

**TOWN OF SHELBURNE  
Planning Board  
Minutes of Meeting  
Wednesday, September 18, 2013**

A duly posted meeting of the Shelburne Planning Board was held at 6:00 pm in the Memorial Hall Meeting Room, 51 Bridge St., Shelburne Falls.

**Present:** Matt Marchese  
Doug Finn  
Beth Simmonds – arrived at 7:05pm  
John Wheeler arrived at 6:02pm  
Cam Stevenson

**Absent:**

**Audience:** David Schochet

**Press:**

**Meeting was called to order at 6:00pm.**

**Motion to accept the minutes as presented was made by Cam and seconded by Doug.**

Vote: 2 in favor, 0 opposed, 1 abstention by Matt who was not present at that meeting.

**NEW BUSINESS**

**Attorney General's Decision regarding zoning amendments passed at Annual Town Meeting:** a copy of a letter approving the adoption of zoning bylaw amendments passed at Town Meeting in May was reviewed by the Board. Matt noted that the AG had listed information for consideration by the town as the bylaws are implemented. Liz noted that the AG wants to see a copy of the zoning map since the Telecommunications bylaw has an overlay district. Matt asked Liz to draft a letter to the affect that we do not believe there have been any changes to the overlay district or the zoning map since it was last reviewed by the AG's office. Matt asked Liz to send her draft letter to Joe Palmeri of the ZBA to see if he agrees that there have been no changes to the zoning map since it was last approved by the AG when the original Telecommunications Bylaw was adopted.

**Open Space Plan – Planning Board action plan recommendations --**At the last meeting, Matt had asked Liz to draft notes listing the current activities of the planning board and to put it into a format that would be consistent with the Action Plan portion of the Open Space Plan. This draft was passed out to the Board members to review. The board members reviewed the action steps noting that same of the steps would have to be carried out by future boards, anticipating turnover of the board membership over the next few years.

**Motion to accept the open space committee goals relative to planning as presented in the draft dated 7/25/13 was made by Cam and seconded by John.**

Vote: 3 in favor, 0 opposed, 1 abstention by Matt.

Matt asked Liz to transmit the document to Larry Flaccus and the Open Space committee.

**OLD BUSINESS**

**Windpower Advisory Committee Update:** John Wheeler presented a letter from Kevin Parsons which asked for an extension of the WAC until they have the opportunity to present and discuss their research results with the Planning Board at the meeting in October. A couple of their members were unable to finish their reports and attend tonight's meeting. John also passed out a spreadsheet that summarizes some of their information and John gave Liz a copy of their survey notes that Matt asked her to scan and email to all members of the Board. John gave Matt a general summary of what the in-depth report will likely contain.

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

Matt discussed with John as to whether the WAC has met their charge with the material presented tonight. Matt noted that while he expects to hear the WAC members opinions at the public hearing, at this time the Board is looking for factual information to review. John said he will reiterate to the WAC members that their report should contain facts. It was discussed that recommendations on standards (numbers – decibel levels, heights, etc.) would be appropriate recommendations. Matt noted that he is especially interested in examples of Towns who “fixed “ their bylaws when they experienced problems with sited structures. Matt noted how hard the WAC has worked and is looking forward to their report and that the Board would schedule 60-90 minutes on their agenda for the WAC in October.

**A motion to extend the WAC charter until October 10, 2014 so that they may complete their report and present to the Board on October 9, 2014 was made by Matt and seconded by Doug.**

Vote: 4 in favor, 0 opposed, 0 abstentions

**Solar zoning bylaws – proposed solar advisory committee update:** Liz noted that she had posted a notice about the Solar Advisory Committee (SAC), sent emails to local boards and to members of the WAC. She had also sent a copy of the notice to the Recorder and Independent but she didn’t see any articles. To date, no one has volunteered to serve on that committee. Matt asked Liz to send reminder notices to all the town boards and resend the information to the Recorder and the Independent. Cam asked Liz to send him a copy of the public notice and he would pass it around to his neighbors at Dragon Hill.

**Special Permit Application – Richard Andrews, 1443 Mohawk Trail, proposed automotive service center.**

The ZBA is holding a public hearing on Oct. 3 on Rich Andrew’s special permit application. Matt noted that they need to consider tonight whether there is any guidance the Planning Board wants to give the ZBA. Cam asked if we could ask that he be required to maintain a certain amount of scenic landscaping relative/similar to the character of the rest of Route 2.

**A motion to recommend to the ZBA, in consideration of said plan for Mr. Andrew, that an appropriate scenic vegetative buffer be maintained along the Route 2 frontage and property line in keeping with the scenic appearance already established was made by Matt and seconded by Doug.**

Vote: 4 in favor, 0 opposed, 0 abstentions.

