

Shutesbury Planning Board**Minutes – June 1, 2026**

Approved – October 5, 2026

Hybrid Meeting

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

Board Members Absent: Deacon Bonnar, Jeff Weston

Other Staff Present: None

Others Present: Michael Schafer, Jim Plaza, Jane Plaza, Keren Rhodes, Peter Lane

Call to Order: 7:00pm

This meeting is being recorded. Bressler and Pyecroft are participating remotely. Murphy activates Siefert as a voting member of the Board.

Public Comment

There is no public comment.

Landowner Education and Guidance

There is no one seeking landowner education and guidance.

Plaza Approval Not Required (ANR) Submission - 314 Wendell Road and 282 Wendell Road

Murphy notes that the Board has received a Form A for each of the two proposed lot line changes. He explains that the plan includes changes to parcels held by two different owners, which is unusual for the Board. He recognizes Michael Schafer who shares the plan to change lot lines at 314 and 282 Wendell Road. Schafer explains that they found a potential error in the plan that day and so they may be submitting a revised plan for a future meeting.

He reviews the current layout of the property lines and their history. He explains that the reason for slightly moving the property lines is to obtain a sliver of land from the abutting Shutesbury Athletic Club so the Plaza's property on Plaza Road would have the required 250-foot frontage to be buildable. He notes that shifting the property line between the Killebrew and Plaza properties is to put the Killebrew's shed on the Killebrew's property. He notes that this would not put the shed beyond the setback distance, but it would at least put it on the Killebrew's land.

He notes that the second ANR would then divide the Plaza's new parcels into three lots that would meet the required acreage and frontage to be buildable lots. He explains that the two ANR Form As would not change but the plan might need to be corrected.

DeChiara asks him to explain the potential change. Schafer notes that there turns out to be another shed, owned by the Plazas, that would fall directly on the new property line between the new Lot 1 and new Lot 2. He explains that the lines between Lot 1 and Lot 3 and Lot 2 and Lot 3 may need to be bent slightly to compensate for shifting the other line around the shed.

Siefert asks if the Board considers setback issues in an ANR request. DeChiara thinks a new parcel needs to be drawn in a way that complies with setback requirements. Schafer asks if the Zoning Bylaw's setback requirements apply to accessory structures. Murphy answers that it does.

Jane Plaza explains that the sheds are currently setback the correct distance from the road. Murphy notes that the issue is the setback to the side property lines. Murphy asks when the sheds were put in and James Plaza answers that theirs was built around 2008. Murphy thinks that is okay then but that the issue may be for the new Lot 1 because the new side lot-line would put Lot 1 into non-conformance. Murphy thinks the Planning Board could not endorse an ANR if it would result in a non-conforming lot, including an existing lot. He suggests trying to create the required 25-foot setback from the Plaza shed to the lot line by creating a bump in the lot line.

DeChiara notes that under the current design both sheds would be within the setback, so any creative redesign should be devised to ensure both sheds are compliant. Schafer agrees that there are ways to draw the lines to make it work or even to move the sheds.

Murphy advises Schafer look into case law regarding ANR endorsement. He notes that statute specifically states that the Board shall endorse the plan if it does not contain a subdivision and this plan does not appear to create a subdivision and he thinks the Board would be within its rights to reject the plan if it created lots out of compliance with the Zoning Bylaw. Schafer agrees and notes that their goal is to create lots that can be sold as buildable lots.

Bressler asks if they have checked with the Zoning Board of Appeals (ZBA) about the sheds and the setbacks, since that would really be a ZBA issue rather than a Planning Board issue for the ANR. Schafer answers that they have not. Bressler observes they could make a case to the ZBA for a waiver since these are existing structures and the property line is moving, but that would be up to the ZBA. Murphy points out the provision in the Zoning Bylaw that accessory structures can be located less than 25 feet from a side lot line with a Special Permit from the ZBA. He is not sure that would be relevant to a situation where an ANR creates a new lot line. Schafer agrees and notes that Special Permits are typically for the placement of a structure, not for an existing structure and a moved property line. He agrees they could go to the ZBA for guidance.

Murphy is not sure it is necessary at this point to go to the ZBA. He points out that if the sheds are small enough to not require a building permit, it may be unnecessary to make any changes to the lines to be compliant because no building permit would be required to work on them.

