



## Planning Board – Town of Spencer

### *Minutes*

Planning Board

November 01, 2022, at 7:00 pm

**REMOTE & IN-PERSON**

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall

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**Planning Board Members Present: Chair Robert Ceppi (in-person), Vice Chair Shirley Shiver (in-person), Charlie Bellemer (in-person), Vaughn Slack (in-person)**

**Planning Board Members Absent: None**

**Staff Present: Lauren Vivier, Town Planner/ Conservation Agent (in-person), Monica Santerre-Gervais, ODIS Senior Clerk (remote), Dawn Foster, Minutes Clerk (in-person)**

**Staff Absent: None**

**1. The Chair opened the meeting at 7:00 pm.**

**2. Approval of Minutes: 10/18/2022**

Minor errors requested be edited by Mr. Bellemer.

**MOTION: Mr. Bellemer motioned to approve the minutes of 10/18/2022 with edits.**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

**3. Continued Public Hearing Site Plan Review & Special Permit– Applicant/Owner: Spooky Realty Trust, Steven Turner, Location: Meadow Road, Spencer Assessor’s Map U11-12, 12-1, 12-2, 12-3, 12-4. The applicant is looking for a Major Site Plan Review under section 7.4.2 (Site Plan Review required for this use even when there is no new construction or expansion of structures or parking areas) & Special Permit under Section 3.4.1.G (Aquifer Protection Overlay District) and Section 3.4.2.H (Floodplain Overlay District). The property is located within the Commercial zoning district.**

Carl Hultgren, Quinn Engineering, and Steven Turner were present for the Meeting. Mr. Hultgren stated that the draft decision had been received and that he had submitted comments to Ms. Vivier today. Ms. Vivier verified she had received the comments and had included them in the packet of information given to the board members for today’s meeting. The two issues mentioned by Mr. Hultgren involved items 24 (regarding Certificates of Occupancy) and 39 (regarding lot line adjustment needed for future sale).

After discussion between the applicant and Planning Board members, it was determined to strike item 39 altogether. Item 24 would be addressed by providing separate Certificates of Occupancy for the drive thru building and business building. It was also determined that the applicant would replace the label 'storage building' with the more accurate 'retail building' on the As-Built plans. Ms. Vivier noted that Mr. Slack watched the recording from Planning Board Meeting 10/18/2022 and is eligible to vote on this item. It should be noted that the board reviewed plans dated 9/16/2022.

Mr. Ceppi opened the public hearing for public comments and there was no questions or concerns.

**MOTION: Ms. Shiver motioned to close the Public Hearing**

**SECOND: Mr. Slack**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

**MOTION: Mr. Bellemer motioned to approve the Special Permit and Site Plan Review for Spooky Realty with the condition to accept the revised condition #24 as submitted by the engineer, to strike condition 39, and to revise plan as discussed.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

#### **4. As-Built Review- 103 North Spencer Road**

Ms. Vivier stated that the applicant has requested an extension of time. She also noted that she had taken pictures of the subject property after rainfall to note conditions.

#### **5. Discussion: Highway Department Public Street Layout and Acceptance**

William Cundiff, Highway Department Superintendent, reported that the Town of Spencer had been using a small, asphalted triangle of a private property located at the northwest corner of Pleasant and Smithfield Rd. The Town has taken a permanent easement to make this portion part of the public way. He is seeking a recommendation for the Town Meeting vote on November 10, 2022, for a permanent easement.

**MOTION: Ms. Shiver motioned a recommendation to accept the alteration to the layout of Smithfield Road to Town Meeting.**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

Mr. Cundiff also reported that MASS DOT has recommended a crosswalk near Charlie's Diner located on Meadow Road. Mr. Cundiff explained that to create the recommended crosswalk, the town needs thirty-five feet long by six feet wide sidewalk which requires a permanent easement of 210 square feet encroaching on the property. He is seeking a recommendation for the Town Meeting vote on November 10, 2022.

**MOTION: Ms. Shiver recommended to accept the alteration to the layout of Meadow Road to Town Meeting.**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

#### **6. Discussion: Candlewood Extension**

Ms. Vivier explained that due to a clerical error the abutters were never notified of the Public Hearing and the applicant is requesting to withdraw without prejudice. Ms. Vivier stated the applicant will be re-applying and Town Counsel has advised that a Peer Review be conducted on Phase I prior to further action.

**MOTION: Ms. Shiver motioned to accept the request to withdraw the application without prejudice.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

#### **7. Discussion: Accepting the funds for a grant received for \$130,000 to update the Town's Master Plan**

Ms. Vivier noted that the grant will cover all costs associated with updating the Town's Master Plan and the Master Plan must be completed by June 30, 2024.

**MOTION: Ms. Shiver motioned to accept the grant funds of \$130,000 to update the Town's Master Plan and to work with CMRPC for assistance on the Master Plan.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

#### **8. Discussion: Finalize Solar Bylaw Amendment**

Ms. Vivier advised that Section 4.8.9 - Ownership Change, never went to Town Warrant in 2021. Considering this discovery, she noted that, this section is now technically an addition as opposed to an amendment, it has been moved and renumbered as Section 17.

