



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

Tuesday, November 19, 2019 at 7:00 PM

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall

Planning Board Members Present: Chair Jonathan Viner, Vice Chair Jeff Butensky, Robert Ceppi, Shirley Shiver, and Maria Reed

Planning Board Members Absent: None

Staff Present: Paul Dell'Aquila, Town Planner, Monica Santerre-Gervais, ODIS Senior Clerk

Staff Absent: None

1. Mr. Viner opened the meeting at 7:03 pm

2. Minutes:

- **October 15, 2019-** Mr. Viner said he would like the minutes edited on page 7 or 8 and add that he wanted to be notified by Jim Laney when the work was going to start. Ms. Reed added that on page 9, item 6, second bullet, the sentence needs a period or more information. Mr. Dell'Aquila said that the sentence should read "*Otherwise, a certificate of authority and vote should be provided by the surety for its signatory.*"

MOTION: Mr. Butensky motioned to approve the minutes with the edits discussed

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 5-0

3. Amendment to Stormwater Permit/Major Site Plan Extension – Applicant: ZPT Energy Solutions II, LLC; Owner: Demeter Realty Trust C/O Brendan Gove. Location: 103 N. Spencer Road, Spencer Assessor's Map R49/1/1. The property is located within the Rural Residential zoning district. The applicant is applying for an amendment to the existing site plan, originally approved July 13th, 2010, under Spencer Zoning Bylaw Section 4.3.4 (Major Utility).

Mr. Dell'Aquila discussed how the Planning Board had questions from the last meeting one being Zoning Board of Appeals (ZBA) Jurisdiction and whether the applicant needed to go before the ZBA for the revision of the Special Permit. Mr. Dell'Aquila spoke to Jonathan Eichman of KP Law and his response was "Your bylaw is not clear on storage being part of a solar generating facility, although it could be deemed accessory to the use under the definitions and regulations you have if it is in fact accessory. The developer's counsel makes a good point, however, about the definition of "solar energy system" in G.L. c.40A, s.1A, where G.L. c.40A, s.3 prohibits unreasonable regulation of "solar energy systems" or the building of structures "that facilitate the collection of solar energy." In other words, the fact that your bylaws don't expressly address storage does not make it a separate use and free of the protection from zoning regulation

found in G.L. c.40A, s.3. If it is an integral part of the system, and is storing energy created by the system to provide for operation of the system or for delivery off-site to users, it would seem to be accessory to the permitted use.” Additionally, Mr. Dell’Aquila spoke to ZBA Chair, Allan Collette, and he felt the battery issue and that is up to the Planning Board. Also, Lawyer George Kiritsy, representative for ZPT Energy, provided a letter to address the matter. Mr. Dell’Aquila said the applicant submitted additional safety information but unfortunately the Fire Chief, Robert Parsons, has not been able to review and provide feedback. Also, there were questions at the last meeting in regards to noise and they would need to do a pre-construction and post-construction acoustic analysis. In addition, Mr. Dell’Aquila mentioned the concern last meeting for snowmobile access and the proposed project shows a setback of 25 feet plus an additional 30-50 feet between the tree line and fence line and it appears additional provisions could be made. Lastly, Mr. Dell’Aquila mentioned that Corey Brodeur from Lenard Engineering noted that his comments have all been addressed.

Harold Reader, ZPT Solutions, was present for the meeting. Mr. Reader mentioned this was there 4th meeting and they have submitted three minor changes; Acoustic added, added Stockholm fence to help with surround barrier, and adjusted silt fence detail. Mr. Reader said a Stormwater bond has been added for runoff and at the last meeting they have moved the fence 15 feet off of the 25 feet to allow snowmobile access. Mr. Dell’Aquila mentioned that he had not had a chance to review the plan before the memo and the new plan allows enough room for snowmobilers. Mr. Reader said he spoke to the Fire Chief about the emergency site access and this plan is better than the previous plan.

