Town of SHELBURNE

Planning Board

MINUTES

Regular Meeting via Zoom ~ March 19, 2024

A duly posted meeting of the Shelburne Planning Board was held remotely via Zoom, on Tuesday, March 19, 2024, at 6:30 p.m.

Present: John Wheeler

Will Flanders

Tricia Yacovone-Biagi

Faith Williams

Absent: None

Administrative Assistant: Absent

Guests: Virginia Ray, Susan Barry, Michael Parry, Jim Perry, Rick LaPierre, Joan LaPierre, Noah Grunberg, Bob Higgins, Peggy Warwick, Joe Palmeri

The meeting was called to order at 6:39 p.m. by Chair John Wheeler, who noted the meeting was being recorded.

**Minutes**

The minutes of March 12 were not available.

**Mail, Memos, and Other Correspondence –** None.

**ANR Plans/Subdivision** – None.

**Zoning Relief/Special Permit Applications** – An application for zoning relief for a project at 77 Bridge Street had been received. The plan is to renovate an existing, non-conforming garage into retail space. Tricia said the plan shows the sidewalk running parallel to the building, while in real life the sidewalk is close to the building on the east end but further away on the west end. Will didn’t think a Special Permit was needed, feeling zoning bylaw section 10.1.2 applied only to one or two-family homes, not commercial space. Tricia had several questions concerning the proposed deck, runoff coming down the proposed steps, and the front garden overlapping the property line. The sense of the board was that they approved the plan in general but had questions. Those questions will be forwarded through Faye to the ZBA.

At 7 p.m. a motion was made by Will, seconded by Faith, to recess the meeting for the purpose of a public hearing to discuss proposed zoning bylaw changes. Roll call vote: Will – aye; John – aye; Faith – aye; Tricia – aye. Motion passed 4-0-0.

**Public Hearing on Proposed Bylaw Changes, 7 p.m. –** The hearing was opened at 7 p.m. by John. Four articles may be proposed at Town Meeting. The first states that the ZBA is the SPGA unless otherwise specified. This has been the practice all along but according to state law, it should be specifically stated in the bylaws. There were no questions about this article.

The next article proposed to remove the definition of municipal trail /non-profit trail and also remove it from the use table. This article was requested by the open space committee. Jim Perry of the open space committee said the committee wants to create more trails for the use of residents and tourists. The current trail system is almost all on private property. For several years the committee has wanted to create a trail alongside the Deerfield River which would be partially on private property and partially on town-owned property. Jim said there had been some push back from landowners which was why the bylaw was created. He said adjustments had been made to the proposed trail due to public input, but the permitting process is beyond the capability of a volunteer committee, partially because of the ZBA’s Special Permit process. It was noted that most trails in town are on private property. Michael Parry, a ZBA member, said the only time anyone had come before that board in the past seven or eight years was when a trail was proposed across private property that the landowners did not want. Parry said the ZBA said to come back to them once easement access had been obtained. No one has ever come back to the ZBA. Jim Parry said all but one, very vocal, landowner had been agreeable and the open space committee is still working on easement access. Bob Higgins, one of the affected landowners, said the proposed trail was also access to the river and would also be a picnic spot. His home overlooks the river and he is opposed to the trail. Tricia wanted to clarify that only one trail was being affected by the trail bylaw. Does it make sense to have a bylaw that is not being enforced? Bob Higgins said the bylaw should remain and if it was not being enforced it was because someone was not paying attention. Jim Perry said a survey showed that people want more trails and access to the river. He added that the bylaw was expensive and cumbersome. He said the open space committee was unanimously in favor of removing the bylaw.

The next proposed article was about mobile food establishments (MFEs). The planning board had received comments about more MFEs coming to town and as of now there is nothing in the bylaws regulating such things. The proposed bylaw was adapted from a similar one from the town of Amherst. Jim Perry said he could see the bylaw working for long-term food trucks, but what about events such as Moonlight Magic? He thought following the bylaw would be a long process for anyone to go through. Michael Parry said if adopted, the proposed bylaw would not allow the current Bridge Street food trailer, with the net result of the bylaw’s adoption being the removal of that food trailer. Is that what the people of Shelburne want? Will said the bylaw was spurred by that trailer tripling in size. It was his personal opinion that the new, larger trailer is ugly. Noah Grunberg questioned why MFEs would not to be allowed in the Industrial Zone. Jim Perry thought the requirement that trailers be moved every night would be a hardship. Michael Parry said perhaps there could be a Special Permit requirement only for long-term MFEs, with short-term MFEs getting simple permission from the Selectboard. He thought limiting times and dates might be over-regulating, and that applying Amherst standards to Shelburne was overkill. Joe Palmeri mentioned an ad hoc committee met last summer to work on MFEs and events. It was the consensus of that group that any such bylaw should be a general town bylaw not a zoning bylaw. Tricia said while the Planning Board did not want to discourage businesses, it also didn’t want MFEs to pop out all over town. Michael Parry thought that was unlikely as Shelburne’s population is too small for food trucks to compete for spaces. Joe Palmeri thought a review of proposed MFEs by the Town Administrator or Selectboard should be enough. The Special Permit process is too cumbersome. Eric Lucentini agreed that some regulation made sense, but this bylaw is overkill.

