

TOWN OF SHELBURNE
Planning Board
Minutes of Meeting
March 19, 2014

A duly posted regularly meeting of the Shelburne Planning Board was held on Wednesday, March 19, 2014 at the Shelburne Town Hall, 51 Bridge St., Shelburne Falls, MA.

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

Administrative Assistant: Liz Kidder

Absent:

Audience: Mike Parry, Joe Judd

Press:

The meeting was called to order at 7:10pm.

Beth Simmonds notified the Board that Chair Matt Marchese was absent but that a phone call will be placed so that he can participate by phone.

Motion to approve the minutes of the March 12, 2014 meeting as presented was made by Doug and seconded by Cam.

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

Motion to approve the minutes of the March 12, 2014 public hearing as presented was made by Doug and seconded by Cam.

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

Draft Premises-Use Wind Energy Systems Bylaw – ongoing review

The Board started a final review of draft #8 of the Premises Use Wind Energy Systems Bylaw based upon input from the public hearing on March 12th.

Issues discussed included:

- Definition of PUWES, combining the original definition from Town Meeting 2013 and new definition
- How much generated energy has to be used on site when there are already conservative maximums established in the 10kW and 30kW limits.
- Site Plan review – should there be a one-step (Special Permit) process or leave the 2 step process that includes Site Plan Review. Beth said there are enough very conservation standards already built into the bylaw and therefore, someone with a project that meets the stringent criteria should know they will be approved before they go through the cost of the application process. John said he had gone to a ZBA meeting and the three members there supported a 2 step process.

The Board placed a call to Matt who was participating from California due to work commitments.

The concern that “site plan review” could lead to the defeat of the bylaw based upon past discussions and resistance to site plan review was discussed. It was noted that if this bylaw fails then anyone proposing to install a premises use wind turbines would have to apply for a special permit from the ZBA but there wouldn't be any standards to guide that board.

Matt said he prefers a two-step process but it may be easier to get a one-step process approved at Town Meeting. Matt ask if wind is already controversial, do we want the whole bylaw to be defeated because it includes site plan review. Beth asked for other comments from the Board. Matt suggested that every wind turbine must meet the standards, but the SPGA can waive application requirements to make the process less oppressive for a well sited project.

Matt raised the question of the noise study and if the ambient noise levels should be measured to set a baseline during the application process. If there is a subsequent complaint verified by the health board, then a full study can be ordered to be paid for by the applicant. If

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the result is the turbine is over the 33dBA maximum limit, then it has to shut down. Beth asked if due to the cost of a noise study using the listed acoustical equipment, can there be flexibility in how the study is carried out.

Matt noted it all comes down to the specific site to estimate whether there is going to be a problem. It will be up to the ZBA to make that decision. When we say we can waive any requirement, we may want to move noise studies to procedures and requirements. Cam noted we are subjecting the process to the implementation by the ZBA and noted that 1600 feet may be the magical number for setback requirements. Mike Parry said that he would check with the acoustical engineer who had advised the WAC to review the viability of using 1600 feet as a setback requirement and he would get back to the Board when he received that information. Matt suggested moving the noise study details from 17.5.3. into 17.10. This will leave it up to the ZBA to decide how the noise study gets done, the equipment to require, and when it gets done. They can use their judgment based upon the proposed project and its location.

The intent is that a wind turbine would never be allowed to increase ambient above a 33 dBA level. As long as ambient is below 33, any increase is limited to just 5 dba over that sites baseline ambient. The Board agreed that the 33 dBA maximum limit will be in 17.5.3 and everything on studies will move to 17.10

Matt mentioned that the Board should prepare a handout that summarizes the bylaw to be part of the Planning Board presentation at Town Meeting.

John Wheeler – said that the question of a balloon test appeared to be an issue. When he looked at the wind potential for his property, the company he was talking to volunteered to do a balloon test. Matt reminded the Board that in the beginning of this process to address premises use wind, the Planning Board decided not to deal with the aesthetic issues. The Board agreed not to include a balloon test as part of the process.

