



## Planning Board – Town of Spencer

### *Minutes*

#### Planning Board Meeting

**Tuesday, July 19, 2022, at 7:00 PM**

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall- **Remote and in person Meeting**

**Planning Board Members Present:** Chair Robert Ceppi (in-person), Shirley Shiver (in-person), Vaughn Slack, (in-person), and Charlie Bellemer (in-person)

**Planning Board Members Absent:** None

**Staff Present:** Lauren Trifone, Town Planner/Conservation Agent (in-person) and Monica Santerre-Gervais, ODIS Senior Clerk (remote)

**Staff Absent:** None

**1. Chair, Mr. Ceppi, opened the meeting at 7:00pm.**

**2. Approval of Minutes: 6/21/2022 & 6/29/2022**

#### **June 21, 2022**

Mr. Slack commented on the spelling of the word “as built” because there should be a hyphen. Mr. Ceppi said he believes as built spelling is with a capital A and capital B.

**MOTION: Mr. Bellemer motioned to approve the minutes for 6/21/2022**

**SECOND: Mr. Slack**

**DISCUSSION: None**

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

#### **June 29, 2022**

Ms. Shiver noted on page five of the minutes draft, under New Business/Adjournment, the roll call vote names for the Planning Board members are incorrect.

**MOTION: Ms. Shiver motioned to approve the minutes for 6/29/2022 with the mentioned edits.**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

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

**3. ANR's- Candlewood Drive/ JC Kady Realty LLC/ Create Lots**

Mr. Ceppi mentioned the applicant submitted a letter to withdraw the application without prejudice.

**MOTION: Ms. Shiver motioned to accept the request to withdraw without prejudice**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

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

**4. Continued Site Plan Review & Special Permit– Applicant/Owner: Spooky Realty Trust, Steven Turner, Location: Meadow Road, Spencer Assessor’s Map U11-12, 12-1, 12-2, 12-3, 12-4. The applicant is looking for a Major Site Plan Review under section 7.4.2 (Site Plan Review required for this use even when there is no new construction or expansion of structures or parking areas) & Special Permit under Section 3.4.1.G (Aquifer Protection Overlay District) and Section 3.4.2.H (Floodplain Overlay District) to. The property is located within the Commercial zoning district.**

Ms. Trifone reviewed the application, and it has gone through peer review, the applicant has submitted peer review responses and updated plans, and now waiting on BSC Group to review the applicants’ responses. Carl Hultgren, Quinn Engineering, and the applicant, Steven Turner, were present for the meeting. Mr. Hultgren went through the peer review finding from BSC Group and their responses.

1. *As the Project site is within the Aquifer Protection District and will render more than 15% or 2,500-square feet of the lot impervious, it requires a Special Permit in accordance with Zoning Section 3.4.1.G.2. Based on the information provided, we believe that the Project generally meets the requirements of Zoning Sections 3.4.1.I.4. and 7.2.3.A. through C. for Special Permits. No comments needed by applicant.*
2. *As the Project site is within the Floodplain District, it requires a Special Permit in accordance with Zoning Section 3.4.2.H. The majority of Project work is located outside the FEMA flood hazard area, above the base flood elevation. There is a small portion of the work on the lower side of the retaining wall extension that requires regrading within the flood hazard area. The Project includes adequate compensatory flood storage at all effected elevations to prevent increase of flooding to adjacent or downstream sites. The compensatory flood storage is shown on the Site Plans. No comments needed by the applicant.*
3. *Mr. Rinaldi has indicated that he feels that the proposed parking arrangement is appropriate. In accordance with Mr. Rinaldi’s recommendation, a waiver is respectfully requested from Section 6.1.1.F since all of the parking serving the existing and proposed use are located on adjacent lots under the same ownership. The applicant will request a waiver for section 6.1.1.F.*
4. *The proposed curb cuts are currently being coordinated with the proposed improvements to Meadow Road through William Cundiff, Highway Superintendent. The future Meadow Road curb line, etc. have been added to the site plan. In addition, some of the interior curb lines have been shifted to accommodate fire apparatus turning movements.*
5. *5-a, Landscaping is proposed to be similar to that which currently exists or is currently under, construction. A landscaping plan has been included in the updated site plan. 5-b, Lighting is proposed to be similar to that which currently exists or is under construction. A lighting plan has been included in the updated site plan. 5-c, Building plans have not*

*been prepared. The Applicant expects that building plans will be prepared after approval of the special permit and site plan applications. A waiver is respectfully requested from Section 7.4.5.G. 5-d, General traffic impacts were submitted with the original application. A detailed Traffic Impact Assessment has not been prepared. A waiver is respectfully requested from Section 7.4.5.K.1. 5-e, A detailed interior design of the proposed restaurant and storage/retail space has not been prepared at this time, however, the proposed wastewater flow will not exceed the Town's current limit of 440 gallons per day per lot.*

