

Planning Board Meeting Minutes
October 16, 2017 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Robert Raymond, Jeff Lacy, Jim Aaron and Linda Rotondi

Planning Board member absent: Steve Bressler

Staff present: Linda Avis Scott/Administrative Secretary

Guests: Michael DeChiara, Melissa Makepeace-O'Neil and Tim Logan/Select Board; Becky Torres/Town Administrator; Emily Stockman/Stockman Associates; Zachary Shulman/Lake Street Development Partners; Shane Bajnoci/Cowls; Mickey Marcus and Michael McCaffery/SWCA; Jeffrey Macel and Kevin Sullivan/Lodestar Energy; Mike Vinskey; Attorney Roger Lipton/representing Lake Street Development Partners

Bonnar calls the meeting to order at 7:14pm

Public Comment:

Michael DeChiara/56 Pratt Corner Road refers to handout compiling his research regarding a proposed sign bylaw update utilizing sign bylaws created by other towns.

Wheelock Solar Project Pre-Construction Conditions:

Lacy introduces Emily Stockman/Stockman Associates who attended the 10.13.17 site visit on the recommendation of the Shutesbury Conservation Commission. Mickey Marcus/SWCA reviews the process thus far: the building permit has been issued and the EPA construction permit for projects greater than one acre has been issued. Marcus refers to the 10.12.17 "Pre-Construction Condition 5" report by Kevin McCaffery/SWCA regarding the soil test at proposed detention basin 4A; the limit of work boundaries have been marked; once construction begins, the applicant has agreed to provide weekly monitoring reports that will be sent to the town and kept on site; the Conservation Commission and Planning Board can access the site at any time with prior phone/email notification; the first phase of work is to construct the access site, cut the perimeter and install erosion control; once the erosion control is inspected, actual construction can begin. Lacy notes that there is some deviation in the plan for the installation of erosion control re: cutting and grubbing/pulling stumps prior to erosion control. Marcus: trees will be cut however there will be no stumping prior to erosion control installation. Kevin Sullivan/Lodestar Energy refers to dialog regarding sequence: for some of the mature trees, it may be better to stump before soil erosion control is installed; they are willing to do whatever is best for the project. Lacy confirms this work will be done during dry weather conditions. Marcus: if a tree needs to be pulled prior to erosion control installation, that is acceptable; erosion control is dug into the ground and for proper installation some trees may need to be cut. Stockman: there is to be minimal disturbance and is to be done only for proper trenching installation of erosion control; the Commonwealth has standard language and minimal disturbance is acceptable. Lacy: once the access road is in, the project site will be circumnavigated for tree cutting and erosion

control installation leaving the center intact. Sullivan: penetration will be from the periphery into the middle. Lacy: the Planning Board will want to inspect the periphery and erosion control before the center is penetrated. Marcus refers to pre-construction condition #6: the applicant is looking to begin this phase of preparation and is seeking to ensure they are following the rules. Lacy: the project is out of Conservation Commission jurisdiction; Emily Stockman is acting as the Planning Board's wetland consultant. Stockman: as long as it is understood that the amount of disturbance is the minimum necessary to allow the proper installation of erosion control; the resource area down gradient needs to be protected by properly installed erosion control. Lacy: no sediment will travel to within 100' of the resource area. Michael DeChiara: it seems that the Planning Board should consider pre-construction conditions #3, #5, and #7; these need to be approved before moving on to approving erosion control. Marcus: install access road, install erosion control with minimal disturbance and notify the Planning Board for inspection. Lacy: the slope control flagging needs to be completed and high visibility fence needs to be installed. Zachary Schuman/Lake Street: the interior 15% slope area still needs to be flagged and encircled with fencing; in this area, the trees will be cut, no stumping, no work as this is only a shade management area. Raymond confirms that when the Planning Board is notified, the erosion control inspection with Stockman will occur. Marcus: the Planning Board or its designee will certify the installation. Stockman: the initial inspection will give the go ahead; per SWCA, weekly reports will be completed. Marcus: with a significant rain event, an inspection will occur and any remedies made within 24 hours; reports will be emailed to the Planning Board and kept on site in a binder. Lacy: the view of the entry road from Pratt Corner is of concern; confirms the driveway will be built to 14' in width and, other than the wider entrance, the width will be kept at 14'. Marcus: the finished grade is to be 12' wide, the road will be slightly wider during construction; after construction, the side slopes will be loamed and re-vegetated. Lacy: the Planning Board minutes need to be reviewed to confirm the width decision; the Planning Board wanted to avoid the "starts wider"; the plan was to build at and leave at 14' in width. Schulman: the approved construction plans are for 15' and 12' and that is where he wants to keep it. Marcus refers to road width dimension in the 2.26.16 plan set. Lacy will review the relevant minutes and report to all 10.17.17. Schulman: if the minutes show 14' during and after construction; if not, 20' during construction and 12' post-construction. Marcus: the wider width allows ease of vehicle access. Lacy notes that pre-construction condition #1 was previously approved and that during the 10.13.17 the field visit, all of the mounds except for the one in the center were toured; the exclusion areas will be fenced 15' from their outer edges; the larger area, some consider to be a burial ground, is ~1 acre in size; there are other tree throw areas south of this area that are not included in the exclusion zone. Marcus: the UMAS archeologist's guidance was followed. Lacy acknowledges that the applicant was not required to exclude these areas; during the 10.13.17 site visit, Lacy and Bonnar observed these to be tree throw areas; per photo examples, the depression is on the upwind side and remnant of tree stump is observable. Marcus: we agreed to protect and avoid any potential ceremonial areas and will follow the archeologist's guidance. Lacy: it is important to acknowledge that not all mounds will be within the excluded areas; the Planning Board did not require the exclusion areas, the applicant did this voluntarily. Marcus: the developer is required to not disturb these areas and the 15' around these