Murphy notes that the Planning Board needs to do more research of its own into whether the Board can endorse an ANR plan that introduces zoning noncompliance.

Siefert asks Schafer to include all of the structures when they resubmit the ANR plan. Schafer agrees.

Schafer asks if moving the Plaza shed out of the setback would be sufficient for endorsement of the ANR or if the Board would still be concerned about the Killebrew shed. Murphy thinks they would not be able to make that determination until the next meeting. He reviews the language regarding the timing of review and endorsement in the Town's subdivision regulations and notes that the 21-day clock starts on the date of the Planning Board meeting following full submission.

Siefert asks whether this is one ANR or two and what happens when an applicant is not the owner of a property modified in an ANR. Murphy notes that the Land Use Clerk has been instructed to check with Town Counsel about this. He does not think it will be a problem, though, because the statute does not require it. He notes the regulations may require it, though.

DeChiara asks if providing a waiver to work around the setbacks problem negates the Approval Not Required process because it involves granting approval. Murphy notes there is no mechanism for a waiver in the statute and thinks a waiver to setback requirements would have to come from the ZBA. DeChiara notes that it is not clear which would have to come first: Planning Board endorsement of the ANR or ZBA issuance of a waiver to the setback requirements. Murphy thinks that even with the setback problems, because it does not show a subdivision the Board should have no problem endorsing it.

Schafer notes that an ANR is simply a division of land and so showing the placement of the sheds on the plan is not really necessary at all. He points out that if these plans were being used for a building permit, the lots would be out of compliance, but the existence and location of the sheds does not change whether or not the parcels constitute a subdivision. He will talk with the Plasas to see if they want to change the lot lines to make the sheds compliant. He asks the Board to let them know if they need to redraw the plan to ensure the lots are compliant.

Bressler again advises the applicant check with the ZBA about the sheds. He does not think it is an issue for the Planning Board.

Schafer describes an analogous situation his company dealt with in Tolland. He agrees he will speak with the Plazas about going to the ZBA.

Hastie asks if the Board approves a plan in which a shed falls within a setback whether that would allow someone buying an abutting parcel to make a claim against the Board for having taken away that owner's right to the setback. Murphy states the new owner could file a suit or make a complaint with the Building Inspector, but he is not sure it would have merit. He wants the Board to be certain to take the correct action for that reason. He notes that there are cases when the Board changes the Zoning Bylaw and in doing so might make formerly compliant parcels non-compliant, but that does not mean the Board is then at fault for those parcels being non-compliant.

DeChiara suggests one solution is only doing Lot A in the ANR and the Plaza's then giving an easement for the Killebrew shed. Siefert points out that easements for structures are not typically allowed and cites an example in Wendell. Schafer agrees that he has only ever seen easements for land, not for structures.

Schafer asks if the Board has any other issues with the lots. Murphy points out that Schafer was likely correct that the plan does not need to indicate accessory structures like sheds. He will do more research into it and he has also reached out to the Land Use Clerk and the Town Counsel.

Jewish Community of Amherst Cemetery Inquiry

Murphy reviews the plan from the Jewish Community of Amherst (JCA) to create a second cemetery in Shutesbury on land being donated to them by W. D. Cowls, Inc. He notes the Board received an email from Keren Rhodes indicating that, under State law, the JCA does not believe it needs to submit a Special Permit to the Board. He points out that in the Zoning Bylaw's use table, while cemeteries require a Special Permit, the category for "Educational/Charitable/Religious" use has no designations at all in any of the Zoning Districts and has a note acknowledging the limitations of the Dover Amendment. He notes that Section 8.5-3, on Educational, Religious, or Child Care Use, states that such uses are allowed by right and with only limited review by the Building Inspector. He suggests the Bylaw should have a "P" to designate Permitted By Right in that row.

DeChiara notes that the difference between the Bylaw's category of "cemetery" and the Dover Amendment's protections relates to the kind of cemetery: a religious cemetery would be protected under the Dover Amendment; a secular cemetery would require a Special Permit.

DeChiara notes that there is still a question of frontage and the placement of the driveway. He is not sure if the Board can regulate the placement of the driveway.

