



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

Tuesday, November 16, 2021, at 7:00 PM

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall- **Remote and in person Meeting**

Planning Board Members Present: Chair Jonathan Viner (in-person), Vice Chair Jeff Butensky (in-person), Robert Ceppi (in-person), and Maria Reed (remote) Paul Gleason (in-person)

Planning Board Members Absent: None

Staff Present: Todd Miller, Town Planner (in-person) and Monica Santerre-Gervais, ODIS Senior Clerk (remote)

Staff Absent: None

1. Mr. Viner, Chair, opened the meeting at 7:02 pm.

2. Approval of Minutes: 11/02/2021

MOTION: Mr. Ceppi motioned to approve the minutes for 11/02/2021

SECOND: Mr. Butensky

DISCUSSION: None

ROLL CALL VOTE: Mr. Butensky, Mr. Ceppi, Ms. Reed, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

3. ANR's

- **4 Chickering Road- Daniel Watson**

Mr. Miller explained that the ANR plan is to create a lot from existing land.

Jason Dubois, DC Engineering, was present to represent the applicant. Mr. Viner noted the plans looked good to him and Mr. Ceppi noted he would like the legend key to explain the z marks on the plan.

MOTION: Mr. Ceppi motioned to approve the ANR for 4 Chickering Road

SECOND: Mr. Gleason

DISCUSSION: None

ROLL CALL VOTE: Mr. Butensky, Mr. Ceppi, Ms. Reed, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

- **34 Brooks Pond Road- Joseph & Krystal Green**

Mr. Miller explained the plan and mentioned the applicant wanting to pursue with a special permit for a shared driveway.

Attorney Phillip Stoddard and Jason Dubois, DC Engineering, were present to represent the applicants. Mr. Stoddard explained to the Planning Board that they would seek a common driveway permit but wanted to have a preliminary discussion. Mr. Stoddard expressed the plan meeting the Town of Spencer's requirements and the need for the common driveway due to the wetland, but a perpetual easement will be done so the new lot has continued access. Mr. Butensky asked if the driveway shown on the ANR plan already exists and Mr. Stoddard said yes and discussed the driveway location. Additionally, Mr. Stoddard added that by having a shared driveway it would keep the rural character of the neighborhood and remain a private road.

Mr. Viner stated the primary issue is the intent behind common driveways and it is not supposed to serve in place of the lot having its own access. Mr. Stoddard felt that was the reason for a common driveway. Mr. Viner said it does not circumvent an ANR plan and discussed ANR provisions and frontage and felt it does not meet Mass General Law and Case Law.

Mr. Dubois felt there was vital access on the private way, and it meets all the requirements. Additionally, Mr. Dubois explained they could use the frontage for a driveway, and they could do a wetland crossing but it would be detrimental to the environment. There was much discussion regarding frontage, wetlands, adequate access, ANR provisions, and the common driveway regulations. Mr. Stoddard said he was on the committee to draft the bylaws to make opportunity to have family live next door, and this would be a family situation sharing the driveway and would not be detrimental to the neighborhood.

Mr. Ceppi recommended making the home a duplex and Mr. Stoddard said it is not what the applicants want. Mr. Dubois said he does not understand how the Planning Board could not approve the ANR because there would be 514 feet of frontage, vital access, and there is roughly 13 acres of land. Mr. Miller felt the ANR would be eligible, and Mr. Viner said he disagreed. Mr. Stoddard said they could do a rear lot subdivision and Mr. Dubois said he would need to reconfigure the plan and there would be substantial cost to the applicant. Mr. Viner said the Planning Board has the discretion to approve a Special Permit but not the ANR and he wants to abide by precedent.

More discussion to follow at a later meeting.

MOTION: Mr. Ceppi motioned to continue this discussion to 12/7/2021

SECOND: Mr. Butensky

DISCUSSION: None

ROLL CALL VOTE: Mr. Butensky, Mr. Ceppi, Ms. Reed, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

- **20 & 26 Holmes Street-Robert Bernier**

Mr. Miller said parcel A will be conveyed to the Northern abutter. Mr. Butensky wanted additional explanation about the plan and Mr. Ceppi explained the plan. Mr. Viner noted that the existing lot doesn't meet current zoning for frontage just altering an area.

