Town of SHELBURNE

Planning Board

MINUTES

Regular Meeting via Zoom ~ September 17, 2024

A duly posted meeting of the Shelburne Planning Board was held remotely via Zoom, on Tuesday, September 17, 2024.

Present: John Wheeler

Will Flanders

Faith Williams

Paul Hollings

Absent: None

Administrative Assistant: Absent

Guests: Madison Scofield, John Taylor

The meeting was called to order at 6:32 p.m. by Chair John Wheeler, who noted the meeting was being recorded.

**Minutes**

A motion was made by Paul, seconded by Faith, to approve the minutes of August 6, following a wording change. Roll call vote: Will – aye; John – aye; Faith – aye; Paul – aye. Motion passed 4-0-0.

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

**ANR Plans/Subdivision** – None.

**Zoning Relief/Special Permit Applications** – None.

**OLD BUSINESS**

**2024 Bylaw Update** – Faye and Joe Judd have filled out the required forms and sent them to the Attorney General’s Office. That office responded that the bylaws will be reviewed no later than December.

**Discussion of planning for next year** –

**Mobile food establishments (MFEs)** – Will and Paul had created a draft bylaw for discussion. Mobile homes are already defined in the bylaws. It was proposed that the definition be amended to say mobile buildings instead of mobile homes. General regulations in the bylaws would also be changed to refer to mobile commercial buildings. A new definition of Mobile Food Establishment would be added to the bylaws. The proposed definition is that used in the Massachusetts Retail Food Code. Permits for MFEs would be needed from both the Board of Health and the Selectboard. Depending on the proposed length of use there would be both annual and short-term permits. A section defining where MFEs would be allowed to be parked would be added as well as a section allowing the Selectboard and Board of Health to set conditions. It will be noted that ice cream trucks have different regulations according to state law and those regulations must be followed. The Use Table would be amended after it is decided in which zones MFEs would be allowed. The Selectboard will need to deal with the specifics of each application. It was decided that the ZBA permitting process is too lengthy for this type of permit. John will send a draft of this bylaw to Faye for distribution to the other boards.

**Battery storage bylaw** – Faith has created a draft of this bylaw. She plans to show it to a friend who is an attorney. The Board realizes it is not possible to prevent battery storage facilities, according to state law, but such facilities can be regulated. The Town of Oakham has regulations that have been approved by the AG’s office. Faith will reach out to Oakham and possibly to other towns that have created battery storage bylaws. John Taylor suggested making the battery storage bylaw similar to the telecommunications bylaw and the solar voltaic bylaw. Several other changes were suggested including decommissioning requirements and who is to monitor bonds. Faith will follow up on the various suggestions and changes to the first draft.

**Appointments –**

**7:15 p.m. Andrea Donlon, Buckland short-term rental bylaw –** Andrea is both a member of the Buckland Planning Board and an employee of FRCOG. The first question for Andrea was what does “owner-occupied” mean? What if the owner is a trust or a life estate? The definition says an owner- occupied dwelling needs to be the primary residence for 9 months of the year. Andrea said Buckland did not get into trusts or life estates. John Taylor suggested that all definitions be placed in the definition section of the bylaws, rather than being placed in certain sections. This would allow the definitions to be consistent throughout the bylaws.

**7:30 p.m. Joint Meeting with ZBA –** At 7:33 p.m. five members of the ZBA were present and the ZBA meeting was called to order.

Both Shelburne and Buckland wanted the definition of “owner-occupied” to require that someone with ownership responsibility be on site. Eric suggested that owner-occupied be “a residential dwelling that is the primary residence of an individual who has some property interest and has legal authority over the property.” John Taylor said whoever applied for the permit would need to be someone attached to the property and if ownership were to change, a new owner would need to reapply.

Shelburne boards questioned how the application process works. In Buckland, the first step is to go to the Building Inspector to see if a short-term rental is allowed by right or if a special permit is needed. Next the applicant goes to the Town Clerk, completes a form and pays a fee. Then health, building, and fire inspections are done. Once those are complete the Town Clerk certifies the inspections and the short-term rental is registered. Noah asked if a short-term rental was considered to be a business use, if so, that would trigger other things, such as complying with fire codes etc. Andrea said since the primary use would still be residential, it would be treated as a home-based business.

