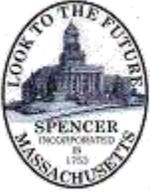


# Planning Board – Town of Spencer

## *Minutes*

Regular Planning Board Meeting  
Tuesday, October 18, 2011 at 7:00 PM  
McCourt Social Hall  
Memorial Town Hall



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The meeting was called to order at 7:05 p.m.

Planning Board Members Present: Chair Shirley Shiver, Robert Ceppi, Mary Stolarczyk, and Ralph DiChiara.

Planning Board Member Absent: None.

Staff present: Michelle Buck, Town Planner, and Bea Meechan, Senior Clerk, ODIS.

Before the Board opens the meeting for the business, Ms. Shiver announced that Mr. Paul Sauvageau has resigned as the member of the Planning Board effective immediately.

### **New Business:**

**A. Introduction of a potential new member – Mr. James Whalen.** Ms. Buck informed Mr. Whalen of the Planning Board meeting tonight; however he was not present at this time. Ms. Buck said it could have been a miscommunication. She will put this item on the Planning Board's agenda for the next meeting. She will contact Mr. Whalen again.

**B. ANR – Wayne Lilyestrom, 201 Greenville Street, creation of 2 new lots.** The purpose of the plan is to create 2 Lots; Lot A and Lot C; and to reserve Lot B to be combined with Lot C for access to the town's road.

Mr. Donald Para, Land Surveyor, said the land owned by Mr. Lilyestrom lies across two towns, that of Spencer and Leicester. There is a potential buyer for the land that is in Spencer, but not the entire property. The plan proposes to divide the land into 3 parcels: Lot A which has the house on it, located on the east side of Greenville Street in Spencer; Lot B is also in Spencer; and Lot C is located in Leicester. In order for Lot C to have an access to the town's road, Lot B is to be combined with Lot C.

Mr. Para said there is an existing right-of-way which is a private road and has 25 feet in width. This road will be widened to 50 feet for future access for Lot C.

Note: The proposed Parcel B shown on the plan is basically a long strip of the private road that has extended from the existing right-of-way and continued along the edge of Lot C. Lot B contains 36,380 sq ft, and it is not a buildable lot.

Ms. Shiver asked as to the owner of Lot B.

Mr. Para said both Lots B and C are owned by Mr. Lilyestrom.

Ms. Buck said that the ANR plan for Lot C will go in front of the Leicester Planning Board (LPB) tomorrow night. Mr. Para and the LPB had a preliminary discussion on the plan previously, Ms. Buck doesn't expect any issue with the plan; it shall be approved by the LPB.

Mr. Ceppi asked who does the road maintenance; Spencer or Leicester, and if this private existing road will be used as the frontage for the remaining land in Lot C?

Mr. Para didn't know who is maintaining the road at the present time. Ms. Buck said this particular road has been used regularly as the access road for parcels that are in the area, in Leicester.

Once the entire piece of land got divided, Lot C in Leicester will comprise the remaining land. Ms. Shiver said that Lot C is dividable for a subdivision project, and if that happens in the future, she then asked if LPB is concerned on the subject matter and also the roadway in the subdivision.

Mr. Para said if that happens the roadway has to be constructed in compliance with the Leicester Subdivision Regulations.

With no further comments and questions from the Board, Mr. Ceppi made a motion to accept the ANR plan and to have Ms. Buck endorse the plan as submitted tonight. Ms. Stolarczyk seconded the motion and the vote was 4-0 in favor.

**B. ANR – Marilyn Rogan Smith, owner, Lighthouse Construction LLC, applicant, for property located at Ledge Avenue and Cedar Street, boundary adjustment.** The purpose of this plan is to correct an encroachment of an existing foundation. Ms. Shiver asked for the presentation of the plan.