MOTION: Mr. Ceppi motioned to approve the ANR for 20 & 26 Holmes Street

SECOND: Mr. Butensky

DISCUSSION: None

ROLL CALL VOTE: Mr. Butensky, Mr. Ceppi, Ms. Reed, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

- **6 & 8 Overlook Drive-Neil & Susan Rivers**

Mr. Miller explained that this ANR is just a lot line adjustment, the parents that owned the property passed away, and the applicant wants to reconfigure the lot and preserve the boat access.

Tom Fancy, 5 Hastings Road, was present to represent the applicant.

MOTION: Mr. Butensky motioned to approve the ANR for 6 & 8 Overlook Drive

SECOND: Mr. Gleason

DISCUSSION: None

ROLL CALL VOTE: Mr. Butensky, Mr. Ceppi, Ms. Reed, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

4. Major Site Plan Review/ Special Permit– Applicant: David Franca, Franca Services; Owner: Gregory Lano; Location: 0 Donnelly Road, Spencer Assessor's Map R35-25. The applicant is looking for a Major Site Plan Review under Section 7.4, and a Special Permit under Section 4.2 (A3 Multi Family in SR District) and 4.2.3 of the Spencer Zoning Bylaw to construct a multi-family housing development. The property is located within the suburban residential zoning district.

Mr. Miller said he reviewed the plans submitted; the plans are to construct a multi-family housing development but has some concerns that he drafted in a letter to the applicant.

Michael Scott, Land Design Collaborative, was present for the meeting along with David Franca, Val Souza, Greg Lano, and Lee Joseph to discuss the application.

Mr. Scott explained that they are proposing to construct nine (9) buildings with three (3) or four (4) units per building for a total of thirty-four (34) residences and all units are two (2) bedrooms only. Additionally, Mr. Scott has 10+ acres, there are wetlands in the Northwest corner, there is no sewer or water presently onsite, the housing development will be in a cul-de-sac and there would be a homeowner's association, the site will be served with an onsite wastewater treatment with stormwater basin, building bigger than surrounding homes, and meets the 40-foot buffer requirements. Mr. Scott discussed the preliminary meetings they had with Town Officials and adhered to the Fire Chiefs request for Fire Truck access and additional guest parking onsite. Mr.

Scott discussed grading and Board of Health approvals on testing, and they have filed the Notice of Intent (NOI) with the Conservation Commission.

Mr. Butensky asked the distance between 20 Donnelly and the closest unit and Mr. Scott said 80-100 feet. Mr. Scott said they received the traffic study today and will submit to the Planning Board soon. Additionally, there was a water study done and would like the Town of Spencer's representative to review the study with a possible pressure issue.

William Cunduff, Utilities and Facilities Superintendent for the Town of Spencer was present to ask the Planning Board members to vote on allowing the Water Department to use the 53G account to pay for a peer review water study. Mr. Cunduff said the Water Department has not received approval to use the 53G account, but the Planning Board has and asked to allow the Water Department do peer review on the water project. There was some discussion regarding tie-ins, water lines, and stormwater treatment.

Mr. Miller said that the Conservation Agent, Lauren Trifone, has some concerns on the wetland impacts. Also, Mr. Miller said 4 units would need to be listed affordable to meet the 10% SHI requirement for 40B. Mr. Scott discussed the letter from the Law Firm Mirick O'Connell dated 11/9/2021, discussed meeting with previous Town Planner and gave him a different scenario for meeting OSRP requirements and discussed section 5.3.4 of the Zoning Bylaws not requiring not be on their own lot and being an Open Space Residential Development (OSRD) lot. Furthermore, the response letter from Todd Miller and Duane Amos was discussed. Mr. Miller mentioned section 5.3.8 of the Zoning Bylaw special provisions and read the bylaw aloud to rebuts the applicant's approach, but Mr. Scott disagreed with Mr. Miller's interpretation. Mr. Viner said in his opinion that the general concept of zoning, primary use needs to be a buildable lot, additional Town Council review is needed. Also, Mr. Viner stated that this project does not meet the character of the area and it would increase the traffic.

The Chair opened the hearing up to the public:

Paul Burdett, 28 Donnelly Road, explained he is against the project, concerned with wetlands, concerned with neighborhood character, and mentioned the Bixby Road housing is a nightmare.