areas. Bonnar: this avoidance is self-imposed by the applicant. Marcus refers to pre-construction condition #1 and reads last sentence: "The applicant shall not disturb the soils, pull stumps from, or place solar arrays on, in, over, or within 15 feet of any Native American Traditional Cultural Property sites or sites of Native American burial mounds identified in the survey or confirmed by the applicant's further investigation, if undertaken." Bonnar: the Planning Board never agreed these were ceremonial sites. Stockman confirms that the 15' is from the working edge. It is noted that pre-construction condition #2 was met 10.13.17 when Stockman attended the site visit in lieu of the Conservation Commission; #3, the list of materials to be used was provided for the 9.13.17 Planning Board meeting as per the 8.28.17 letter from Kevin Magayah/The Conti Group-Conti Solar; Attorney Roger Lipton refers to the 9.16.17 from Magayah that states "Please note that the glass cleaners mentioned in the package of Data Sheets will not be used for washing the solar panels". Lacy: regarding pre-construction condition #4, Attorney Donna MacNicol/Town Counsel has determined the insurance to be adequate (Certificate of Liability Insurance received 9.13.17). DeChiara states he was concerned that based on the interconnection agreement, the insurance might not be correct, however per MacNicol, it is adequate. Pre-construction condition #5: Marcus refers to the 10.12.17 deep hole soil test pit report from McCaffery - with Cowls assistance, the deep hole test on the remaining basin site was completed and Mass Stormwater Standards are met. Stockman: the test pit location was observed during the 10.13.17 site visit; the report was completed; there was no mottling or redox. Lacy: at 8:06 the discussion is suspended for a scheduled public hearing. At 8:18pm, discussion regarding pre-construction condition #6 is resumed. Marcus: our requirement is install erosion control and notify for inspection. Stockman recommends the Planning Board be given adequate lead-time to schedule the inspection. Lacy requests to be informed when the roadwork will begin. Sullivan: the entrance has a wide egress for trucks. Lacy requests the disturbance at the entrance be kept as narrow and minimal as possible. Schulman: National Grid requires a minimum of three poles as the entrance; the courtesy email will be sent 48 hours prior to start of work. Sullivan: once construction starts, on-site visitors are escorted and properly attired with hardhat and vest. Lipton referring to pre-construction condition #7: the affidavit for the interconnection agreement was signed by Marnin Lebovits/Lake Street on 10.4.17 and notarized; this satisfies #7. Lipton referring to pre-construction condition #8: per 1:30pm 10.16.17 email from Town Counsel Donna MacNicol, if the required changes to the Surety Agreement are made, she will approve the document: "If track changes are approved, consider this document approved by Town Counsel". Per Lipton, these changes were accepted and the document needs to be executed by Lebovits, Jones/Cowls, Inc., and the Planning Board and Select Board chairs. Schulman indicates that he can sign for Lebovits. DeChiara: once the Planning Board Chair signs, the Select Board will review the document. Schulman will arrange for a Cowls representative to sign.

Lacy moves the Planning Board deem pre-construction conditions #1-5, and #7 to have been met; #8 will be met when the Surety Agreement is signed by all relevant parties and #6 will be met once the erosion control is satisfactorily installed after which the Planning Board will notify the building inspector that construction may begin. Raymond seconds the motion. Logan requests the time frame for signing the Surety Agreement. DeChiara calls the Select Board to order. There is some further discussion about the timing of

Select Board consideration of the document. Motion passes unanimously. Lacy moves the Planning Board authorize Bonnar/Chair to sign the "Surety Agreement for a Solar Site Decommissioning Fund" as amended by Town Counsel MacNicol and accepted by the applicant. Raymond seconds the motion that passes unanimously. Bonnar signs the document and Lipton notarizes his signature.

