



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

Tuesday, May 21, 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 (late), Shirley Shiver and Maria Reed
Planning Board Members Absent: None
Staff Present: Paul Dell'Aquila, Town Planner
Staff Absent: Monica Santerre-Gervais, ODIS Senior Clerk

1. Mr. Viner opened the meeting at 7:02 pm; the agenda was done out of order because Mr. Ceppi was running late

2. ANR's

- **50 Donnelly Road, Greg Kimball, create new lot (s)**

Mr. Dell'Aquila reviewed the plan and said that the subject parcel is approximately 19.94 acres and is currently developed with a 2,410 s.f. barn. It is located in the RR – Rural residential Zone at the intersection of Donnelly Road and Donnelly Cross Road and is currently under Ch61A designation. Also, the purpose of the plan is to create a new "Parcel 5" out of the existing land, which would consist of 63,426 square feet of land with 200 feet of frontage on Donnelly Road. Thus both new Parcel 5 and the remaining land of original Parcel 6 would comply with underlying lot dimensional requirements. Mr. Dell'Aquila noted that the owner/applicant will also have to work with the Assessor's Office to update the 61A designation for tax purposes once the new lot is developed.

Mr. Viner asked if it needs to come out of Chapter 61A first and Mr. Dell'Aquila said no and stated that the way it is handled in Spencer is when a building permit is applied for it is still an agricultural lot. Mr. Viner said there has been clearing on the lot. Mr. Viner asked if any action needs to be done with the 61A for the plan to be recorded and Mr. Dell'Aquila said no.

MOTION: Ms. Shiver motioned to endorse the plan as submitted

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 4-0

- **Wilson Street, Robert Perry, create new lot**

Mr. Dell'Aquila said the purpose of the plan is to create a new 54,829 square foot "Lot A" owned by Robert Perry, combining a 44,423 square-foot parcel owned by Haberman (U17-15)

with the existing 10,406 square-foot existing Perry-owned parcel (U17-16). The existing lands are all located in the Suburban Residential – SR district. Mr. Dell'Aquila said that upon reviewing the plan upon submittal, there are discrepancies between the figures in the notes and on the plan itself and missing locus; therefore, Mr. Perry submitted a new plan with corrections.

Ms. Shiver that there should be a correction with the property because it is on Castle Lane and not Wilson, it was determined that the applicant wrote on the application Wilson Street and Mr. Perry clarified that his neighbor's property goes up to Wilson Street. Mr. Perry stated he is merging the border of Whittemore Cove with the addition of an acre and square up his neighbor's ends to increase property size. Mr. Ceppi asked if Mr. Perry is just making the lot bigger and adding frontage. Ms. Shiver asked why took the diagonal part on Castle Lane and if it was in order to have more frontage. Mr. Perry said no that he is just adding land and that his land is already pre-existing non-conforming. Mr. Perry said he has a neighbor that has a right-of-way on castle lane so he left a clear swath for passage. Mr. Perry came up to review the plan with the Planning Board members. Ms. Shiver asked if there was an underlying fee ownership with Haberman and Mr. Perry said a little. Mr. Viner asked about Whittemore Cove and if the square footage in lot A included referenced and Mr. Perry said yes its 54. Ms. Shiver stated that the line for the right-of way- had a different line so that it was clear of what Mr. Perry was buying. Mr. Viner stated that Whittemore cove is a private lane and is a little confused on the ownership and Mr. Perry said that the road extends an additional 20 feet and a fee easement. There was much discussion of the centerline and Whittemore Cove. Mr. Viner asked about the property to the South of him and Mr. Perry said that is Richard Prefontaine. Ms. Shiver asked if the other neighbors have access on Whittemore Cove and Mr. Perry said yes.

Ms. Shiver said the notes state that the plan was prepared without a title report and Mr. Perry said they went after title insurance. Mr. Perry stated the extra land will just give him a little buffer and a little more privacy. Mr. Viner stated that the plan does not state if it is buildable or not and wants to see on the plan that it is a non-buildable lot. Mr. Perry said he can write on the plan but Mr. Viner stated only the surveyor can write on the plan. There was much discussion about plan not meeting certain requirements and the plan needs to be amended.