Following further discussion, the Board decided to take out Site Plan Review and use the one-step special permit process. The Board also decided that if one person owns property that is listed on a deed as two parcels, it would be okay for the turbine to sit on one parcel while the premises is on the adjoining parcel. In such situations, the SPGA should include a condition in the special permit that required the two parcels to be maintained in common ownership as long as the turbine is in operation. Since there was a definition of a premises use wind energy system approved at Town Meeting in 2012 and there was a new definition in the draft bylaw, the Board felt that the content of both should be merged in the next draft.

Comments from Joe Palmeri had included his questioning whether the Town should be asking for liability insurance or should there be a bond. Matt said the Board should seek advice of town counsel and use her suggested language when it is obtained.

Mike Parry questioned moving 17.5.3 Noise to 17.10. He was concerned with allowing the SPGA to waive the 33 dBA limit. It was discussed that the noise limit was remaining in 17.5.3 just the details of a noise study were being moved. Beth also noted that this is a very conservative bylaw since the industry standard is to allow a 10 dBA increase and this Board has limited it to 5 dBA.

A motion to accept the changes as discussed pending legal review and feedback was made by Matt and seconded by Doug.

Vote: 4 in favor, 0 opposed, 1 abstention by Beth as chair of the meeting.

Liz suggested that someone on the board be assigned to work with Liz on a final document to submit to Selectboard. John and Matt both volunteered.

The Board reviewed the draft changes to the use table based upon the changes just made to the draft bylaw. Liz raised the question of where should the PUWES be included in the use table--residential, agricultural, industrial. Matt suggested creating a new category related to all electrical generation activities-Energy Generation Uses.

A motion to create a new category in the use table of Energy Generation and move the solar and the wind to that category and changing the y's to SP on wind in each district. Moved by Matt and seconded by Cam.

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

The Board reviewed the recommended footnote on the Dimensional schedule and agreed that the purpose of the footnote is to clarify that a rooftop wind turbine should meet the 35 foot height requirement for buildings in Shelburne.

A motion to include the footnote “e” on the dimensional schedule as modified was made by Doug and seconded by John.

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

At this point in the meeting, Matt Marchese ended his phone call participation.

Draft Sign Regulations – ongoing review

Beth noted she was there for the first discussion but not for the public hearing and wanted to discuss the input the Board received from the hearing. The Board reviewed the minutes from the meeting regarding the sign regulations.

Mike Parry noted that the ZBA understood that “trailblazing” is the correct term to use to reference information signs on state routes. The illumination issue was discussed by the ZBA and since so many businesses already use night time illumination for security reasons that the ZBA deleted the former section 9.2.1. Agricultural signage – Mike reported that the ZBA had discussions with affected residents who need to change their signs as their products changes with the seasons.

Beth said she is concerned that the size of the sandwich/temporary signs along Route 2 is too small – it could lead to them becoming a distraction for drivers trying to read them as they drive by. The Board discussed whether to consider increasing the size of the signs up to 32 square feet (4x8). Beth asked if temporary signs along route 2 have to be brought in at night.

Beth said she still has a lot of questions about this sign regulation and it may well impact more people than the wind bylaw. She asked if we are trying to get this bylaw ready to present for this year’s town meeting.

Joe Judd said he felt there had been a lot of work on this and if people do not feel it is ready, then it might be better to take a slower process to get it right and submit it for next year’s town meeting.

Beth said she is not sure that people are aware of this bylaw. They recognize the ZBA has done a lot of work, but it will impact a lot of people.

Joe Judd doesn’t want to advocate one way or the other. He said there is a long history to the preparation of this draft bylaw. The Selectmen act on complaints and that is what brought this to a boiling point. There were a series of complaints last summer that brought the ZBA and the Board of Selectmen together to discuss the need to develop this bylaw. There were complaints on what is happening on Route 2 and the proliferation of signs in the village — sidewalk signs that impede movement of pedestrians. Joe feels the ZBA has brought the sign regulation farther forward than as the result of any past efforts.

