



Planning Board – Town of Spencer

Minutes

Planning Board
December 20, 2022, at 7:00 pm

REMOTE & IN-PERSON

McCourt Social Hall, 157 Main Street Spencer, MA 01562
Memorial Town Hall

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 (in-person)

Staff Absent: None

1. The Chair opened the meeting at 7:05PM.

2. Approval of Minutes: 12/06/2022

MOTION: Ms. Shiver motioned to approve the minutes of 12/06/22.

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. As-Built Review- 103 North Spencer Road

Ms. Vivier has not reviewed the latest information provided by the applicant dropped off today and if it is complete. Ms. Vivier needed adequate time to review as well as the Planning Board members to review, therefore, Ms. Vivier recommended continuing this until the next meeting on January 3, 2023.

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 the list of waivers requested by the board has not been received. Ms. Vivier noted that the applicant did receive approval from the Conservation Commission last week. Applicant has requested to continue this item until January 3, 2023.

MOTION: Ms. Shiver motioned to continue this item until January 3, 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. Continued Public Hearing Definitive Subdivision Plan - Applicant: Spencer Solar LLC; Owner: Ash Spencer Realty LLC, Location: Ash Street; Spencer Assessor's Map R27-01. The applicant is requesting a definitive subdivision approval under Article 2.3 (Definitive Subdivision Plans) of the Spencer Subdivision Regulations. The property is located within the Rural Residential zoning district. This is a readvertisement of the public hearing on this application, which was originally commenced on November 19, 2019.

Ms. Vivier reported that the site walk is scheduled for January 6, 2023, with both peer reviewers and EcoTec. Calisto Bertin, Bertin Engineering, was available remotely for questions or comments. Mr. Bertin remarked there is a detention basin off the driveway that they were asked to change as it encroached on the 25' wetlands buffer. Additionally, Mr. Bertin stated the project engineer noted that the basin is oversized and can be reduced to ensure it does not encroach within the 25' wetlands buffer. Mr. Bertin feels that more time is required for comments and responses to any comments and agrees a continuance would be appropriate.

MOTION: Mr. Bellemer motioned to continue this item until February 7, 2023.

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. Continued Public Hearing Definitive Subdivision Plan: Applicant/Owner: Spencer Solar II LLC c/o Melink Solar Development, Location: Charlton Road (Bacon Hill Road); Spencer Assessor's Map R08- 10. The applicant is requesting a definitive subdivision approval under Article 2.3 (Definitive Subdivision Plans) of the Spencer Subdivision Regulations. The property is located within the Rural Residential zoning district. This is a readvertisement of the public hearing on this application, which was originally commenced on November 17, 2020.

Ms. Vivier mentioned the comments from BSC Group were received and sent to the applicant. Dominic Rinaldi, BSC Group, peer reviewer for this project, was available virtually. Mr. Rinaldi noted that the November letter only addressed those items remaining from the initial review. The following items remain and still have not been resolved:

Comment #2. Waiver requests on the project - BSC group was not given the updated waiver list, but they are prepared to discuss/review if needed.

Comment #12. Fire Department Review, need to have an approval on the access - BSC has not seen this yet.

Comment #13. Waiver request for hydrant, which, is a requirement in the Subdivision Regulations - BSC has not seen this yet.

Comment #31. Underground infiltration - located near roadway, currently shown below level of bedrock.

Mr. Ceppi questioned comment #13 regarding the regulation for a fire hydrant. Ms. Vivier noted that the Fire Chief has determined that a fire hydrant is not necessary for a solar farm. She also noted that the closest water line is five miles from the site. However, a waiver request will need to be filed. Thomas Recupero, Recupero Law (attorney for the applicant), noted that the regulations do not require a fire hydrant but refer to a “hydrant as required” and therefore, a waiver is not necessary. Mr. Ceppi pointed out that this is a subdivision, and he would like to meet with Fire Chief, Robert Parsons, to ensure that he is aware of that. Mr. Recupero noted that all the waiver requests submitted to date are conditional based on a specific use (solar farm) and should that use not move forward, they would have to get approval from the board for an alternate use.

Ms. Vivier noted a comment from the Planning Board in a letter dated May 3, 2022, regarding review for frontage and wetlands to ensure that it was, in fact, buildable. Mr. Recupero noted that for subdivision purposes, one cannot be tied to the other and this would be a zoning issue that would be addressed in future based on usage.

