



## Planning Board – Town of Spencer

### *Minutes*

Planning Board

January 17, 2023, 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) and Vaughn Slack(in-person)**

**Planning Board Members Absent: None**

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

**Staff Absent: None**

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

**2. ANR'S**

- **1 Donna Drive/ Cedarwood Estates/ Boundary Line Adjustment**

Ms. Vivier stated that the application was originally received in June 2021 but the previous Town Planner at the time wanted to wait until the stormwater permit was issued for this property. Ms. Vivier stated that the stormwater permit was approved April 5, 2022, but the ANR was misplaced and didn't automatically get approved so the property owners brought this to her attention.

Mr. Bellemer asked if the stormwater permit was for the project or just the property and Ms. Vivier answered just 1 Donna Drive.

**MOTION: Ms. Shiver motioned to accept and endorse the ANR as presented.**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

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

- **Brooks Pond Road/ Jim Sielis/ Create New Lots**

Tom Fancy of Sherman and Frederick, Palmer, MA, was present on behalf of Jim Sielis to answer questions. Mr. Fancy mentioned there was a public way and a right-of-way to get to the state land in back but that was discontinued, and this is the remaining land and Jim Sielis is cutting out Parcel A/Lot 1 to retain and develop and then sell the remaining land with frontage

on Brooks Pond Rd in future.

**MOTION: Mr. Bellemer motioned to accept and endorse the ANR as presented.**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

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

- **Woodside Road/ Jeff Zukas / Create New Lots**

Ms. Vivier reported that this ANR splits a portion of lot R40-4 on Norcross Road and combines it with lot R31-4 on Woodside Road. Ms. Shiver verified that frontage would be on Woodside Road.

**MOTION: Ms. Shiver motioned to accept and endorse the ANR as presented.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

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

### **3. Request for Certificate of Compliance & Stormwater Bond Release - 103 No. Spencer Rd**

Ms. Vivier stated that at the last meeting, the board had approved the deviation from the original plan, but it did not include the Certificate of Compliance and stormwater bond release. Ms. Vivier mentioned the Town of Spencer department heads have reviewed the peer review letter including positive comments regarding stormwater. Also, Ms. Vivier noted there is some erosion on the side of the road and the owner will need to be aware of and ensure to maintain so that it does not become an issue.

Ms. Vivier stated that there is no need for further peer review so the money may be released back to the owner.

Mr. Ceppi asked if the town received any decommissioning funds from this site and Ms. Vivier verified that the town will not receive funds.

**MOTION: Mr. Bellemer motioned to release both bonds and provide a Certificate of Compliance at 103 No. Spencer Rd.**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

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

### **4. Continued Public Hearing: Special Permit– Applicant: Freedom Forever, Aaron Wendt; Owner: Craig Lusignan. Location: 83 Northwest Road, Spencer Assessor’s Map R50-3-1.**

**The applicant is looking for a Special Permit under section 4.8.9 (Solar Photovoltaic Generating Installations) to install small scale residential ground mount solar panels. The property is located within the rural residential zoning district.**

Ms. Vivier reported that she had no additional updates since the last hearing. She has sent emails to the applicant detailing the need for information with a follow-up email sent on the 10th with no response and a reminder that if they failed to appear at the last hearing it would be at the board's discretion if they want to continue with this application.

Mr. Bellemer indicated interest in contacting the applicant to determine what they'd like to do, and he volunteered to call the owner and get input prior to the next hearing. Mr. Bellemer felt that the owner may not be aware that the applicant has not followed through with the hearings.

Mr. Ceppi noted that they don't have a building permit and Ms. Vivier stated that they only had Conservation Commission approval at this time. Mr. Ceppi suggested providing one more continuance in order to attempt contact with the owner.

Ms. Vivier requested the owner's contact information so that she, too could attempt to reach out as she only has the applicant contact information in the file.

**MOTION: Ms. Shiver motioned to continue this item until February 7, 2023.**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

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

## **5. Discussion: FEMA Flood Map Update and Bylaw Amendment**

Ms. Vivier reported that she was contacted by the DCR for the Quinebaug watershed, and they asked for us to update our bylaws. Ms. Vivier mentioned that DCR did the work for the Town of Spencer for the updates needed in the bylaw. Additionally, the DCR stated there updates become effective this Spring and the towns affected must update their By-Laws prior to June 2023. Ms. Vivier said the Town Meeting is in May 2023 and she would like this item ready for the Town Meeting.

