



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

Tuesday, January 21, 2020 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, and Maria Reed (showed up late at 7:43 pm)

Planning Board Members Absent: Shirley Shiver,

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

While waiting for Maria Reed to arrive the Chair moved item 4 on the agenda to item 5

2. Minutes: November 19, 2019

Mr. Butensky stated there was an error but the Planning Board members decided to discuss at a the next meeting when Ms. Reed and Ms. Shiver are present.

MOTION: Mr. Ceppi motioned to table the minutes until February 18, 2020

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 3-0

3. ANR: David Flint, 75 & 77 Cherry Street, Boundary Line Adjustment

Jeremy Croteau, Professional Land Surveyor, was present for the meeting.

The two lots are currently developed with single family homes. The applicant is seeking a lot line adjustment to accommodate the addition of "Lot A" from the existing lot at 75 Cherry to the lot at 77 Cherry Street. Both lots would fully conform to these development standards after the proposed action.

MOTION: Mr. Ceppi motioned to approve the ANR as submitted

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 3-0

4. 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.

Andrew Vardakis, WOOD, was present for the meeting and discussed the updates to the new plan that was submitted such as new placement for the access road, filing with the Conservation Commission for the wetland crossing, new Stormwater calculations, and awaiting comments from third party reviewer. Possible ANR will be submitted at the next meeting depending on Conservation Commission and third party comments.

The chair opened the meeting up to the public:

Amy Yanover, 30 Norcross Road, asked about the Gaucher's plans for the property and Mr. Vardakis said the ANR will cover that.

Matt Defosse, 7 Paul's Drive, had concerns about if the Fire Chief reviewed the plans and if the applicant requested any waivers. Mr. Vardakis said the Fire Chief was satisfied with the new plans and no waiver requests.

Clearing totals were discussed, applicant to submit updated aerials for visual impact, and possibly more evaluation of visual impacts.

MOTION: Mr. Ceppi Motioned to continue the public hearing until 2/18/2020

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 3-0

5. 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 reviewed what had been received since last meeting and the questions from the November meeting had been addressed, Fire Chief's email stated they would let the batteries burn and the owner would be responsible for the cleanup, Utilities and Facilities commented on the undersized culvert, and Mr. Dell'Aquila mentioned Town Councils comments in regards to the Planning Boards decision making. Mr. Dell'Aquila passed out the Handbook of Massachusetts Land Use and Planning Law, 4th Edition, 9-19 through 9-27. Mr. Butensky and Mr. Ceppi raised concerns about setting precedence if they allow or deny the storage of batteries on a site amendment.

Harold Reader, ZPT Energy Solutions LLC, was present for the meeting and stated that they have addressed the questions and concerns of the Planning Board, that they have provided numerous upgrades from the original plan, and would like a decision. Mr. Dell'Aquila mentioned with the additional features it would increase the lot 3-4%. There was clarification that because Shirley Shiver already missed one meeting and tonight's meeting she is ineligible to vote on this application. Mr. Viner questioned the applicant about the NFPA 855 standards under section E.5.3 and Mr. Reader replied that the equipment is certified and meets the standards.

The chair opened the meeting up to the public:

Mike Dow, 97 North Spencer Road, expressed that he felt the amendment was a major modification and his ongoing concerns about the drainage on North Spencer Road.

Mr. Defosse expressed his ongoing concerns about the Planning Board approving battery storage prematurely before reviewing the Solar Bylaw Committees recommendations and concerns with the aquifer and runoff.

Gary Sadusky, 102 North Spencer Road, expressed that he was against the battery storage containment because the town does not know enough about them and feels the amendment to the site plan is closer to 25% increase and it's a major amendment.

George Kiritsy, Attorney representing ZPT, spoke to the Planning Board about the amendment to the plan and the applicant making the plan better, site plan is non-statutory procedure, and site plan is a non-zoning act. Currently, towns review projects, the board must approve unless no condition can be fashioned. Furthermore, the longer we wait to make a decision we run into time lapse and losing more voting members.

Mr. Dow stated if the applicant added more containment for spills like a gas station it might be more acceptable.

MOTION: Mr. Ceppi motioned to close the public hearing for the site amendment at 103 North Spencer Road

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 4-0

MOTION: Mr. Ceppi Motioned to approve the site plan amendment with the condition of no battery storage

SECOND: Mr. Butensky

DISCUSSION: Mr. Dell'Aquila handed out draft decision. Mr. Viner stated there is no project without the battery storage, Mr. Kiritsy stated he would appeal and should flat out deny, and Mr. Dell'Aquila mentioned that battery storage is part of solar array by state law and the use was approved in 2010. There was discussion of the submittal too large to be an amendment and Mr. Butensky talked about the consideration of the publics concerns Mr. Ceppi withdrew his motion.

MOTION: Mr. Viner motioned to deny the site amendment for 103 North Spencer Road due to noncompliance with zoning bylaw

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 4-0

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.

Several questions were raised about both the proposed subdivision aspect and the proposed solar project aspect of the application at the last meeting such as about whether the project qualifies to be considered as a subdivision, in part because of the question of the road access and the road's ultimate status of public or private. The Conservation Agent, George Russell, has informed Town Planner that peer review of the wetlands shown in the submitted plans has shown a number of inaccuracies that need to be addressed. Additionally, according to Mr. Russell, the project is currently under peer review for wetlands delineation and comments from DEP indicated that there may be up to 5 vernal pools on site that were not shown on the plans. Since updated plans are expected the current plans may not be useful or efficient.

