

**TOWN OF SHELBURNE**  
**Planning Board Meeting and Public Hearing**  
**Minutes of Meeting February 14, 2018**

A duly posted meeting of the Shelburne Planning Board was held on Wednesday, February 14th, 2018 at 6:45 pm in the Town Hall Meeting Room, 51 Bridge St., Shelburne Falls, MA.

Present: John Wheeler, Chair

Will Flanders

Cam Stevenson

Tom Johnson

Administrative Assistant: Liz Kidder

Audience: Levi Roman, George Boettner, Cynthia Boettner, Jesse Roman, Sue Reed, Pat Stevenson, David Schochet, John Walsh, Josh Simpson, Whit Sanford, Tom Minor, Toni Manning, Cady Coleman

Absent: Josiah Simpson had notified the Board he was unable to attend.

**The meeting was called to order at 6:45 pm.**

**A motion to approve the minutes of the January 24, 2018 as corrected was made by Will and seconded by Tom.**

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

**ANR Plans** – none

**Special Permit/Variance Applications** – Liz reported she had heard an appeal had been filed with the ZBA regarding the issuance of a building permit for the Frank Williams Rd. solar array and that the ZBA would be holding a public hearing in the near future.

The Board reviewed proposed revisions to Section 16.2 of the Telecommunication's Bylaw prepared by Will in response to input from Jonathan Mirin at a previous meeting. Tom J. noted there needed to be a clarification on how the new definition related to personal or small business cell phone use. Will said he would work on a clarification and email it to Liz to include in the next public hearing draft. Tom also raised a question regarding the new Section 16.3.24 and asked if this was too limiting for possible future options and new technology. Will noted he had seen this language in the Town of Randolph's Zoning Bylaw and felt it made the bylaw stronger. The consensus of the Board was to continue this discussion at their next meeting.

A motion to recess the Planning Board meeting until after the public hearing was made by Cam and seconded by Will.

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

The Public Hearing of the Shelburne Planning Board was called to order by John Wheeler at 7:01pm. He noted that the purpose of the hearing was to allow for public review and comment on possible revisions to the Shelburne Zoning Bylaw and that copies were available on the front table. He said he would review each proposed revision in order as printed.

**Section 2. Definitions** – new definition for "junkyard/recycling center" - John explained the Board had developed this new definition after a special permit review of a proposed project in Town. Points and questions raised included the following:

1. How was composting being addressed in this definition
2. The Board should consider separate definitions for junkyard and recycling center since there are differences.
3. Does this bylaw address the type of composting done by Martin Farm in Greenfield
4. How does this definition relate to agricultural composting?
5. Composting should have a separate definition and line in the use table.

**Section 2.38 – Definitions – Solar Panel Systems for Premises use**

John read an email sent by the Solar Store of Greenfield to its list of current or potential premises use customers urging them to attend the public hearing and explaining why the 110% restriction was too strong and counterproductive relative to net-metering regulations. John explained the Board had proposed these revisions after some residents had raised concerns about allowing very large premises use systems without a special permit; how is it determined that a project is actually premises use and not commercial. Other comments included:

