

Shutesbury Planning Board Meeting Minutes
May 15, 2017 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Steve Bressler, Ralph Armstrong, and Jim Aaron

Planning Board members absent: Linda Rotondi

Staff present: Linda Avis Scott/Administrative Secretary

Guests: Emily Boss/Franklin Land Trust, Michael DeChiara, Miriam DeFant, Rob Kibler, Rolf Cachat, James Cachat-Schilling, Mary Lou Conca, Mark Olszewski; Meryl Mandell, Allen Hanson and Mike Vinskey/Master Plan Working Group

Bonnar calls the meeting to order at 7:52pm.

Cachat-Schilling acknowledges that the meeting is being video-recorded.

Wheelock Parcel Solar Project Update: Bonnar reports writing a letter, via email on 5.5.17, to James Hawkins/FCCIP Building Inspector as decided during the 5.4.17 Planning Board meeting.

Lot D18 Locks Pond Road Site Plan Review/Olszewski: Mark Olszewski/174 Locks Pond Road cites the revised site plan and explains that the building envelope has been extended to the lot line; the west line of the building envelope has been moved to the east by approximately 7.2'. Bressler states concern about fragmenting the Conservation Restriction (CR) areas. Emily Boss/Franklin Land Trust (FLT): the building area is tied to and part of the full parcel and cannot be separated; for long-term management, having clear boundaries is preferred; the house envelope is subject to the CR. Boss: 10' from the boundary is within the setback. Olszewski: creating lawn up to the lot line is not possible due to the presence of wetlands. Boss: we feel confident the natural resources will be protected; recreation, forest management and agriculture are allowed; an Agricultural Management Plan via the USDA is required for agricultural activity within the CR; the placement of temporary shelters for farm animals is allowed with written permission from FLT. Boss: currently, there are no trails. Lacy: the purpose of the Open Space Design plan is not to hinder hiking, forestry or agriculture – the typical rural activities. Bressler: a temporary shed could be located anywhere? Boss: compliance with any necessary permitting is required as well as written permission from FLT; it is important that the intent is agriculture. Lacy: this project comes in under the 1,000' driveway limit; there can be woods roads within the CR. Bressler: an access path to a structure in the rear of the CR is possible. Lacy: run-in sheds are for animals to use while in the pasture. Boss: there is 500 sq. ft. aggregate for the run-in sheds. The 5.15.17 draft Site Plan Review Decision is considered. Lacy, referring to Finding #6: once the CR is signed and recorded, building can commence (as per Condition #3). Boss: the draft CR is in process; it will be reviewed by FLT and Olszewski's attorneys then submitted to the State for review. It is noted that the Planning Board will have an opportunity to review the CR. Condition #4 is reviewed. Exhibit A: "Site Plan for Lot D18 Conservation Plan" dated 5.15.17 by Mark Olszewski. Exhibit B: Draft Conservation Restriction/Mark Olszewski – grantor; The Franklin Land Trust, Inc. – grantee; Lot D18 Locks Pond Road, Shutesbury.

Armstrong moves the Planning Board approve the Site Plan Review Decision/PB SPR 17-01 for Mark T. Olszewski; Aaron seconds the motion. Vote: Bressler: abstain; Lacy: yes; Bonnar: yes; Aaron: yes; Armstrong: yes. The appeal period is explained to Olszewski and Boss. The Building Inspector will be notified of the Site Plan Review Decision.

Possible Exclusions to Pending Conservation Restriction on Cowls Property:

