



## Planning Board – Town of Spencer

### Minutes

#### Planning Board Meeting

**Tuesday, March 02, 2021 at 7:00 PM**

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall- **Remote Meeting**

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

Planning Board Members Absent: None

Staff Present in-person: Todd Miller, Town Planner (remote)

Staff Absent: Monica Santerre-Gervais, ODIS Senior Clerk

**1. Mr. Viner opened the meeting at 7:00 pm and read aloud Covid-19 statement.** *“This Meeting of the Zoning Board of Appeals is being conducted remotely consistent with Governor Baker’s Executive Order of March 12, 2020, pursuant to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have suspended public gatherings, and as such, the Governor’s Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. We are meeting remotely and broadcasting live on Spencer Cable Access to ensure public viewing access.”*

#### **2. Discussion Board Policies-**

Mr. Butensky reviewed what they discussed in January and February regarding the policies. Mr. Butensky suggested having an associate member on the board, possibly does not vote, and have a 6<sup>th</sup> member on the Planning Board. Mr. Ceppi said at one point they had an alternate member in the past, but it may be difficult getting volunteers. Mr. Viner said he started as an alternate member. Mr. Miller said he was once an associate member and would require a bylaw amendment through a town meeting. There was much discussion regarding an associate member and an alternate member. Mr. Miller could advertise on the Town of Spencer website.

Mr. Butensky discussed site visits and scheduling site visits. Mr. Butensky said the only site visit was 22 Norcross Solar Farm and it is important for the Planning Board to do site visits and going forward need to schedule more site visits. Mr. Miller said he supports site visits, will need to be posted for Open Meeting Law, and equally applied. Mr. Butensky said not all projects are the same and some projects might not need a site visit and weather may be an issue. Mr. Viner agreed with having site visits and maybe an after the first hearing there could be an intro site visit and could benefit the applicants to share their thoughts and visions. Mr. Butensky discussed the site visit at 22 Norcross Road, and it benefited him, and he is willing to work with the Town Planner to schedule the site visits. Mr. Butensky discussed having a member show up for unscheduled site visits, however, feels that if a member wants to do an unscheduled site visit, they should make the other Planning Board members aware. Mr. Viner spoke about unscheduled site visits and it is okay to reflect the Planning Boards decision and making sure

statements are not made that would reflect poorly on the Planning Board. Mr. Miller mentioned if the Planning Board members do see violations it should come be discussed with the Town Planner or Zoning Enforcement Officer.

### **3. Discussion: Solar Facility Bylaws**

Mr. Miller updated the Planning Board with communication with CMRPC and the current inventory of hours is 11 hours and those will be replenished in July 2021. Mr. Miller said the 11 hours can be used for CMRPC to review the solar bylaw. Additionally, Mr. Miller said 11 hours is not enough to go through the whole solar bylaw but suggested going through the bylaw and extracting important points to allow CMRPC to focus on. Mr. Viner said it is an overwhelming process and the Planning Board needs a good starting point because they have an abundance of material to sort through. Mr. Viner suggested picking certain major points and then forward to CMRPC.

Mr. Viner said the major concern for most of these projects are where they are seen and heard and a facility like this in a rural area stick out and suggests reviewing the setbacks. Currently, Mr. Viner said that the Town of Spencer has the largest or second largest Solar Facility at the St. Josephs Abbey but not many people have concerns for that site because it is far removed, and people do not hear it and see it. Mr. Miller agreed with Mr. Viner and said it would be beneficial for CMRPC to investigate similar towns to change the setbacks. Mr. Ceppi said sometimes setbacks will not matter especially if the solar facility is on a hill. Also, Mr. Ceppi suggested not just using hours but spending money to revise the solar bylaw. Mr. Miller mentioned it would be time consuming and if they could do a study for the November meeting. Mr. Ceppi wants CMRPC to review the Solar Bylaw Review Committees findings and put them into drafts for the bylaw. Mr. Miller stated that the committees work would be too time consuming.

Mr. Butensky asked about the status on the Moratorium and Mr. Miller answered it was returned due to some reporting language, but we have re-posted and readvertised for 21 days and should be accepted. Mr. Butensky said we need a consultant to review this solar bylaw. Mr. Viner agreed but said we could pursue that for long term but to meet the deadline for fall meeting have some major points sent to CMRPC. Mr. Miller said the document is technical and requires finesse and time and we do not have much time with CMRPC and fall meeting. Mr. Butensky feels the moratorium could be and should be extended. Mr. Viner said the intent was to have a new solar bylaw before the moratorium expired. The Planning Board discussed having revisions for the Solar Bylaw on the November 2021 warrant and May 2022 warrant. Mr. Viner felt the setbacks should be addressed during this meeting, current zoning setbacks are 50 feet, the solar committee recommended 200 feet if abutting residential use and discussed surrounding towns setbacks. Mr. Miller assisted with Barre's bylaw and although not exactly similar but could draw some inspiration.

