

Shutesbury Conservation Commission

Minutes – 10/05/2023

Approved – 03/14/2024

*Virtual Meeting*

**Meeting Start:** 7:00pm

**Commissioners Present:** Miriam DeFant, Mary David, Robin Harrington, Scott Kahan, Beth Willson

**Other Staff:** Carey Marshall (Land Use Clerk)

**Other present:** Grace Bannasch (Town Clerk), Elisabeth Goodman (SCC Special Counsel), Tom Seifert, Elizabeth Tonne, Kenneth Holt, Erin Jacque, Bob Douglas, Sharon Weizenbaum, Jill Buchanan, Leslie Luchonok, Carlos Fontes, Jen Reil, Tracy McNaughton, Frank McGinn, Jodi Rodar, Melissa Makepeace – O’Neil, Becky Torres (Town Administrator), Janice Stone, Mary Thomas, Mike Stotz, Jacob Hirsch, Rita Farrell, Steve Schmidt, Henry Geddes, Joyce Braunhut, Gail Fleischaker, Jill Marland, Donna Brewer (Shutesbury SmartSolar Counsel), Rob Kibler, Robert Seletsky, Mike Vinskey, Guy DeVito, Karen Tarlow, Amanda Alix, Jenny Kallick, Penelope Kim, and all other unidentified individuals.

Chair’s Call to Order at 7:00pm

Meeting is being recorded

**Deliberation regarding Draft Bylaw Regulations**

DeFant states that the comment period has been closed and that tonight meeting is for SCC to have their final deliberation for the Bylaw Regulations.

***Motion: David moves to approve the Bylaw Regulations, Willson seconds.***

Kahn suggests that SCC reviews the latest public comments received; SCC agrees. DeFant shares that one resident inquired about the relationship between the draft Bylaw Regulations and the Town’s Zoning Bylaw. She did an independent review along with the help of Goodman. They conclude that there are no conflicts between the draft Bylaw Regulations and the Town’s Zoning Bylaw as the zoning regulations in some sections state that aspects of a project such as construction are subject to wetland regulations. Another comment received asked if there is a conflict between the 25 ft setback for properties around Lake Wyola and SCC’s designating the inner 50ft of buffer zone as a no disturb zone. DeFant states these do not conflict with one another as zoning regulations recognize that wetlands regulations are independent from zoning regulations; zoning does not preempt wetland regulations. The inner 50ft buffer zone being designated as a no disturb zone is a presumption, rebuttable and exempts pre – existing structures. Specifically, section 8.1 ‘Clearing and Excavation’ of the zoning bylaw states that construction and grading for an issued building permit must be in compliance with applicable wetland regulations; similar references peppered through zoning bylaw.

DeFant summarizes the process of reviewing the Draft Bylaw Regulations; SCC provided informative documents, PowerPoint presentations, and draft versions of the bylaw regulations as

they came out over the past several months on their dedicated webpage, had a working session during a public meeting, invited public comment during the public comment period, and held three public hearings. SCC received 59 written comments along with dozens of spoken comments during meetings and hearings.

David shares that after reviewing latest set of written public comments, she compared them to the final version of the bylaw and believes the comments have been addressed appropriately. Harrington agrees with David and was encouraged by the written comments and a majority of them expressed positive feedback. Kahan has read the written comments as they have been received and is confident that with each iteration of the bylaw regulation SCC has addressed the issues or questions raised. He was glad SCC agreed to extend the public comment period after their last public hearing. The public engagement and legal reviews from attorneys have strengthened the final version to what it is tonight. He is assured that the current draft will help both the town and SCC administer the current bylaw. Willson agrees with David, Harrington, and Kahan's comments and thanks everyone, including the public, for their time, effort and engagement.

DeFant asks Goodman that if SCC discovers or is made aware of any section(s) of the regulations that are not being interpreted as intended, or something of that aspect, then does SCC have the flexibility to amend them using their best judgment. Goodman confirms SCC does have that flexibility but would need to hold another public hearing to explain what the amendment is and allow for public comment before voting. This excludes any situations that could be resolved under the waiver provision created within the new bylaw regulations. Stone states she is satisfied by the final version of the bylaw regulations. She agrees with SCC that the public engagement and legal reviews have been significant changes for the better. She appreciates the time SCC has taken during their public hearings to go over comments and explanations.

DeFant shares the 'Town Bylaw Regulations 230925' for SCC to review via screen share. DeFant presents the correct number formatting for section 8 and the corrected typo for 9.3.3; changed from '.. at the Applicant's expense.' to '.. at the Applicant's consent.' SCC agrees with these edits.

**David calls the question, Willson seconds. Vote:** David - Aye, DeFant - Aye, Harrington - Aye, Kahan - Aye and Willson - Aye. **The motion carries.**

**Amended Motion:** David moves to approve the draft Shutesbury Wetland Protection Bylaw Regulations with the correction agreed on, Harrington seconds. **Vote:** David - Aye, DeFant - Aye, Harrington - Aye, Kahan - Aye and Willson - Aye. **The motion carries.**

DeFant thanks everyone, including the public, for their time, effort and engagement. DeFant will post the approved version on their webpage and will submit a copy to the Town Clerk, Grace Bannasch, tomorrow. Bannasch asks if there is an MGL that states the bylaw regulations need to be submitted to the Town Clerk; a copy will be helpful to her but isn't aware of an MGL. Goodman states there is not aware an MGL. Bannasch suggests that since there isn't an MGL then DeFant can email them to her if it is easier. SCC thank DeFant for her dedicated work to the

drafting and revising of the bylaw regulations and keeping the webpage updated. DeFant thanks Stone for her continued support.

**Motion to Adjourn:** moves to adjourn, seconds. Vote: David – Aye, DeFant – Aye, Harrington – Aye, Kahan – Aye, and Willson – Aye. *The motion carries.*

**Meeting Close:** 7:34pm

**Next Meeting:** October 12, 2023 at 7pm

**Documents Used**

- Town Bylaw Regulations 230925 (Final Draft of Wetlands Protection Bylaw Regulations)