

Zoning Bylaw Changes on Jan. 19, 2023 Warrant

The Town is being asked to consider 3 proposed changes to the Shutesbury Zoning Bylaw.

- Two are changes are regarding **Energy Storage Systems**
- One is change is regarding **Ground Mounted Solar Electric Installations**

ENERGY STORAGE SYSTEMS

1. Add a new Use listing to Section 3.1-1, the Use Table under Energy and Utility, as follows:

Use	RR	FC	TC	LW	Section Reference
Energy Storage System” (ESS) as a principal use	N	N	N	N	8.10

2. Amend section 13.2, Definitions to include Energy Storage Systems, defined as:

Energy Storage System (ESS) shall mean any mechanical, thermal, electrical, chemical, electrochemical or other device that is operated in conjunction with an Energy and Utility Use facility (as listed in the Use Table) to store energy for use by the utility grid or a backup system.

Summary of Changes

- This would add Energy Storage Systems to the Energy and Utility section as a recognized Use.
- It prohibits Energy Storage Systems as a primary (i.e. standalone) use.
- In effect, this allows the use of Energy Storage Systems that are accessory to residences or businesses

GROUND-MOUNTED SOLAR ELECTRIC INSTALLATIONS

Replace the existing Section 8.10 with an upgraded Section 8.10.

Summary of Changes

1. The proposed bylaw addresses the June 2, 2022 decision by the Massachusetts Supreme Judicial Court (SJC) in the so-called Tracer Lane v. Waltham case, and subsequently, the Kearsarge Walpole v. Lee case, whereby a municipality’s ability to regulate large scale solar installations was more specifically defined. The SJC affirmed that while a municipality has broad ability to regulate solar energy generation it clearly stated that any zoning regulation regarding solar must be for the reasons of public health, safety and welfare. While the Shutesbury Planning Board believes that its current regulations are reasonable and based on the presumption of protecting public health, safety and welfare, the current solar bylaw does not explicitly make these assumptions clear. In order to comply with the SJC Tracer Lane decision, the Planning Board felt an updated version of the bylaw in which the underlying rationale to public health, safety and welfare was clearly expressed was crucial. The inclusion of the introductory Background section was added to establish an explicit and strong connection between the Shutesbury zoning regulations in the solar bylaw and the reasons they are needed for the protection of public health, safety and welfare.

Specifically, the solar bylaw identifies the protection of the following areas of concern as directly tied to the community's public health, safety and welfare:

- Drinking water wells
- Wetlands
- Unpaved roads
- A resilient ecosystem – local flora and fauna
- Forests
- Agricultural land
- Firefighting capacity/emergency response
- Historical and cultural resources

2. The proposed solar bylaw also includes the additional changes.

- Specific listing of the state and federal laws and regulations which large scale solar must comply with; the current bylaw only makes a general statement about compliance with all laws, bylaws and regulations
- Inclusion within Sec. 8.10 of definitions for large and small scale solar ; these are currently only noted in the Definitions section of the Zoning Bylaws. There is no change to these definitions.
- Inclusion of mitigation requirements related to stormwater.
- Inclusion of mitigation requirements related to noise and requirement for the submission of a noise assessment
- The right of the Planning Board to require an environmental monitor during construction and after significant weather events
- More specificity regarding Safety and Environmental Standards in relation to Habitat Impacts for Core Habitat, Critical Natural Landscapes, and Habitat of Potential Regional and Statewide Importance.
- More specificity regarding Safety and Environmental Standards in relation to Energy Storage Systems.
- Inclusion of a requirement for pre-special permit submission documentation to better ensure data gathering with regards to historic preservation. This includes a more detailed process of notifications to assist with historic and cultural mitigation, and the submission of a Phase I Cultural Resource Survey Report.
- More detail regarding the documentation required to prove compliance with existing laws and regulations
- Inclusion of a requirement for a report on the impact on water volume, water storage, and drinking water well recharge.
- Inclusion of a requirement for Energy Storage System plans and documentation
- Inclusion of a requirement, if appropriate, for a Cultural Resource Management Plan or a Historic Properties Management Plan.

The proposed changes were unanimously recommended by the Planning Board.