

Shutesbury Planning Board
Minutes – November 4, 2024
Approved – July 14, 2025
Virtual Meeting

Board Members Present: Michael DeChiara, Robert Raymond, Nathan Murphy, Keith Hastie, Jeff Weston, Tom Siefert, Ashleigh Pyecroft (7:03pm), Steve Bressler (7:06pm), Deacon Bonnar (7:06pm)

Board Members Absent: None

Other Staff Present: Matteo Pangallo

Others Present: Adam J. Costa, Candice Pinault Novak

Chair's Call to Order: 7:00pm

Meeting is being held online and being recorded.

Executive Session

Murphy recuses self from Chair and designates DeChiara acting Chair.

Adam Costa states Associate Members can participate but cannot vote in Executive Session. Weston disagrees because special rule gives Chair privilege to allow Associate Members to vote. Matter will be reviewed.

Motion by DeChiara to enter Executive Session at 7:07pm for Reason #3, to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the government's litigating position. Litigation specific to Complaint received from Cows regarding the Shutesbury Solar Bylaw. Second: Raymond. Approved unanimously.

Entered Executive Session at 7:07pm

Returned to Open Session at 7:48pm. Murphy returns to meeting and resumes role of Chair.

Public Comment

None.

Landowner Education and Guidance

None.

Massachusetts Affordable Homes Act Response

Murphy: DeChiara has drafted suggested revisions to zoning bylaw to make it compliant with state's Affordable Homes Act.

DeChiara: Provides overview of suggested revisions. Identifies changes required by state law, changes to upgrade bylaw that are preferred but not required, and highlighted questions for consideration.

DeChiara notes that State law prohibits requirement of owner occupancy of ADU—which Shutesbury currently does. Also law requires that the Town must allow Special Permit for more than one unit per property if more than one ADU is allowed.

DeChiara suggests allowing an ADU mobile home if on permanent foundation, also other updates to mobile home provisions of bylaw. Suggests requiring water and septic with Board of Health approval. Suggests allowing one ADU on lot of one acre and two ADUs on two-acre lot with ZBA approval. Suggests other updates and clarifications to conditions, siting, and setbacks for ADUs. Suggests adding content to ADU section from Open Space requirements to preserve appearance of neighborhoods. Suggests limiting rental of ADUs and prohibiting use of ADUs for home business. Suggests allowance for “Tiny Houses” as exception to building code. For two-family dwellings where any is rented, change require owner residence in Shutesbury.

Murphy: We should have a forum or pre-hearing before March to gather public input on this.

Weston: There is a requirement for six-month minimal rental for single unit but none stated for multi-family; it should be the same for both. Also, to avoid short-term rentals Town should have reporting system to verify it’s over six months. Should be some way to see how long rental is.

Raymond: Are these changes mandated by the new state law?

DeChiara: Those in red. Any in blue are response to conversation about the Board’s preferred improvements.

Raymond: Notes that towns can apply for state grants to support implementation of the new law.

DeChiara: We also have funds available for community housing from CPA, but will also look into those grants. Asks Matteo Pangallo for update on CPA fund balances.

Matteo Pangallo: Currently \$49,453 in the community housing fund, \$81,345 in budgeted reserve, and \$498,220 in undesignated fund, but about \$130,000 of that is going before voters at Special Town Meeting for the Amherst Regional High School track and field project.

DeChiara: Asks if the Board wants to go beyond what the state law requires and allow more than one ADU on a lot. Doing so creates more opportunities for affordable housing. Similar to Open Space Design in that it creates clustered housing, but if many people do it that could create more dense clusters than desirable.

Pyecroft: Would be in favor, but would want to limit to no more than two per a lot.

DeChiara: We could make the second a Special Permit, which is a higher regulatory hurdle.

Pyecroft: We're hemorrhaging people so anything to build population would be good for our school. Though there is a concern about changing the character of the town.

Hastie: Town's zoning mandates low-density sprawl, effectively making Shutesbury a low-density subdivision by requiring new lots have two acres. Reducing lot size for single-family homes might be something to consider, or being more lenient with ADUs—assuming well water issues not a problem. Shutesbury benefits from diversity of kinds of housing, which means a loose definition to “rural character” of town and what the “character” of neighborhoods is. Would be happy to rethink density issue and look at ADUs as way to segue into change to development patterns. Town hasn't had a lot of growth pressure since the 1970s.

Bressler: When we revised our zoning bylaws in 2008 it was to create more flexible system for growth and development with four zones, open space design, flexible frontage design. Except for the Forest district, town is not zoned just for low-density growth.

DeChiara: Regarding requirement to keep an ADU consistent with the character of a neighborhood, different isn't necessarily bad, particularly given diversity of housing we already have.

Regarding rate of growth, all of Article 7 could be struck from bylaw because it is no longer relevant.