Lacy: Cinda Jones sent an email to several town officials in Shutesbury, Amherst as well as the Department of Conservation and Recreation looking for input on what exclusions may be desired on acreage she is placing in a Conservation Restriction (CR) under the Forest Legacy Program (Walter Cowls Jones Working Forest); she is excluding land for possible gravel mining and cell towers. DeChiara asks about the reference to the Wheelock parcel on the agenda. Bonnar: reference was in error. Lacy, referring to the "Walter Cowls Jones Working Forest" map prepared by Jacob Macko August 2016: the red line indicates a buffer around the solar project site. Lacy would prefer that Reed Road and an unnamed old town road heading south be included in the CR as it would ensure public access. Kibler: we were told that ~ 800 acres would not be developed; this seems to bargaining in bad faith; the land is posted for "No Trespassing"; does Cowls have the right to disallow public access on the CR. DeFant states that she has been trespassed from accessing any Cowls property within the State; members of the public can be restrained from access if there is a threat to their property. Lacy: under a Forest Legacy CR, public access is allowed. DeFant reports that she has also been served with a "cease and desist" from speaking at a public meeting. DeChiara suggests the Planning Board ask for access for all Shutesbury residents. DeFant: Federal Forest Legacy funding could cause Section 106 to be relevant, i.e. are there any ceremonial landscapes that need protection; she understands an inventory has been done and there are features, outside of the Wheelock solar parcel, that may need protecting. Lacy: a portion of the land within the Paul C. Jones Working Forest was held out of the CR as it may be the location for a potential water source for the town. Kibler states that he wants the Planning Board to put the solar project on hold because there is evidence of bargaining in bad faith; time and again, the point was made that the rest of the land in the Wheelock parcel would remain untouched. Lacy: there was no requirement that the remainder of the parcel remain untouched in the Special Permit; there is a requirement in the new solar bylaw that a percentage of the land be set aside. Lacy: Cowls stated that they were pursuing a CR; it is not disingenuous to ask the town if there are any reasons to set aside certain portions of the land. Bressler: public access for all is a key; we see no reason for setting aside other portions. DeChiara, as a Select Board member: when the proposal for this CR was presented last year, the Select Board was asked for a letter of support, not approval. Bressler: the Planning Board could say we see no reason to set aside land for a structure; who makes the final say? DeChiara: the landowner has the final say; would request the Planning Board ask for public access for all; that the exemption stay as close to the boundaries of the solar as possible. Mary Lou Conca requests the trespass order be lifted on Shutesbury families and states that as a taxpayer, she is flabbergasted by her receipt of a no trespass order. Bressler would make it crystal clear that access be granted for all as well as keeping Reed Road and the other road within the CR; there is no need to keep the public away from the solar facility. Conca: for the record, she does not know where the solar project is to be

located; she was trespassed only for speaking out. Armstrong: under what rule does the Planning Board ask for all to have access? Lacy: anyone can write to the Forest Legacy Project; the only reason this is on the agenda is that Cinda Jones asked for input on the potential for future use/siting on the land. DeFant: how can the Planning Board make a recommendation without a specific project/use in mind? Kibler: applauds Cowls for making the offer; the Wheelock parcel should not be excluded; potential uses need to be sited appropriately and logic applied; the Wheelock tract is already spoken for. Bonnar asks Vinskey about a plan for feedback. Vinskey explains that he spoke with Jones regarding her offer to town – she would leave portions out of the CR if the town has a specific use, i.e. municipal water supply, municipal building site – whatever the town may think is needed; once the land is in CR, no changes can be made; the final decision is up to Jones. Vinskey has asked for input from as many boards/committees as possible; the Emergency Management Team suggested land be set aside for fire ponds and a public safety complex. Armstrong: the Select Board identified Lot O32 as a potential site for a public safety complex. Bressler: Jones has given us a short time frame to decide. Vinskey: we can make suggestions to Jones, she will make the decision; a meeting to brainstorm ideas will be held toward the end of this week or early next week. DeFant: at town meeting last year, the citizen solar petition was withdrawn in favor of the Planning Board solar bylaw - there was a waiver for the Wheelock solar project and there was an understanding that there would not be development on the Wheelock South parcel. Bressler: there was a spirit of intent that the solar project would be the only development on the Wheelock South parcel. Bressler does not see any reason to ask for any set-asides. Aaron: the conversation may lead one to view C. Jones as a benefactor, however, these set-asides will not be free and the cost of future use may be outlandish. Bressler: as a Planning Board, we can at least ask for access for all. Lacy: the general public cannot be posted out.

Master Plan Working Group (MPWG) Update: Meryl Mandell, Allen Hanson, Mike Vinskey and Lacy represent the MPWG. Mandell: the Select Board appointed a diverse group of people; the MPWG made a concerted effort to involve as many people as possible with various methods of outreach. Mandell: our committee charge was to come up with a vision; our next step will be to meet with the Select Board on 5.30.17 then our committee work will be complete. Mandell: if the decision is made to accept the vision, one option would be to explore the main themes via committees, another option would be to update the current Master Plan - updating would not be as extensive as it was the first time around as much of the background will not change; it is up to town leaders and decision makers to decide how we want to go forward; some members of the committee may want to do further work. Lacy: the 2004 Master Plan was developed on the basis of future growth; this time, demographics have changed; the issues were different and the need for community was not identified in 2004; this vision reflects where we are at today. Mandell: the respectful struggles and strong disagreements within the diverse committee was a positive experience; the outreach effort resulted in strong voices about the clear themes; it seems that these should be taken into consideration for future planning and infrastructure efforts; is hopeful the document can be accepted as a community vision. Bonnar: the response to the 2004 Master Plan was a major rewrite of the zoning. Mandell: the report is straight data not an interpretation; the actual data is included in the