Rhodes explains the JCA would like the driveway to come out on Leverett Road for continuity with the existing cemetery. Their question is whether the cemetery requires frontage because if it does not Cowls is willing to give them a portion of the property in the middle of the parcel, which is best suited for use as a cemetery, with an easement for the driveway.

Murphy suggests that the Board defers to the Building Inspector on this question. He clarifies that there is no building or structure in the plan. Rhodes confirms this and notes that the JCA's own regulations require monuments be flat with no foundations and no concrete.

DeChiara does not think that the Planning Board has a role in reviewing or approving this. Murphy agrees.

DeChiara notes that having the driveway on Leverett Road would be beneficial because traffic would then be on the paved road.

Siefert asks if the Board has a role in reviewing the easement because the driveway might be considered a common driveway, which does have a permit procedure. Murphy does not think it would be a driveway because there is no dwelling going on the parcel. Siefert notes that the language in the Bylaw says "every lot shall have access."

Rhodes notes that Cowls prefers to give them the inner portion of the property so Cowls can retain the frontage in case they want to develop the parcel in the future.

Murphy indicates that this is clearly a religious use covered under Section 8.5-3 of the Shutesbury Zoning Bylaw and refers the JCA to the Building Inspector. Rhodes asks why the Building Inspector would be involved if they are not building a structure. Murphy asks if there is existing access and Rhodes notes there are trails but no driveway. DeChiara notes it seems like the Board of Health would be involved but not the Building Inspector, as well as the Highway Department for the curb cut application. Rhodes indicates that they have already begun the conversation with the Board of Health.

Motion to recognize the JCA's proposed plan as a religious activity protected under the Dover Amendment and therefore the Planning Board has no role in its regulation per Section 8.5-3 of the Shutesbury Zoning Bylaw: DeChiara; second: Hastie. Pyecroft asks if there will be a parking lot on the property because that is something that can be regulated under the Dover Amendment. Rhodes answers that they have not developed that far into the process and are working with Conway School students this fall for the plans but she imagines it will be similar to the current cemetery, where there is a gravel driveway and parking on the extra grass space, not on a lot; they do not use pavement or concrete because they want to retain the natural feel of the space,

including keeping the trees to retain the feeling of being buried in the woods. Murphy recognizes Peter Lane who emphasizes the JCA's purpose to be good neighbors and agrees that he thinks the Board has no role in regulating the religious cemetery usage because of the Dover Amendment, with the exception of parking which might come up in the future after the JCA acquires the property. He notes that there will be applications to the Board of Health and Conservation Commission, per statute, and possibly a question to Town Meeting for final approval. Siefert asks what the mechanism would be for looking at parking in the future. Murphy states that they should still check with the Building Inspector once they have a plan and the Building Inspector would then determine if any further approval for the parking area is required. Rhodes adds that those plans would have to come before Town Meeting as well. Murphy notes that there are also enforcement mechanisms should a parcel become used in a way inconsistent with how it was protected under the Dover Amendment exemptions. DeChiara expresses his satisfaction with the idea of the parcel in question being used for a religious purpose like this rather than its prior proposed use. Vote: DeChiara - aye; Hastie - aye; Pyecroft - aye; Bressler - aye; Siefert - aye; Weston - abstain; Murphy - aye. The motion is approved unanimously with one abstention.

Associate Member Applicants

Murphy indicates that the Board has not received any Associate Member applications.

Discuss and vote on minutes of May 11, 2026

Motion to approve the minutes of May 11, 2026: DeChiara; second: Siefert. Siefert notes a typographic correction. DeChiara clarifies one comment he made and makes two small corrections. Vote: Bressler - aye; Hastie - aye; Siefert - aye; DeChiara - aye; Pyecroft - aye; Weston - aye; Murphy - abstain. The motion is approved unanimously with one abstention.

Discuss Economic Development

DeChiara discusses ideas for encouraging economic development in Town appropriate to Shutesbury's small, rural character, such as the kind of outdoor recreation companies in Charlemont, camps, arts centers, or small commercial like retail, dining, or accommodations. He notes that the current four districts are somewhat undifferentiated in terms of frontage. He explains that the parameters for the districts do not always clearly align with the indicated purpose for those districts. He notes that the districts are more like characteristics than use districts. He thinks the Board needs to think about how to incentivize the kind of economic development it wants to see.