Mr. Viner asked when the letter to the Fire Chief was submitted and Mr. Reader said it was last week. Ms. Shiver stated there was no comment from Lenard Engineering in regards to the letter and Mr. Viner said he was looking for acknowledgment from the Fire Chief. Mr. Viner stated that a letter from ZPT’s Attorney, George Kiritsy, was discussed in regards to the legal issues and his thoughts one ZBA weighing in on this matter. Mr. Dell’Aquila said in the future there could be a change in the regulations but have to handle what is in front of them now. Mr. Viner asked Mr. Kiritsy if he found any case law, specific to bullet 1, last paragraph. Mr. Kiritsy stated that this was a unique situation and the battery storage is considered part of solar. Additionally, Mr. Kiritsy said the new plan is better than the old plan and the town vested the Planning Board to make the final decision. Mr. Viner said he was looking for a case law similar to amending site plans. Mr. Kiritsy said there is no case law but can’t be denied only conditioned and all concerns can be addressed.

Mr. Viner stated that is the applicant is submitting new material it doesn’t meet the current bylaw and Mr. Kiritsy said it’s not new it’s an amendment and Town Counsel agreed. Mr. Reader said the new plan meets everything except the 50% requirement and Mr. Viner stated its all or nothing. Mr. Kiritsy stated the use had already been permitted and Mr. Viner agreed the use was permitted but said he is unsure of the site plan and the procedure to amend the site plan. Mr. Kiritsy stated that if the Planning Board denies the amendments than the previously approved site plan will be built and the Planning Board just needs to vote yes or no. Mr. Ceppi said the amendment is the better plan and if the Fire Chief is happy than he is ok with it.

Mr. Viner opened the public hearing to the public.

Matt Defosse, 7 Paul's Drive, mentioned that he was part of the Spencer Solar Bylaw Committee and they have done a lot of research with detailed reports that were submitted to the Board of Selectmen (BOS). Additionally, battery storage is one of the committees concerns and it is currently going through a workshop with the BOS and for the Planning Board to approve this amendment would set a bad precedent for the town. Furthermore, Mr. Defosse has looked at the solar developments decommissioning plan and should be reviewed again because there is some concerning wording. Mr. Defosse added that he believes the site plan permit should be expired and that large solar arrays should be considered commercial. Mr. Viner said that the project put in erosion controls which vested the projects use.

Mike Dow, 97 N. Spencer Road, asked if the A/C units were run by the solar on site and Mr. Reader said yes. Mr. Dow was concerned that there are no stipulations for triggering a major or minor change and feels the new plan is a major change with adding panels and large conex boxes and the bushes will not hide the conex boxes. Additionally, the batteries need tons of water to put out the fire and the water will run into his well. Mr. Viner asked if the battery units have power reserve to cool themselves and Mr. Reader said yes the batteries are self-sufficient and if were off of the array the batteries would last 3 days without being recharged. Mr. Viner asked about during the Stormwater permit extension previous meeting one of the amendments was additional screening. Also, at the time the detention basin was not in the budget at the previous meeting. Mr. Viner asked about the outfall of water and Mr. Reader said yes there were runoff calculations done and the runoff basin and the site will be better than the existing approved site plan. Mr. Viner asked where the water go when it leaves the basin and Mr. Reader said to the corner of the property there is a culvert. Mr. Viner stated that the culvert is a maintenance problem and if they are not proposing to repair than there wouldn't be any improvements. Mr. Reader said there isn't a basin now to catch runoff like is proposed. Mr. Viner stated that the existing conditions aren't working and the basin would be irrelevant. There was much discussion of the runoff and who would be responsible if the basin didn't work.

Jim Sadusky, 104 North Spencer Road, said the culvert runs to his property and water gets on his property and if the batteries leak it will flow into his property and contaminate his well. Jim Sadusky said he spoke to the Fire Chief and was under the impression he was against the battery storage. Mr. Viner stated the Planning Board will wait to hear from the Fire Chief.

Robert Emerson, 18 Highland Street, stated he is a current member for the Zoning Board of Appeals (ZBA) but not present to represent the ZBA. Mr. Emerson expressed that the Planning Board has the authority to condition these projects. The ion batteries, if they catch on fire, it will be to catastrophic for the town. Mr. Emerson said that water is not helpful to put out the batteries and while burning will emit gasses in the air such as carbon dioxide, hydrogen cyanide, chloride, carbon monoxide, and hydrogen fluoride. There was a test done in Arizona after catastrophic fire and 1,000 gallons of hydrofluoric acid emitted at 18 feet per second. Additionally, Mr. Emerson would like to see the applicant to be held accountable for the battery failure, be able to seal and contain the extracted gasses, and if the Mr. Emerson feels the Planning Board could rescind the special permit and the applicant should need to reapply for the battery storage.