Mr. Marko Tuominen of Becon Construction Company said that the company pulled a demolition permit for 5 Cedar Street late last year from the Building Department. The house was demolished, and the only thing left on the lot is the foundation. In the process of applying for a building permit, when the survey of the property was done, it was discovered that the existing foundation is approximately 2-feet over the property line. Mr. Marko met with the surveyor and the real estate's attorney to address the issue; the result is the ANR plan which is presented to the Board tonight.

Mr. Tuominen explained that the proposed plan is to swap a small piece of land between the two neighbors; Parcel A which is arrived from Lot 170R owned by Raymond and Charlene Ronander; and Parcel B arrived from Lot 169R owned by Ernest Smith and Marilyn Rogan-Smith. As result the existing foundation on Lot 169R will be within the lot's line. Mr. Tuominen said that since the two parcels have the same amount of square feet, and they are being swapped, there aren't any changes to the exiting square footage of the two properties.

Ms. Buck said the plan came in last Wednesday, and she hadn't fully evaluated the plan in terms of meeting the ANR's submittal requirement. Based on a quick review, Ms. Buck said the

problem is that the proposed plan has reduced the frontage of Lot 170R to 44.19 feet; 50 feet minimum is required for the frontage.

Ms. Shiver said in that case the lot will be non-conforming lot, and the Board cannot approve and endorse such a plan.

Mr. Tuominen explained that the two lots (lots 169R & 170R) have the same deed, one deed for both lots, and they are pre-existing nonconforming lots. [Note: The property situated on the corner lots; Cedar Street and Ledge Avenue. There is 105 feet of frontage on Cedar Street; and approximately 127 feet on Ledge Avenue].

Ms. Buck said in this situation either lot couldn't be sold as an individual/separate lot. She recommended that the Board not approve the plan tonight. This situation may need an approval from the Zoning Board of Appeals. Ms. Buck wanted to discuss with the Building Inspector/Zoning and Code Enforcement first.

The Board members decided to continue the ANR plan to the next meeting date, November 15, 2011. Ms. Buck will discuss with the Building Inspector and will contact Mr. Tuominen with the outcome.

**Old Business:**

**A. Continued Public Hearing – Amendment to an Approved Definitive Subdivision Plan, Deer Run Phase 2, Funari Site Development.** Ms. Shiver opened the hearing at 7:30 p.m.

Ms. Buck said Mr. Steven O'Connell, Funari's Engineer, e-mailed a letter to ODIS today, stating that Funari requested to continue the public hearing to the next meeting date (November 15, 2011), and in addition asked for a 60 day extension to the period act on the application [the deadline for the Planning Board to act on the application is October 23, 2011].

Mr. Ceppi made a motion to grant the 60 day extension as requested by the applicant. Mr. DiChiara seconded the motion and the vote was 4-0 in favor.

Since the hearing was opened, Ms. Shiver asked if anyone had any questions or comments at this time. Ms. Buck said that since the applicants asked to continue the hearing, and they weren't present tonight, therefore the discussion should be fairly limited.

At this time the Board members went over the memo prepared by Ms. Buck, the following was a summarized table of the current situation:

	<b>Phase 1</b>	<b>Phase 2A</b>	<b>Phase 2B</b>	<b>Total</b>
2009 Estimate	\$115,075	\$240,021	\$326,483	\$681,579
Fund Collected From Bank	\$31,830	\$191,346	\$0	\$223,176
Shortfall	-\$83,245	-\$48,675	-\$326,483	-\$458,403

**Note:** Funari proposed an amendment to an approved definitive subdivision on Phase **2B only**.

Mr. Ceppi commented that he would like to better understand the current status of Deer Run. The following was a brief summary from the previous hearing: Deer Run Phase 1 - Town collected \$31,830 in funds from the Bank, and a significant portion of the funds was spent on the as-built plan. There is approximately \$11,000 –\$12,000 left. There is a legal problem with the DEP in regards to wetlands, DEP required the completion of wetlands, and there is no funding resource for this.

