

Shutesbury Planning Board
 Minutes – February 10, 2025 Executive Session
Approved and approved for public release: 8/18/26
Virtual Meeting

Board Members Present: Jeff Weston, Deacon Bonnar, Michael DeChiara, Tom Siefert

Board Members Absent: Nathan Murphy, Robert Raymond, Steve Bressler, Ashleigh Pyecroft, Keith Hastie

Other Staff Present: Matteo Pangallo (Land Use Clerk)

Others Present: Rita Farrell, Eric Stocker, Melissa Makepeace-O'Neil, Donna MacNicol, Adam Costa

DeChiara activated Siefert as a full voting member.

Entered Executive Session: 5:05pm

MacNicol wants to accomplish two things tonight: review the settlement proposal and make a determination on it, and if the settlement is not accepted, discuss strategies going forward.

Costa presents the settlement proposal that came out of the mediation session. He described the process as mostly shuttle diplomacy following an introduction with both parties. The mediation was structured around the seven contested provisions of the solar bylaw. He notes that there is an eighth provision which is the issue of the driveway length provision. The judge indicated he wanted to try to find a middle ground on all eight provisions. Costa feels that they did not quite reach an agreement on every point but they left with a provisional settlement, though it is more favorable to the other parties. Because not everyone on the mediation team felt it was in the best interests of the town, they left the mediation session without making a firm commitment to the proposal.

Costa shares the list of proposed settlement provisions provided by mediator Judge Mark Mason and goes through them:

- Provision to grant a partial waiver of 4-1 requirement in exchange for a swap on land that may not be contiguous to the subject projects.
- Waive the one-project zone By-Law requirement.
- Negotiate the construction bond for existing town roads. PureSky and Cowls will provide a construction bond for existing town roads to provide for their protection in the event of damage done during construction.
- The Town will not press the issue of the 1000' access road but plaintiffs will endeavor to establish access roads with the shortest distance.
- The parties acknowledge use of herbicides and pesticides is subject to MDAR regulation and the Town will consider permitting the mowing of the subject areas two or three times per year.
- The Town will consider up to 20% grade slopes and possibly steeper, subject to review by the Town. The Town will consider regrading, on a site-specific basis, in consultation with their professional. The parties acknowledge that grades in excess of 20% will be

necessary to restore the panels in the northern portion of Pratt West. The mediator raised the idea of having the peer reviewer sign off on particular slopes on a case-by-case basis and that there may be certain places where slopes of 20% or higher might be found to be acceptable. The Town would have to agree with that finding by the peer reviewer.

- The plaintiffs to concede that there will be no application for a special permit for the western array of Pratt South because it is on steep slopes and environmentally sensitive land. That would only be, though, if the other provisions are accepted by the Town, otherwise they will proceed to submit an application for the full Pratt South project.
- The plaintiffs were convinced not to file an application for a special permit for the southwestern array of Pratt West. The plaintiffs would relocate all or some of the panels from that part of the project to the northern portion of Pratt West, including on slopes exceeding 20%. Costa indicates that they had hoped for a more significant concession on this particular project.

Those present at the mediation session shared their perspectives on how it went and what their current positions are.

Costa initiates a discussion about how the Town wants to respond. He stated that The Town would have to respond to the Court by February 22. The plaintiffs are pushing for a faster response. There are three possible responses the Town can make:

1. The Town agrees to the proposal.
2. The Town issues a counter-proposal.
3. The Town decides to no longer spend time and money on further negotiations and will let this go to litigation if the plaintiffs continue their suit.

All present engage in a discussion of the options.

Makepeace-O'Neil makes a motion to reject the settlement and not offer a counter-proposal. Farrell seconds. The Select Board votes unanimously to approve the motion.

Motion to reject the settlement and not offer a counter-proposal: Weston. Second: Siefert. Vote: Weston - Aye; Bonnar - Aye; DeChiara - Aye; Siefert - Aye. The motion is approved unanimously.

The Select Board moves to adjourn.

Motion to leave Executive Session and return to Open Session: DeChiara; second: Bonnar. Approved unanimously by Weston, Siefert, Bonnar, and DeChiara.

Left executive session: 7:02pm.