Ms. Vivier emailed the Planning Board the model and explanation along with the Bylaw amendments for review to ensure consistency.

Mr. Bellemer asked who would be the proposed Community Floodplain Administrator? Ms. Vivier reported that she would review and determine if a General Bylaw update would be required to appoint someone for that position with that title.

**MOTION: Ms. Shiver motioned to refer the FEMA Flood Map Update and Bylaw Amendment to the Board of Selectmen.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

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

## **6. Discussion: Master Plan Steering Committee**

Ms. Vivier stated the Board of Selectmen appointed Jared Grigg to serve on the Master Plan Committee. Additionally, Ms. Vivier mentioned they need three more members, and an article went out in the New Leader front page, and she has received a lot of interest in not only this committee but also for other committees and boards as well. Ms. Vivier currently has five serious inquiries who want to move forward in the process such as Carol McPherson, Dennis Shiver, and Howie Letendre - all longtime residents in the community.

Ms. Vivier has been in contact with Dominique from CMRPC who has sent out an email to get the process moving and start setting some meeting dates with the committee members.

Mr. Ceppi asked whether potential committee members are submitting resumes or if staff is taking notes during meetings/calls? Ms. Vivier noted that staff has been mainly taking notes as the applicants have contacted them and described their experience and background.

Ms. Vivier will establish a cutoff date for applicants to ensure time to submit the information to the Planning Board for review on January 31, 2023, for the meeting on February 7, 2023.

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

Ms. Vivier has provided a packet to the Planning Board indicating the suggested updates made to the Policies and Procedures. Ms. Vivier pointed out most have been spelling and grammatical corrections although some are procedural which the board will need to review. Ms. Vivier noted that there is no need to go to the Town Meeting for this unless there is a change to the Bylaws, which, is not happening for right now.

Changes/updates include:

- Adding a table of contents
- Adding an alternative member
- Adding first meeting of the month
- Posting an agenda needs to be done 48 hours in advance not 24 hours.
- Electronic signature
- Consultants scope of work
- The Chair can limit citizen speaking time to reduce repetitive or argumentative comments.

- The Governor may change the remote meeting standards (implemented due to Covid19) in March - does the board want to continue to allow remote meeting attendance? The majority indicated “only in exceptional circumstances.”
- If a Planning Board member misses a meeting, he or she shall be required to watch/listen to the meeting to ensure he/she is up to date on the issues for the next meeting.
- Setting time standards for submittal of plans or new materials before a meeting.

Ms. Vivier will place the corrections to be voted on in the agenda for February 21, 2023, to provide ample time for Planning Board members to review the suggested updates to the policies and procedures.

## **8. Town Planner Report**

- Ms. Vivier referred with Town Counsel regarding the application for North Brookfield Solar and it was officially rejected due to the applicant must meet the current zoning bylaws, and it did not meet the setback requirements. Ms. Vivier left a voicemail and emailed the applicant as to how they would like to proceed but has not heard anything back. This is for the North Brookfield solar project that is still in courts.
- Ms. Vivier mentioned the site visit for Ash St was on January 11, 2023, and there were a few items of concerns. Ms. Vivier said the center line was not staked out, there are several items noted and she believes the peer review will be completed in two or three weeks and will indicate the changes to the plans. Additionally, Ms. Vivier has already received an updated plan where the detention basin was moved.
- CMRPC has reached out to towns that might need technical assistance for grants. Please forward any ideas to Ms. Vivier so she can check for potential grant funding.
- E-permitting is currently in testing phase and going well.
- Upcoming applications - stormwater permit for Eagleton and review of driveway approval discussion.

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

Mr. Bellemer commented on the State’s floodplain update and how it could apply to the Ash Street project.

Ms. Shiver reported that the Housing Production Plan is still being worked on.