Ms. Buck, Mr. Gaudette (Town Administrator), Mr. Tyler (Superintendent U&F), Mr. Butler (Highway Foreman) did a site walk on the property. Ms. Buck said both Mr. Tyler and Mr. Butler thought the important thing is to get the road accepted as quickly as possible. The residents there are frustrated with the roadway's process, and have inquired on the subject matter to Mr. Gaudette; it is essential to get that done.

Ms. Buck explained that one of the difficulties is trying to coordinate the timing of the road work with this subdivision application - from Funari. The Town needs to get the process moving [on the earlier phases] and there isn't any obvious way to wait for Funari. Ms. Buck said Phase 1's road acceptance will not happen in the Fall Town Meeting, and in the mean time Highway Department (HD) will try to get much of the work done in the fall, and will follow up with the remaining items in the early spring of 2012. The road could be accepted at the Spring Town Meeting 2012.

Ms. Buck said the biggest issue in getting the road to acceptance is the wetland replication (in Phase 1) in which the Town has no funding available for the project. Mr. Gaudette has been trying to get DEP to issue a waiver, or some type of an amendment that would address the problem in a less expensive way.

Currently there are people living there at the subdivision for a length of time, Ms. Shiver expressed that getting the road accepted as a public right-of-way is critical. The Town already collected the performance guarantee funds, but it is an insufficient amount. Ms. Shiver said the HD can do a selection among the items, prioritize the tasks, and do what needs to be done first. She then asked of the following: 1) Could the road be accepted as is, not meeting the road's acceptance standard [and once it has accepted and Town owned it, then the Town can use funds in Chapter 90 to complete Phase 1's roadway]; and 2) In reference to the road's acceptance, does the town have any flexibility to accept the road that doesn't meet the road acceptance's standard?

Ms. Buck said in regards to the Phase 1's roadway and with the insufficient funds, the HD cannot do everything under the subdivision plan – Subdivision Control Law. In addition if the DEP doesn't grant a waiver on the wetland replication, the Town cannot accept the road.

Ms. Shiver said that wetland replication is linked to the road's acceptance; it is the most important thing that must be finished in this case. There isn't surety for the construction of the wetland replication. Ms. Shiver said she wasn't certain on whether the wetland replication was shown on the Definitive Subdivision Plan at the time the Planning Board approved such the plan

– Definitive Subdivision Plan [if it was then there should be a surety for the construction of the wetland]. Since the wetland replication is in Phase 1, Mr. Ceppi suggested the Board use the remaining funds in Phase 1 toward the wetland replication.

Ms. Buck said that wetland replication isn't typically included in the Planning Board surety, it usually is addressed separately by the ConCom. In this case, ConCom didn't require surety for the wetland replication. Ms. Buck doesn't think the remaining funds left on Phase 1 (for roadway completion) can apply to wetland replication; it wasn't part of the performance agreement with the Planning Board. She will look into the matter.

The Board thinks it is a good idea to contact the DEP and asks what the Town could do in terms of the wetland replication with the amount of funds left on Phase 1, also what other option the Town has.

Mr. Michael Kubasiak of 1 Bell Flower Lane asked how to obtain the information regarding the amount of surety for Phases 1 and 2, and the remaining works that needs to be done on both phases. He and the people in the neighborhood would like very much to have the road done and be accepted by the Town.

Ms. Buck said the information isn't available on the Town's website. The best way is to e-mail her the request. Note: Tonight, the Board gave a copy of a memorandum having the list of items for both Phases to Mr. Kubasian. The list was prepared by Mr. Tyler dated 8/15/11.

Mr. DiChiara commented there hadn't been much progress made on this proposed plan for the past 3-4 months. The Town received complaints from the residents, and the resident came here to voice his opinion and expressed his frustration. Mr. DiChiara said he couldn't figure it out where the burden is – to make anything happen.

