

Shutesbury Planning Board Meeting Minutes  
February 11, 2019 Shutesbury Town Hall

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

Planning Board member absent: Steve Bressler

Staff present: Linda Avis Scott/Land Use Clerk

Guests: Francis Parisi/Parisi Law Associates; Don Wakoluk and Julia Agron/Sustainable Cannabis Development Committee, and Tom Williams

Bonnar calls the meeting to order at 7:04pm.

Public Comment: None offered.

Vertex Towers Cell Tower Special Permit Application: Bonnar: this topic is only for scheduling purposes. Attorney Francis Parisi explains that he is representing the applicant, Vertex Tower Assets, LLC and he has been communicating with Bonnar and Scott about the requirement for the balloon visibility test and legal notice requirements; the proposed cell tower site is Lot D35 Locks Pond Road. Bonnar: the Board has yet to determine whether to require the balloon test. Parisi: we find the balloon test helps; the amount of dense vegetation will limit visibility of the tower; frequency testing has been done and is included in the application; the balloon test has very specific legal ad requirements and, to be prepared for the 3.11.19 meeting, the ad needs to be published by 2.15.19 in order for the test to be done on 3.2.19. Bonnar, noting that the Board usually has an opportunity to read the application before scheduling a public hearing, suggests scheduling an extra meeting to consider the application and the overall workload. Bonnar confirms the time period from receipt of application, 65 days, and scheduling the public hearing: the application was received on 2.7.19 therefore the Board has until 4.13.19 to schedule the hearing. Parisi: questions about the application need to be asked in the context of the public hearing. Lacy: the questions would be procedural, i.e. scheduling. Parisi: a separate legal notice for the balloon test will be published; the public hearing notice will also include the balloon test notice; there needs to be time to collate the balloon data before the opening of the public hearing; as long as we notice it, the test could be after the opening of the public hearing, however, the goal would be to have the test done prior to the opening so the data is available for the hearing. Parisi to Lacy's question about waivers: two waivers, one for height as the limits in the bylaw are non-technically feasible and, the second, because Vertex is a wireless telecommunications real estate developer and not a carrier. Lacy: Board members need to read the bylaw and there may be questions for Town Counsel. Parisi: the text of the bylaw is incorporated in the application narrative. Plan: schedule the special permit public hearing on 3.25.19 at 7:30pm. Tom Williams, noting that the proposed tower location is near his residence (37 Carver Road), requests the balloon test be for the proposed height as well as the regulation height. Parisi agrees and suggests the balloon test be done on Sunday, 3.17.19, a week before the public hearing begins, from 9am – 12noon; this timing allows more people to observe and there is usually less wind earlier in the day. Parisi will place the legal notice for the balloon test; Bonnar will place the legal public hearing notice to include the balloon test notice. Parisi to Williams' question about a bad

visibility day: the advertisement indicates that weather may be an issue; he will communicate with Scott regarding any weather conditions that may change the date.

Draft Marijuana Bylaw:

Section x.5.5 is now Section x.5 D “Lighting and Security”

Section x.5.6 is now Section x.5 E “Energy Efficiency”

Section x.5.7 now Section x.5. F “Water Management and Efficiency”: no changes to text; Lacy notes that the Water Resources Committee, Conservation Commission and perhaps the Board of Health may need to be consulted.

Section x.5 E “Noise” is changed to Section x.5 G “Noise/Odor”: The text is modified to read: *“All Marijuana Establishments shall ensure that public nuisances including odors and noise to neighboring properties are minimized.”*

Section x.5 G is now Section x.5 H “Hazardous Materials”: All agree to no text changes. Agron and Wakoluk note that fertilizers and solvents, including butane and ethanol, may be used. Agron notes that regulated industries pose less risk; less hazardous options, i.e. use of CO2 and air extraction, are being developed. DeChiara: this is where there is a connection to marijuana establishment sites and the distance from property lines.

Section x.5 H, now I, “Driveways and Parking Lots”: Bonnar: State regulations indicate that establishments selling alcohol must be 500’ from protected institutions however this distance can be reduced by local boards. Raymond opposes “300’ from existing residential use”. Bonnar: the 300’ requirement ensures there will be no marijuana establishments where 250’ of frontage is consistent. All agree to eliminate *“No such premises shall have any driveway entrance or exit for motor vehicles within five hundred (500) feet of the property used by any school, library, or church or other location where children congregate.”* Bonnar notes that there is a 15’ setback requirement for driveways and that a driveway/parking plan will need to be submitted with an application. Raymond suggests Planning Board discernment regarding driveway locations. Agron notes that anything that is not in the interests of the Town can be addressed in the Host Agreement. The Board agrees to reconsider amending the first sentence or eliminating this section.