MOTION: Ms. Shiver motioned that after the applicant amends the plan to say non-buildable the Town Planner can endorse the plan on their behalf.

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 5-0

- **96 Greenville Street, David Garber, Create new lot (s)**

Mr. Dell'Aquila said that currently 96 Greenville Street is an 8.28 acre parcel developed with a single family home, occupied by Paul Bernard. There a 24-foot-wide easement along the easterly side of the Bernard property that is intended to serve as an emergency access to the unbuilt Phase II of the Candlewood subdivision adjacent to the south. Additionally, there is currently no timetable for construction of that project and the driveway for the adjacent property at 100 Greenville Street owned by Mr. Garber currently encroaches onto this easement area. That property is developed with a single family home and barn occupied by Mr. Garber. Mr.

Dell'Aquila said the purpose of the plan is to create an unbuildable 11,687 square-foot "Parcel A" out of the Bernard parcel, which coincides with the access easement on that parcel, and convey new Parcel A to Garber. This action would not alter the existing easement, only the underlying land ownership. After this proposed action, the land owned by Bernard would consist of 8.04 acres and 262 feet of frontage. The existing land of Garber is less than one acre (39,457 s.f.) with only 75 feet of frontage, but was developed before current zoning was adopted. No construction is being proposed as part of this project.

Bruce Fitzback, Bertin Engineering to represent David Garber, explained that the applicant is taking 24ft strip and dividing off, there is an easement on the property and driveway being used by Mr. Garber, and it is labeled as non-buildable. Ms. Shiver asked about it being a Candlewood easement and Mr. Dell'Aquila said no there is additional work. Mr. Ceppi asked if this is a common driveway and Mr. Dell'Aquila said no it is an emergency access easement.

Paul Bernard stated that the road is described in the deed and it is not a common driveway. Mr. Bernard said the road has bylaws applied to the road and the deed lists contingencies and he has abided by staying off of the easement and was told he had to by the Attorneys of Murkland Development. Mr. Bernard mentioned the issues he has with Mr. Garber and numerous confrontations he has had with him. Mr. Fitzback said that Mr. Garber has access to the emergency easement. Mr. Viner asked if the subdivision was ever completed and Mr. Dell'Aquila said it was never completed but added the easement won't go away. Mr. Dell'Aquila reached out to the Building Inspector, Fire Department, and Police Department and they said they have no action. Additionally, Mr. Dell'Aquila added that if Candlewood gets finished than no vehicles can be parked on the easement. Ms. Shiver stated that the locus is incorrect on the plan.

MOTION: Ms. Shiver motioned to endorse the plan as submitted

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 5-0

3. Adoption of Minutes: April 16, 2019 and April 16, 2019 special meeting

- **April 16, 2019 regular scheduled meeting**

MOTION: Mr. Ceppi motioned to approve the minutes from 4/16/2019

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 5-0

- **April 16, 2019 special meeting**

MOTION: Mr. Butensky motioned to approve the minutes from 4/16/2019 special meeting

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 5-0

4. Continued Major Site Plan Review/ Special Permit: 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. Viner opened the continued hearing. Mr. Dell'Aquila stated the applicant has requested another continuance and asked the Planning Board members what they felt would constitute a new submission. Ms. Shiver asked if they were under contract and Mr. Dell'Aquila was unsure. Mr. Dell'Aquila said he is unsure of the changes and site access and if resubmitted it would need new fees to be advertised again.

Mr. Viner opened the hearing to the public at 8:05pm and there was no comment.

MOTION: Mr. Ceppi motioned to continue the meeting to June 18, 2019

SECOND: Ms. Shiver

DISCUSSION: Two members will not be at the June 18, 2019 meeting

VOTE: 5-0

5. 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). This subdivision plan was originally approved by the Planning Board on December 6, 2005.