Gary Sadusky, 102 North Spencer Road, stated the battery storage is a new plan and should not be treated as an amendment. Furthermore, he read the Arizona fire too and he is ok with the solar array but not the battery storage. If the batteries catch on fire and put out with water it will end up on his property. Mr. Dell'Aquila added that he said the Fire Chief is aware that water is not the treatment and the batteries would burn until they go out.

Mr. Defosse stated that Stormwater was not added until residents made concerns. The applicants give the best case scenarios but it's too risky for the town and who pays for the catastrophic event if it happens. Mr. Viner stated that the Stormwater calculations are done by third party engineers and they are not skewed either way but is done on behalf of the town. Mr. Defosse said if they make a mistake than who is responsible. Mr. Dow came forward to show the Planning Board members pictures of route 31 and the current water issues in the road. Mr. Ceppi asked the applicant if they would consider improving the drainage and if they need the batteries? Mr. Kiritsy they don't know enough about the road issues and what it would cost to improve the conditions. Additionally, if the batteries are not approved they will go with the previously approved plan. Mr. Dell'Aquila said that Utilities and Facilities are aware of the water issues and is there is no plan for what there long term solution will be, but he would check with U & F.

Dave Caputo, 135 Ash Street, stated that lithium batteries are bad for the environment and if they leak they will go into the ground and animals drink the water and will go into the wells.

Ken Collette, 6 Sunset Lane, said that the batteries are bad, the Planning Board should be concerned about the residents, let the Fire Chief make his comments and then end the project.

Gary Sadusky said there were fires in 2012 and 2019 so it's not uncommon.

Mr. Defosse said that the property is on a slope and would lead to the 7 mile river into the aquifer. It should be expected that it's the Planning Boards responsibility to hear and make sure the concerns of the residents because improving would be a serious mistake. Mr. Viner said he needs to hear the response from the Fire Chief in regards to the emergency management concerns. Mr. Butensky asked about the culvert repairs and an idea of cost to repair and Mr. Dell'Aquila could not answer that question.

There was more discussion in regards to Town Counsel comments on amendments, case law on amendments, and regulations. Mr. Kiritsy gave an example of the Town of Rutland and how they allowed it. Mr. Ceppi feels that the Stormwater bond would need to be reviewed. Mr. Defosse expressed the Planning Board needs to protect the residents. Mr. Butensky suggested holding funds for a catastrophic amount and Mr. Ceppi said there is no way to calculate that bond.

Mr. Dell'Aquila reviewed what need for the next meeting is

- Response from Fire Chief of the letter that was submitted
- Emergency management concerns
- Utilities and Facilities- Culvert repair questions
- Town Counsel opinion on specific mechanism of the decision and procedures for amending site plans

MOTION: Mr. Ceppi Motioned to continue the public hearing until 12/17/2019

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 5-0

4. Continued Public Hearing – Amendment to an approved definitive subdivision plan – Sunset Holmes, Applicant/Owner: James Laney/ 123 KIDS, LLC, Location: Sunset and Holmes Street off of Greenville Road, Spencer (Assessors Map U06-117-1, U06-117-2 & U06-152).

James Laney, 123 Kids was present for the meeting. Mr. Laney stated Mr. Dell'Aquila explained that Mr. Laney retained a paving company, milled the road, and pictures were taken and acceptance for the road would most likely be on the Fall Town Meeting in 2020. Also, as soon as the weather gets warmer than the top coat and manholes will be addressed. Mr. Viner discussed the subdivision law paving times and accepting the road. Mr. Laney said it's been ground and base coated. Mr. Viner asked if Mr. Laney notified if the Office of Development and Inspectional Services (ODIS) were notified of the work being done and Mr. Laney said yes. Mr. Viner asked why the Planning Board didn't get notified and Mr. Dell'Aquila said that he was notified by Eben Butler, Highway Department that the work was being done that day. Mr. Dell'Aquila said that Mr. Laney provided him the estimate which was shared with the Planning Board and timing. Mr. Laney said he did not have a definitive date until the Saturday before. Mr. Viner asked if the third party was present and Mr. Dell'Aquila said unsure but they will review the road before acceptance. Mr. Viner said they weren't and third party should have been there. Mr. Viner asked if the catch basins were staying and Mr. Laney said they will be adjusted in the spring. Mr. Viner asked about the bond and Mr. Laney said he is having his attorney look into it because the bank is not going to work out.

