

**TOWN OF SHELBURNE**  
**Planning Board and Zoning Board of Appeals Joint Meeting**  
**Planning Board Minutes of Meeting**  
**September 25, 2014**

**A duly posted meeting of the Shelburne Planning Board was held on Thursday, September 25, 2014 at the Shelburne Town Hall, 51 Bridge St., Shelburne Falls, MA. At 7:00pm.**

**Present:** John Wheeler, Chair of Planning Board

Cam Stevenson, PBd

Josiah Simpson, PBd

Will Flanders, PBd

Doug Finn, PBd

Joe Palmeir, Chair of ZBA

John Taylor, ZBA

Mike Perry, ZBA

Chris Macek, ZBA

Noah Grunberg, ZBA alternate member

**Administrative Assistants:** Liz Kidder for PBd, Faye Whitney for ZBA

**Absent:** Lowell Laporte

**Audience:** Whit Sanford

**Press:** none present

**The meeting was called to order at 7:05 pm by John Wheeler and Joe Palmeri called the ZBA to order.**

**Introductions** were made by everyone present.

**OLD BUSINESS:**

**Attorney General's comments on Premises Use Wind Energy Systems Bylaw:** John W. reviewed the two issues raised by the Attorney General.

**Section 17.4 Pre-application meeting** - The AG's office said it is not legal to require a pre-application meeting; it should be a recommended option for the applicant. John said the Planning Board had suggested the language be changed to a recommendation and the applicant may request such a meeting. John Taylor said he found this interesting since the AG's office has twice approved this same language when they approved both versions of the telecommunications bylaw. He said that if we revise the language in the wind bylaw, it should also be changed in the telecommunications bylaw. Joe suggested that we contact Town Counsel to get her opinion. Will said he felt the AG may have seen a new interpretation through the courts' case law which may have changed why they are commenting on it now. Will suggested that it would be wise to make the change so that a developer may not have a reason to complain. John Taylor said that the language should be strong - "strongly encouraged" not just suggested and we should be consistent throughout the bylaw. John Taylor noted that if someone wants a waiver to any part of the application, they need to have that discussion with the appropriate board before they submit their application; this would be the carrot to urge them to come in. John T. suggested the bylaw say that such a meeting is strongly encouraged and that applicants may want to discuss waivers to the submission requirements at that time. Joe noted that waivers to the bylaw have to be done in writing and wants to make sure we are very careful with the final wording. He noted that they have past experience with an applicant requesting a waiver after the public hearing started, which is problem. Any waivers that have been issued by the SPGA need to be open for discussion during the public hearing.

Mike and Cam suggested we review wording with town counsel. Joe noted that he finds pre-application meetings are worth their weight in gold. John W. noted it would be beneficial to the applicant. The consensus was for the PBD to check with Town Counsel and take responsibility for preparing this revision for the next Annual Town Meeting (ATM). Will Flanders suggested that the ZBA explains to each applicant that the pre-application is not required just strongly recommended and not to refuse the application because there wasn't a pre-app conference. John T. noted this is what the ZBA currently does.

**Section 17.9 Abandonment** - John W. explained that the Town does not have the right to go on someone's property without a search warrant. John W. noted the PB considered changing the language to state that under an applicable situation, the Town will obtain a legal search warrant-- to put property owners on notice. The Board will review the language with Town Counsel;

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it may be a court order that it is needed. The intent is to have the option for the town to pursue dealing with the abandonment of a wind turbine. The Planning Board will take this on as a housekeeping issue for ATM.