full report which is available on the MPWG website. Copies will be available for review prior to the 5.30.17 meeting. Hanson: issues about quality of life and civility can be addressed without budgetary requirements; suggests focusing on these themes. Vinsky, as a member of the MPWG and Select Board member, states that he will wait until the 5.30.17 meeting to share his thoughts. Lacy: a middle path would be to set up thematic working groups; the long-term path would be development of a revised Master Plan. Bonnar: developing a revised Master Plan would require a town meeting vote. Mandell: the first step is to accept the vision; once accepted, we will decide how to take the vision forward. Mandell: there was not enough lead time to have an article on the 5.6.17 Annual Town Meeting Warrant; notes how hard it is to get information out to the public. Armstrong recommends a special town meeting to increase exposure. Hanson asks what the Planning Board foresaw. Bonnar: the expectation was open ended. Lacy: the process was beneficial. Armstrong appreciates the work of the MPWG; notes the need to assimilate the document and how it will figure into the Master Plan. Hanson: after reading the 2004 Plan, there is not much difference between what the town wanted then and what is wanted now. Mandell requests the Planning and Select Boards read through the document in preparation for the 5.30.17 meeting. The work of the MPWG is appreciated.

Lake Wyola Zoning: Bonnar asks the Planning Board to consider making a statement about the 5.4.17 public hearing. Aaron: the Board has a responsibility to pursue the matter more actively. Kibler: it is clear that Lacy at least helped author the proposal and requests Lacy recuse himself from the discussion. Lacy will not willingly recuse himself. Bonnar does not see a reason for Lacy to recuse himself. Kibler: the Board does have a quorum without Lacy. Lacy states that he does not live at the lake and does not have any financial interest in the matter. Bressler states that he does not see any conflict of interest. Lacy: cleaning up the language of the proposed bylaw was a technical matter. DeChiara: the Planning Board did not assist with rewriting the 2016 citizen petition solar bylaw; cleaning up the language for this citizen proposal is selective. Lacy: the Planning Board, with a lot of input from the interested citizens, wrote the Planning Board solar bylaw. DeChiara: the Select Board will be meeting with the chair of the Lake Wyola Advisory Committee (LWAC) about their scope of responsibility and invites a Planning Board member to be present for the discussion. Lacy: the LWAC was formed to provide an interface between the lake and the town. DeFant: doesn't the Planning Board have to make a recommendation about the proposed bylaw? Bonnar explains that the bylaw could not be voted upon at annual town meeting because the Planning Board did not write a report; a letter could be written offering Planning Board attendance at a meeting with the LWAC and Lake Wyola Association (LWA). Lacy suggests the Zoning Board of Appeals Chair Chuck DiMare be invited to attend a summer meeting to be held in the LWA building; the goal of this meeting is to seek a middle ground. Bonnar: the Lake District was created acknowledging that different zoning rules apply in the district; suggests the LWA President chair the meeting. Bonnar will draft a letter to the LWA.

Annual Town Meeting Election Results: Bonnar notes that two new members have been elected to the Planning Board: Robert Raymond will fill the two-year position and Miriam DeFant will replace Ralph Armstrong.

Planning Board Minutes: Mary Lou Conca requests her street address be removed from the draft 5.4.17 minutes. Lacy moves the Planning Board approve the minutes for the 5.4.17 meeting; Armstrong seconds the motion that passes unanimously.

At 9:47pm, Bressler moves and Armstrong seconds the motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. 5.5.17 Bonnar email to James Hawkins/Building Inspector
2. Lot D18 Locks Pond Road/Olszewski Site Plan Review Decision, Exhibit A, and Exhibit B
3. 5.12.17 Vinskey and 5.9/17 Cinda Jones emails regarding the “Walter Cows Jones Working Forest” with attached “Walter Cows Jones Working Forest” map created by Jacob Macko August 2016
4. “Town of Shutesbury Community Vision – Summary Sheet”

Respectfully submitted,
Linda Avis Scott
Administrative Secretary