

Shutesbury Planning Board
Minutes – November 10, 2025
Approved – December 8, 2025
Virtual Meeting

Board Members Present: Nathan Murphy (Chair), Michael DeChiara, Keith Hastie, Tom Siefert (Associate Member), Steve Bressler, Ashleigh Pyecroft, Jeff Weston

Board Members Absent: Deacon Bonnar

Other Staff Present: Matteo Pangallo (Land Use Clerk)

Others Present: Jim Plaza, Jane Plaza, Catherine Hilton, Arleen Read, Michael Shafer

Call to Order: 7:01pm

This meeting is being recorded and all members are participating remotely.

Murphy designates Siefert as a voting member of the Board.

Public Comment

There is no public comment.

Land Owner Education and Guidance

There is no request for education or guidance.

Coordination with Board of Health on regulations

Murphy welcomes Hilton and Read from the Board of Health (BH). Hilton shares that the BH is still exploring the issue of data centers and is exploring restrictions on size, locations, water usage, and battery backup. She explains the BH would like to coordinate with the Planning Board and what the Planning Board would like to see in a BH regulation.

Read clarifies the boundaries of the coordination effort between boards, indicating that the BH might want to focus more on battery energy storage systems and the PB on data centers, noting that she thinks the BH has more latitude to regulate battery energy storage systems than the Planning Board would. Murphy notes that the Attorney General has ruled that battery energy storage systems are covered under the solar exemption in the Zoning Act. The Planning Board cannot unreasonably regulate or prohibit BESS, but reasonable regulation for the purpose of public health, safety and welfare is OK.

DeChiara agrees that zoning cannot be used to prohibit or unreasonably restrict energy storage and adds there is little guidance available for what would constitute “reasonable” regulation. He notes that the clean energy law passed last November and that regulations are currently being developed and will include requirements for municipalities to utilize a consolidated and time bound permit process for solar facilities under 25 MW and BESS facilities under 100 MW. His understanding is that the BH has more independent authority than the Planning Board because its regulations are not considered zoning. He does not think the BH would be covered under the new energy zoning regulations coming from the State, but he has not heard specifically about that from the State.

Bressler recalls that the energy storage system for data centers is only one method for backing up a data center. They could also be required to use a diesel or propane generator.

Read asks if the plan is for the BH to focus on energy storage systems with the Planning Board addressing data centers.

DeChiara reviews Shutesbury’s attempts to adopt energy storage system zoning and general bylaws. He notes that Town Meeting has twice approved such regulations, but they were rejected by the Attorney General, so if the BH wanted to pursue it there is that history to support them.

Murphy wants to establish expectations for coordinating development of new bylaws and regulations and determining what procedures need to be modified or created.

Pyecroft recalls that the Planning Board’s main concern at its last meeting was with data center water usage. She asks how the Town could regulate data center water usage if such usage were to be allowed at all, particularly to ensure water supplies remain safe and clean. She asks what “consumptive water use” means and how water use studies work, if those are to be conditions of a data center development. She is concerned about the use of PFAS and other toxic chemicals.

Hilton raises the idea that, given these concerns about water supply, the BH would adopt its own regulation for data centers that could go beyond what the Planning Board adopts. DeChiara notes that the Planning Board cannot tell another Town board what to do, but the bylaw can require the Planning Board be given a water usage report approved by the BH.

Hilton explains that the BH does not want to see huge draws on the water supply, regardless of a report. They would like to require a closed loop system in any data center.

Siefert suggests there is nothing preventing the Planning Board from adopting a Zoning Bylaw section on data centers while the BH has its own regulations on data centers. The Zoning Bylaw

could also include a requirement of BH approval. He cites the example of coordination between departments and boards in Wendell.

Hastie cites the language on water studies and non-impact in the marijuana growing facilities section of the Zoning Bylaw. He thinks that could serve as a model for this. He thinks it would be helpful to differentiate the data center issue and the battery energy storage issue and that they should be precise with what they are talking about in terms of scale, because homes and town buildings might use battery energy storage systems.

DeChiara suggests another overlap with the BH is regulating noise.