Mr. Viner asked if he will be doing the berm in the spring and Mr. Laney said yes. Ms. Shiver asked if it will be 200 linear feet of Cape Cod berm and Mr. Laney said it is only an estimate and the paving company will cut out whatever needs to be fixed. Mr. Viner stated he wants documentation on what type of asphalt was used and Mr. Laney said he will get the information. Mr. Viner said he is concerned about not having third party involved and Mr. Dell'Aquila said there is some money left in the peer review account and can get Lenard Engineering to review. Mr. Viner said that he has stated in previous meetings he wanted peer review on site when the road was being done and Mr. Laney said he didn't know. Mr. Dell'Aquila explained it could have been at some of the meetings Mr. Laney missed. Mr. Ceppi said they have to deal with what they got now.

Mr. Laney stated he has had contact with Mr. Butler and Mr. Dell'Aquila said that Mr. Butler was happy with the road right now. Mr. Viner stated that comment from Utilities and Facilities is irrelevant and third party makes the final decision. Mr. Laney believed they Mr. Viner was onboard with Highways involvement and Mr. Viner stated that was untrue and he has always wanted third party involvement. Mr. Laney stated that Lenard Engineering will be present with the topcoat. Mr. Viner stated he needs to follow the subdivision guidelines for the road, wants procedures ironed out, and an understanding in writing on what is needed to finish the road.

Mr. Dell'Aquila reviewed what would be needed of the applicant for the next meeting.

- Mr. Laney to ask the paver the material of the binding
- Feedback from Mr. Laney' Attorney in regards to the surety
- Streamline the process in regards to notifications

Mr. Viner explained that the subdivision bylaw outlines the procedures for time frames for inspections.

Mr. Viner opened the hearing up to the public and there were no comments.

Mr. Dell'Aquila added that several neighbors were contacted about the work before it happened.

MOTION: Mr. Ceppi motioned to continue the public hearing until 12/17/2019

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 5-0

***** Short Recess*****

5. Major Site Plan Review/Special Permit Applicant: Sunpin Solar Development, LLC; Owner: Peter and Carol Gaucher, Location: 22 Norcross Road; Spencer Assessor's Map R40-07. The applicant is requesting a Major Site Plan Review under Section 7.4 and Special Permit under Section 7.2 of the Spencer Zoning Bylaw Zoning to install a Solar Farm. The property is located within the Rural Residential zoning district.

Mr. Dell'Aquila reviewed that the application is essentially a resubmission and revision of plans previously submitted and continued multiple times without resolution, before being allowed to withdraw without prejudice. The southeasterly field appears to be in the same configuration as the original submission; however the new design shows an increased setback for the southwesterly field, site access re-oriented to the existing cart road along the western edge of the property, and an expansion to the northerly field. There also related outstanding issues with an inadequate culvert on Norcross Road near the western side of the project and a proposed ANR configuration for the residence currently on the site. Mr. Dell'Aquila added that there has not been an updated Stormwater plan and Lenard Engineering is holding off on review until he gets the updated Stormwater calculations.

Steven Herzog, WOOD, was present for the meeting for Andrew Vardakis. Mr. Herzog said they do not have a final plan to present because they just recently met with Mr. Dell'Aquila and the Fire Chief and they are updating the access road. Mr. Herzog said they are not proposing battery storage on the site. Mr. Viner asked if the northerly array was pushed north and Mr. Herzog said yes. Mr. Viner asked about the tree clearance and Mr. Herzog said 29.4 acres. Mr. Viner asked about the ANR for the house lot and Mr. Herzog was unsure about that. Mr. Dell'Aquila responded that an ANR needs to be done to separate the residence from the array. Mr. Viner asked about the issue of drainage in the southwest corner and Mr. Herzog said it is still being worked on with the road. Mr. Dell'Aquila said Utilities and Facilities was on site last week and that he would get an update.

Mr. Viner opened the hearing to the public.

Mr. Viner read aloud an email that was submitted from Amy Yanover and stated her concerns of runoff into her driveway, tree clearing, losing rural quality, the road placement evaluated near their property and looking for additional screening. Mr. Herzog said they are working on making the grade better.