Chris Filosa, Bertin Engineering, and Jeremy Chapman, Melink Solar Development, was present to discuss the project and getting guidance on how the road can remain private, discussed peer review, and working with the Conservation Agent. Mr. Chapman needed to know if the road can remain private because they are in the process of coming to an agreement for a private easement with 131 Ash Street. Mr. Viner expressed his concerns with not making the road public and it possibly becoming a town issue. TJ Recupero, Attorney, stated that the Planning Board cannot regulate roadways but may make an inclusion with an easement. There was much discussion in regards to proposed road being public or private, possible easements, and requiring a homeowners association. Mr. Chapman discussed that battery storage will become mandatory going forward and something towns and states needs to accommodate.

The chair opened the meeting up to the public:

Robert Phaneuf, 145 Ash Street, expressed his concern of the road deteriorating due to the solar company's trucks, the length of the access road, and more houses in the future being put in. Mr. Chapman is not sure where the house will be or the placement.

Gary Woodbury asked about if the land would be leased or owned and Mr. Chapman said leased. Mr. Woodbury was concerned about further development after the solar array is decommissioned.

Ed Rivard, 131 Ash Street, driveway is on the developers land and is waiting for an easement agreement with Melink Solar and stated he would like to see the road become a public road. Mr. Dell'Aquila recommended a maintenance agreement and Mr. Chapman stated the easement will address concerns.

Ted Boulay Jr, 132 North Street, East Brookfield, MA, asked the purpose of the one house and where the solar located relative to the pond near the old rod and gun club. Mr. Chapman was not 100% sure. Mr. Phaneuf wanted to see the owner at the meeting.

Matt Defosse, 7 Paul's Drive, had concerns about the battery storage and it was decided that it would be addressed at another time. Mr. Boulay wanted to know why battery storage is different than previous applicant and Mr. Dell'Aquila explained it was an approved plan in 2010 and the applicant was looking to amend the site plan. Mr. Chapman discussed the battery storage

container in more detail. There was a discussion on why the batteries are stored, where the power from the solar farm goes, connection to National Grid, and pole placement.

Ted Boulay Sr, 141 Ash Street, asked about noise control and safety and Mr. Viner discussed the acoustical analysis and visual mitigation required in the solar bylaw. Mr. Dell'Aquila asked about more visuals from the closest surrounding abutters and from the lot of the new home.

MOTION: Mr. Butensky motioned to continue to February 18, 2020

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 4-0

7. 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).

Mr. Dell'Aquila reviewed what commenced since last meeting

- Lenard Engineering inspected the road and provided review
- Documentation of road mixture – Mr. Viner felt there was missing documentation and should be more than one page

The Planning Board members expressed concerns of the applicants continued absences and not providing a surety bond. Mr. Dell'Aquila will send out another letter to request surety and then possibly impose violation fees.

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

MOTION: Mr. Ceppi motioned to continue the public hearing until February 18, 2020

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 4-0

8. Public Hearing- Major Site Plan Review - Applicant: Bayside Engineering; Owner: Town of Spencer, Location: 7 Meadow Road; Spencer Assessor's Map U 11-08. The applicant is requesting a Major Site Plan Review under Section 7.4 of the Spencer Zoning Bylaw Zoning to install a Salt Shed. The property is located within the Rural Residential zoning district.

Applicant not ready and has requested to continue until April 21, 2020.

MOTION: Mr. Butensky motioned to continue the public hearing until April 21, 2020

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 4-0

9. Town Planner Report

- **LPA Hours-** Use hours for Midstate trial mapping
- **Laureldale Woods-** Letter to Charbel Najeem regarding finishing the road in phase 1 before
- **17 GH Wilson Road Violation-** continues noise violation resulted in a fine and ZPT paid
- **Solar Bylaw Advisory Committee-** Board of Selectmen will vote on the changes and refer to the Planning Board so future dates for Zoning Changes need to be discussed.

10. Review of Solar Bylaw Advisory Committee Report

Mr. Viner felt there will be more precedent changes to the solar bylaw that will need to be at the Spring Town Meeting but some of the other items can wait until Fall Town Meeting.

11. Board Liaison-

- **CMRPC-** Mr. Ceppi attended a meeting and they reviewed census
- **Open Space-** Mr. Butensky discussed the goal of the open space committee

12. New Business/Adjournment-

Mike Dow, 97 N. Spencer Road, asked for clarity for the decision and comment from applicant in regards to 103 N. Spencer Road Solar.

MOTION: Mr. Ceppi motioned to adjourn the meeting at 10:48pm

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 4-0

Submitted by: Monica Santerre-Gervais ODIS Clerk

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

List of Documents used on January 21, 2020

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

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board
- Minutes: November 19, 2019
- Site Plan Amendment-103 North Spencer Road solar Farm, updated plans,
- MASSDOT asphalt mix for Sunset/Holmes Subdivision/ email from Jim Laney in regards to missing December meeting
- New site plan and updated Stormwater management report for 22 Norcross Road/ Sunpin Solar for Large Solar Array
- Battery storage information package for 133 Ash Street/ Spencer solar LLC for Large Solar Array/ Subdivision
- Site plan and application for 7 Meadow Road, TOS/ Highway Department, Salt Shed

Items submitted at the Meeting:

- Handbook of Massachusetts Land Use and Planning Law, 4th Edition, 9-19 through 9-27
- Draft Certificate of Decision for 103 No. Spencer Road