Beth asked if there was a mechanism in place for enforcement based upon our current zoning. Joe said that Jim Hawkins, building inspector, has been maxed out in the past but now has more staff. Jim has felt that the bylaws are too vague and he felt it was going to be difficult to enforce them fairly. The number of complaints has been increasing and the bylaws need to be updated before Jim is comfortable taking action. Mike Parry said there are other issues that have become apparent such as the number of signs set up in Shelburne promoting events held in other towns. There were also signs blocking the view of people trying to exit properties along Route 2, creating traffic hazards. The Building Inspector is looking for teeth in the bylaw before he will enforce it.

Joe Judd mentioned that in one situation, Jim was calling the selectboard on how to deal with a particular sign. Mike also raised the question as to what do citizens want signs to do. What do the citizens really want to see – do they bother them – do they want more information – more tourist signs to get people to stop in the village – drawing people to events – what does Shelburne want? Towns look at signs differently.

Joe Judd said that if the Board decided to hold off for this town meeting and keep working on it, that the Selectboard and Jim Hawkins will continue to monitor the situation and work with people trying to make a living and then come back next year with a bylaw that has received more input and discussion.

Liz asked about the farmer’s market signs. Mike said the idea was to encourage people to advertise temporary events that benefit the towns. In terms of the farmers market, he referred to section 9.7 – the idea was to encourage people to have signs that clearly benefit Shelburne Falls but not be able to put it up 3 months in advance and stay for a long time. Mike said the ZBA’s concept was that the farmer’s market could put the signs up on Wednesday or Thursday and take them down at the end of the market each week. Mike said that as far as he is concerned the more input from the public the better

Beth asked the Board on their thoughts about moving this along. Beth and Doug both mentioned there are things that could be tweaked. Joe Judd said that the warrant for this year’s annual town meeting closes on April 7th.

John asked Mike what was the GSFABA’s reaction to the bylaw. Mike reported they received some written comments from Mary Vilbon but they haven’t participated in any meetings. John said that two groups that would most be interested are the GSFABA and the Ag Commission which has a meeting on April 1st.

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Cam asked Joe Judd who was the granting authority for signs – is that the Seelctmen? Joe said that he hadn't really realized that the Selectboard did have authority on allowing signs. The building inspector when pressured has gone to the Selectboard for assistance on enforcement. Joe Judd said that the current draft is the best effort he has seen in addressing sign regulations.

Beth and the Board decided to schedule a meeting to tweak the sign regulations, April 2, at 7pm. Liz should post the meeting and send Mary Vilbon a notice of the meeting.

OLD BUSINESS

Draft Shelburne Subdivision Regulations—Liz noted that during the meeting on March 12th, the Board had said they wanted to hold a public hearing on the draft subdivision regulations she had prepared during their April 9th meeting. Liz said she had updated the earlier draft. The working draft was a merge of a former Shelburne draft regulation with the recently adopted Orange regulation. Liz added some additional language into the working draft do it could be used for review. She noted that due to budget limitations, she would not have the time during this fiscal year to complete the editing and reformatting that will be necessary after review of the draft by the Board. She suggested that if they go through with a hearing on April 9th, that when they make a motion to approve the document, that the motion set an effective date of no sooner than August 1st. The final regulation will have to be filed with the Registry of Deeds and will need a major reformatting that will be time consuming.

Beth and the Board discussed taking more time with the review of the regulations instead of trying to finish them this fiscal year. They recognized that Matt was not running again for the board and they knew that Matt was hoping to see the adoption of updated regulations before his term of office is up in late May. Beth said that she would call and talk to Matt and let the rest of the Board know if the April 9th meeting will just be a regular meeting or if it will also include a public hearing on subdivision regulations.

Schedule next meeting: the Board will meet on Wednesday, April 2, 2014 at 7pm to conduct a detailed review of the proposed sign regulations, the final wind bylaw and try to review the subdivision regulations as well.

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

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

The meeting adjourned at 10:20pm.

Respectfully submitted by,

Liz Kidder
Administrative assistant

List of Documents:

Section 17. Premises-Use Wind Energy Systems Bylaw Draft #8
Final Draft Sign Regulations Submitted to the Planning Board March 2014

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