Bonnar: Agrees with removing Article 7. AG wasn't happy with that article when we first adopted the bylaw.

Murphy: Agrees: article 7 is “dead letter” code.

Raymond: Section eight of statute says there “shall be” a Special Permit for more than one ADU. Isn't Special Permit required in the bylaw then?

DeChiara: Only if we want to allow a second ADU.

Murphy: State law says we cannot unreasonably restrict one per property. If we choose to allow more than one, would have to be by Special Permit. Should ask Town Counsel about this as well. Proposes barebones version that incorporates only changes required by the Affordable Homes Act and then subsequent amendment process to incorporate broader changes. Wants to ensure Town Meeting approves a new bylaw that is in synch with state law.

DeChiara: State law goes into effect in February, so even before Town Meeting this will be the law and we'll be out of compliance for a few months no matter what.

Murphy: We'll follow state law, but best practice is to make sure bylaw aligns with state law.

Bonnar: When we did the new zoning in 2008 we would have a whole meeting devoted to the work. We should devote a whole meeting to this, preferably in person for a couple of hours.

Murphy: Agrees. Should schedule an off-schedule meeting. Main question whether to allow more than one ADU. State law says we cannot require owner occupancy. Applies only to the first ADU if we allow more than one. Should also look at how this relates to Rural Siting Principles.

DeChiara: Another big decision is whether to allow ADUs on multi-family lots.

Murphy: Also need more information about how septic and well requirements change economics of ADUs, as well as what land can support in terms of population density when it comes to septic systems. Lots to consider—might consider hiring a consultant to help clarify it all.

DeChiara: Tiny Houses are also an important part of this conversation. Still waiting for more information about whether Tiny Houses comply with Appendix Q building codes and whether they could be considered primary residences rather than ADUs. Need more information on this.

Hastie: If Tiny House meets Appendix Q or building code, do we care how small a house is?

DeChiara: Not so much about the size of the house but about how to classify the structure, especially if it's on wheels or on a foundation.

Raymond: Nantucket's definition might be useful: A tiny house may be a primary dwelling or may be located on a lot in lieu of an otherwise permitted secondary dwelling.

Murphy: We'll continue this conversation and share any research or ideas with DeChiara.

Wheelock Site Visit Review

Hastie: Draft report on site visit to Wheelock solar facility on Pratt Corner Road. Some typos to fix and adding some concluding language. Mostly an objective description, incorporating comments from Siefert and Weston.

DeChiara: Suggests adding statement of to-dos agreed on by Board or by the developer to document desirable outcomes and ensure accountability going forward.

Hastie: Provides overview of observations at the site and suggestions developer actions.

Weston: They agreed to a minimum ten-foot clearance between lithium battery and combustible materials but we should be requiring more than that, perhaps twenty feet, because of understaffed volunteer fire department and large fire risk to surrounding forests. Requests that combustible material be kept at least twenty feet or back to the fence.

DeChiara: We should separate report from request, especially if actions were not mutually agreed to on site. Report describes what we saw, which can conclude with statement that we will review the findings and make requests to the developer.

Weston: Agree, we should have future discussion about these requests then.

Hastie: Our authority was to see if they were complying with Special Permit. Not sure we can add further conditions beyond what is in the Permit and the fire and electrical codes. But if so, we should also be concerned about all the vegetation under the panels. Some tension between encouraging regrowth on the site and minimizing fire risks.

Weston: We should discuss this going forward and how to incorporate requests alongside reports.

Hastie: In cover letter with report will include requested action items.

Motion to approve the Wheelock Special Permit Site Visit Report of August 8, 2024 with typographic corrections and revisions as discussed: DeChiara; second: Weston. Approved unanimously, with one abstention (Murphy).

Murphy: Notes 2018 battery amendment to Special Permit should go up on the website. Also, doesn't appear to be in the Registry of Deeds, despite MGL Chapter 48, Section 9 which requires applicant to record the amendment.

Member Updates

Murphy: Putting FRCOG's pollinator inquiry on next agenda for discussion.

Unanticipated Business

Murphy: Designates DeChiara acting Chair.

DeChiara: Invites Associate Members and Land Use Clerk to attend Executive Session. Board will enter Executive Session and not return to Open Session.

Motion to enter Executive Session for Reason #3, to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the government's litigating position. Litigation specific to Complaint received from Cows regarding the Shutesbury Solar Bylaw: DeChiara; second: Bressler. Approved unanimously.

Entered Executive Session at 9:07pm.

Adjournment

Adjourned from Executive Session.

Adjourned: 9:18pm

List of Documents Used:

- Draft of DeChiara's proposed changes to zoning bylaw
- Draft Special Permit Site Visit Report of August 8, 2024 to Wheelock solar property