1. Roof mounted solar panels can produce far more energy than an individual home needs– the excess energy can be contributed towards a neighbor or a non-profit through the net-metering program.
2. Eversource does not give homeowners sufficient information to evaluate if Eversource is being fair to homeowners relative to their usage levels and the use level of those with whom they net-meter.
3. The Utilities appear reluctant to move toward renewable energy with any speed and put up barriers—Shelburne should not be putting up additional barriers.
4. Homeowners should be allowed to produce as much energy as they want and not be limited.
5. There are concerns about the impact on neighbors from ground-mounted solar systems—other commenters said any ground-mounted systems should be allowed by right.
6. Maybe roof-mounted should be allowed by right and ground- mounted allowed with a special permit to ensure screening, maybe adding site plan review.
7. Solar systems should be considered a common occurrence – not different and requiring a special permit.
8. 10 – 15kW is what is typically allowed on a residential house--that would be 180% of what a homeowner could use.
9. At what point should a project be considered a Large-Scale project and then come under Section 18.
10. The present premises use bylaw would not allow the net-metering that is already happening in the Village.
11. There is a concern regarding the impact on neighbors if a homeowner filled their whole yard with solar panels.
12. A Town can't regulate aesthetics and homeowners should be allowed to fill their yard with solar panels if they want to.
13. There are other factors, such as the electric company regulations, that limit how much electricity can be generated on a home.
14. The solar companies have a complex and often unclear metric for determining system demand on a property.
15. The last place you want to sell excess electricity is back to the utility because the payback is too small.
16. Shelburne voted to become a Green Community and this bylaw is going against that designation.
17. How should you split the definition of premises use and commercial generation?
18. Should the definition identify how the excess energy can be used? Selling it to the utility or using it for neighbors.
19. With the changing technology and the possibility of needing to charge electric cars, there are too many variables to determine how much energy a single house will need; it is a dynamic situation.
20. If you are in the net-metering program, there are other more complex guidelines in place that have to be followed.
21. The technology is evolving and constantly improving, therefore how much should the Planning Board be trying to regulate.
22. The Planning Board should remove this bylaw and set up a working committee to prepare a draft bylaw for review.
23. It was suggested the Planning Board could use the Open Space Development bylaw as a model for how to review large-scale solar projects on farmland.

The consensus of the Board was to remove the limit on how much energy can be produced. Since it had been the Board's original intent, they will leave the recommendation to change "or" to "and/or." John encouraged those in attendance to submit copies of other Town's bylaw language as examples for the Board to consider.

**Section 2.4.8** – just a typo, no comments were presented.

**Marijuana Establishments -**

John noted that these definitions came from the draft 935 CMR 500.000: Adult Use Marijuana regulations. The intent of the Board was to keep the Town's definitions of establishments consistent with the States definitions in order to reduce any confusion.

There were no comments on the definitions of Marijuana Establishments as presented.

**Section 4.3 use table for marijuana establishments** – John explained that the Board prepared a draft use table for discussion.

Comments included:

1. Questions were raised about not allowing retailers or Treatment Centers in the Industrial Zone—the Board explained that they were trying to save what land is in the industrial zone for larger operations that could employ more people.
2. Should there be more criteria for the ZBA to consider when issuing special permits.
3. Should a checklist be prepared for use in licensing by the Selectboard.
4. Should Shelburne be dealing with this type of bylaw – isn't it too early in the process, would it be better to have a longer moratorium.
5. What is being presented is better than having nothing in the bylaw and is a good start.
6. It was felt that the Board hadn't advertised the hearing enough and people didn't know about these proposed adult use marijuana establishment bylaws.
7. Should the Board use the reverse 911 telephone system to inform people of the next hearing; many people don't read the newspaper.

**Section 4.3 Use Table** – John noted that the Board had reviewed the Use Table and were proposing a few revisions. Comments included:

1. Mobile Home Parks –John Taylor's email suggested contacting Town Counsel regarding whether the Board can regulate mobile homes.
2. Asterisks relative to short term accommodations may need to be changed from "must also meet other requirements" to referring them to other regulations with which they may need to comply.
3. Commercial Electric Generating Facilities-the Board needs to review this definition for consistency with other energy generating facilities in the use table.

**Section 6.3 Special Permit** change to 3 years: there was general support for this revision.

**Section 6.6.6 Commercial Sign Regulations** - John noted this clarification was included at the request of the ZBA and there was an additional suggestion from John Taylor that the Board would incorporate.

**Section 18 Large Scale Ground-Mounted Solar-Electric Generating Installations.** John explained this question came up over the past year as more land owners are considering solar arrays including dual use with agriculture installations. Many of the developers contacting people have said they need a minimum of 20 acres for a project to be economically feasible. Comments included:

1. Developers have done "big projects" on just 5 acres.
2. Developers have said they need 50 acres to be financially feasible.
3. The Mohawk Trail is a scenic byway and how can the Town protect the scenic views.
4. How could aesthetics affect the wording of a bylaw, distinguishing between rural and village areas.
5. There is a mid-scale project in Orange that may be an example to follow.

