get a copy of the deed to Donna McNichol for review by the weeks end. Mr. Jarvis said his lawyer was Bob Carey and Matt will pass that on to Donna McNichol in case she has any questions about the deed. Beth noted that our concern is if there is a newer deed which somehow made it all one property by combining the two tracts, then there would be a need for a review under subdivision control regulations.

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**Vote: 5 in favor, 0 opposed, 0 abstentions**

**Old Business:**

**Solar zoning bylaws** - review of Heath bylaw with Bill Gran, Health Planning Board and Renewable Energy Committee. Matt thanked Bill for coming and noted that Shelburne is very impressed with the work done by Heath on their Solar bylaw. Matt noted we were hoping to use the Heath bylaw as a template for a similar bylaw for Shelburne.

Bill said that a few years ago the Heath Planning Board entered into an agreement with the FRCOG to develop a solar bylaw. The town established an energy committee that met once a week from March to October to finalize that bylaw. He said that the same committee subsequently developed their recently adopted wind bylaw. Both bylaws were approved unanimously at their annual town meetings. The committee started with a template that had been cut and paste from at least a half a dozen town's bylaws that had been approved by the Attorney Generals office. They started going through it line by line to see if it made sense for Heath. Their draft was submitted to the Planning Board, then to the FRCOG and then to Town Counsel for review. It went through several more meetings/discussions and then was presented to town meeting.

Bill said that 2 guiding principles were followed: 1. everyone on the committee agreed that allowing large scale solar was a good thing; 2. even though it was a good thing they wanted to preserve the rural character of Heath. These two principles led the discussion on each standard. Bill thinks the committee did a good job balancing everyone's concerns. Bill described how they amended/used their zoning map. He noted the Selectmen wanted the bylaw to comply with the green communities act. They identified four areas/properties, some publicly and some privately owned, that had been disturbed in some way and where large enough to allow for development. Those sites were identified as by right for large scale solar. Other areas or zones required specific setbacks and standards. They also identified natural habitat areas that needed to be protected. For some of the standards, the Board had trouble making decisions and just arbitrarily set standards based upon what other communities had set as their standards.

Cam asked if there were any large-scale projects in Heath so far. Bill said one developer had come before the town but it was a tough site due to wetlands and other constraints. At this point no proposals are before the town. Bill mentioned that a couple of sites they identified are owned by the Town but the "Town" has not expressed any interest in seeking out a developer. It was noted that they just need one as right site to meet the green communities' status.

The maximum size for a solar facility was set based upon consideration of rural character concerns but at a size more than adequate for a developer to be interested. Bill noted that he had put in a private/premises use solar system on his property as have several others- in this case there are no restrictions.

Matt noted that it appears having a committee of diverse views was key to the project. Bill noted that in the end of the processes it was unanimous votes at Town Meeting. Bill noted that the wind bylaw was much more complex due to the health impacts of wind. If one large turbine was put in the middle of Heath, it would impact half of the town; both health concerns and a reduction of property values. Doug noted his concern of putting solar arrays on good agricultural land. Heath discussed this but Heath does not have an abundance of good farmland. Matt thanked Bill for coming and noted the Board's indebtedness for his help. Bill noted that he and others from Heath would be happy to help in the future.

Matt noted that Liz had cut and paste a draft bylaw using the Heath bylaw and the draft wind bylaw developed by Briony Angus, Tighe and Bond. Cam asked who would be the SPGA and would the ZBA want to take this on. Matt noted that historically the ZBA has always been the SPGA even though in other town's it's the Planning Board or a combination of boards. Matt asked Mike Parry to ask the ZBA if they want to take on the SPGA responsibility for

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wind and solar. Beth said it is interesting that the Planning Board develops the bylaw based upon extensive research but then the ZBA is asked to implement it and try to understand the nuances of the issues.

Matt noted that although the Board has a working template, what is needed is to get the community involved and give them an opportunity for input and to build consensus prior to town meeting. Matt asked the Board go through the draft and circle those areas that need research. At the July meeting the Board can develop a charge for a solar advisory group. The goal would be to have this and wind ready to present to Town Meeting in the spring. Matt asked Liz to put a review of the solar working draft on the agenda for next meeting and Liz is to remind people to bring their marked up copies.

**Medical Marijuana Treatment Centers** - Liz passed out copies of a powerpoint presentation given at a FRCOG workshop. Medical Marijuana Treatment Centers are now called Registered Marijuana Dispensaries – RMDs. The workshop presentations said that:

- Towns cannot ban RMDs and their zoning bylaws cannot be prohibitive.
- The MDPH regulations are very concerned about diversion of the marijuana onto “the street”
- The State Police submitted extensive public comments discouraging the state from licensing home growers to qualify under the hardship cultivation rules.
- The State is going to be encouraging the siting of RMDs throughout the state to reduce hardship claims.
- The MDPH was trying to fill loopholes in the regulations which caused problems in other states.