Mr. Viner opened the continued hearing.

Jim Laney, 123 Kids, was present for the meeting. Mr. Dell'Aquila reviewed that Corey Brodeur with Lenard Engineering updated the punch list and gave feedback to get the road to adoptable standard, the updated list was sent to Utilities and Facilities, comments were collected from Utilities and Facilities, and Mr. Laney responded to those comments. Mr. Dell'Aquila stated that Mr. Laney installed the street lights and has been reviewing with Eben Butler with the Highway Department. Additionally, Mr. Dell'Aquila stated that the Highway Superintendent, William Krukowski, had questions on the catch basins and the curbs.

Mr. Laney stated that he is in the process of meeting with the contractors for the road and he is present for the meeting to answer questions from the Highway Superintendent. Mr. Laney said he wants the road ready for adoption at the Fall Town Meeting Mr. Viner asked if Mr. Laney had comments to the new punch list and responses from third party and Utilities and Facilities and Mr. Laney had one comment that he wanted to address, which, was the boring of holes and he was not responsible for that because he did not install it and it was before he came into the project and he wants to accommodate as much as possible but he is running low on funds and he has run into financial setbacks. Mr. Viner asked if there were inspection reports in the road various steps. Mr. Dell'Aquila stated that various inspections do happen and the Conservation Commission inspected the Solar Farm and the new home gets inspections. Mr. Viner felt that the third party hired by the town should have provided there inspections to the town and the Planning Board should have a report of that and the Planning Board should review all the reports before making decisions because if work was done and approved than where the liability would fall under. Mr. Shiver stated there is a difference between construction inspections and road

inspections. Mr. Viner asked Mr. Dell'Aquila what Mr. Brodeur's input was when after reviewing the punch list and Utilities and Facilities conditions. Also, Mr. Viner would like to see an update on what has been completed to date.

Mr. Laney reviewed the completed work and stated the items that need to be completed such as the man holes needed to be mortared but stated the streetlight were just completed. Mr. Viner asked if those items were inspected and Mr. Laney said just the berm and the base coat. Mr. Viner stated under the Planning Board's Subdivision Regulations, F. Construction Process, 3. Inspections: inspections need to be requested, there needs to be an inspection schedule, the utility installation and erosion control measures, drainage, and mortaring need inspections, etc., all inspections that need to take place. Mr. Dell'Aquila mentioned that most of that work was done before 2015/2016 and Mr. Laney stated all those inspections were done long before 2015. Mr. Viner wants to see the old inspections and wants to see the new inspection reports as the work is being done by the third party engineer. Mr. Dell'Aquila stated that the third party engineer has been Lenard Engineering. Mr. Laney stated he can't afford to spend additional money every time the third party engineer comes and would like to wait until more items are completed. Mr. Viner asked if there was an account balance for third party review and Mr. Laney said there is a small amount left in the account. Ms. Shiver asked if he got a record of the project when he purchased the land and Mr. Laney said he only got a copy of the plans.

Mr. Laney said that he learned the hard way that the project was not worth purchasing. Mr. Viner said that his concern is the settlement of the road. Mr. Laney said if certain items were inspected previously and approved then he should not be responsible for it again. Mr. Viner commented that the Planning Board does not want to inherit a road that needs to be fixed. Mr. Laney said the road has been there for 10 years and it is not that bad and that as soon as he gets a road contract he will forward it to the Town Planner. Mr. Dell'Aquila said the road needs to be accepted by Utilities and Facilities and will put together information and inspection reports for the Planning Board to review for next meeting.

Mr. Viner opened the hearing to the public at 8:28 pm.

Frank White, 35 R Jones Road/ Sewer Commission, stated that Rick Hill first owned the project and he bought the property and his I&I cost was a quarter million dollars for the houses and in lieu of that he put in new sewer pipes and the sewer lines and those had to have been inspected and it might be beneficial to speak with the sewer department to see if they have any records. Mr. Laney said he did some leg work for the sewer inspector and there was a recorded documentation that was submitted.