**Draft Sign Regulations Bylaw:** John W. noted that that Planning Board had received proposed revisions to Section 9 of the Shelburne Sign Regulation bylaw from the ZBA last March which the ZBA had expected to be considered at last year's annual town meeting. After a review by the PBd and based upon comments presented during a public hearing, it was decided to take more time to review the revisions and to seek additional public input. Since the PBd has two new members, John W. said he thought it would be helpful for the ZBA to explain the history behind their efforts to revise the bylaw. Joe Palmeri noted the ZBA had recognized there had been issues regarding the enforcement of the sign bylaw over the past several years, for example, do you count both sides of the sign in the dimension requirements. The Building Inspector had told the Selectboard and the ZBA that the current bylaw was difficult to enforce in a fair manner and had asked the Town to revise the bylaw. While the PBd was busy with developing the recent wind bylaw, the ZBA took on the task of revising the sign bylaw.

John W. said the PBd held a public hearing shortly before Town Meeting at which a lot of issues regarding the draft were raised although it was not well attended. The consensus of the PBd was that it wasn't ready to present at town meeting. The PBd does have every intention of presenting a revised sign bylaw at the next Annual Town Meeting . John T. noted they were trying to address every issue raised and they kept trying to clarify the language of the bylaw. Cam said it was clear from looking at it that the ZBA kept trying to address every issue but the PBd felt it could use further clarification. Josiah noted the PBd has new members and this presents an opportunity to take what the ZBA has done and try to put it in a new format, taking all their input and restructuring it. Will asked if the ZBA has any issue with the PBd taking on the task of reorganizing this bylaw. John T. said there was no concern as long as the ZBA can review it to make sure it covers all the issues they may have to deal with as the special permit granting authority. Will referred to the Williamsburg sign regulation as an example that is very clear as to which signs need permits and which don't. Mike asked if there was a way to get the Shelburne Falls business community into the review of this bylaw early on in order to get their concerns addressed. Will noted that he is the current President of the Business Association and he has distributed this draft to them for their input. John T. also suggested that the PBd meet with the Building Inspector to get his input.

John reviewed notes from the last planning board meeting,

- *Is this current draft clear as to which signs need a permit or not. Example: temporary signs.*
- *Are there existing signs in Shelburne that would be affected/not in compliance if these regulations are passed.*
- *Are there types of signs in Shelburne that aren't addressed in this draft.*
- *Can there be a preamble at the beginning of the bylaw that clearly states the purpose and goal of the bylaw and why it was developed.*
- *Since the SFABA is currently managing the banners across Bridge St., should there be a provision in the bylaw through which the Selectboard authorizes a community organization to officially take on that task. – the consensus was the Selectbmen already have the ability to delegate without including it in the zoning bylaw.*
- *Is it possible to just develop a general "performance standards" bylaw that assigns permitting responsibility to a specific board which can then develop it's owns rules and procedures for implementation/permitting (such as the special permit process).*
- *Can this bylaw be reformatted similar to Williamsburg's regulations which clearly states which signs needs permits and which do not.*
- *Can you develop a list of signs that need permits and then state that others are allowed by right.*
- *If you develop a list of signs that are allowed, do you then just change the list as needed in the future.*

The following specific issues were identified as needing further review:

- Permits: which signs need them and which do not
- The proliferation of temporary political or issue signs and how long they are allowed to stay in place
- Off-premises signs:
  - In town - the sidewalks belong to the town, therefore all sidewalk sandwich board signs are off-premises
  - Route 2- off-premises signs for events/businesses in other towns
  - Off-premises signs for local farms
- Properties with multiple business occupants
- Sandwich board signs:
  - size of the signs
  - how long can they be on display

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- safety of their placement
- advertising events in other towns
- Route 2 scenic quality versus support for local businesses and farmers
- Relationship of town bylaws to state wayfinding sign requirements
- Lighting of signs – external with light directed at the sign versus internal where the light may be directed away from the sign impacting neighbors
- Farm products signage –
  - location
  - number of signs
  - length of display time
  - should they receive preferential treatment over other businesses
  - role of Shelburne as a right to farm community
  - possible large permanent signs with space for seasonal information,
  - sugar houses and state wayfinding signage requirements
  - should there be different options for farmers selling produce grown on their property versus farm stands that sell their own as well as other farmers products
  - relationship to Chapter 40A Section 3 should be reviewed with Town Counsel especially as it relates to 9.7. ; does the proposed language give the ZBA the leeway to grant waivers,
- Clarification of what signs are grandfathered- currently legal signs would be grandfathered, current signs that are not “legal” would not be grandfathered
- Can the Village partnership develop signage guidelines that both Shelburne and Buckland can support and coordinate
- Regulating structure versus the content of the sign, the content is regulated in that you can only have a message that relates to that premises.