Matt Defosse, 7 Paul's Drive, asked what the point of having a grade restriction if the Planning Board is allowing the applicant to fix the grade. Additionally no sidewalks now but would like to see sidewalks added. Also, Mr. Defosse wants the applicant to bring hard copies for the abutters. Mr. Dell'Aquila responded that he had told the applicants to be ready with their laptops but unfortunately the screens are not working.

Ed Bemis, 24 North Brookfield Road, rural character due to landowners and the landowner rights need to be balanced. Mr. Defosse said that the owner is in chapter and already gets a tax break. Mr. Bemis responded that there may be a tax break with Chapter 61 A, however, they take a lot less of the town services and towns make money off of farms.

Ms. Shiver asked in order to keep the rural character if the instead of the poles they can run wires underground. Mr. Dell'Aquila pointed out that behind residence there are riser poles. Mr. Herzog said they may be able to. Mr. Dell'Aquila asked how high the poles were and Mr. Herzog said 20 feet. There was discussion in regards to making the feed underground would be beneficial to the visual aspects.

Mr. Defosse asked if the electricity will run down North Brookfield Road to Route 31 and Mr. Herzog said it was a reasonable conclusion but he was not completely sure.

MOTION: Mr. Ceppi motioned to continue the public hearing until 12/17/2019 and that the applicant submit updated plans before the meeting

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 5-0

6. Major Site Plan Review/ Special Permit/ Subdivision - Applicant: Spencer Solar LLC; Owner: Ash Spencer Realty LLC, Location: Ash Street; Spencer Assessor's Map R27-01. The applicant is requesting a Major Site Plan Review under Section 7.4 and Special Permit under Section 7.2 of the Spencer Zoning Bylaw Zoning to install a Solar Farm. The applicant is also seeking a Subdivision approval as part of this project. The property is located within the Rural Residential zoning district.

Mr. Viner opened the public hearing and asked if this application was for two decisions and if the subdivision should be heard separately. Mr. Dell'Aquila responded that the subdivision would be irrelevant without the approval of the solar site plan.

Mr. Dell'Aquila reviewed there was a pre-submission meeting with Town staff held on 8/13/19. The submitted narrative and plans show that the applicant is proposing a 5.46MW project configured in three "pods" on a portion of a 109.57 acre parcel. The applicant is seeking a waiver to allow for taller

“tracking” solar panels that could exceed the 10-foot height limit during certain times of the day as the panels track the sun. Additionally, the applicant is seeking to also create a separate 10-acre parcel from the property for a single-family home. Also, Mr. Dell’Aquila noted that this site was previously approved for a 126 unit residential development in 2008, but that project was never built and the approval was rescinded in 2010. Lenard Engineering submitted a peer review memo on 11/7/19, with 27 numbered comments, the majority of which are about Stormwater. The Conservation Commission will be the Stormwater authority for this project. Lenard also had comments/questions about driveway/access standards, which will also need clarification.

Calisto Bertin, Bertin Engineering, was present for the meeting. Mr. Bertin explained that the 106 acre site was a previous hunting lodge and the foundation was still there; there is a large 1200 foot pond on the property, and a manmade dam and small stream. Mr. Bertin said they are proposing on the 106 acre site a subdivision with one home and a solar farm. They will create a private roadway to create frontage. The site has two access points, they did not survey the whole property, but the current driveway is southerly. Proposing to have a 380 feet long private road, turn into a cul-de-sac, with a right of way, and there will be one lot that would have a single family home on it. The remaining acreage would be used for the solar farm, the fields will be broken up into three arrays, they will add stream crossings for access, and there will 1300 panels that move with the sun and locks with storms. Mr. Dell’Aquila asked if they will tilt or pivot and Mr. Bertin said they are on a rail and they tilt and the max height at full tilt is feet and that is why they are requesting a waiver for the height requirements. Mr. Viner asked if the rails are orientated north to south and Mr. Bertin said yes.

Mr. Bertin added that they are looking to have battery storage onsite, panels will be fenced, there will be an access road around panels, 22 acres inside the fence, will grade out the road, and since they will be taking trees down and creating runoff they will have infiltration trenches. Mr. Butensky asked if there would be a trench in between each row and Mr. Bertin said no 6 feet wide and 6 feet deep with a culvert. All the water will flow to streams and ponds, the Conservation Commission and DEP still need to review and provide feedback, there will be motion sensor lights at the gate, field #2 will have cut through access through the site. Additionally, Mr. Bertin added that at 131 Ash Street the abutter’s driveway is on their property and intend for them to have rights for access, they will provide screening along the road, and said the interconnection needs to be overhead.