Gary Woodbury there has to be a record of the road and when the base coat went down and Mr. Dell'Aquila said they could look into it. Mr. Woodbury said he asks because he knows a road lasts 20 years. Mr. Dell'Aquila said in the early 2000's the road started and Mr. Laney said the original plan was from 2005.

MOTION: Ms. Shiver motioned to continue the public hearing for Sunset/Holmes Subdivision until July 16, 2019

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 5-0

6. Landfill Solar Decommissioning Bond

Emily Byrnes, Citizens Energy, was present for the meeting.

Mr. Dell'Aquila reviewed that the format of the decommissioning bond was discussed at the last meeting and the applicant has revised their surety and Mr. Dell'Aquila stated the third party was okay with the surety. The project scale has downsized and they could have less surety but the applicant did not lower the surety and they added to revisit the surety in 5 years.

Ms. Byrnes mentioned condition number 33 states they will revisit the surety amount in five years. Mr. Viner asked about the Stormwater bond and Mr. Dell'Aquila stated that was through the Conservation Commission.

MOTION: Ms. Shiver motioned to approve the surety bond for decommissioning

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 5-0

7. Public Hearing: Scenic Road — As required by MGL Ch. 40, Sec. 15C of the General Laws of Massachusetts, a public hearing will be held related to tree work associated with equipment upgrades (poles & wires) on Buteau Road. The applicant is Brande Tarantino of National Grid and the work is located within the Rural Residential zoning district and on a designated Scenic Road.

Brandy Tarantino, 99 Southbridge Street, Worcester, MA, was present for the meeting.

Mr. Dell'Aquila reviewed that the application is straight forward and the applicant is seeking a Scenic Road permit from the Planning Board for tree work related to pole and wire upgrades on Buteau Road. Buteau Road, along with Borkum Road, William Casey Road, East Charlton Road, and Cranberry Meadow Road were designated as scenic roads by a Town meeting vote on May 19, 1977. Per Town regulations, any work done in the public way of a scenic road shall not involve or include cutting or removal of trees or tearing down or destruction of stone walls, or portions thereof, without prior written consent from the Planning Board, after a public hearing. Per materials submitted, National Grid is seeking to trim/prune 8 trees and remove up to 12 trees at approximately 13 locations along Buteau Road as part of wire and pole upgrades. Mr. Dell'Aquila did a site visit down the road and the trees are marked and the trees were selective.

Ms. Tarantino said they were very selective on the trees and they are looking to prune and in some cases remove the tree. Mr. Viner asked if this was upgrading capacity and Ms. Tarantino answered that it is and upgrade because they are upgrading the delta, which, is two wires on a cross arm to a single pull top so only one wire will go down the street but they will be increasing the pole heights.

Ray Holmes, Tree Warden, said he reviewed the trees and posted the trees. Mr. Viner asked if he recommends and Mr. Holmes said he didn't see an issue in what the applicant wants to do. Mr. Viner opened to the public at 8:45 pm.

Gary Picard, 43 Buteau Road, asked what the process would be for his property. Mr. Picard handed out pictures of his property. Mr. Picard stated that Buteau road became a scenic road in

2003 and wants to see what is happening with the front of his property and wants his property landscaped in the front of his property. Ms. Tarantino said if stumps need to be grinded and landscape work is requested than she will need to go back to the project manager because it will cost more money. Mr. Picard wants to make sure that the stump get grinded and landscaped. Ms. Tarantino said that poles will be relocated and the same area as the poles now but the height of the pole will be higher. Mr. Viner asked Ms. Tarantino if there will be impact to the stone wall on the property and Ms. Tarantino answered no. Ms. Shiver said if anything happens National Grid will fix it. Mr. Holmes mentioned that if the Highway Department wanted the stumps removed then they should attend the meeting, some stumps are close to the road, and some stumps should be grinded. Ms. Tarantino said if multiple stumps need to be removed and grinded then it will increase the cost and she would need approval from the project manager for the project.