- 6. A sewer easement does not exist along the front of the property. There are no known restrictions associated with this area.*
- 7. Sight triangles have been added to the plan. This portion of Meadow Road has a posted speed limit of 40 mph. A sight distance of 305 feet has been used which corresponds with the AASHTO design stopping sight distance for a design speed of 40 mph. The on site area adjacent to the driveway is proposed cleared and turned into lawn (see the proposed landscaping plan). The area on the adjacent property contains little to no vegetation. Applicant is amenable to a condition requiring the area on site to remain lawn.*

Mr. Hultgren went into detail the waivers they would be requesting. Mr. Bellemer asked if the two parking areas were continuous and Mr. Hultgren said yes. Mr. Ceppi asked if it is all one lot or two. Mr. Hultgren said they proposed to divide it and it will meet the setback requirements. Mr. Ceppi mentioned in 5-e of the peer review, just because the owner does not have tenants, they should include the limitation in a narrative regarding water and sewer. Mr. Hultgren stated they would maximize the flow regulation and Mr. Ceppi stated he would like to see that on paper. Mr. Ceppi asked if there is availability for sewer and Mr. Turner said yes and that they submitted a letter from Frank White, Chair of the Sewer Commission. Ms. Shiver felt it was important for the applicant to do the traffic impact study because of the unknown tenant and unknown traffic conditions. Ms. Shiver mentioned that the sewer line on the property could turn into an easement in the future and asked the timeline for the construction. Mr. Turner said they are hoping to start in the Spring of 2023 with the drive thru.

The Chair opened the meeting up to the public:

Jonathan Viner, 34 Donnelly Cross Road, stated a traffic and impact study would be required by the applicant. Additionally, Mr. Viner mentioned if the parcel does not stay in common ownership, and the parcels are divided, then the proposed parking lots would not meet zoning requirements. Mr. Hultgren answered that if Mr. Turner decides to sell then there would be an easement. There was much discussion regarding dividing the parcel. Ms. Trifone mentioned they are waiting for BSC Group to review the applicants' responses and the applicant is attending the Conservation Commission meeting next week for the Stormwater Permit.

Gary Woodbury, 219 Charlton Road, mentioned reviewing an older study done for the railyard as a point of reference.

**MOTION: Ms. Shiver motioned to continue the Site Plan Review & Special Permit for Meadow Road until 8/16/2022**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

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

**5. Continued 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. Trifone mentioned to the Planning Board members that she had a meeting with Elio Qorri, Bertin Engineering, and Corey Brodeur, Lenard Engineering, to review past comments. Mr. Brodeur recommended the applicant redo some test pits, but she is still waiting on signatures and payment from the applicant to start the peer review.

Elio Qorri, Bertin Engineering, and TJ Recupero were remotely present for the meeting if the Planning Board or public had any questions.

The Chair opened the meeting up to the public:

Ms. Shiver asked why the test pits needed to be done again and Ms. Trifone said it had been some time since they were last done, now the road going over with impervious surface may affect some areas. Mr. Qorri said they are proposing a detention basin above ground, not cutting, or removing soil, majority of the basin in fill, and modeling what is currently happening now. Mr. Ceppi asked if the Town of Spencer's basins can manage the additional water shed. Mr. Qorri said they are proposing less water and should make the current conditions better. Also, Mr. Qorri discussed how they calculated the flowrate.

Matt Defosse, 7 Paul's Drive, asked what the test pits were for, and Mr. Ceppi answered test pits are used to review soil conditions, the water table, and ledge.

Gary Woodbury, 219 Charlton Road, asked about if a dam was located on the property. Mr. Ceppi said there is no dam noted on the subdivision plans and Mr. Qorri said there is a dam farther away that they would work with DCR.

**MOTION: Ms. Shiver motioned to continue the Ash Street Subdivision application until September 20, 2022.**

**SECOND: Mr. Bellemer**

**DISCUSSION: Ms. Shiver noted they need a signed continuance request.**

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

**6. 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. Trifone explained they have not received peer review for this project, the Conservation Commission denied them, and the applicant needs to submit a new Notice of Intent (NOI) application. Elio Qorri, Bertin Engineering, and TJ Recupero were remotely present for the meeting if the Planning Board or public had any questions. Mr. Qorri said the NOI application would be ready in the next day or two. Ms. Trifone asked about the frontage issues. Mr. Recupero stated he submitted a memo awhile back regarding the three-inch discrepancy with the frontage. Mr. Recupero mentioned explained on a plan back in the 1960's or 1970's it says proposed fifty feet of access and the three inches could just be a surveying error. There was much discussion regarding the frontage shortage. Ms. Shiver said the land is in a trust and the owner has access from Bacon Hill they could use. Mr. Recupero pulled up the plan from June 1971 and it shows a proposed fifty-foot right-of-way (ROW).