Mr. Viner stated that he would want to discuss the subdivision first before approving the solar array, frontage requirements need to be met, and need to build public road to the subdivision regulations. Ms. Shiver wants to make sure there is a bond for the road.

Jeremy Chapman, Melink Solar Development, stated they spoke to Mr. Dell’Aquila about the road and he said it could be a private road and they would be using that for frontage. Ms. Shiver stated they need a bond for a public road. Mr. Viner stated that the road only exists if it is a public road and added he needs 200 feet of frontage for each lot. Mr. Bertin though it was 140 feet and Mr. Viner said no 200 feet. Mr. Bertin stated if the road needs to be public than they can make it a public road. Mr. Viner stated that a right of way is not frontage. Ms. Shiver stated if they build a road they would have frontage. Mr. Bertin said they will have access through the residential lot and Mr. Viner said that is not allowed because they need to have an access road using their frontage. Mr. Bertin said they had a previous conversation on that and that was not

mentioned. Mr. Viner stated that they might need to re-design the whole project and Mr. Bertin said they work around the changes.

Mr. Dell'Aquila stated that nowhere in the subdivision law does it say the road has to be public, there are no blanket requirements, and the language does not state that. Mr. Viner answered that it would be needed for adequacy of accessing and that the Planning Board would have discretion to say it's an inadequate way. Mr. Dell'Aquila said that frontage is the question. Ms. Shiver noted that newer subdivisions have private roads by default because they are not accepted yet. Mr. Viner stated that he will not approve a subdivision that isn't a public road. Mr. Dell'Aquila stated he would review the language in the bylaws and will get Town Counsel to weigh in if necessary. Mr. Ceppi stated that regardless of public or private roads they both need to be developed the same. There was much discussion on what was previously at this location, roads, and access, frontage, and road requirements.

Ms. Shiver asked about the battery storage and Mr. Bertin said there are three on each array. Mr. Viner asked to elaborate on the battery storage and Mr. Bertin said there will be 6 containers with suppression systems. Mr. Viner asked about Conservation jurisdiction and Mr. Bertin said they encroach into the 100 foot buffer. Mr. Viner asked if the site had been delineated and Mr. Bertin said yes in March.

Mr. Viner opened the meeting to the public.

Jack Gagnon, 136 Ash Street, asked to confirm if there will only be one house on the subdivision and Mr. Bertin said yes. Mr. Viner said that a subdivision is a type of plan to create lots and currently they are only creating 1 lot with the submitted plan. Mr. Gagnon asked if there would be more houses in the future and Mr. Viner said no. Mr. Gagnon suggested the Planning Board take a walk on the property because it is all wet, the land wont perc, and the topography is horrible. Mr. Gagnon asked how they would get the panels into the site and Mr. Bertin said they would put crossings over the dam at the narrowest point. Mr. Gagnon asked about the snowmobile trail and Mr. Bertin said it is not in the fenced in area. Mr. Ceppi asked if they are current snowmobile trials and Mr. Bertin said yes.

Dave Caputo, 135 Ash Street, stated he lives next to the power lines, has an easement with National Grid, and has the key to get into the gate. Highly recommends the Planning Board walk the site in the spring time because the applicant did the wetlands delineation with snow on the ground. Mr. Caputo does not want battery storage near his family and home and has seen fire suppression systems not work. There was discussion about the type of battery in smart cars and they catch on fire and they aren't safe. Mr. Chapman answered that drives an electric car and his two children drive in the car with him and he believes in the technology but can appreciate the concerns.

Mr. Ceppi asked if the applicant will do the project without the battery storage. Mr. Chapman said that anything over 500KW will require battery storage from the state and all the solar arrays will be proposing battery storage. Ms. Shiver stated that the town is forced because National Grid can't keep up. Mr. Chapman said he can work with the town but The Massachusetts Department of Energy Resources (DOER) is changing their solar requirements to include battery storage. Ms. Shiver suggested the applicant do under 500KW and Mr. Chapman felt the project

wouldn't work. Mr. Caputo said there is slope runoff and he heard endangered turtles in the area. Mr. Dell'Aquila asked if the battery storage would be in conex boxes and Mr. Chapman said yes they will be contained on a concrete pad. Mr. Butensky if the Midstate Trail runs through the property.