Murphy notes a memo from Michael Hugo about data centers and hazardous industries. He suggests thinking about regulating outcomes rather than uses, such as controlling water use rather than the specific use of a data center. He notes there are other things that can contaminate water other than data centers and energy storage systems, but some of those forms of light industry may be allowed under the current use table. He suggests having general protections rather than targeting a specific industry.

Hilton answers that the BH does not need a regulation in the event that an industry is doing or threatening to do harm to the environment. The BH has the authority to regulate nuisances and noisome trades even without a specific regulation. Murphy asks when the BH would intervene in such a case. Hilton answers it could be either during an application or during operation, but the situation has never come up in Shutesbury before. Murphy thinks it would be important to establish how and when such intervention would occur.

Siefert notes the example of Buckland's 2021 BH regulation of environmental impact of noisome trades that might serve as a model for Shutesbury. He responds to the idea of regulating non-specific uses by citing the example of Wendell's aquifer protection regulation that covers a number of industries, including battery energy storage systems. He suggests something like that could be a way to regulate based on impact rather than the specific use.

Hastie asks if other communities' BHs have used the noisome industries authority recently. Hilton is not sure. Siefert notes a local example of regulation of a piggery in a nearby town and thinks there are modern examples.

Hilton suggests that the BH plans to get some ideas drafted by December and then would like to meet in a joint meeting with the Planning Board to get the Board's suggestions on the ideas.

Data Center Bylaw Discussion

DeChiara shares the draft data center amendment to the Zoning Bylaw, which he sent to the Planning Board and BH. He identifies the main points in need of discussion, including the Use Table and Definitions. He suggests different regulations for different sized facilities. He suggests that public interest data centers would still need to comply with the regulations.

Hastie notes that in the Zoning Bylaw there are specific regulations for non-residential buildings less than 10,000 square feet and thinks the size of data centers should align with that for what constitutes large. Bressler notes that this can be made specific to data centers and does not need to align with that. Hastie suggests there should be a reason for the difference. Bressler answers that it seems a reasonable scale for the Town. Hastie thinks perhaps, then, the 10,000 square feet requirement be amended to 5,000 square feet.

Murphy thinks that a municipal use should be allowed by right and not have to come before the Planning Board. DeChiara notes that the Board expressed concern about size and noise, not by the owner or operator of the facility. Hastie agrees and notes that regulation should be based on impacts rather than who builds it.

Murphy suggests that a small facility be allowed by right rather than through Site Plan Review. DeChiara notes that a small facility could still potentially be problematic in terms of noise or water usage, and having a Site Plan Review process at least gives the Board some discretion over the facility's design. He notes that some requirements could be differentiated for different sized facilities if they seem too burdensome to the Board.

Siefert asks about why a public interest data center owned and operated by the municipality would not be considered a Municipal Use. DeChiara explains that the intention is to clarify that they are not exempt from the regulation despite being owned and operated by the Town. Siefert asks about whether the Board should be regulating height as well as total square footage. Hastie notes that some large ones can be five stories, but the Zoning Bylaw dimensional table includes a height restriction of 35 feet. Siefert suggests including that restriction in the data center section.

DeChiara reviews the dimensional requirements section, including lot sizes and setbacks.

Bressler notes that in the Forest Conservation District, the goal is to minimize fragmentation and so the challenge is to define an acceptable lot size that is big enough but not too big.

DeChiara suggests referring to the dimensional table for minimum lot sizes for all Districts, including the Forest Conservation District, which has no lot size limit in the Zoning Bylaw. He notes that his recommended setbacks would keep facilities further from any neighboring properties and thus reduce noise.

Murphy notes that in the Forest Conservation District, the maximum footprint for nonresidential structures is 20,000 square feet.

DeChiara notes that the dimensional table's limits were written before industries such as solar and data centers were in the picture.

DeChiara reviews the siting requirements section, which aims to keep any data centers spread out or at least compliant with the sizes defined in the Use Table. Bressler notes that the Board is not faced with the State-imposed limitations on siting that it faced with solar facilities. DeChiara agrees and notes the Board has the power to limit where in Town they could be located.

Hastie notes that the Town is required to allow uniformity across districts. DeChiara points out that, despite that, the Town has the authority to establish an overlay district. Murphy states that an overlay district is a way of creating a separate district within an existing district. Uniformity must be allowed within a district.