## **10. Citizen Input**

Craig Lusignan, 83 Northwest Road, (remote) regarding Freedom Forever application (agenda item 4). Mr. Lusignan was unable to call in earlier as there was a problem with the line. Mr. Lusignan inquired as to what is required from Freedom Forever to move forward with the application. Ms. Vivier advised him that the town is seeking a waiver request and Mr. Lusignan remarked that the only waiver request he was aware of was for the Conservation Committee regarding encroachment on the wetlands. Ms. Vivier clarified that Bylaw Section 4.8.9 lists solar requirements and any items on the list that do not apply would require a waiver to be submitted. Ms. Vivier mentioned that Paige from Freedom Forever was notified of this back in November, and she thought that the waiver list had already been generated and was going to locate it and submit the waiver but that hasn't happened. Mr. Lusignan assured the board that he would have Freedom Forever submit the waiver in time for the meeting on February 7, 2023.

Matt Defosse, 7 Paul's Drive, reminded the Planning Board that the town has areas that don't drain well and that the Ash Street project falls into that group. Mr. Defosse objects to limiting speaking time except under extenuating circumstances (where there's a roomful of people all wanting to speak at the same item) and should not be added into the policies as it has always been at the Chair's discretion. Mr. Defosse had some questions regarding solar such as, has Citizen Energy provided any reports in regard to the two fire incidents at the Transfer Station and has the town had any conversation with Citizen Energy regarding those incidences? Ms. Vivier responded that the incidences were still being investigated by Citizen Energy's insurance and she expects to receive a report once the investigation is complete. As far as further contact regarding the incidents, MS. Vivier's department has not had contact with Citizen Energy but the Fire Department might be and that would be a question for them. Mr. Defosse believes there hasn't been any communication and finds that disturbing as they are basically renters destroying the town's property.

Mr. Defosse stated questions for thought:

What were the specific causes for the fires at the Transfer Station?

Where are the MSDS for the solar equipment at the Transfer Station?

What about the toxic fumes emitted when these fires occur - what are the risks?

Was there ground contamination due to the fires?

Was the integrity of the cap breached due to the fires?

What are the risks of methane gas if this should happen again?

How many solar panels were damaged or destroyed?

Are the replacement panels accounted for - what is the chain of custody? Where are the damaged panels being disposed of?

Mr. Bellemer asked if the Solar Farm was generating electricity now or was it totally destroyed?

Ms. Vivier responded that the panels themselves are receiving energy but it's not going anywhere as it's been turned off. Mr. Bellemer noted that the town was not receiving any revenue right now which Ms. Vivier confirmed. Discussion centered on concern that the lack of revenue should be driving the resolution of the incidences. It was noted that the land is leased so the Town of Spencer is receiving lease payments for the Solar Farm.

## **11. Approval of Minutes 12/20/2022, 1/3/2023**

- **12/20/2022**

Mr. Bellemer noted on the minutes from 12/20/2022, page 2, next to last paragraph where Mr. Woodbury stated the applicant only has 25' is inaccurate.

After reviewing the recording from the minutes of 12/20/22 Mr. Woodbury did say 25', therefore the minutes will reflect what was said, and what is accurate.

*"Gary Woodbury, 219 Charlton Rd, seconded Mr. Defosse's comments. He generally believes this project should have been shut down and not allowed to continue to this point. He's against the waiver of 50' (applicant only has 25') and there isn't enough room."*

**MOTION: Mr. Bellemer motioned to amend and approve the minutes of 12/20/2022 as noted.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

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

- **1/3/2023**

Mr. Bellemer noted that the minutes from 1/3/2023, Item 7, line 2 - the word 'ion' should be corrected to 'in'.

**MOTION: Ms. Shiver motioned to amend and approve the minutes of 1/3/2023 as noted.**

**SECOND: Mr. Slack**

**DISCUSSION: None**

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

## **12. New Business/Adjournment**

**MOTION: Mr. Ceppi motioned to adjourn the meeting at 8:47 PM**

**SECOND: Mr. Slack**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Ceppi, Ms. Shiver, Mr. Bellemer and Mr. Slack 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: 2/7/2023**

**List of Documents used on 01/17/2023 items sent to Planning Board prior to Meeting by email and distributed at the meeting:**

- Agenda
- Memo from Town Planner
- Drafted minutes for 12/20/2022, 1/3/2023
- Massachusetts Model Floodplain Bylaws For non-coastal Quinebaug watershed towns, 2023 adoption
- Town of Spencer, 3.4.2. Floodplain District, with suggested updates

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

None