Ken Collette, 6 Sunset Lane, asked about an environmental impact study and one was done. Mr. Bertin said they have put in application with the Conservation Commission, National Heritage, and DEP. Mr. Dell'Aquila said that the project is not subject to an environmental impact study. Mr. Collette asked why the Planning Board or the Conservation Commission requires an Environmental Impact studies to avoid all these issues.

Ron Teixeira, 129 Ash Street, who will own the project when constructed and Mr. Chapman, said it would be a private party, Monarch Spencer Solar LLC. Mr. Teixeira asked about their experience with remediation and if the batteries leak will they have the money to rectify issues or burden the abutters. Mr. Viner said that it would be an investment facility and it is not unheard of for ownership to change hands and the Planning Board requires bonds. Mr. Dell'Aquila asked is there would be any liquids stored or used onsite and Mr. Chapman said no. Mr. Chapman said there will be a cooling system inside each box. Mr. Dell'Aquila asked the types of battery units and Mr. Bertin said the container information was submitted.

Ed Rivard, 131 Ash Street, is the abutter looking for the easement and wants to make sure there will be appropriate screening. Mr. Rivard asked the minimum width requirement and Ms. Shiver said 24-30 feet.

Scott Cycz, 104 Ash Street, mentioned that he is pro solar but he is anti-battery storage. Mr. Cycz said he hunts and fishes on that property and he does not believe the property was delineated properly.

Joyce Cycz, 104 Ash Street, expressed that she believes the applicant is clearing more tress than they should be. Mr. Bertin said that the Conservation Commission hired a specialist for the delineation. Mr. Cycz said he doesn't mind solar but the project will never look like that.

Robert Phaneuf, 145 Ash Street, asked if the land was percolated for the home yet and Mr. Bertin said the home will be on 10 acres of land and should perc somewhere.

Paul Farnham, 169 Ash Street, asked where the power will be going and Mr. Chapman answered going along Ash Street and 3-phase will be pulled. Mr. Viner asked if they would be upgrading Knox Trail with the project and Mr. Dell'Aquila said he can talk to National Grid. Mr. Chapman said they are not 100% sure on the outcome of the transmission study.

Mr. Gagnon asked how much the town gets to take down the equipment. Mr. Viner stated that the Planning Board requires a decommission bond and it's a figure generated and reviewed by third party and it must be given to the town before the start of the project. Mr. Gagnon asked how long the equipment will last and Mr. Chapman answered that the land is leased for 20 years with an option to extend and typically the equipment can last 35-40 years. Mr. Rivard asked about the rotation decibels and Mr. Bertin did not have an answer. Mr. Rivard asked if it would

be all at once and Mr. Bertin said yes. Mr. Rivard asked where the lights were facing and Mr. Bertin said they would be shoe box lights and the lights will be facing down. Mr. Viner stated that he felt the motion sensing lights would not be appropriate and can be annoying. Mr. Phaneuf asked if the equipment will last 20 years and Mr. Chapman said the equipment has warranties 25-30 years and can last 35-40 years. Mr. Phaneuf asked if the panels are hazardous and Mr. Chapman said the panels are mono or poly, tempered glass with sand. Mr. Caputo asked if the rotating panels will make noise and if there will be a glare from the solar panels. Mr. Viner said the motor may make some type of noise and the applicant can get the manufacturers specifications for noise and the town will require an acoustic study for the whole project, also, the more glares a panel makes the less efficient the panels are. Mr. Bertin answered that the panels go from east to west and it would head toward the sun, therefore, any glare would be in the north and would be less of a reflection than a lake.

Mr. Dell'Aquila asked the measurement to the closest neighbor and Mr. Bertin said the nearest home is 400-450 feet away. Ms. Shiver mentioned that the town solar bylaw requires the visual mitigation. Mr. Viner asked about clearing within setbacks and Mr. Bertin said no. Mr. Viner asked what was on the north end and Mr. Bertin said it's state land. There was much discussion about tree clearing and wetlands.