The final proposed bylaw change concerns the role of the Planning Board. It seems to be the general consensus that this should be a general town bylaw, not a zoning bylaw. Rick LaPierre said his concern was the possibility of the Planning Board looking for grants and doing things that might be better done by other boards or committees. Will said a concern has been financing a revision of the Master Plan and making things happen. Rick responded that the bylaw did not reference the Master Plan, but if it did the bylaw would make sense. Rick said the Master Plan is already the responsibility of the Planning Board, it is outdated and the present version was a two-town joint effort with Buckland. Will said it could be updated a piece at a time and some towns have used the MVP program to update Master Plans.

Joe Palmeri, apologized for being late, and asked to be able to return to the trails bylaw. He explained that the bylaw was created 25-30 years ago when a proposed trail was planned to go through the Masonic Street neighborhood and the residents were unable to publicly express their concerns. The bylaw was proposed by the residents to allow a time for a public hearing and public comment. Joe was not sure the bylaw should be removed, rather the definition should be changed. Other trails in town require landowner permission. Audubon trails are thought to be all on their own property. As far as enforcing the bylaw, Joe said that only happens when a complaint is filed with the Zoning Enforcement Officer. It was the opinion of Bob Higgins that just because a bylaw is not being enforced, that is not a reason to remove it. Rather it should stay and be enforced. Trails cannot be built on private property without landowner permission. Joe thought perhaps the trail by the river was questioned because it was mostly on town-owned property but abutters didn’t like it. Jim Perry said the Open Space Committee was working on getting easements from all landowners along the proposed trail

At 8:37 p.m. a motion to close the hearing was made by Tricia, seconded by Will. Roll call vote: Will – aye; John – aye; Faith – aye; Tricia – aye. Motion passed 4-0-0.

The regular meeting resumed at 8:37 p.m.

**OLD BUSINESS**

**2023 Bylaw Update** – The 2023 bylaws have been published in the *Two Town News*. John has posted them at both libraries, the Town Hall, the police station, and the fire station. They are now officially approved.

**MVP Planning Grant** – Shelburne is now on the list of towns that no longer need to provide a match for planning grants. The MVP program is interested in inland flooding and nature-based solutions to the problem. The plan is to work on the flooding issue at the intersection of Bardwells Ferry and South Shelburne Roads. Most of the MVP partners are agreeable to this project. The Conservation Commission and the DEP are already aware of the situation and are working on solutions. Tricia will connect with Mark Stinson the DEP circuit rider.

**NEW BUSINESS**

**Discussion of changes to the proposed bylaws after the public hearing** – Starting with the SPGA bylaw, Will thought the wording should say town or zoning bylaws. A motion was made by Faith, seconded by Will, to submit the article regarding SPGA as amended on March 19. Roll call vote: Will – aye; John – aye; Faith – aye; Tricia – aye. Motion passed 4-0-0.

The trail bylaw saw strong opinions, both for and against, at the hearing It was decided to submit the bylaw as is and let the town decide at Town Meeting. A motion was made by Faith, seconded by Will, to submit the article regarding municipal and non-profit trails, as written. Roll call vote: Will – aye; John – aye; Faith – aye; Tricia – aye. Motion passed 4-0-0.

It was thought that the article concerning MFEs should be a town bylaw, not a zoning bylaw. Will suggested changing the article so that short-term (72 hours or less) MFEs did not need permits and that longer-term MFEs should get permits that were good for one year. He also suggested removing the rule that MFEs need to be moved each night. Other suggested changes were to substitute Selectboard for ZBA wherever that appears in the bylaw and add that the Selectboard could waive requirements. It was decided to send the bylaw to the Selectboard and let them decide if it should move forward to Town Meeting or not.

The final bylaw, regarding the role of the Planning Board, will be sent to the Selectboard as is. Will thought the bylaw was unlikely to make it to Town Meeting as one of the Selectboard members was not supportive. A motion was made by Will, seconded by Faith, to send the role of the Planning Board bylaw to the Selectboard, as is. Roll call vote: Will – aye; John – aye; Faith – aye; Tricia – aye. Motion passed 4-0-0.

**Use of AI for Minutes** – Will has learned that there is a program called Read AI that records meetings, creates a transcript, and even records people’s expressions. To use the program meetings would have to be held via Zoom. Faith had also looked into AI and thinks the minutes would be extremely lengthy. Faye summarizes discussions. Will wondered if the board wanted to continue meeting by Zoom. CPC meetings are now done in-person. Hybrid meetings are also an option. No decisions were made.

**Committee and Regional Project Updates –** The Franklin Regional Planning group will be meeting on March 28.

**Two Town News** – There will be a report on the public hearing and its outcome.

**Other business not reasonably foreseen 48 hours prior to the meeting ­**– There was a brief discussion on how to fix typos in the bylaws.

**Public Comments –** None.

**Schedule Next Meeting** – The next meetings will be on April 2 and April 16, at 6:30 p.m.

At 9:20 p.m. a motion to adjourn the meeting was made by Faith and seconded by Will. Roll call vote: Will – aye; John – aye; Faith – aye; Tricia – aye. Motion passed 4-0-0.

Respectfully submitted,

Faye Whitney

Administrative Assistant