Mr. Picard wants in writing that the trees cut on his property the stumps will be removed and regraded. Ms. Tarantino said if she if only doing the removal, grinding and grading for Mr. Picard than she will do it.

Mr. Dell'Aquila asked Ms. Tarantino when she notifies the neighbors if she could include them in the notification. Ms. Shiver felt that the stumps left that are close to the road might be a safety issue and possibly damage the plows in the snow. Mr. Viner stated that the Highway Department had a chance to be present and chose not to attend. Mr. Viner asked if all the poles will be replaced and Ms. Tarantino said some there will be some new poles. Mr. Viner asked about the language that mentions to lay and maintain wires and Ms. Tarantino said she cannot answer those questions because she is the forestry supervisor.

MOTION: Mr. Ceppi motioned to close the hearing

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 5-0

MOTION: Ms. Shiver motioned to approve the scenic road permit with the condition that the stumps of the two ash trees in front of the property at 43 Buteau Road are to be ground down after the trees are removed and the applicant agrees to repair any damage to the existing masonry wall at 43 Buteau Road caused by the tree removal and stump grinding.

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 5-0

8. Town Planner Report

- **GH Wilson Solar**- approved decommissioning at the March meeting and just need signatures
- **ANR**- Annual signatures for the registry
- **Procedures for the Planning Board**- appendix embedded and the Planning Board members agreed to table until the next meeting.

- **Term Cycles-** Mr. Viner recommended 5 year terms, max 3 years, and can only be one year for the other. Ms. Shiver wants legal counsel clarification for terms and years. The Planning Board members agreed to table the discussion to the next meeting.

9. New Business-

Oak Bluff Lane- Matt Schold, Schold Development, came in the last meeting to discuss Oak Bluffs Lane in Leicester, MA. Currently, he is developing the subdivision in Leicester, MA and it has already been approved in Leicester, however, there is a very small piece of the land that is in Spencer and needs the Spencer Planning Boards signature on the ANR before he submits to the registry. Mr. Schold stated that they are not building on the small piece that is in Spencer portion. Mr. Dell'Aquila spoke to Michelle Buck, Leicester Town Planner, and Ms. Buck had no comments or objections. Mr. Viner asked that the part that is Spencer is it necessary to meet the zoning criteria for that lot and asked if they are creating a road for the project. Mr. Schold said they will follow zoning and it is an existing private road that they will be repairing and the roads are Oak Bluff, Sycamore, Windbrook, and then Lake Ave and is looking to make the roads better. Mr. Ceppi asked if it's a buildable lot in Leicester and Mr. Schold said yes. Mr. Schold stated that the lot that has the small piece in Spencer the abutter is purchasing the lot for privacy. Mr. Viner asked what that means and Mr. Schold said they bought the lot and not sure what they will use it for in the future. Mr. Viner asked if he was putting a house on the lot and Mr. Schold said no just selling the lot.

Mr. Viner asked if they are endorsing the plan under an ANR or a subdivision and Mr. Dell'Aquila said neither because it's not an ANR. Mr. Viner has an issue with endorsing it as a subdivision because then that needs a public hearing. Mr. Schold stated he is not building on it and it is only 10,000 square feet piece in Spencer. Ms. Shiver asked if the registry is requiring Spencer to sign and Mr. Schold said yes. Mr. Ceppi asked if the frontage was on Sycamore Street and Mr. Schold said yes. Mr. Schold said because it is an existing road there is an offset for an emergency turnaround so they didn't disrupt the flow of traffic. Mr. Ceppi asked if the entire frontage is in Leicester and Mr. Schold said yes. Mr. Ceppi asked about the portion in Spencer could be a buildable lot and Mr. Schold said that would need to come back for an ANR and if the subdivided the land it would be a non-conforming lot in Leicester, which, is not allowed. Mr. Viner asked if the road originated in Leicester and Mr. Schold said yes off of Baldwin Street. Mr. Ceppi asked who is buying the lot and Mr. Schold said it is a Spencer resident.