**Community Energy Strategies Pilot Program update:** John Wheeler attended the first meeting which was a brainstorming session. The consultants made a list of all the suggestions that were made. Matt noted that he would participate in the next oversight meeting that was coming up in October.

**Medical Marijuana Regulations:** licensing applications for the first round have been submitted and none were submitted for a facility in Shelburne. The Board discussed whether they should propose any changes to the bylaws to address the siting of any facilities in town or if they should propose a moratorium at next year’s town meeting. Beth reminded the Board that last spring, the Board had decided not to propose a moratorium and had noted that any citizens who were concerned about the siting of such a facility had the option of using the citizen petition option if they feel a moratorium should be voted on by the town.

**SUBDIVISION REGULATIONS – review of draft regulations prepared in 2006 with Peggy Sloan, Planning Director, FRCOG**

Matt noted that the Board has a draft subdivision regulation that was developed in 2006 but never adopted; none of the current board members were on the board at that time. Matt thanked Peggy for agreeing to meet with the board and to give us an overview of the process to adopt regulations so that the board will be able to decide how to proceed with reviewing these draft regulations.

Approved: \_\_\_\_\_ Date: \_\_\_\_\_ 2

Peggy started with an overview of the purpose of the subdivision regulations. Massachusetts state law authorizes Planning Board to adopt regulations that address how the town is going to review the development of new housing that includes the construction of new roads. These regulations need to ensure that new roads are well constructed, with good landscaping, drainage and storm water management. Newer regulations are addressing green infrastructure with more natural systems on properties relying on private wells.

The state law addresses submittal requirements – what is the information the board needs to make a decision and how long do they have for making that decision. Local regulations usually start with: a general purpose section, what is not considered a subdivision (ANR’s) and what the submission requirements are to allow for a review by the Board. Peggy noted that our current regulations are limited on laying out deadlines and a timeline for actions. Typical issues that need to be addressed would include:

- is a plan delivered at a planning board meeting or is it date stamped by the town clerk (there are 21 days to approve an ANRs and 45 days to review preliminary plans.)
- the regulations should specify who gets copies of the plans and a timeline for how it gets reviewed in time for a decision to be made by the Board.
- how to get the plans to the other boards and town depts. (roads, police, concomm etc.)

Peggy noted that in Franklin County we really don’t have a lot of subdivisions. Now, when a plan comes in for review, local boards are trying to find their regulations to figure out what needs to be done. That is why it is important to have a lot of detail that lays out the process, deadlines, and submittal requirements.

Matt noted that as a land owner, he would be hesitant to lay out a huge amount of money to do a simple subdivision. Peggy noted that many communities use a waiver system for smaller projects where the Board has the option to consider lower construction standards. Many communities have a chart that can clarify the size of the subdivision, what information is required, and the type of construction standards to be considered based upon size of or number of lots being constructed. Liz noted the Special Permit process in town is designed for the big project and applicants are encouraged to meet with the ZBA and apply for waivers for smaller projects.

Peggy said the preliminary plan presents a good opportunity for the applicant to come in and present the broad a view of what is being proposed; it gives an opportunity for the board to determine what information they will need in order to make a decision. For example, whether or not there are sewers on-site can be a determining factor relative to design standards. Peggy noted that our current regulations do not specify what other boards and town staff the board would want to hear from before approving a subdivision plan – ConCom, Road Crew, etc., Peggy noted that you need to get feedback quickly due to the state established timelines for approving subdivision. You can have an extension but it has to be mutually agreed to with the applicant.

Matt asked about cluster zoning. Peggy noted that a lot of towns are getting away from requiring special permits for a proposed cluster development. Many towns make it by right with specific criteria or with site plan review. Special permits can be denied based upon specific criteria. Site Plans are reviewed and if the plan meets certain criteria, then they are approved possibly with conditions unless they have not submitted the required information. Peggy noted that most communities have more specifics on cluster than Shelburne does in its bylaw. Most towns require a large percentage of open space and developers like it as an option because it can really reduce the cost of constructing the road.

Peggy said we need to address certain specifics in our regulation:

- four types of performance guarantees (our current regulation only has one)
- we need more information about town acceptance of roads – many communities are concerned about road maintenance and it is not guaranteed that a town will accept a new road; in many cases, a home owners association has to be established to take care of the road.
- we should have more information on the road standards.

- many towns are interested in more trees along the roads.
- the regulations can ask for impact information from the developer -- numbers of students, impact on water, emergency services, police, etc. --the "Development Impact Statement" – geared to identify community service needs.