**Section 18.4.3 Special Permit** – a typo to be corrected.

John closed the public hearing at 9:05pm and thanked everyone for coming and for the valuable discussion that had taken place.

Following a break, John Wheeler reconvened the meeting at 9:17pm.

Josh Simpson provided the Board with an update on progress towards the demolition of the Singley Building. The demolition process has started with the removal of a very small amount of asbestos. They will then schedule the demolition and secure the site. At this point, the partners in Ancient Glacier LLC are not sure if they are going to reapply to the grant program related to affordable housing and if not, what they are going to do with the site.

## **OLD BUSINESS**

**Zoning bylaw revisions for ATM 2018/Feb 14<sup>th</sup> public hearing** - the Board reviewed the input from the public hearing and proposed making the following changes:

1. Section 2 Junkyard - Change the end to read "This definition does not include composting operations."
2. Section 2.38 - The Consensus of the Board was to regulate ground mounted but not roof-mounted solar systems and to not put a limit on energy production. The definitions and use table will be updated accordingly for the March public hearing.
3. Marijuana Establishments - no specific suggestion for changes were presented. The consensus of the Board was to present the draft again during the March public hearing. It was discussed as to whether the Board should use a reverse 911 phone call to inform residents of the next Public Hearing.
4. Delete "Commercial Electric generating facilities" from the use table since it does not appear to be functional and contradictory to other energy generating facilities.

## **COMMITTEE AND REGIONAL PROJECT UPDATES**

**FRCOG--** Tom had attended the last meeting which focused on electric car recharging stations and the need for more. The nearest Tesla recharging station is in Brattleboro. It is much faster than the charging station at Big Y. It was discussed that having a fast charging station could be good for Economic Development – an attraction for tourists. They also talked about the Northfield Mountain relicensing and Recreational Marijuana. They discussed how huge some of the cultivation buildings are going to be and that the security lighting around the buildings will impact surrounding areas and the night sky.

**Open Space:** no meetings

**Other Town Boards:** no information presented.

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

**OTHER BUSINESS NOT REASONABLY FORESEEN 48 HOURS PRIOR TO THE MEETING:** none.

**PUBLIC COMMENTS:** none presented.

**SCHEDULE NEXT MEETING:** February 28 at 7 pm and March 14<sup>th</sup> at 6:45 pm with the public hearing at 7pm. Tom informed the Board he is unable to attend on the 14<sup>th</sup>.

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

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

**Meeting was adjourned at 10:27pm.**

Respectfully submitted by,

Liz Kidder  
Administrative Assistant

## **LIST OF DOCUMENTS:**

**Legal notices from neighboring communities: 0**

Approved: \_\_\_\_\_ Date: \_\_\_\_\_ 4

**Notice of Hearing of the Shelburne ZBA**

**Draft proposed Zoning Bylaw Revisions Public Hearing February 14, 2018**

**John Taylor 2/11/18 email with comments on the hearing documents**

**Solar Store email, 2/9/2018 regarding Shelburne By law Revisions**

**Recorder Article "Shelburne hearing to cover pot bylaws"**

**Recorder January 14, 2018 Editorial: "Recreational pot: Go slow, take your time and think of farmers and youth."**

**Recorder Article 1/14/2018 "Pot licenses could be rolled out on timeline, CCC says"**

**Feb. 14, 2018 email from Jonathan Mirin to Will Flanders**

**Proposed Amendments to Section 16**

**Proposed Amendments to Section 21**

**Draft list of revisions for the March 14<sup>th</sup> Public Hearing**

**Excerpt from Leyden Zoning Bylaws – Driveways, Common Driveways, and Flexible Frontage**