Joe questioned what Section 3.2 meant, saying it could be interpreted in several ways, Will said that could be changed in the Shelburne version, adding this is why the Planning Board wanted ZBA feedback. Noah asked if a special permit would be required for short-term rentals. Andrea said in Buckland some cases it would be, depending on the size and location of the rental.

Noah asked if there was any sense of what the community felt about short-term rentals. Will said the Selectboard had asked the Planning Board to look into this subject and the process was just beginning. John Wheeler said public opinion will be expressed at the public hearing. Joe said somebody should get a feel of what the community wants. Andrea said Buckland held an information session part way through writing the bylaw. She said more input was gathered at the information session than at the public hearing.

Discussion turned to the new state law regulating ADUs. The new law says ADUs are now allowed by right and need not be owner-occupied. Andrea said towns would be allowed to restrict ADUs as short-term rentals. The Planning Board will need to see how the new state law affects existing zoning bylaws. Local and state regulations need to be consistent.

John Taylor asked how Bed and Breakfasts relate to ADUs. Shelburne has a B&B bylaw. Buckland has eliminated theirs. Noah thought running a B&B changes a residence to a commercial building, which would have different regulations It was agreed that gray areas between B&Bs and short-term rentals should be eliminated. Eric added the it would make sense to periodically look at the totality of the bylaws to spot inconsistencies.

Joe clarified that the use table says an owner must be present. Paul said the goal was to allow homeowners to rent a room and make some extra income but prevent investors from converting long-term rentals into short-term rentals for tourists. Eric asked what was meant by “licensed” and “registered.” Joe thought licensed meant having a business license and registered referred to being registered with the state’s Department of Revenue (DOR). Eric thought making sure all license and registration conditions are met should be clearly stated in the section on grandfathering existing short-term rentals. It is not known exactly how many short-term rentals there are in Shelburne, but 41 are registered with the DOR. John Taylor commented that with that many affected by the bylaw change, there should be a lot of interest in this. If Shelburne decides to have an information session, Andrea agreed to share her power point slides.

Moving on to the battery storage bylaw, it was reiterated that much like the telecommunications and solar bylaws, this bylaw will not have anything to do with how a facility is constructed, managed, or kept safe, but it will be able to have some say in where a facility is located within the town.

Bonds for decommissioning a facility were discussed. Bonds are held by the Town Clerk and if a bond is dropped the town is notified. In the past when this has happened the applicant has been told to renew the bond or the town will revoke the special permit. It was thought that the bond amount should increase each year to keep up with inflation and interest rates. That could be included in the bylaw. The existing bylaws state that if an outside expert is needed, to confirm if a bond is adequate, the applicant must pay for the expert.

Copies of all these bylaws will be sent to the ZBA and Selectboard.

In addition to the bylaws mentioned, the ZBA would like to see a food truck bylaw and see some changes to Section 4.1 regarding secondary uses of property. The Planning Board asked the ZBA to work on the secondary use bylaw. Another possible bylaw change would concern signage, especially the proliferation of temporary flag-type signs. Also mentioned was the flea market bylaw that had been briefly discussed by a working group and was then dropped.

The ZBA asked about MFEs and were told that the draft bylaw would have both annual and short-term permits for food trucks, which would be permitted by the Selectboard and Board of Health. The existing MFE on Bridge Street would not be allowed under the new draft bylaw, but it would be grandfathered.

The final bylaw change mentioned was to possibly change the lot size requirement in the Village Commercial area.

At 9:32 p.m. the ZBA voted to adjourn their meeting and left the Planning Board meeting.

**Storm Water Bylaw** – John had sent a note to Kimberley Noake MacPhee letting her know that the Board has become very busy working on other bylaws. She was asked if she could come up with definitions for different road sizes or possibly write a storm water bylaw template, which Shelburne could modify for its own use.

**NEW BUSINESS**

None.

**Committee and Regional Project Updates –** None.

**Two Town News** – Faith had written something and asked for Board approval before it was sent in.

**Other business not reasonably foreseen 48 hours prior to the meeting ­**– A job application for a new administrative assistant had been sent to Board members.

**Public Comments –** None.

**Schedule Next Meeting** – The next meeting will be on October 1, at 6:30 p.m., via Zoom.

At 9:40 p.m. a motion to adjourn the meeting was made by Will and seconded by Faith. Roll call vote: Will – aye; John – aye; Faith – aye. Motion passed 3-0-0.

Respectfully submitted,

Faye Whitney

Administrative Assistant