The Chair opened the meeting up to the public:

Matt Defosse, 7 Paul's Drive, said he is concerned with the language the applicant uses and wants to see definitive answers. Additionally, Mr. Defosse is against waivers and strongly discourages the Planning Board to grant any waivers.

Dave Nussey, 227 Charlton Road, said the owner proposing this application has a whole lot and access on Bacon Hill Road. Mr. Nussey would be two lots away from the proposed access road and he is concerned about the wetlands and water runoff.

Gary Woodbury, 219 Charlton Road, said he bought the last buildable lot on Charlton Road and the plans say proposed fifty-foot ROW it is not definitive. Additionally, Mr. Woodbury has videos of the water issues, the damage they have made to the wetlands, and the workers crossing the wetlands.

Mr. Shiver is concerned about the waiver for frontage because they have never waived the frontage requirement and may cause issues for current lots that do not meet frontage and the public would come forward and it will cause issues for the Town of Spencer. Mr. Woodbury stated he came before the Planning Board and was denied for not having enough frontage. Also, he had to give away an acre of land to gain the appropriate amount for frontage. Ms. Trifone stated the plans still need to begin the process of peer review.

**MOTION: Ms. Shiver motioned to continue the Charlton/ Bacon Subdivision application until September 20, 2022**

**SECOND: Mr. Slack**

**DISCUSSION: Ms. Shiver noted they need a signed continuance request.**

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

**\*The chair did agenda item 8 before 7.**

## **8. Review & Act: Revolving Account**

Mr. Ceppi mentioned they need a motion to approve payment to the Stonebridge Press for \$411.60 to pay for advertisements.

**MOTION: Ms. Shiver motioned to approve the payment to Stonebridge Press for \$411.60 using the Planning Board Revolving account**

**SECOND:**

**DISCUSSION: None**

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

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

Ms. Trifone handed out folders labeled “Spencer Zoning Bylaw Revision Project Fall 2022.” Ms. Trifone reviewed the draft proposal of the Town of Spencer’s Zoning Bylaw and in her presentation noted she has done extensive research for surrounding towns, followed solar court cases, and she is working with CMRPC and KP Law with the amendments. Ms. Trifone reviewed the proposed amendments for the following sections: 4.2 Use Table, Principle Uses, 4.4 Accessory Uses, 4.7 Prohibited Uses, 4.8.9 Solar Photovoltaic Generating Installations, and 5.2 Interpretations notes for area. During review of Section 4.8.9, Ms. Trifone discussed the intention to revise and add definitions such as Accessory Use, Building Official, Large-Scale Ground-Mounted Solar Photovoltaic Installation, Principal Use, Rated Nameplate Capacity, Roof-Mounted Solar Energy System, Site Plan Review Authority, and Small-Scale Ground-Mounted Solar Photovoltaic Installation. Ms. Trifone was clear that the main objectives for the Fall Town Meeting is to update the definitions, set a limit for large-scale arrays in town, and restrict and/or add more regulations to battery storage. Upon conclusion, Ms. Trifone discussed the Special Meeting that will take place on August 17, 2022, at 7:00 pm to discuss in more detail the consideration for amendments.

## **9. Town Planner Report, Interim Planner, Lauren Trifone**

- Ms. Trifone is now the official Town Planner/ Conservation Agent for the Town of Spencer.
- Need additional approvals from two members regarding the recent special permit decisions for residential ground-mount solar.

## **10. General Board Discussion & Board Liaison Reports**

**None**

## **11. Citizen Input**

Mr. Defosse stated he appreciated the demanding work from the Planning Board and Ms. Trifone regarding the solar bylaw amendments.

Jonathan Viner, expressed that the proposed 15 kW cap for residential use is not appropriate because he is getting quotes for a 16 kW and have two batteries. Mr. Viner mentioned that when Todd Miller was the Town Planner CMRPC wrote in a memo that they advise against putting a cap of large-scale solar farms because it would not hold up in court. Lastly, Mr. Viner said the battery storage is an issue and cannot prohibit it.

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

**MOTION: Ms. Shiver motioned to adjourn at 9:40**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

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

---

**Submitted by Monica Santerre-Gervais, ODIS Clerk**

**Approved by the Planning Board on: 8/16/2022**

### **List of Documents used on July 19, 2022.**

#### **Items sent by email to the Planning Board and printed out for use at the meeting:**

- Agenda
- Memo from Town Planner for meeting
- Drafted minutes from 6/21/2022 & 6/29/2022
- Meadow Road updated plans, turnaround radius, peer review, lighting plan and peer review response.
- ANR Application and Plans- Candlewood
- Stonebridge Press Invoice- Revolving Fund approval for \$411.60
- Solar Bylaw drafted amendments by Lauren Trifone

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

- Spencer Zoning Bylaw Revision Project Fall 2022 folder from Ms. Trifone
- Meadow Road-updated plans
- Request to withdraw for Candlewood ANR