



Zoning Board of Appeals – Town of Spencer

Minutes

Zoning Board of Appeals Meeting **Tuesday, March 11, 2014 at 7:15 PM** McCourt Social Hall Memorial Town Hall

Zoning Board Members Present: Dee Kresco, Allan Collette, Albert Drexler and Robert Emerson.

Zoning Board Member Absent: none

Staff present: Michelle Buck, Town Planner, Brynn Johnson ODIS Jr. Clerk

Ms. Kresco opens the meeting at 7:15pm

1. 7:15 Open Meeting

Call to Order

Open Meeting Law Compliance

Roll Call

2. Special Permit- Continued Public Hearing. Applicant: SJA Solar LLC. Owner: Cistercian Abbey of Spencer, Inc. Location: 167 North Spencer Road. The applicant is requesting a special permit for the construction of a roughly 17.5 megawatt ground level solar farm on the Abbey property. The property is located within the Rural Residential zoning district. Continued public hearing from February 11, 2014.

Ms. Kresco notes the voting Board members for this project will be her, Allan Collette, and Robert Emerson. Bert Drexler has recused himself from this project due to a conflict of interest. At the last meeting the Board scheduled a site visit to tour the area of Abbey land proposed for the solar development. Mr. Collette gives an overview of the site visit. They viewed many of the fields shown on the plans. The proposed location of the panels will be screened from the outside as well as the inside.

After touring the sight Mr. Emerson has his doubts about how well the farm closest to Rt.31 (near the gym) will be screened from the road. Especially during the winter months, when there are no leaves on the trees. However if the abutters have no objections to this he won't object to it either. No abutters have come to the meetings with concerns or complaints.

Steve Tyler, U & F Superintendent, says he would call himself an abutter. He represents the Town of Spencer as an abutter (abutting property being Route 31). He states he doesn't have anything against this project. However he does have concerns regarding environmental issues. He wants to make sure all those issues are address. One of the concerns he has is this project disturbs 100 acres of land so a MEPA review may have to be done. Mr. Tyler has confirmed they will need a certificate of approval from the Department of Agriculture. Also he would like to

make sure the flooding on Rt. 31 is controlled. A lot of water runs off this site onto Rt. 31 the road has been closed three times in the past three years. Mr. Tyler requests the Board continue this hearing until they can get responses to these concerns before they vote. The Seven Mile River is very close to this project. The river is mapped as an endangered species habitat and it's a contributor to the Town's two drinking wells. The Town of Spencer is an abutter and needs to look out for the interest of its residents.

Mr. Drexler asks who will be issuing the stormwater permit. Ms. Buck says because they don't have to file with the Conservation Commission, so the planning Board will be issuing the stormwater permit. Because of the size and scale of this project the Planning Board will be consulting with the Conservation Commission for conditions of approval and to address their concerns about this project.

A representative of Graves Engineering said that Graves is working on revised plans and will submit them soon. They're also working on a construction phasing report. That will show their plans to build in phases and how the site will be stabilized before and after construction. He says that Lenard only had a few comments and they are not major design issues.

Mr. Tyler says he doesn't feel Graves is speaking accurately for Lenard Engineering, our 3rd party reviewer. He doesn't think greater than 50 questions/comments is a few, and all of the major concerns have not been addressed yet.

Mr. Collette says it's fine if the Board wants to wait to vote until all comments have been addressed but as far as the ZBA is concerned they are issuing the permit for the use only. Ms. Buck says yes their vote is for the use, but this is a big project with a lot of outstanding questions that are related to this Board.

Mr. Emerson recommends the Board wait until the new plans and documents are submitted before they vote. He doesn't see it as just a use issue. The 3rd finding they must meet says "That the proposed use will not impair the integrity or character of the district or adjoining zones, nor will it be detrimental to the health, safety, or welfare of neighborhood or the Town."

Mr. Plonsker says this project is not intended to be detrimental in any way. They have been very careful to try to avoid any negative impacts. They didn't expect to be at this meeting talking about issues raised at the Planning Board meeting that why they haven't submitted their revised report yet. He feels this project has many benefits to the environment, the Abbey and the Town. Mr. Emerson says he wouldn't argue that. He can see many benefits but he also sees a watershed district that needs protecting. Mr. Plonsker says the Planning Board will look into the protection of the watershed. He asks that the ZBA make their decision tonight so they can focus on other issues.

Mr. Collette says if it makes everyone feel better they will continue this hearing. Mr. Kresco would like to continue so they can get these questions answered. Mr. Emerson would like to continue until they hear a positive reply from the Planning Board.

Mr. Collette asks why they don't have to present this project to the Conservation Commission. Mr. Tyler says they are not working within the 100 foot wetlands buffer zone therefore they do not have to get any permits from Spencer Conservation Commission.