The Chair opened the Public Hearing for public comments:

Matt Defosse, 7 Paul’s Drive, commented his concern that the applicant had six pages of waivers requested. Mr. Defosse provided copies of a document to the board that he proceeded to read aloud that specifying his concerns. Mr. Defosse stands that the Planning Board should deny all waivers.

Ms. Vivier noted that the applicant submitted an ANR in 2020 and that made a zoning freeze for three years.

Gary Woodbury, 219 Charlton Rd, seconded Mr. Defosse’s comments and believes this project should have been shut down and not allowed to continue to this point. Mr. Woodbury is against the waiver of 50’ and applicant has 25’ (after review of the plan the applicant has 49.7’) and there is not enough room.

Ralph Hicks, 21 Lyford Road (remote), agrees with Mr. Woodbury and states, “rules are rules.” Spencer has an abundance of solar projects and provides 4% of the State’s solar usage.

Mr. Recupero responded to the comments presented to clarify the applicant's position and commented on previous projects the Planning Board had allowed waivers.

Discussion ensued regarding line of site along the right-of-way and noted that concerns could be addressed in the next phase but not in the subdivision phase as there are currently no regulations.

Dave Nussey, 227 Charlton Road, voiced concerns regarding the water coming off the hill. Mr. Nussey stated if the subdivision is turned down, what happens, and it was determined that it would be a dispute between neighbors, and he would have to pursue legal action on his own.

Frank White, 35 R. Jones Road suggested contacting the Bureau of Water Resources.

Ms. Shiver noted that relying on 81R (considered the waiver statute) is the 'elephant in the room' and if there are other means of access, the owner should explore that option instead of relying on a waiver as the only option.

MOTION: Mr. Bellemer motioned to continue until February 7, 2023.

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.

7. Discussion: Board Policies and Procedures

*This item initially skipped due to the virtual presentation of the Master Plan Update. *

Ms. Vivier has been completing minor updates, aggregating previous documents; advises to be more consistent when requesting As Builts and Peer Reviews. Additional notes:

- BSC Groups contract is up in June 2023 - investigate checking options via Requests for Proposals. Previous third-party reviewer, LEI, was purchased by Haley Hard and has expanded capabilities.
- Beginning in 2023, the minutes approval will move to the end of the agenda.
- Implementing date-driven meetings to address items as opposed to type-driven (ANR, hearings, etc.)
- Continue with two meetings per month

8. Discussion: Master Plan Update

Presentation by Dominique DuTremble and Elena Ion from the Central Massachusetts Regional Planning Commission (CMRPC) - Master Plan Project Overview

- Funding and technical assistance
- State Requirements
- Steer Committee roles and responsibilities

- Timeline

The Planning Board nominated Vaughn Slack to serve on the Master Plan Committee.
(Ms. Shiver nominated, Mr. Bellemer seconded, Roll Call Vote-4-0)

Ms. Vivier noted that citizen participants must be 18+ years old, time commitment is about one ‘in person’ day each month with all other contact virtual from January 2022 until March 2023.

9. Town Planner Report

Ms. Vivier encourages everyone to reach out to neighbors and the community to participate in the Master Plan Update.

10. General Board Discussion/ Board Liaison Reports

Ms. Shiver noted the consultant is finalizing the Housing Production Plan and there will be a meeting January. The plan will then go to the annual town meeting.

11. Citizen Input

Frank White, 35 R. Jones Rd, is concerned about blasting on Ash Street (Item 5 on the agenda).

Jonathan Viner (remote), 34 Donnelly Cross Road, regarding comments from the last meeting and the gentleman (Mr. Smith) who was planning to sell development rights to a group like the Audubon Society. Mr. Viner did research on the concept regarding the town’s involvement and mentioned it would require changes to bylaws and Master Plan updates, but he believes it to be beneficial to the town.

12. New Business/Adjournment

MOTION: Ms. Shiver motioned to adjourn the meeting at 9:26 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: 1/17/2023

List of Documents used on 12/20/2022

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

- Agenda
- Memo from Town Planner

- Drafted minutes for 12/06/2022
- Charlton/Bacon Subdivision -Third party review comments, BSC Group, application, and plans
- Ash Street Subdivision- Applications and Site Plans
- 103 No. Spencer Road- Updated plans and memos

Items submitted/ brought to the Meeting:

- Master Plan Presentation