

Shutesbury Zoning Board of Appeals Meeting Minutes  
November 29, 2018 Shutesbury Town Hall

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

ZBA alternate present: Andrew Berg

Staff present: Linda Avis Scott/Land Use Clerk

Guests: Karen Lynch, Walter Hite, and Tom Siefert

DiMare calls the meeting to order at 7:31pm.

Williams moves and Lacy seconds a motion to approve the 9.10.18 minutes for a portion of the 9.10.18 Planning Board meeting with a quorum of the Zoning Board of Appeals. Three members approve the minutes as presented and Berg abstains; motion carries.

Lacy moves and Berg seconds a motion to approve the 9.12.18 meeting minutes; members unanimously approve the minutes as presented.

Williams moves and Lacy seconds a motion to approve the draft FY18 Zoning Board of Appeals Annual Report; motion passes unanimously.

Case 18.007: Special Permit and/or Variance – 30 Great Pines Drive/Rivers:

DiMare refers to the 11.21.18 email from Mark Rivers requesting to withdraw their special permit application (see file); through email and phone calls, Rivers explained their intention to apply for a building permit proposing a structure that meets all zoning requirements; as this is a corner lot, the rear setback requirement does not apply. DiMare recommends the Board consider Rivers request to withdraw and that the application be withdrawn without prejudice. DiMare received a phone call from abutter Bruce Hartley/25 Great Pines Drive subsequent to Hartley's receipt of a phone message from Scott explaining that the Rivers would not be attending this meeting. DiMare explained to Hartley that once a building permit is issued, an aggrieved party has thirty days to appeal the permit; Hartley was referred to the Building Inspector for any questions/concerns about the Rivers' building permit application. It is noted that a building permit appeal is then heard by the Zoning Board of Appeals. Karen Lynch/29 Great Pines Drive states that as an abutter to 30 Great Pines Drive, she seeks education and guidance. The Board refers Lynch to the *Town of Shutesbury Zoning Bylaws* for education about setback requirements. DiMare explains that property owners must display their building permit and that questions about a building permit may be addressed to the Building Inspector and/or the landowner. Berg clarifies for Lynch that a corner lot has two front and two side yards and no rear yard. DiMare moves the Board accept the withdrawal of the special permit and/or variance application for Case 18.007 without prejudice, specifically, that the applicants will not be held to the two year rule for re-application. Lacy seconds the motion that passes unanimously.

Case 18.008: Site Plan Review – 297 West Pelham Road/Spry:

Walter Hite/applicant for Brad Spry/property owner is present. DiMare: for the record, Lacy and DiMare walked the property driveway to view the proposed ground-mount solar site; Williams and Berg looked down the driveway and observed the site via Google Maps. Hite: the cleared area with footings for the array and the trench to the house are evident; the front array, AR-01, closest to the sun, is to be moved ~15 feet further from the house as it is blocking the view of the yard; there may be some shadowing with this move however there will be no difference in peak hour output. Per Hite, the highest height will be 13'3" from the ground and the widest horizontal width is 13'; the panels are 13'14.1" in length; as per Site Plan PV2.0, there will be two stands. Hite: the amended "as-built" plan will be updated for the Building Inspector. DiMare requests this "as-built" plan be given to the Land Use Clerk. Scott reports that the Conservation Commission conducted a site visit, found no jurisdictional wetlands, and signed off on the building permit application. Hite: per Cover Sheet PV1.0, the peak output will be 8,320W/DC; the

interconnection to send power back to the grid has been approved. Lacy notes that this site is the least potentially impactful residential ground-mount solar array viewed thus far by the Zoning Board. The Board unanimously agrees for Lacy to draft a decision for the 12.10.18 7:00pm meeting when members will review and vote on the decision. Conditions for the decision are considered. DiMare: the change in the location of array AR-01 needs to be noted. Williams: the “as-built” plan needs to be submitted to the ZBA within one year and attached to the application.

#### Education and Guidance:

1. 42 Weatherwood Road/Walter Bud Mahoney: DiMare reports receiving a phone call from Mahoney who was advised by another party that he may need a special permit for an accessory apartment; earlier 11.29.18, Mahoney contacted DiMare to withdraw his request for education and guidance at this time.
2. 27 South Laurel Drive/Tom Siefert explains that he took ownership of parcel ZA24 on 10.30.18 and has received a separate tax bill, as of FY18, for Lot A40 which they did not know was a separately taxed parcel. ZBA members refer Siefert to the Assessors office for learn the reason for the tax bill. Per Siefert, the separation of the parcels occurred before he purchased the property; there is no structure on the 800 sq. ft. lot; he wants to know the history of the lots. Williams and DiMare again refer Siefert to the Assessors office to inquire about the tax abatement process. Siefert states that he did ask Administrative Assessor Ken Holmberg for an explanation and that he did not have a reason for the split tax bill. DiMare reaffirms Siefert’s need to apply for an abatement. Williams refers Siefert to the Franklin County Registry of Deeds for information about the parcel’s history. Siefert: we have one deed that has the parcels labeled #1-4. Lacy again refers Siefert to the Assessors office. DiMare: the ZBA has no jurisdiction in this matter; the Planning Board would know if there had been a change in the lot lines. Lacy notes that although Lot A40 is not a building lot, it has value and could be sold and that the portion of Lot ZA24 that extends up to Wendell Road could be building lot; parcels are assessed at market value.

#### New Business:

1. Williams reports that the 11.13.18 All Boards meeting was lovely; approximately twenty volunteers and staff attended, some of whom serve on more than one board; those is attendance gave brief summaries about their work and plans for the future.
2. Williams, referring to the 9.10.18 meeting with the Planning Board, finds the language in Section 8.10-2A regarding “principal use” inaccurate and offers to rewrite this description in simple language that, if approved, could be used as a litmus.
3. Lacy explains that the Planning Board may take some steps to address the moratorium on cannabis businesses and may write some uses into the “Use Table”. Lacy asks if the Zoning Board would be interested in doing some of the permitting. DiMare and Berg express support for the Zoning Board doing some of the permitting for cannabis related businesses. Lacy agrees that it seems appropriate for the Zoning Board to be the “permit granting authority” for these cases; the Planning Board will be considering how the permitting will be handled.

At 8:43pm, Lacy moves and Williams seconds a motion to adjourn the meeting; motion passes unanimously.

Respectfully submitted,  
Linda Avis Scott  
Land Use Clerk