

Notes  
Shutesbury Planning Board Meeting Minutes  
February 25, 2018 Shutesbury Town Hall

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

Guests: Don Wakoluk; Catherine Hilton/Board of Health; Robert Groves/Building Committee, Mary Lou Conca.

Bonnar calls the meeting to order at 7:30pm.

1. Lake Wyola livestock amendment: Catherine Hilton/Board of Health appears before Planning Board. She indicates that she has reviewed proposed pig and livestock bylaw attached as Exhibit 1 pertaining to Lake Wyola area, that she and Board support same. Michael moves to approve proposed by-law for submission and inclusion in Warrant. Raymond seconds. Amendment unanimously approved. Lacy indicates he will convert this to warrant article.
  
2. Letter of Support from Planning Board requested by Building Committee regarding its application for Community Preservation Funding in the amount of thirty-eight thousand dollars. Bob Groves from Building Committee states that Building Committee applying for funding in the amount of \$38,000 to address flooring issues with Old Town Hall. The anticipated work would focus on excavating under town hall to deepen the crawl space, add additional supports and planking for the floor and make viewing of the floor accessible to engineer for further assessment. Motion made for Planning Board to write letter of support by Robert Raymond, Linda Rotondi seconds. Jeff Lacy, Deacon Bonnar, Raymond and Rotondi vote in favor. Michael DeChiara, abstains. Board supports Lacy's writing letter and sending letter. Board waives reviewing letter before being sent.
  
3. Cell Tower application: Deacon asks Board members to review pending application and Cell Tower Bylaw prior to meeting marked for March 25, 2019.

4. Marijuana discussion: The discussions below focused on Board reviewing draft proposals, prepared by Michael DeChiara, of proposed Marijuana bylaw and seeking tentative agreements as to sections designated.

(1). Discussion of DeChiara, draft of Section P. “Retailer limits: No more than two Marijuana Retailers will be permitted to operate in Shutesbury.” DeChiara, indicates that Whately had a limit or three retailers and, so guided, he proposed two. Board tentatively agrees to limits proposed. Lacy indicates that he questions whether any retailing should be allowed, that it should only be in town center deferring “use” discussion as to whether or not it should be even allowed there.

(2) Discussion of DeChiara, draft of proposed Section Q:

“Reporting: All Marijuana Establishments shall provide the Fire Chief, Police Chief, Planning Board, the Building Inspector and the Town Administrator with the names, phone numbers and email addresses of all management staff and key holders, including a minimum of two operators or managers of the facility identified as contact persons. All such contact information shall be updated to keep it current and accurate.”

Board agrees to tentatively replace above with following: “All marijuana establishments shall provide contact information of the managerial staff to the Town Administrator. All such contact information shall be updated to keep it current and accurate.” (Motion to tentatively adopt language above proposed by Raymond, seconded by Michael, approved by all present.) Discussion focused on desirability of having contact information of managerial staff available to Town as necessary by furnishing same to Town Administrator who can be contacted by other interested persons as the occasion arises.

(2) Discussion of Michael’s draft of Sections R and S.

The following language from Michael’s draft considered:

R. “Change in License or Owner: The Owner and Licensee of any Marijuana Establishment issued a Special Permit under

this bylaw shall report, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or any expiration or suspension of a license to the Building Inspector and Planning Board. Any failure to meet this requirement of this Bylaw will result in the immediate issuance of a cease and desist order by the Building Inspector ordering that all activities conducted under the Special Permit cease immediately.

S. Change of Ownership: A Special Permit issued under this Article shall lapse upon any transfer of ownership or legal interest of more than 10% or change in contractual interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this Article x and Section 9.3 (Special Permit) and Section 9.2 (Site Plan Review).”

Lacy’s point that that this language would unduly burden the sale and transfer of property considered.

After discussion, Board elects not to adopt R and S above and address the “change” issues by giving the Select Board discretion to require re-negotiating of Host Community Agreement in certain situations as suggested in “T” below.

(3). Section T. below from Michael’s draft discussed.

T. “Host Community Agreement: Applicant shall submit the final negotiated Host Community Agreement that is required between a Marijuana Establishment and the Select Board to receive a license at the time the applicant submits their Application to the town for establishment of a Marijuana Establishment.”

Board elects to add the following additional language:

“Select Board may consider that changes in operation of marijuana establishment would be deemed sufficiently substantial to require, in its discretion, re-negotiation of Host Community Agreement.” Michael’s point that this language will serve to give Select Board discernment as to

whether or not to require said renegotiating considered as acceptable by the Board as part of further draft.

(4) Discussion of Michael’s draft “Expiration” section as set forth below:  
“A Special Permit to operate a Marijuana Establishment shall expire after a period of five calendar years from its date of issuance but may be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Special Permit Granting Authority at least 60 calendar days prior to said expiration; that no objection to said renewal is made and sustained based upon compliance with all conditions of the Special Permit; that public safety factors are applied at the time the Special Permit renewal is requested; and that the Purpose and intent outlined in x.1 of the Section will continue to be met with a renewal for operation . Any changes to the Host Community Agreement requested by the Town of Shutesbury shall be considered prior to approval of a renewal.”

Jeff proposes two changes: one In line 4 replacing “sixty calendar days” with “six months” and in the other in line five replacing “no objection” with “no substantial objection.” These changes proposed by Jeff considered by the Board as acceptable as part of further draft.

(5) Consideration of Draft Waiver Model for Cannabis and Solar Sections which was submitted to Board as follows:

“Draft Waiver Model for Cannabis and Solar Sections - JL  
(taken from existing solar bylaw and JL/MD edits & suggestions)  
x2. Special Permit Granting Authority & Site Plan Review

The Zoning Board of Appeals or the Planning Board (see use table) shall be the Special Permit Granting Authority (SPGA) under this section in accordance with M.G.L. Chapter 40A, Section 9, and Section 9.3 of this zoning bylaw. In the case of site plan review, the Zoning Board of Appeals or the Planning Board (see use table) shall be the Permit Granting Authority (PGA) in accordance with Section 9.2 of this zoning bylaw.

“Upon request by the applicant, the SPGA or PGA may waive or reduce any requirement of this Article x by the same majority vote required for the permit itself upon written findings included in the permit of: 1) special circumstances of the site, its surroundings, or the proposal that negate the need for imposition of the requirement; or 2) the objectives of this section may be met in alternative manner; and 3) that such a waiver or reduction will not derogate from the public purposes and intent of this zoning bylaw. In the case of a special permit, such requests must be made by the applicant no later than the close of the public hearing. An affirmative or negative vote under this paragraph shall not be construed as an approval or disapproval of the permit sought.”

Michael and Jeff share with the Board that the proposed language above (i.e. “Upon request...permit sought”) represents an amalgamation of their efforts. DeChiara suggests reasons why approval of waiver should be required at a “higher” majority (“super majority”) than that required for approval of Special Permit. DeChiara and Lacy agree that the requirement therein that any waiver “will not derogate from the public purposes and intent of this zoning bylaw” empowers the Board to consider how compelling the waiver request must be in meeting that standard without adopting the “super majority” requirement. The Board expressed its support for the above language. Jeff will customize same to Solar By-law and Michael to the proposed Marijuana by-law and bring back drafts to the Board for consideration.

#### 6. Motion to Adjourn

Motion to Adjourn made by Rotondi seconded by Raymond, passed unanimously.

Respectfully Submitted

***Robert S. Raymond***

Robert S. Raymond  
Planning Board Member