Mr. Viner asked about the surveyors thought. Mr. Schold voiced his frustrations at how long this is taking and said it is a common thing with land being shared and the Planning Board did this before for Chickering Road and he is not creating new lots. Ms. Shiver asked what they were signing and Mr. Dell'Aquila said signatures for 3-4 different plans. Mr. Schold said that the project would be subject to Spencer Conservation approvals if lot is ever built on. Mr. Ceppi asked about the road improvements on Sycamore and Mr. Schold said nothing.

MOTION: Ms. Shiver motioned to endorse the plan for ANR signature

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 4-0 (Mr. Viner Abstained)

10. Planning Board Discussion Regarding Town Meeting- Mr. Butensky started the discussion with reminding the Planning Board members of the meeting in April where Mr. Viner mentioned his petition, he explained he had not seen the warrant before the April meeting, and felt he would have said different things and would retract some statements. Mr. Butensky said the focal point at the Town Meeting was that Mr. Viner had a right to file the petition; however, what troubled him was the way it was presented because Mr. Viner should have recused himself at the April meeting to discuss the petition and added that Mr. Viner should have represented himself as a citizen and not sit in the chair seat. Furthermore, Mr. Butensky explained that as Planning Board members they have the right to bring things to the board, but then they have to remember to recuse themselves. Mr. Butensky said that he has 20 years of experience in Town Government and 30 years of experience in Federal Government and a member cannot be on both sides of the table at the same time. Also, Mr. Butensky explained that he is not accusing Mr. Viner of an ethics violation or intentionally doing anything wrong but the process was improper and is fixable. Mr. Viner wanted Mr. Butensky to elaborate more because he didn't bring it up as a Planning Board issue and Mr. Butensky said it was discussed by the Planning Board with Mr. Viner as Chair and he didn't recuse himself. Mr. Viner said he brought up that he was doing the citizens petition and by no means made generalization that it was to represent anyone but himself. Mr. Butensky said that when you sit on the Planning Board as chair you are representing the Planning Board and the town and there needs to be a very clear line. Mr. Ceppi clarified that Mr. Butensky felt that Mr. Viner should not have told the Planning Board about his petition while sitting in the chair seat and Mr. Butensky said yes and Ms. Shiver agreed. Mr. Viner disagreed because he did not feel a hearing needed to happen because he pulled the petition as a citizen, you only need 10 signatures, and you can put anything on the warrant for Town Meeting. Mr. Viner said the intent was not to involve the Planning Board because he didn't want it to become a board issue and Ms. Shiver asked how it could not be when the chair of the Planning Board pulled the petition.

Mr. Butensky continued to express his concerns of Mr. Viner discussing his citizen's petition as chairman and did not recuse himself. Mr. Butensky said if the petition gets revamped there should be a Planning Board hearing and Mr. Viner said he was incorrect and Mr. Butensky felt legal council should weigh in on the matter. Ms. Shiver stated it looks bad as a board that the chairman comes forward and says the Planning Board needs to be an elected board because of various reasons and she was glad the petition did not pass. Furthermore, Ms. Shiver stated that if Mr. Viner feels there are issues with the Planning Board and how it is functioning then she would like to know that and would like to have a discussion about it. Mr. Viner said he clearly stated in the April meeting that the intent did not include any members of the Planning Board. Mr. Butensky said that in the April meeting he supported an elected board and still does; however, he wanted to clarify that he does not support term limits. Ms. Shiver said the Planning Board has the same authority if they are appointed or elected and Mr. Viner disagreed. Ms. Shiver asked what the difference was between their authority and being appointed or elected because they still have the same responsibility to serve the people of Spencer. Mr. Viner said if elected they can have supervision of Town Personnel and Ms. Shiver asked why would they want that and Mr. Viner said it is how other Planning Boards operate. Mr. Butensky said the two points he wants to make clear is that he does not support term limits and does not support the Planning Board having authority over any town employee. Mr. Butensky said the Planning Board has authority over regulations, bylaws, and projects to make to change the town and should not have authority over any person(s) and Ms. Shiver said she agreed.