The presenters encouraged towns to review their zoning bylaws to ensure that a RMD would be allowed in at least some areas of town either by right or by special permit. Towns can either seek a moratorium for a year or just go ahead, put the state definition of an RMD in the bylaw and then include it in the use table. Beth said she would like a chance to review the powerpoint materials. Matt asked Liz to put this on next month’s agenda.

**Windpower Advisory Committee Update:** John Wheeler said the WAC is still having trouble scheduling a meeting and Kevin Parsons has said they may have trouble meeting the July 31<sup>st</sup> deadline. Certain members who have done a lot of research have been away and Kevin suggested it would be better to plan for the August or the September meeting. Matt noted the board was not meeting in August and Liz noted that the September meeting has been scheduled to address subdivision control with Peggy Sloan. Matt asked John to check back with the WAC on getting a hard date as to when it would be done. Matt suggested that the PB really needs it by October in order to meet a schedule for next ATM. John agreed to come back at the July meeting with a more concrete date and the Board can amend the WAC resolution.

**Community Energy Strategies Pilot Program update** – Liz attended the “kick-off” meeting for the working group organizing this regional grant program. Liz distributed a powerpoint presentation summarizing the pilot program that Shelburne, Buckland, Greenfield and Montague are participating in with the FRCOG. The Board needs to develop a list of suggested “stakeholders” to represent Shelburne so that Matt can submit the names for consideration tomorrow. It was discussed who to suggest. Matt asked if anyone present was interested and Mike Parry offered. Matt read a list of possible names collated by Liz and everyone agreed to submit this list to the FRCOG. The list was composed of the members of the WAC, the names of those who had participated previously in an energy grant for Shelburne, local business representative, Whit Sanford who had suggested an energy committee for the town, and members of several local boards. Matt asked Liz to forward everyone on the list a copy of the powerpoint and a note that their name has been submitted for consideration. Liz was asked to forward this list to our contact at the FRCOG.

**Draft Subdivision Rules & Regulations for the Town of Shelburne** process update – Peggy Sloan has agreed to come and walk the Board through the draft revised subdivision regulations at our September meeting. After that meeting the Board will have a better handle on any specific areas of research that may want to pursue. Matt asked Liz to lock in the date with Peggy.

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**NEW BUSINESS:**

**Committee Updates-FRCOG Planning Board appointment:** Cam said he is fairly booked up until fall and then he may be able to serve as our representative to the FRCOG.

**Matt nominated Beth to be the rep until October and then Cam will serve the rest of the year. Vote: 5 in favor, 0 opposed, 0 abstentions**

**OTHER BUSINESS NOT REASONABLY FORESEEN 48 HOURS PRIOR TO THE MEETING:**

**Appoint a Planning Board website manager:** Liz reported that there had been a training session on Tuesday for those who are going to be allowed to directly edit the town website on behalf of their Board. These edits can include posting meetings on a calendar along with agendas or adding current news items to the front page.

**Matt nominated Liz to the Board's point person; seconded by Beth.**

**Vote: 5 in favor, 0 opposed, 0 abstentions**

**Appoint a Long Range Planning Committee representative/member:** Beth said she had been called by Leo Ojala about serving on the long range planning committee. Matt was also called but hadn't been able to respond. Matt reviewed a memo from the Selectboard asking for a representative from the Planning Board and a list of those who had already agreed to serve. Matt said he is not going to be available, neither is Cam or Beth over the summer. Doug said he would volunteer.

**Matt moved that Doug be appointed as our representative on the Long Range Planning Committee; seconded by Cam.**

**Vote: 5 in favor, 0 opposed, 0 abstentions**

**READ MAIL** – notices of special permit hearings in nearby towns and the Notice of Decision by the Shelburne ZBA regarding the special permit and variance for National Grid's upgrade of their substation on Main St.

**Open meeting law** – Liz distributed copies of a powerpoint presentation from an Open Meeting Law training workshop that had been held at the FRCOG. Matt asked Liz to contact the Selectboard to see if they are willing to authorize remote participation during meetings. Matt has already talked with John Payne about this as an option.

**PUBLIC COMMENTS:** Mike Parry asked about who will have the authority to implement the recommendations developed by the Communities Energies Strategies Pilot Program. Matt noted that it will be a regional report with recommendations for the town. The Pilot Program will have no authority to enforce implementation.

**SCHEDULE NEXT MEETING:** Beth noted that while she could make the next meeting it was inconvenient and the Board decided to meet on July 24, 2013. Matt asked Liz to notify both Bev and Terry about the change of meeting date.

**Motion to adjourn the meeting was made by Doug and seconded by Cam.**

Vote: 5 in favor, 0 opposed, 0 abstentions

The meeting was adjourned at 9:09 pm.

Respectfully submitted by,

Liz Kidder  
Administrative Assistant

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