Paul Richard, representing his in-laws at 18 & 20 Donnelly Road raised concerns about traffic mitigation, a stonewall that may cause an accident. Mr. Richard disagrees that the road has low traffic volume because it is used as a cut-thru and adding more cars would be detrimental. Mr. Richard would like to make sure the traffic study includes a speed study and the number of cars during different times of day. Additionally, Mr. Richard said there would be a decrease in privacy and additional noise buffering and screening would be needed. Mr. Scott mentioned they just received the traffic study today and feels that the study covered most of his concerns.

Mr. Scott discussed road grade, catch basins at the entrance, inlets, stormwater treatment systems, and the outlets.

Matt Defosse, 7 Paul's Drive, discussed that this project would affect the character of the neighborhood.

Ricardo Montaya, 29 Donnelly Road, and Loraine Montaya, 27 Donnelly Road were remote and said they oppose the project. Mr. Humberto said the project will make light and noise contamination, it will affect the wildlife, change the community, concerned with public safety, and felt they were not informed well. Mr. Miller answered that the plans and supporting documents are online and available at the Office of Developmental and Inspection Services at the Town of Spencer.

Additionally, Mr. Richards had concerns with the stormwater plan being based on a pre-forested plan, however, Mr. Scott explained that if the management plan was done on forested area than the system would be small. Mr. Richards mentioned blasting concerns if the applicant hits ledge.

Robert Burdett, 35 Donnelly Road, said he has been living at his home for 47 years and they have had to blast and asked who is responsible for damaged wells during blasting. Mr. Viner answered that there is a separate permitting authority, and he is not familiar with the process, but it would be reviewed before any blasting would take place.

Mr. Viner wants the Zoning Interpretation revisited, noted to the applicant that if they went with the OSRD process it would be half the units and would provide the applicant to argue it to be more in character with the neighborhood. Additionally, in Mr. Viner's opinion strongly suggested the applicant withdraw their submission and resubmit under the OSRD.

Mr. Viner motioned to authorize the Water Department the use of the Chapter 53G account to fund the peer review for the Hydraulic Analysis impact by Tata and Howard on behalf of the Planning Board for this application. Motion seconded by Mr. Ceppi. ROLL CALL VOTE: Mr. Ceppi, Ms. Reed, Mr. Ceppi, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

MOTION: Mr. Ceppi motioned to continue the meeting until 12/21/2021

SECOND: Mr. Butensky

DISCUSSION: None

ROLL CALL VOTE: Mr. Ceppi, Ms. Reed, Mr. Ceppi, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (5-0)

***** 5 Minute Recess*****

5. Review & Act: OSRP Acceptance Letter

Mr. Miller will draft a letter for the member to vote on the next meeting.

6. Town Planner Report-

Mr. Miller stated that all updates from the last meeting are ongoing and will attend the Special Town Meeting to explain the Solar Amendment article.

7. General Board Discussion/ Board Liaison Reports

Mr. Ceppi discussed being on the Building and Reuse Committee and being voted in by the Board of Selectmen and Mr. Miller said he would reach out to Brenda Savoie.

8. Citizen Input

Matt Defosse, 7 Paul's Drive, maid special notice and thanked members of the Solar Bylaw Committee, residents that attended, and Spencer Cable Access.

9. New Business/Adjournment

Mr. Ceppi asked about closing out solar farms and asbuilts. There was much discussion regarding the Board of Selectmen not supporting the Planning Board and a need for a joint meeting. Mr. Miller to reach out to Brenda Savoie to request a joint meeting. Mr. Defosse suggested having a workshop between the Board of Selectmen and Planning Board.

Mr. Viner said a farewell to Ms. Reed as she requested to resign, and tonight was her last meeting.

MOTION: Mr. Ceppi motioned to adjourn the meeting at 10:04 pm

SECOND: Mr. Gleason

ROLL CALL VOTE: Mr. Butensky, Mr. Ceppi, Mr. Gleason, and Mr. Viner all voted aye, and the motion was carried (4-0) (Ms. Reed could not be heard on the call)

Submitted by Monica Santerre-Gervais, ODIS Clerk

Approved by the Planning Board on: 12/21/2021

List of Documents used on November 16, 2021.

Items sent by email Planning Board or uploaded online prior to Meeting:

- Agenda
- Drafted minutes for 10/5/2021
- ANR Application and Plans for 4 Chickering Road, 34 Brooks Pond Road, 20 & 26 Holmes Street, and 6 & 8 Overlook Drive
- O Donnelly- Special Permit /Major Site Plan Review, plans, narrative, and supporting documents

Items submitted/ brought to the Meeting:

- None