DeChiara asks if the Board wants to limit how many or how close together data centers would be allowed. Murphy thinks they can be limited on a single lot, but the uniformity requirement means they have to be allowed on one lot if they are allowed on another lot in the same district.

Pyecroft expresses concern about limiting the number of centers if the development can demonstrate it still meets the other requirements, though she thinks that something like five or more would be excessive.

Bressler brings up the analogy of limiting liquor licenses and that the Town has the authority to control those numbers. He notes that there is nothing equivalent in State law like the solar restrictions on the Town.

Pyecroft brings up the question of a situation where a data center uses solar power from an on-site plant. She notes this could encourage greener data center development. DeChiara thinks in that situation the data center would be the primary use and solar would be an accessory use. Pyecroft suggests citing or incorporating from the solar regulation section of the Zoning Bylaw.

Siefert suggests replacing the polygon measurement with the total square footage of data centers on one site and using the Zoning Bylaw's existing language about maximum and minimum distance from other facilities on the same site.

Hastie suggests using language from the Open Space Design section to promote clustering of data centers.

Murphy notes that Open Space Design allows the Board to circumvent some of the limitations on lot sizes expressed elsewhere in the Zoning Bylaw.

DeChiara reviews the section on electrical storage and backup. He notes the importance of running this language by Town Counsel given the State's control over energy storage systems.

Hastie notes that existing National Fire Protection Association regulations are on top of these new technologies. It seems lithium iron phosphate batteries are becoming the more acceptable, safer norm. He suggests requiring considerable capacity of and distance between batteries, exceeding national regulations. He thinks the Board should be discouraging the use of fossil fuel generators, which have their own costs.

Bressler states that there is also a destructive industry mining the materials made to use these batteries. Both have an impact on the environment in their own way.

Weston responds with skepticism about the reliability of an article that Hastie has sent since it was funded by industry.

Siefert notes other forms of battery technology that could be viable in place of lithium.

Pyecroft observes that the Board cannot anticipate what technology will come in the future and thinks that the Bylaw should therefore be kept broad enough to encompass those future technologies. Being specific in the Bylaw about the technology might be a pitfall if technologies then change. It might be more effective, instead, to speak to impact, such as noisomeness, risks of fire, or water usage for fire suppression.

DeChiara agrees and reviews the design and performance standards section, which includes restrictions on what a data center cannot do based on impact. He thinks the electrical storage and backup section could be formulated the same way.

Murphy thinks there are some uses for both batteries and generators in data centers. He suggests also limiting water use to what a two-family house would use, rather than prohibiting it entirely.

DeChiara notes that there needs to be clear requirements for removal in the section on discontinued operations so there is no empty industrial building left on a parcel.

Review and approve minute for 10/22/2025, 1/8/2024, 2/12/2024, 3/4/2024

Motion to approve the minutes of 10/22/25: DeChiara; second: Weston. Discussion: Murphy proposes several revisions. Vote to approve the minutes as revised: Siefert - aye; Hastie - aye;

Bressler - aye; DeChiara - aye; Pyecroft - aye; Weston - aye; Murphy - aye. The motion is approved unanimously.

Motion to approve the minutes of 1/8/24: DeChiara; second: Weston. Discussion: Siefert notes the date is wrong and his name was misspelled. Vote to approve as revised: Siefert - abstain; Hastie - abstain; Bressler - aye; DeChiara - aye; Pyecroft - aye; Weston - aye; Murphy - aye. The motion is approved unanimously with two abstentions.

Motion to approve the minutes of 2/12/24: DeChira; second: Weston. Discussion: Siefert notes a typo. Vote to approve the minutes as revised: Siefert - abstain; Hastie - abstain; Bressler - aye; DeChiara - aye; Pyecroft - aye; Weston - aye; Murphy - aye. The motion is approved unanimously with two abstentions.

Motion to approve the minutes of 3/4/24: DeChiara; second: Weston. Vote: Bressler - aye; DeChiara - aye; Pyecroft - aye; Weston - aye; Murphy - aye; Siefert - aye; Hastie abstain. The motion is approved unanimously with one abstention.