Mr. Ceppi expressed his concern on Page 2, Item 2 of the Solar Bylaw Amendment that ‘large scale solar for accessory use’ could be construed as authorizing power generation to be fed back into the electric grid. Mr. Ceppi felt that Large-Scale and principle use need further clarification. After much discussion by all present, it was decided to add “to be used on the property and not generated to the grid.” after “electricity generated from large-scale use on property.”

Jonathan Viner, of 34 Donnelly Cross Rd, mentioned his role on the Financial Committee and their decision to defer the recommendation of the Solar Bylaw Amendment until concerns are addressed. Mr. Viner explained his concern that the term, ‘Principle Use’ was never interpreted the way it is written and that there cannot be more than one principle use on a lot. Ms. Shiver stated a homeowner should be able to live on their land and live off their land.

Ms. Vivier explained that there is not enough time to amend the language to meet the Fall Meeting deadlines. Jeffrey Bridges, Town Administrator, asked the Chair to clarify what he is looking for and if an agreement is not reached the Solar Bylaw Amendments will need to wait until Spring 2023. Mr. Viner suggested leaving the definitions out because he disagrees with the definitions.

Matt Defosse, 7-Paul’s Drive, recommended approving the Solar By Law Amendment now to protect the Town of Spencer and amending or clarifying primary and principle definitions later.

Selectman Ralph Hicks (remote) agreed with Mr. Defosse’s and Mr. Viner’s concerns. He recommended removing the definition section and revisiting it in the Spring.

Gary Woodbury, 219 Charlton Rd recommended waiting on the definition section and moving forward with the rest of the Solar By Law Amendment.

Mr. Bellemer explained that solar is being promoted more and the Planning Board cannot be too restrictive, or the Attorney General’s office will not approve the amendments. Additionally, Mr. Bellemer discussed the possibility of micro-grids.

The Planning Board decided to 1) add clarifying language after item 2 to say, “to be used on the property and not generated to the grid.”, 2) strike ‘Principle Use’ from Section 10 Definitions, and 3) leave the original definition of ‘Accessory Use’ in Section 10 Definitions.

**MOTION: Ms. Shiver motioned to accept all (3) changes to the Solar By-Law Amendment**

**SECOND: Mr. Slack**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried**

## **9. Discussion: Board Policies and Procedures**

Ms. Vivier shared the following updates and future changes needed:

- Within the 2023 Meeting calendar, the July 6th meeting is a Thursday as Tuesday is the 4th of July. ANR deadlines has been added for both monthly meetings and a PDF copy is required to allow for investigations, clerical work, etc. to prepare. The first meeting of the month is for continuances, ANR's, and Planning Board procedures; the second meeting of the month is for new applications only.
- Approval of minutes will be moved to the end of the meeting to provide consideration to waiting attendees.
- Ms. Vivier suggested re-advertisements be required due to applicant continuances more than six months are the sole expense of the applicant. Additionally, abutter notifications must be made again at the applicant's expense.
- Reviewed the Revolving Fund process but will remain the same.
- Peer Reviews process needs to be addressed, what will be required – As-Built review, inspections, stage of inspections to provide more consistency and upfront notification to all.
- Certificates of Completion - the Planning Board has often been 'skipped over' and there needs to be rules and procedures clearly defined to ensure this does not continue. Mr. Ceppi explained the order should be Certificate of Completion by Planning Board, Occupancy permit from the Building Inspector, and then the applicant can generate power.
- Mr. Bellemer suggested standardized conditions for certain applications.
- Form provided to Planning Board members to collect signature samples for ANR signature verification.

## **10. General Board Discussion/ Board Liaison Reports**

Ms. Vivier discussed the possibility of the Planning Board reorganization. Currently, Ms. Shiver is the housing plan liaison, Mr. Bellemer is the Economic Development liaison and would like to be involved in Open Space Plan, and Mr. Slack expressed interest in becoming the Master Plan liaison.

## **11. Town Planner Report**

See Items 9 and 10.

## **12. Citizen Input**

Mr. Defosse expressed appreciation for the hard work everyone is doing regarding the Solar Bylaw Amendments.

## **13. New Business/Adjournment**

**MOTION: Ms. Shiver motioned to adjourn at 9:30 pm**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 4-0) motion carried.**

**Submitted by: Dawn Foster, Minutes Clerk**  
**Reviewed by: Monica Santerre-Gervais, ODIS Senior Clerk**  
**Approved by the Planning Board on: 11/15/2022**

**List of Documents used on November 01, 2022**

**Items sent to Planning Board prior to Meeting by email and distributed at the meeting:**

- Agenda
- Memo from Town Planner
- Drafted minutes from October 18, 2022
- Updated plans and easement plans for 5 Meadow Road-Expansion, peer reviews, and Certificates of Decisions from 2016 and 2018.
- As-Built plans, peer review, overlay plan for 103 North Spencer Road, and Certificate of Decisions from 2010, 2012, 2016, 2018, and 2019
- Planning Board Policies and Procedures, Open Meeting Law Guidance, and Executive Meeting guidance.

**Items submitted/ brought to the Meeting:**

- Registry Form for ANR signatures