Mr. Defosse asked what the sizes of the 6 conex boxes would be and Mr. Bertin said they are standard size. Mr. Defosse stated that the Planning Board should not approve any waivers, especially on grading, and Stormwater is a concern because water will be redirected and developers can't answer questions. Mr. Cycz asked who oversees the delineation and Mr. Viner said the Conservation Commission and they will be the Stormwater granting authority, and the next meeting for the Conservation Commission will be on 12/18/2019. Mr. Phaneuf asked if they cut half of the trees what would be the survival rate of the trees and Mr. Collette said they would need to cut less than a third of the tree. Mr. Phaneuf asked if a tree can last if the top of the tree is cut off and Mr. Collette said yes if it is done properly. Ms. Shiver read aloud the tree cutting detail on the plan. Mr. Calisto said that they won't disturb the land and will keep roots. Mr. Phaneuf doesn't think logging trucks will make it through the woods. Mr. Caputo said when he looks out his backyard and he will see cut trees that look like tree stumps and it will drop the property values and Mr. Viner said the tree toppings would need to be done with discretion and proper screening.

Mr. Chapman wants to know who to work with for the frontage issues and Mr. Dell'Aquila said they can work with him.

MOTION: Mr. Ceppi motioned to continue the public hearing until 12/17/2019

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 5-0

7. Decommissioning Bonds:

•**Sunpin Solar/ 16 North Brookfield-** Chris Nolan, BETA Group, was present for the meeting. Mr. Nolan discussed they are looking to get their permits issued but one of the conditions was submitting the decommissioning bond, and Mr. Dell'Aquila said the bond needed to be approved

by the Planning Board. Mr. Dell'Aquila said that the format of the bond is similar to 20 McCormick Road and that Town Counsel said there are no red flags but it is one of the lowest decommissioning bonds they have seen.

Mr. Viner stated he was shocked that the recycled value was higher than the labor costs but it was peer reviewed and not sure there is much more they can do. Mr. Ceppi said the amount was peer reviewed and approved. Mr. Viner stated he was optimistic on the amount and the specifics on the racking could be different.

MOTION: Ms. Shiver motioned to approve the decommissioning bond for Sunpin Solar 16 North Brookfield Road

SECOND: Mr. Ceppi

DISCUSSION: Mr. Viner did not sign the bond and asked to have Town Counsel sign

VOTE: 5-0

•**Independence Solar/ 32 McCormick-** James Schwartz, Independence Solar, was present for the meeting. Mr. Schwartz said that Town Counsel's and the Planning Board's concerns had been resolved.

MOTION: Ms. Shiver motioned to approve the decommissioning bond for Independence Solar 32 McCormick

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 5-0

8. Town Planner Report

- **Planning Board policies and procedures-** Final copy completed and signed by Mr. Viner
- **Samples of Decommissioning Bonds-** Bond sample handed out for review to the Planning Board, was reviewed by Town Counsel, and Mr. Dell'Aquila handed out totals for all the solar farms decommissioning bonds.
- **Open Space-** Surveys online and in Town Hall, currently being submitted, and next meeting will be the first week of December.
- **Next Meeting-** Salt storage shed for the Highway Department

9. Board Liaison-

- **Solar Committee-** workshop scheduled for 12/9/2019

10. New Business- None

MOTION: Ms. Shiver motioned to adjourn the meeting at 11:19 pm

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 5-0

Submitted by: Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 2/18/2020

List of Documents used on November 19, 2019

Items sent to Planning Board prior to Meeting by email/ print outs:

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board
- Minutes: October 15, 2019
- Site Plan Amendment-103 North Spencer Road solar Farm, updated plans, Peer Review comments, and letter to Fire Chief.
- Milling contract for Sunset/Holmes Subdivision
- New site plan/ special permit application and plans for 22 Norcross Road/ Sunpin Solar for Large Solar Array
- New site plan/ special permit application for 133 Ash Street/ Spencer solar LLC for Large Solar Array/ Subdivision
- 32 McCormick Solar Farm Decommissioning Bond
- Sunpin/ North Brookfield Solar Decommissioning Bond

Items submitted at the Meeting:

- Pictures by abutter Mike Dow in regards to water issues on route 31
- Sample of Decommissioning Bond approved by town Counsel
- Mr. Dell'Aquila provided a tabulation of decommissioning bonds we have received for each Solar Farm