Hastie observes that the Master Plan and the concept of Open Space Design was about preserving rural forest land, but the current use table in the Zoning Bylaw functions to push many uses into the Forest Conservation district that probably should not be in the forest.

The Board discusses how much of the Zoning Bylaw was carried over from the Town's older Bylaw in 2008. Bressler indicates that there was little carried over in the new Bylaw. The newer version expanded from one zone to three, added more dimensional requirement diversity, and included regulation such as restrictions on driveway length and the opportunity for Open Space Design. Bressler recalls an earlier discussion about smaller lot sizes in Town Center to allow for business development and that the idea was not popular with the public at the time, particularly with people who lived in Town Center. He notes that times and people have changed so it may be worth revisiting the idea.

DeChiara notes shrinking the required frontage is one way to encourage commercial development. He is interested in having a conversation about other ways the Town's zoning requirements could be shaped for appropriate economic development.

Siefert cites a recent New York Times editorial about affordable housing in Massachusetts and the proposal for a state-wide zoning regulation of 5,000 square feet. He notes that the constraints imposed by well water and septic systems make that kind of regulation less feasible in a place like Shutesbury.

Hastie thinks the lot size and frontage requirements in the current Zoning Bylaw encourage low-density sprawl. He notes that the idea of rural New England character comes up often in the Master Plan and he envisions that to include small village or town centers with agricultural land in between. He suggests that the existing front setback requirement pushes structures back into the woods, which is not aligned with the nature of historical New England villages. He suggests that a true historical New England village character would be smaller lot sizes, with houses closer together and closer to the roads with lots of open space in between.

Bressler explains that flexible frontage and Open Space Design ideas were added to the Bylaw to allow for smaller lot sizes. They were included to encourage open space while allowing people to cluster houses where it made sense.

Murphy notes that the Bylaw requires Open Space Design for subdivisions in the Forest Conservation district in order to prevent a developer from simply filling the district with subdivisions.

Siefert asks if there has been assessment done to see if the Open Space Design concept is doing what it was meant to do. Bressler notes there have been four or five projects that used the Open

Space Design or flexible frontage options. He remarks that Shutesbury has not had much construction in the past seventeen years and thinks the Board has a responsibility to let property owners know about these options.

DeChiara thinks that Open Space Design is innovative and should be retained. He suggests that allowing for parcels with smaller frontage in Town Center could help attract commercial use.

Murphy adds that there could also be commercial opportunities at Lake Wyola and notes that the State-owned Carol Holmes farmhouse property could be put to better use. Siefert explains that it is in DCR's historic curatorship program and explains the public access requirements for such properties. He thinks that an inn, retail, or dining could work there. He explains that property needs substantial expensive renovations to be made usable. He notes that a municipality could be a sponsor for the property's curatorship and wonders if CPA funding could be used for it.

Murphy would like to start a conversation in town about the ways the farmhouse might be used as well as other potential ways to encourage commercial recreational opportunities at the lake.

Hastie raises the idea of a lodging tax on short-term rental properties. Murphy states he thinks the Town has already adopted that statute.

Pyecroft notes that the trail systems in Shutesbury connect to many other towns and compares the situation to the Kingdom Trails mountain bike network in northern Vermont, with its numerous cafes and accommodations in a very rural area. She wonders if something similar could be encouraged on Cowls properties and other private properties, which could help people also generate revenue. DeChiara also notes the many people who bicycle on Shutesbury roads but find no store to sell them water or food. He observes that such commercial development can spur additional development.

DeChiara suggests that Board members spend the next few months reviewing the Zoning Bylaw to look for places where changes could be made to encourage this kind of development. He notes as an example that perhaps not every district should have a 250 foot frontage requirement.

Murphy adds that general bylaws and the Board of Health may need to be part of the conversation at some point, particularly for food establishments. Murphy encourages Board members to bring ideas to future meetings and DeChiara proposes having this as a standing agenda item for the next few months. Murphy also raises the idea of creating a subcommittee at some point to have a more organized approach when the discussion has advanced some more. DeChiara points out that Board members can also share information from their research by email but they cannot discuss or deliberate on that information by email.