Discuss Plan for Executive Session Minutes

Murphy notes that the executive session minutes have now been shared with the Board. Some of the sessions were held jointly with the Select Board. Murphy has been communicating with DeChiara and the Land Use Clerk about these. At the Board's next meeting, it will go into executive session to review and approve, and possibly agree to release, those minutes for meetings that were not held in joint session with the Select Board. For those joint sessions, the Board needs to ensure that its minutes align with the Select Board's minutes and that both Boards agree to release each set of minutes.

DeChiara explains that there are two steps in the process: first voting to approve the minutes and then voting to release them based on whether the reasons for executive session, defined under the Open Meeting Law, are no longer extant.

Weston asks if partial minutes can be released. DeChiara thinks that it has to be the full minutes.

Bressler asks if the fact that Cows withdrew without prejudice would mean the minutes should not be released because the threat of litigation still exists. Murphy explains that once the litigation has ended, the protection of executive session has ended, but Town Counsel has advised that the Board can still go into executive session to review the minutes for release. He notes that the statute does not stipulate that executive privilege continues simply because the threat of litigation exists due to a withdrawal without prejudice. Hastie asks about attorney-client privilege and Bressler thinks that would be an important question for Town Counsel.

DeChiara suggests the Board first vote to approve them and then bring Town Counsel into the discussion about what is allowed to be released.

Siefert reviews the executive session minutes section of the Open Meeting Law.

Planning Board Annual Report

Murphy invites revisions to the Annual Report. DeChiara notes that it is due by November 20.

Member Updates

DeChiara shares that FRCOG has reached out to confirm his appointment to the regional planning board, and Murphy's as alternate. Hastie asks to be considered for alternate or second alternate. Murphy suggests putting it on the agenda for the next meeting.

Murphy shares that Bonnar will be stepping down from the Board at the end of this term.

Murphy explains that the Town Announce email policy limits how much information he could share about the public hearing. He intends to announce the open Associate Member seat.

Murphy will meet with the Personnel Board about the job description for the Land Use Clerk.

Unanticipated Business

Pangallo reports that the Interim Town Clerk and he have sent the missing materials following Annual Town Meeting to the Attorney General's Office and they should have a decision on the bylaws by mid-January.

Murphy states that he has asked the Land Use Clerk to record revisions to minutes in a Word Doc using track-changes. DeChiara notes that doing so would constitute deliberation. He suggests that the Clerk record those changes but not make those changes available to the Board until the meeting. The Board discusses what the best practice would be to keep track of revisions.

The Board will send any revisions to the Land Use Clerk who will record them on a Word Doc to be shared with the Board during open meeting.

The Chair recognizes Michael Schafer who asks that his clients, Jim and Jane Plaza, be allowed to present a question to the Board about an Approval Not Required to divide their property into

three lots. Murphy welcomes them and Schafer shares the plan. He asks if the Board would grant a variance waiver for the shortage of frontage on Plaza Road.

Murphy explains that a variance would have to be presented to the Zoning Board of Appeals. He notes that the Zoning Bylaw stipulates specific reasons why a variance may be granted and the owners would have to determine for themselves if they meet those reasons. Schafer asks if the Zoning Bylaw includes provisions about lot depth, or just frontage. Murphy explains that frontage applies to the linear distance on the road. The Board discusses the property and answers Schafer's questions about the applicability of the Zoning Bylaw.

Murphy notes that if the plan is not a subdivision and there is access to the lots on a Town road, the property can be divided with an Approval Not Required as long as every buildable lot meets the frontage and dimensional requirements of the Zoning Bylaw.

Schafer asks about the potential tax benefits from Open Space Design. Bressler explains that the acreage put into the Conservation Restriction, as required by Open Space Design, would be taxed at a much lower rate than the buildable portions of the lots. DeChiara notes that there is often a challenge to find someone who is willing to hold a Conservation Restriction on a small parcel.

Adjournment

Motion to adjourn: DeChiara; second: Weston. Vote: Siefert - aye; Hastie - aye; bressler - aye; DeChiara - aye; Pyecroft - aye; Weston - aye; Murphy - aye. *The motion is approved unanimously.*

Adjourned: 9:41pm

List of Documents Used:

- Various published and online sources of information on battery energy storage systems
- Memo from Hugo on data centers and hazardous industries
- Draft data center Zoning Bylaw amendment
- Draft Planning Board FY25 Annual Report
- Property plan for proposed Approval Not Required for Jim and Jane Plaza property