Mr. Collette notes he does know the lower field on Rt. 31 near the gym does fill with water but does that water affect the road? Mr. Tyler says yes the road floods in that area

Mr. Drexler asks if the flooding has caused road damage. Mr. Tyler says the edges of the road were washed out but it caused more private property damage than road damage.

Mr. Emerson asks if the Town will have to increase the capacity of the drainage culvert. Mr. Tyler says yes they have a separate drainage project planned, but they want to make sure that however this project is designed they don't have to deal with any additional water from the site. He feels they will work this out with the applicant and he looks forward to getting the answers to all the stormwater questions but as of right now he hasn't received them. There are just too many outstanding questions in regards to the detriment to the environment, the safety of the water supply, stormwater and roadways.

Mr. Collette asks when the Planning Board is meeting. Ms. Buck says the Planning Board meets next Tuesday one week from tonight. However they have not received revised plans yet. So it is unlikely they will vote next week.

The Board decides to continue this hearing until their next regularly scheduled meeting. This will give the applicant time to answer the questions brought up tonight.

Ms. Kresco asks if there are any more questions. There are none.

MOTION: Mr. Emerson makes to motion to continue this hearing until the next meeting April 8, 2014. Mr. Collette seconds the motion.

VOTE: 3-0 in favor

3. Variance- Applicant: Richard Cormier. Location: end of Lake Whittemore Drive. The applicant is requesting a variance to construct a single-family home on a lot lacking required frontage.

Ms. Kresco states the voting members on this application are Robert Emerson, Bert Drexler and Allan Collette.

Richard Cormier says he would like to build a single family home on the property he owns at the end of Lake Whittemore Drive.

Mr. Drexler asks what is on the property now and how large is it. Mr. Cormier says currently there is a small A-frame structure and a barn. The A-frame is not occupied it was just used years ago from skiing down the hill toward the lake. The property is 3.5 acres. He shows the Board some color photos he took of the A-frame, barn and property.

Mr. Drexler notes this is an odd-shaped lot.

Ms. Buck explains this lot is large but it isn't grandfathered because it would need at least 50 ft. of frontage. This lot has less than 50 ft of frontage; therefore he needs a variance. These plans are less detailed than plans the Board normally reviews. It's not a certified plot plan, it's the assessors map. Ms. Buck asks Mr. Cormier if he measured exactly how much frontage the lot has. Mr. Cormier says no he didn't measure. Mr. Collette says it's not a matter of frontage his property is the end of the roads so the frontage is the road width. Ms. Buck says his only options are to get a frontage variance for the width of the right of way or extending the road though the subdivision process into a cul-de-sac.

Eben Butler, 19 Lake Whittemore Drive, is the closest abutter he says the road varies in width but it is about 37 ft wide in front of his house.

Mr. Butler says Mr. Cormier has been maintaining the property for the last 12 years.

Mr. Drexler asks how long has the property been in his family. Mr. Cormier says his uncle brought the property back in the early 1970s. This was prior to zoning regulations.

Ms. Buck measures the right-of-way on the assessors map. It's very close to 40 ft.

Mr. Drexler asks the Board how many feet would they like to grant the variance for. There is a discussion and they agree that frontage must be at least 30 feet.

Mr. Drexler asks if there are any more questions. There are none.

MOTION: Mr. Drexler makes a motion to close the discussion. Mr. Collette seconds the motion.

VOTE: 3-0 in favor discussion is closed.

MOTION: Mr. Drexler makes a motion to approve the variance to construct a single family house on Lake Whittemore Drive. The reason for the variance is topographical in nature and limited frontage. The frontage is measured at 30-40 feet at the end of the road.

Findings:

1. Owing to circumstances relating to soil conditions, shape, or topography of land, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise to the petitioner or appellant.

The shape and topography of the lot, with the road ending at the property line, present a hardship in developing a single-family home.

2. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this by-law.

The proposed single-family house is in harmony with the intent and purpose of the bylaw, and will have no safety concerns. The lot, at 3.59 acres, far exceeds the minimum lot size of 22,500 square feet.

Conditions:

1. The lot must have frontage of at least 30 feet.
2. The lot may be used only for one single-family home

Mr. Collette seconds the motion.

VOTE: 3-0 in favor

4. Minutes- from 12/10/2013 and 01/14/2014.

Motion: Mr. Drexler makes a motion to approve the minutes from 12/10/2013 and 1/14/2014. Ms. Kresco seconds. Vote 3-0 in favor

5. Adjournment: with no further discussion the meeting is adjourned at 8:26pm.

Submitted By: Brynn Johnson, ODIS Junior Clerk_____

Approved by the Zoning Board of Appeals on _____4/8/2014_____

List of Documents used on March 11, 2014:

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo from Michelle Buck, Town Planner dated 3/06/2014
- Application and plot plan for lake Whittemore Drive
- Minutes from 12/10/2014 and 01/14/2014

Items submitted to ZBA members at the meeting:

- 9 Color photos Showing A-frame cottage and barn at the end of Lake Whittemore Drive