Murphy observes that the Town's financial woes will not be solved by zoning changes alone, but the Board should do what it can and that such changes could improve the quality of life in town. He notes that the legislature needs to be urged to provide equitable local aid in order to really protect the town financially.

DeChiara recalls an idea shared by the Land Use Clerk regarding selling a house that has been deeded to the town in an estate and then using the proceeds to purchase the post office property and using that property to generate rental revenue and as the police station and to run water and provide handicapped access to Old Town Hall, making that building usable again.

Discuss Master Plan

Murphy observes that the Town does not currently have a Master Plan and he would like to start a conversation about developing one.

DeChiara suggests including a chapter on climate resilience but also expresses skepticism about the value of Master Plans because the state is increasingly intruding in local decisions and thus obviating whatever planning value a Master Plan might have.

Hastie notes that the Town's Open Space Plan is already quite similar to a Master Plan in capturing community sentiment and goals.

Murphy wonders about the purpose of a Master Plan. DeChiara notes that some state funding sources require having one but he does not think it is a statutory requirement.

Wheelock Site Solar/Battery Project

Pyecroft will reach out to the operator to schedule a Planning Board site visit based on the availability of Board members. She will also communicate to the operator Weston's concerns about clearing vegetation from near the batteries.

DeChiara notes that they agreed to do it the last time the Board was there so this should largely be about checking to make sure they have done what they said they would do.

Weston agrees and observes that vegetation should be more than 30 feet from the battery facilities.

Hastie confirms that after the previous site visit the Board issued a report and indicated the need to keep vegetation out of the slope protection zone.

Murphy shares the Wheelock Special Permit and reviews its conditions. He notes that the conditions limit them to managing vegetation only twice a year. Hastie observes that the operator has agreed to use only mechanical means to mow in the fall and they might do spot cleaning between equipment with weed eaters. Murphy notes that the conditions prohibit use of a mower and this would make it harder to remove vegetation.

DeChiara observes that they could still put gravel down over the grass and they did verbally agree to remove the vegetation.

Murphy notes that the Board should be careful not to require additional conditions that go beyond what was required in the Special Permit it issued.

Hastie shares that he has heard concerns from neighbors about vegetation that has grown on the site and excessive erosion. He would like to see the percent ground cover and vegetation on the site and how the stormwater erosion measures are working.

Murphy suggests the Board consider lifting the restriction on mowing. DeChiara observes that, per state law, the Board cannot regulate use of herbicides and pesticides, but the operator did agree to it in the Special Permit so it is a legal condition.

Weston notes that there is no reason the Board cannot make a request for the vegetation removal, even if the applicant refuses to do it.

Hastie would like to bring a botanist or ecologist on the site visit to provide a general summary of what they see on the site. He raises the idea of offering a small stipend for such a consultant and will reach out to UMass to see if they have someone willing to do it.

Pyecroft will email Board members to find a date that works for the site visit and will then also send the operator a list of the Board's questions and concerns in advance of the visit.

Member Updates

Murphy shares that Clif Read is willing to be reappointed as the Board's designee to the Community Preservation Committee (CPC). He suggests the Board aim to make the CPC and Lake Wyola Advisory Committee (LWAC) appointments at its next meeting.

Murphy notes there have been questions about the shared driveway issue on Birch Drive and the Planning Board's role in that discussion. Siefert will follow up with the Town Administrator about it.

Siefert asks if a Planning Board member would have preference over a non-Board member designee to serve as the Board's representative on CPC. Murphy thinks that would be a reasonable consideration if Read were not interested in continuing. Siefert indicates that he would be interested in serving as the Board's representative on the CPC.

Murphy asks if any Board members would be interested in serving on LWAC. Siefert indicates that he would be willing to continue as the Board's representative on LWAC if nobody else is interested in it.

Siefert reports that the Zoning Enforcement Officer from FRCOG thinks that it would be advisable for the Board to include a definition of "reconstruction" in the Zoning Bylaw. He suggests the Board consider this as a future amendment to the Bylaw.

Unanticipated Business

There is no unanticipated business.

Adjournment

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

Adjourned: 9:32pm

List of Documents Used:

- Approval Not Required Form As and Plan for 314 Wendell Road and 282 Wendell Road
- Special Permit for Wheelock solar facility