Ms. Shiver agreed with Mr. Butensky and added the Planning Board should not have authority over the Conservation Commission or the Building Inspector and thanked Mr. Butensky for being at the Town Meeting. Mr. Viner said the other aspect is that legally a Planning Board should only discuss matters that they have prevue on and it's not determined by the board and they can't make decisions, Mr. Butensky said they can advise decisions, and Mr. Viner said its inappropriate and may cross a line. Mr. Viner said it's inappropriate to advise the Select board on how the Planning board should be established and Mr. Butensky said the Planning Board is responding to the citizen's petition. Ms. Shiver asked what else needs to be in the Planning Boards prevue and expressed that she still felt a discussion needed to be made why Mr. Viner felt the need to do a citizen's petition. Ms. Shiver asked why Mr. Viner felt the Planning Board should have authority over the Town Planner and the department and Mr. Viner responded that he felt that since the Planning Board doesn't have that authority over the department than they don't have the authority to enforce decisions. Ms. Shiver said if they had jurisdiction over the Town Planner and Clerk the Planning Board is not qualified and Mr. Butensky said that during Town Meeting Town Council said that it was illegal. Ms. Shiver made an example about the Planning Board issuing a cease and desist order and Mr. Viner interrupted and said if Mr. Dell' Aquila doesn't want to issue the cease and desist he doesn't have to, and Ms. Shiver said the Building Inspector makes that decision, Mr. Viner stated that the Building Inspector works for Mr. Dell' Aquila, and Mr. Dell' Aquila stated that was incorrect because the Building Inspector works under the Town Administrator. Ms. Shiver said they don't have control over the other departments to carry out what you want to do and Mr. Viner still felt the Planning Board should still have the authority over the Town Planner in order to carry out their decisions. Ms. Shiver said in the Planning Board rules and procedures it states that the Planning Board will work with the Planning staff. Mr. Butensky stated that the Planning Board does have the authority to go over the Town Planners head to the Town Administrator and Mr. Dell' Aquila said that was true at any time; Ms. Shiver agreed and felt if she were unhappy or perceived unethical issues she would go to the Town Administrator.

Mr. Butensky said if Mr. Viner wants to continue with the petition at the next Town Meeting than he should come before the board as a citizen and recuse himself as a Planning Board member and discuss it and Mr. Viner said he can respect that. Mr. Viner explained the reason it wasn't done before was because he thought it was inappropriate for the Planning Board to collectively discuss the matter because it is not up to the Planning Board and may result in questioning the Planning Boards establishment or authority and did not want to put the Planning Board under scrutiny. Ms. Shiver explained that the petition still made the Planning Board look questionable and Mr. Butensky agreed that the Planning Board fell under scrutiny because of the petition. Mr. Viner noted the he might want to clarify with legal counsel with the Planning Board having that discussion, Mr. Butensky agreed, and Mr. Dell' Aquila said he can reach out to Town Council.

11. Board Liaison Reports- The Planning Board members agreed to table until next meeting

MOTION: Ms. Shiver motioned to adjourn the meeting at 10:08 pm

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 5-0

Submitted by: Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 8/20/2019

List of Documents used on May 21, 2019

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

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board dated 5/14/2019
- ANR- 50 Donnelly Road application
- ANR- 96 Greenville Street application and plan
- ANR- Wilson Street application and plan
- 22 Norcross Road Solar Farm- Continuation form
- Landfill Solar- Decommissioning Bond and Stormwater Bond
- Scenic Road Public Hearing- Application, narrative, and plan
- Draft Rules and Procedures of the Planning Board
- Minutes: 4/16/2019 special meeting & 4/16/2019 regular meeting

Items submitted at the Meeting:

- ANR – 50 Donnelly Road Plan revised
- Updated punch list for Sunset/Holmes road repair generated by Utilities and Facilities
- Updates to Holmes Street from James Laney
- Pictures of front of home from 43 Buteau Road