Section x.5 I, now J, “Signs”: All agree to eliminate *“including the requirement that, no advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines”*.

Section x.5 J, now K, “Buildings”: Raymond: this section could be dealt with in the Host Agreement. DeChiara: the bylaw is a starting point for Host Agreement discussions. Raymond suggests and all agree to delete: *“generally, not employing unusual color or building design which would attract attention to the premises. For Marijuana Establishments involved in cultivation, buildings shall resemble vernacular agricultural buildings such as a barn or greenhouse.”*

Section x.5 K “Marketing” (would have been “L”): all agree to eliminate this section as it is covered in the State regulations.

Section x.5 L “Cultivation”: All agree to eliminate *“All Marijuana Establishments involved in cultivation shall ensure that public nuisances including odors, noise, and lighting to neighboring properties are minimized.”*

Section x. 5 M “Applications”: All agree to eliminate item #3 requiring contact information for the “Manager of the Licensed Marijuana Establishment”.

Section x. 5 N “Site Plan Review”: The requirements for a site plan are discussed. All agree to the addition of “*shown at scale*” to the end of the second sentence. Lacy notes the need to know the locus for the site. Use of an Assessors’ GIS map is considered. This section needs to be revisited.

At this point, Bonnar proposes the Board pause review of the draft bylaw and notes that the document will need careful review, particularly, in the use of “Permit Granting Authority” and “Special Permit Granting Authority”. Lacy recommends, if retail is limited to only the Town Center, the Board consider saying “no” to retail establishments; this matter can be discussed during review of the “Use Table”.

DeChiara moves and Raymond seconds a motion to approve the 1.28.19 meeting minutes; five members vote in favor of approving the minutes as amended and Rotondi abstains; motion carries.

Bylaw Amendment - Lake Wyola Livestock: Bonnar suggests Catherine Hilton/Board of Health be requested to review the proposed amendment. Lacy suggests the proposed amendment be reviewed by Town Counsel and notes that there is an agricultural exemption that could override the amendment. It is noted that there will be a public hearing for the proposed bylaw amendments. Rotondi raises the concern that a resident of the Lake District may have a number of dogs. Lacy: the language distinguishes livestock from pets. All members support Lacy’s suggestion that he review the document with Town Counsel MacNicol.

Pioneer Valley Habitat for Humanity CPC Application Support: Bonnar: low income housing is a positive for the community. Lacy wants confirmation the lot is grandfathered and a site plan. Bonnar: the Board received documentation that the lot, Q41 West Pelham Road, is protected as a grandfathered lot per the 2.4.19 letter from James Hawkins/Building Commissioner. Bonnar: the lot has 150’ of frontage, is 1.7 acres and is approximately 500’ deep; will there enough land for a solar array as suggested by Pioneer Habitat for Humanity? Lacy requests a site plan and notes that affordable housing is of benefit and Pioneer Valley Habitat for Humanity is a good organization, however, affordable housing is not cash positive and the project could or could not be done well. DeChiara: the proposal already has Select Board support; the organization has to apply to the State in order for the home to be on the affordable housing list; funds are not released until this listing is obtained. Bonnar will be in touch with Pioneer Valley Habitat for Humanity regarding Lacy’s request for a site plan. Lacy to DeChiara’s question about cost: a site plan, to scale, including a septic plan will be needed anyway.

Possible 2019 Bylaw Amendments: During the next two meetings, the Board will work on the marijuana bylaw and modifications to the Use Table, agriculture in the Lake District and, potentially, a modification of the solar bylaw. DeChiara: practically speaking, a discussion about the solar waiver is worthwhile and the Board needs to have a discussion with Fire Chief Tibbetts about driveway widths before annual town meeting. Bonnar and DeChiara confirm there are three bylaw amendments under consideration: livestock in the Lake District, waiver provision for the solar bylaw and the marijuana bylaw.

Next meeting dates: 2.25.19 and 3.11.19 at 7:00pm.

At 9:33pm, DeChiara moves and Raymond seconds a motion to adjourn the meeting; motion passes unanimously.

List of Documents and Other Items Used at the Meeting:

1. Vertex Towers, LLC Special Permit application for installation of a cell tower
2. Email communication between Attorney Fran Parisi, representing Vertex Towers, LLC, Bonnar and Scott
3. 1.28.19 Draft Marijuana Zoning Bylaw and Proposed Use Table
4. Proposed amendment regarding livestock in the Lake Wyola District
5. Pioneer Valley Habitat for Humanity CPC application, 2.4.19 letter from James Hawkins/Building Commissioner and 2.8.19 email from Megan McDonough/Pioneer Valley Habitat for Humanity
6. List of possible 2019 zoning bylaw changes

Respectfully submitted,  
Linda Avis Scott  
Land Use Clerk