Mr. Ceppi said look at other towns and see what works for setbacks. Mr. Miller said he assembled comparative charts for surrounding towns some that have minimum lot size, acreage size, vegetive buffers with different variables, but all have been accepted by the Attorney General (AG). Mr. Viner asked if there were any Planning Board members that opposed increasing the setbacks and they all the members said no.

Mr. Viner said another topic to discuss is the numbers of solar facilities and he believes the intent has merit and it is being implemented in other towns. Mr. Ceppi asked if the AG's office allows a limit forever or a max of permits per year and Mr. Miller said he found citations and different caps and will continue to do further research. Mr. Viner mentioned the letter from the AG's office to the town of North Brookfield and it states the cap on solar facilities to be 14, municipality solar facilities not included in the total, and the AG's office approved but notes Massachusetts General Law (MGL), section 3, protects solar energy and cannot prohibit unless it affects the public's safety or welfare. Mr. Viner further noted that the cap could be fought later, but the AG's office did approve it. Additionally, Mr. Viner said the Town of Charlton passed a cap of solar facilities and Charlton has quite a few solar facilities and the Town of Oxford received approval for a cap of 15 solar facilities. Mr. Ceppi questioned the AG's letter about supporting solar facilities and Mr. Viner responded that most attorneys representing solar mention that MGL section 3 statement. Mr. Miller expressed that implementing a cap and solar bylaw amendment at the same time would be best if that is the Planning Boards will. There was much discussion about how the Planning Board feels about having a cap for solar facilities.

Mr. Viner mentioned the size of wooded area that needs to be cleared and trying to limit the forested area cleared for solar facilities. Mr. Ceppi said the issue is that someone previously clears their land then later apply to put up a solar facility and it is hard to circumvent. Mr. Viner said there is a Conservation Commission regulation that they cannot issue a Notice of Intent (NOI) on a project situated on Chapter 61A. Mr. Butensky said it is hard to quantify the limitation on forested areas. Mr. Ceppi that we should look at surrounding towns and see what other towns are doing and address proper setbacks to preserve the rural character.

Matt Defosse, 7 Paul's Drive, stated sighting, and character is important to the Town of Spencer. Mr. Defosse said that the MGL section 3 should not deter the Planning Board members in putting in caps. The Spencer Solar Bylaw Committee spent a year, traveled, went to meeting, went to site visits, toured a battery storage facility, and gathered facts for their report to protect the residents and the town. Mr. Defosse said he supports the cap on solar facilities, the Town of Spencer should not allow battery storage, and the town should only accept cash bonds.

#### **4. Discussion: Peer Review Status**

Mr. Viner put this on the agenda due to concerns from the last meeting on how peer review has been handled. Mr. Viner forwarded to the Planning Board an email from Town Administrator, Thomas Gregory, allowing Lenard Engineering to continue the peer review for Charlton/ Bacon Subdivision/Solar Farm.

#### **5. Discussion: Potential Zoning Bylaw Amendments and Annual Town Meeting**

Mr. Viner added this item just to remind everyone to address any specific changes or edits with the bylaw and discuss and extension to the Solar Moratorium. Mr. Miller said if the Planning Board is going that route keep in mind the AG's office needs to approve the extension of the moratorium. Mr. Butensky said he would be in favor for an extension for the solar moratorium.

## **6. Town Planner Report**

Mr. Miller discussed CMRPC communication for the Solar Bylaw.

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

Mr. Ceppi asked about continued items that needed to be researched and Mr. Viner said possibly the language for the ANR for CVS. There was some discussion about the ANR's. Mr. Miller discussed the concern at the last meeting and whether conditions could be imposed on the ANR and needs to wait for Town Council's clarification.

Mr. Viner said the Capital Advisory Committee will have meetings soon.

## **8. New Business/Adjournment**

**Meeting adjourned at 9:05 pm**

**Submitted by Monica Santerre-Gervais, ODIS Clerk**  
**Approved by the Planning Board on: 4/6/2021**

### **List of Documents used on March 02, 2021.**

#### **Items sent to Planning Board prior to Meeting by email:**

- Agenda

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

None