John W. noted that the Planning Board doesn’t have a lot of issues with the specifications of the bylaw, but they felt a reorganization of the bylaw could improve its clarity. John T warned about too simple a bylaw that relies on special permits since there is a lot involved in obtaining one; the Planning Board cannot state which signs need a building permit—the Board would need to get that information from the Building Inspector. John T encouraged bringing the Building Inspector into the discussion.

Joe P. noted he would like to sit down with the PBd once there is another draft. John W agreed that the next draft will be run by the ZBA and the SFABA for review before the public hearing. The PBd is going to try to achieve a balance within the regulation. The ZBA will need to review it and identify where they need clarity for implementation. Will and John W both noted how helpful the discussion has been for the Board to have the long term/historical perspective from the ZBA.

**NEW BUSINESS:**

**Large-Scale Ground-Mounted Solar Energy Facilities bylaw:** John W. mentioned that several communities have recently passed such bylaws and the PBd is going to be looking at them to consider preparing such a bylaw for Shelburne.

**Cluster/Natural Resource/Open Space Design bylaw options:** John W. noted the board wants to work on revising the town’s Cluster bylaw and that this was a task identified in the Open Space Plan.

John W. asked if the ZBA had any suggestions on whether solar or cluster were more of a priority. Mike Parry noted that it is far more likely for a large scale cluster to come before the town rather than a traditional subdivision. Joe P. felt if there is a good cluster bylaw, then it might be an incentive for a good development. Noah suggested reviewing the village master plans to see if there are ideas there to help the PBd focus their attention. Joe P suggested reviewing whether only one major use can be on a lot – maybe allowing a cell tower on a lot in addition to the primary structure for example. John W. said the PB would put cell tower bylaws on the agenda for discussion.

The consensus of the boards was that the ZBA should get any suggestions for “housekeeping” bylaw revisions to the PBd by their December meeting.

**Discussion/Recommendations for other bylaw revisions**

John T. has brought up a philosophical question relative to where cell towers should be sited. The sites identified in the current zoning map as suitable for cell towers now both have towers. The cell tower companies have suggested the Town needs to identify more sites. AT&T told the ZBA they cannot get enough coverage off the existing towers. John W. suggested looking at the maps prepare by the last cell tower applicant.

**OTHER BUSINESS NOT REASONABLY FORESEEN 48 PRIOR TO THE MEETING:** None presented

**PUBLIC COMMENTS :** none presented.

A motion to adjourn the meeting was made by Cam and seconded by Doug.  
Vote 4 in favor, 0 Opposed, 1 abstention by John as chair of the meeting.

**Meeting was adjourned at 10:02pm.**

**Respectfully submitted by:**

Liz Kidder  
Administrative Assistant

List of documents:

- Letter to Shelburne Town Clerk from the Office of the Massachusetts Attorney General dated July 30, 2014 regarding : Shelburne Annual Town Meeting of May 6, 2014 - Case # 7199 Warrant Articles # 35 and 36 (Zoning)
- Draft rewrite of Section 9.0 Sign Regulations Town of Shelburne Zoning Bylaws, Planning board draft #1 August 2014
- Town of Williamsburg, MA Sign Bylaw
- Questions and Request for Information from Kinder Morgan Regarding the NE Expansion Pipeline Proposal [Questions from the FRCOG and Kinder Morgan's Responses]
- Town of Leyden – Natural Resource Protection Zoning Bylaws adopted at their May 2014 Annual Town Meeting.
- Updated Town of Shelburne Zoning Bylaw, updated through May 6, 2014