Peggy mentioned that our 2006 draft probably needs updating. Peggy gave us a copy of one (minus the forms) that she has helped Orange update over the last six months. This draft is the one going to public hearing and has been reviewed by their town counsel, Donna MacNichol. After a public hearing, the regulation can be voted on by the Board -- not town meeting. This draft includes:

- a process within town to comply with deadlines,
- construction standards,
- low-impact development techniques,
- rural residential district with cluster and open space development-- they can request that option if the developer comes in with a traditional subdivision,
- cluster with site plan review in rural residential.
- Four types of performance requirements.
- An inspection timetable to make sure the roads are constructed as designed
- Clarification of the process for acceptance of a road and that the town is not required to accept one.

Matt asked Peggy to email a digital version to Liz so that she can forward it on to members of the board.

Beth asked whether a cluster has to comply with zoning setbacks and area requirements. Peggy noted that subdivision regulations cannot change zoning lot size or frontage. A subdivision road is not a public road until accepted at Town Meeting but the lot's frontage on that road must meet the zoning frontage requirements. The Board needs to put the minimum standards relative to cluster in the zoning bylaw. Some communities give bonus lots as incentives for preserving open space or to protect farmland. Buckland has a point system with criteria for getting extra lots. Cam asked if the cluster lots have lower assessments – Peggy said that in some areas lots adjacent to open space have equal or higher value. Beth asked who owns the open space after the developer walks away – Peggy said that town's can require that it be owned by a homeowners association or the towns could allow the transfer of the ownership of the protected land to a farmer or forester depending upon the situation and the land. Some communities require that you identify the portion land that isn't developable anyway (such as wetlands) and then take the percentage out of the land that is developable. Peggy suggested the Board look at Colrain's bylaw relative to cluster. One possibility is also to allow clustering on ANR lots – smaller frontage and lot size in order to protect some of the lots on an existing road way. David Schochet asked about examples from other towns. Peggy suggested the Board look at the bylaws of Buckland, Bernardston, and Heath. Beth asked Peggy for suggestions relative to our 2006 draft. In addition to the items already mentioned, she suggested the Board could reorganize some of it. Peggy mentioned that the board will probably need an engineer to review any submitted plans for the board.

Matt and Cam review the steps needed to review and adopt new regulations (noting that if the Board wants to address cluster or site plan review that would be through a zoning bylaw amendment):

- the Board needs to agree on draft,
- have it reviewed by town counsel,
- hold a public hearing and take comments,
- at the next meeting of the Board they can be adopted by a majority vote of the board and it goes into the affect
- submit a copy to the registry of deeds and town clerk.

Liz will look for the examples from Peggy and the Board will talk about how they intend to review the regulations and discuss site plan review and cluster.

**COMMITTEE UPDATES**

**FRCOG Planning Board:** Beth noted that she hasn't been able to attend the meetings and Cam has volunteered as of October. Liz will notify the FRCOG.

**A motion to make Cam the Shelburne Planning Board representative to the FRCOG was made by Beth and seconded by Doug.**

Vote: 4 in favor, 0 opposed and 1 abstention by Cam.

**Open Space:** John went to the last meeting and David Schochet, the chair person is present. Matt gave David a copy of the draft planning board action plan approved this evening and said that Liz will get a final copy to the open space committee next week. David thanked the board. David noted that the Open Space is hoping the Shelburne zoning bylaw and subdivision regulations will address cluster, open space zoning, backlots, etc., at some time in the future. The Open space committee offered to help get copies of examples from other town's efforts. Matt said they would be happy to accept information from the other boards. The Open Space Committee's goal is to have a meeting by the end of October to look at the action plan. By the end of November they want to get the final draft over to the FRCOG. Their funding runs out the end of December, so it has to be printed by then.

Beth has been reviewing the survey and hopes that the open space committee really looks at the answers to question 7. She notes that people want a lot of things but there seems to be a question about them stepping up to help make them happen. David noted the Open Space Committee is trying to work closely with the Agriculture Commission to see how they could more directly help support farmers. They noted that many people say they support a farmers market but the attendance is less than desirable. Beth also noted that there was a cover letter attached to the summary and felt that it was inappropriate for the open space committee to refer to some of the survey results as "snarky" comments in a public document.

**Long Range Planning:** Doug noted that he has still not received adequate notice of any meetings and will contact Joe Judd to find out what is going on .

**OTHER BUSINESS** – none presented.

**READ MAIL** The board read the mail regarding: Oct. 10<sup>th</sup> at 7pm there will be a public hearing on Buckland's new Large-Scale Ground-Mounted solar bylaw; Baystate Roads program training workshops; and release of funds under CDBG in Shelburne for various projects,

**PUBLIC COMMENTS** –none presented.

**SCHEDULE NEXT MEETING** – October 9, 2013

**A motion to adjourn made by Doug and seconded by John.**

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

**The meeting was adjourned at 8:17pm.**

Respectfully submitted,

Liz Kidder  
Administrative Assistant