

Shutesbury Zoning Board of Appeals Meeting Minutes
July 18, 2017 Shutesbury Town Hall

ZBA members present: Chuck DiMare/Chair, Tom Williams, and Jeff Lacy

ZBA Alternate present: Andrew Berg

Staff present: Linda Avis Scott/Clerk

Guests: Nick and Keren Rhodes, Rolando Trias, Russ Wilson, and Eric Stocker

DiMare calls the meeting to order at 7:03pm.

Williams moves the ZBA approve the 6.29.17 meeting minutes as presented; Lacy seconds the motion that passes unanimously.

Case 17-003: Site Plan Review/484 Pelham Hill Roads/Rhodes

ZBA members review the Site Plan Review Decision findings and conditions. Lacy reads Condition C into the record: "Either the principal one-family dwelling or the accessory apartment must be occupied by an owner of the property. The owner must also own the entire lot, any structures thereon, and both dwelling units. Prior to conclusion of a Site Plan Review, the owner(s) must submit a notarized letter to the Building Inspector stating that they will occupy one of the dwelling units as their permanent or primary residence, except for bona fide temporary absences. Upon sale or transfer of the property to a new owner, the new owner must submit a substantially identical notarized letter to the Building Inspector. If such a letter is not submitted within thirty (30) days of recording the deed, the Site Plan Approval shall lapse." Lacy explains to the applicants that the Building Inspector will be anticipating receipt of the letter and recommends the letter be submitted within the twenty day appeal period. Specific Condition L is read into the record by Lacy: "There shall be a lockable exterior door installed at the top of the entryway stairs coming up from the garage." Williams moves the ZBA approve the Site Plan Review Decision for Case 17-003; Lacy seconds the motion that passes unanimously. DiMare signs the document that will be submitted to the Town Clerk 7.19.17.

69 Schoolhouse Road: Owner, Rolando Trias, attends the meeting for education and guidance purposes. Trias proposes to build a 96 sq. ft., 8'x12' shed located within the 75' front setback and the 25' side setback. As a direct abutter to 69 Schoolhouse Road, ZBA Alternate Andy Berg recuses himself from the case. A building permit is not required because the shed will be less than 120 sq. ft. Trias asks if installation of the shed can be accomplished without payment of the \$300 special permit fee; the proposed shed will be ~50' from the road and ~10' from the side setback; 75' from the road would place the shed within the existing leach field. Lacy: as per the *Town of Shutesbury Zoning Bylaw*, Section 4.2-2, a special permit application is required for a non-habitable detached structure that does not meet minimum setback requirements. DiMare, explaining that the ZBA acts pursuant to the Bylaw, affirms the need for a special permit application. Trias anticipates submitting a special permit application on 7.19.17. Legal notice timing and the twenty day appeal period are explained to Trias. A tentative public hearing date is set for 8.15.17 at 7:00pm.

21 New Boston Road: Owner, Eric Stocker, and builder Russ Wilson attend the meeting for education and guidance. Stocker plans to build a carport, however, the 75' front setback would locate the structure on too steep a site. As per Section 4.2-2 of the *Town of Shutesbury Zoning Bylaw*, a special permit is required for a non-habitable detached structure that does not comply with minimum setback requirements. The proposed carport also may not meet side setback requirements. A tentative public hearing is set for 8.15.17.

The ZBA acknowledges receipt of the 7.13.17 letter from James Hawkins/Building Inspector regarding a satellite dish at 9 Birch Drive/Ruben Magdaleno. Per Hawkins, the dish is located within the required side 15' setback (Lake Wyola District). Berg notes that FCC rules may supersede a local bylaw. Lacy notes that Magdaleno may appeal the Building Inspector's decision to the ZBA.

Berg has converted the document "Zoning Board of Appeals – Town of Shutesbury Rules and Regulations Adopted Pursuant to MGL C. 40A, §12" for review and consideration by the Board at a future meeting.

Williams emphasizes the need to ensure an application is completely valid, specifically regarding standing: the Board could ask for and consider evidence of standing, i.e. is the applicant authorized to apply; is the individual aggrieved and is it a zoning matter; standing would be determined by the ZBA. Lacy: questions relative to standing would be handled during the public hearing. Williams: should questions about standing be codified in the regulations; there is a need to establish standing before deciding upon the merits of the case. DiMare: in practice, the ZBA does not rule on an incomplete application. Williams: in the case of an appeal, the question of standing is not obvious. The matter of standing will be taken under advisement by the Board.

Berg has updated the ZBA webpage and will correct problems that occurred with the Drupal migration.

At 8:12pm, Lacy moves to adjourn the meeting; Williams seconds the motion that passes unanimously.

Respectfully submitted,
Linda Avis Scott
ZBA Clerk