8:00pm: Common Driveway Special Permit Public Hearing/Bonnar, Patton, and Patton: As he is one of the applicants, Bonnar recuses himself. Lacy chairs this portion of the meeting and at 8:06pm opens the public hearing for a special permit application for a common driveway for Bonnar, Patton, and Patton, all of 276 Montague Road, under Section 8.6-2(B). Bonnar: the plan is to convert the existing structure into a living space; the common part on driveway is between 880-890' in length and then continues ~ 145' to the new living space; requests a Planning Board site visit and notes that the comment period for responses from other Boards/Departments has yet to expire. It is noted that a special permit requires a super quorum. Raymond asks for clarity about the 1,000' driveway limit. Bonnar: the entire length is greater than 1,000'; the common driveway is less than 1,000' in length. Lacy notes the need for deeded covenants for the affected lots. Bonnar: this documentation is included in the application; requests continuation of the public hearing. At 8:17pm, the public hearing is continued to a date no later than 11.13.17.

Bonnar, Patton, and Patton Approval Not Required (ANR): "Plan of Land for Deacon Bonnar" dated 9.24.17 by Hilltown Land Surveys is signed by Planning Board members excepting Bonnar.

Cell Tower Zoning/Possible Zoning Amendment List: DeChiara calls the Select Board meeting to order and notes that in July, the Select Board considered its priorities including the intent to identify win-win projects, i.e. improved cell service for residents. DeChiara continues: a tower could bring revenue to the town and increase salability of homes; the best location may be behind town hall; cell companies are looking to expand their service area on Route 202; it seems the intent of the current bylaw was to "keep cell phones" out, so the question is whether to update the existing language or do a total rewrite. DeChiara highlighted areas of the "Wireless Communications Facilities" bylaw for the Planning Board to consider for revision. Bonnar takes issue with the characterization that the Planning Board wrote the bylaw to prevent towers; the intent was to ensure safety, i.e. the fall zone requirement. Raymond: how will a tower affect service in other areas of town? DeChiara: that research is not yet available. Rotondi: our main concern is cell service to Shutesbury residents, not coverage on Rt. 202. DeChiara: a cell tower company will not provide a tower only for our town; if we were to negotiate a location in the town center, we may be able to negotiate repeaters for the Lake Wyola area. Bonnar: our height limit would not stand up in court. Lacy: the Board may consider a height limit waiver; there is a "three times the height" distance limit to an abutting dwelling. Torres: we do not have the demographics and/or population to justify a cell tower; a number of proposed tower projects in the area have failed. Bonnar: the most recent application for an AT&T tower on Morse Hill was withdrawn. Logan: given that the height restriction can be waived, revising the bylaw is moot. Bonnar suggests

considering that revision of the cell tower bylaw be added to the “Zoning Projects to Consider in FY2018” list. Bonnar: research into a location, the potential number of persons served and what type of tower would provide how much service will be helpful. DeChiara: the Select Board has accomplished their goal for coming before the Planning Board. DeChiara moves to adjourn the Select Board meeting; motion is seconded by Makepeace-O’Neil and passes unanimously.

Planning Board 9.13.17 Meeting Minutes: Lacy moves to approve the 9.13.17 meeting minutes as presented; motion is seconded by Rotondi and passes unanimously.

At approximately 8:40 pm, a motion to adjourn the meeting is made, seconded and passed unanimously.

Documents and Other Items Used at the Meeting:

1. DeChiara’s sign bylaw research
 2. Special Permit for Wheelock Solar Project
 3. Wheelock Solar Project Special Permit Plan Set 2.26.16
 4. Marcus/SWCA 10.5.17 email: “Old Pratt Corner Road – Planning Board site visit
 5. SWCA 10.12.17 email letter: “Pre-Construction Condition #5”
 6. 10.4.17 & 10.5.17 email “Re: construction meeting” from Mark/Lake Street Dev.
 7. 10.1.17 DeChiara email: “confirming order of pre-construction conditions”
 8. 8.28.17 letter from Kevin Magayah/Conti Solar re: pre-construction condition #3
 9. 9.16.17 letter from Magayah/Conti Solar re: pre-construction condition #3
 10. 9.16.17 DeChiara email: “Issues Found with National Grid Agreement”
 11. 10.13.17 “Wheelock Site” photos (2)
 12. 10.4.17 “Affidavit” re: Interconnection Service Agreement
 13. “Town of Shutesbury Surety Agreement for a Solar Site Decommissioning Fund”
 14. Site plan “Existing Driveway to be a Common Driveway” by Amherst Environmental Services dated 9.5.17
 15. “Plan of Land for Deacon Bonnar” dated 9.24.17 by Hilltown Land Surveys
 16. Shutesbury Zoning Bylaw Section 8.7 Wireless Communications Facilities with DeChiara’s highlights
- Additional documents included in the Planning Board member packets
1. 9.29.17 email from Mary Lou Conca: “Please include in your meeting minutes
 2. 9.28.17 email from RG Cachat: “Please Enter This Letter Into the Records of Your Next Meeting”
 3. 9.27.17 email from RG Cachat: “Re-presenting Dr. Forward’s support for my proposed test protocol, both in confirmation of Dr. Hoffman’s Request – none of which was ever performed”

Respectfully submitted,
Linda Avis Scott
Administrative Secretary