Ms. Buck said in regards to the Phase 1's road acceptance, the Town had a big setback when the Superintendent U&F left in May of this year, and everything was pushed back until we had a new Superintendent. Mr. Tyler, current Superintendent U&F, reviewed the proposed plan (Phase 2B) and issued comments to Funari. However, Funari didn't formally respond to the comments. At the last public hearing the Board asked Funari to produce a letter of comments and submit to Ms. Buck or ODIS, and presently that hasn't yet happened. Ms. Buck said it was a struggle trying to coordinate Phase 1's roadway completion with Funari's proposed plan on Phase 2B.

Ms. Shiver said the Planning Board, ODIS, and the Town have done what we could on our part to move the plan forward. The Board would like to see it happen. The town officials gave their formal comments to Funari to act on, but didn't receive any response back yet.

Mr. DiChiara said with that being said it clearly demonstrated that the Planning Board was fully cooperating with the applicant; the Board wasn't negligent in the process.

Ms. Buck said she was disappointed that Funari didn't send anyone to attend the last Technical Review Meeting which was held last week. Another issue with the proposed plan is that, how to deal with the emergency access, paved versus gravel and who will maintain it, and that hasn't yet

been finalized. The Board members said the access emergency road is important for the safety of the residents in the project, and Funari understood that when they first came to discuss the proposed plan with the Board.

Mr. Kubasiak asked if the Town will plow the road again this year same as they did last year.

Ms. Buck said based on her knowledge the Town will handle that, and put the incurred expense cost as a lien against the property which is still owned by the previous developer - Michael Harrington.

With no further questions and comments, Mr. Ceppi made a motion to continue the hearing to November 15, 2011. Mr. DiChiara seconded the motion and the vote was 4-0 in favor.

**B. Continued Public Hearing – Draft Stormwater Regulations.** Ms. Buck reported that a lot of progress has been made since the first hearing. Mr. Tyler made a number of recommendations and revisions to the draft. She needs time to incorporate these revisions into the draft. Ms. Buck recommended the Board to continue the public hearing.

Ms. Stolarczyk made a motion to continue the public hearing to November 15, 2011. Mr. DiChiara seconded the motion and the vote was 4-0 in favor.

#### **Approval of Minutes: Minutes for August 16, and September 20, 2011.**

Mr. DiChiara made a motion to approve the minutes for August 16, 2011. Ms. Stolarczyk seconded the motion and the vote was 4-0 in favor.

Ms. Stolarczyk made a motion to approve the minutes for September 20, 2011. Mr. DiChiara seconded the motion and the vote was 4-0 in favor.

#### **Town Planner Report: Update on Long-Range Project**

**A. Laureldale Woods Subdivision.** ODIS received an application to amend the approved definitive subdivision plan from Laureldale Woods which is requesting a one year extension time to complete the project.

**B. Sibley and Warner Project.** Conservation will hold another public hearing on Wednesday, November 9, 2011 in the McCourt Social Hall. Ms. Buck said a fiscal impact study should be completed by that time. Ms. Shiver encouraged the Board members to attend this hearing.

With no further discussion, Mr. Ceppi made a motion to adjourn the meeting at 8:40 p.m. Ms. Stolarczyk seconded the motion and the vote was 4-0 in favor.

Submitted By:

Approved By:

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Bea Meechan, Senior Clerk

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Shirley Shiver, Planning Board Chair

**List of Documents used on October 18, 2011**

- ANR plan prepared by Donald Para, Land Surveyor, for property located at 201 Greenville Street owned by Roselia Lilyestrom.
- ANR plan prepared by B&R Survey, Inc., for property located at Cedar Street and Ledge Avenue owned by Marilyn Rogan-Smith. Plan dated 7.13.11.
- A memo prepared by Ms. Buck dated 10.17.11.
- A memo prepared by Mr. Tyler, comments on Deer Run Phase 2, dated 8.15.11.
- A letter from Mr. Stephen O'Connell, Andrews Survey & Engineering, Inc., to the Planning Board dated 10.18.11. Requested to continue the hearing, and extend the time to act on the application for 60 days.