



Planning Board – Town of Spencer

Minutes

Planning Board Special Meeting

Tuesday, July 21, 2020 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, Vice Chair Jeff Butensky, Robert Ceppi, Shirley Shiver, and Maria Reed (called in late at 7:25 pm)

Planning Board Members Absent: None

Staff Present: Paul Dell'Aquila, Town Planner, Monica Santerre-Gervais, ODIS Senior Clerk

Staff Absent: None

1. Mr. Viner opened the meeting at 7:07 pm and read aloud Covid-19 statement. *“This Meeting of the Planning Board 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.”*

Chair raised discussion of amending Agenda- Mr. Viner was looking for a motion to combine and rename as a progress discussion items 5 (Public Hearing for 20 McCormick Solar Farm) and 6 (Public Hearing for 32 McCormick Solar Farm) on the revised agenda. Ms. Shiver made a motion to remove the items from the agenda but there was no second.

MOTION: Mr. Ceppi made a motion to combine items 5 and 6 of the revised agenda and make them discussions and no longer public hearings.

(Mr. Butensky wanted to amend the motion but there was no second.)

SECOND: Mr. Viner

DISCUSSION: Attorney Damien Berthiaume wanted to clarify which agenda they were voting on and to be made clear. Additionally, Mr. Berthiaume asked to clarify the members present and clarify the motion.

ROLL CALL VOTE: Ms. Shiver-Nay, Mr. Ceppi- aye, Mr. Butensky-nay, and Mr. Viner all voted aye, and the motion was defeated (vote 2-2)

Mr. Viner asked Mr. Berthiaume if he felt it appropriate to have a discussion for 20 & 32 McCormick road and not a public hearing. Mr. Berthiaume expressed that it is upsetting that this meeting was put on the agenda without providing his client additional information so they could not prepare for the meeting. Mr. Berthiaume stated that his client has complied with the Conservation Commission, the Town Planner, and the Zoning Enforcement Officer. Additionally, Mr. Berthiaume expressed that it is inappropriate to turn a public hearing into a discussion and should not have been advertised the way it was. Mr. Viner stated that he

disagreed and wants to discuss issues to resolve them. Mr. Berthiaume stated the appropriate mechanism to discuss issues with the Town Planner and his client will work with the Town Planner and did not understand why that hasn't happened.

Ms. Reed on call.

MOTION: Mr. Butensky motioned to remove items 5 and 6 from the agenda

SECOND: Ms. Shiver

DISCUSSION: None

ROLL CALL VOTE: Ms. Shiver-aye, Mr. Ceppi- nay, Mr. Butensky-aye, Ms. Reed -aye and Mr. Viner all voted aye, and the motion was carried (vote 3-2)

Mr. Viner asked if the Board Reorganization item should be moved on the agenda and no concerns the chair moved on.

2. Adoption of Minutes: 6/18/2020-Special Meeting

- **Special Meeting June 18, 2020-** Mr. Viner commented on item 5 that during the discussion of 20 and 32 McCormick Solar Farm Mr. Dell'Aquila said he would follow up on concerns at the construction meeting. Ms. Santerre-Gervais to listen to the recording regarding the discussion.

MOTION: Ms. Shiver motioned to table the minutes until the next meeting

SECOND: Mr. Ceppi

DISCUSSION: Mr. Dell'Aquila stated that minutes should not be verbatim

ROLL CALL VOTE: Ms. Shiver, Mr. Ceppi, Ms. Reed, Mr. Butensky, and Mr. Viner all voted aye, and the motion was carried (vote 5-0)

3. Continued Public Hearing-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

Mr. Dell'Aquila said at the last meeting there was discussion of the revised road access and needed additional review. Additionally, the applicant is working with the Highway Department and the Conservation Commission and no new information has been submitted and the applicant still needs to submit an ANR plan.

Steve Herzog, Wood, stated they had to submit an NOI with the Conservation Commission because the access road requires a wetland crossing.

Ms. Shiver asked if the applicant's response to the peer reviewers' comments were written and if they included any Planning Board comments. Mr. Dell'Aquila said draft comments were

submitted a couple months ago. Ms. Shiver expressed that when the plans are revised the applicant needs to include the comments from the Planning Board.

Mr. Dell'Aquila asked about the ANR proposal and Jamie Boyd, Sunpin Solar, said it is being finalized and should be the next Planning Board meeting in August.

Mr. Viner opened the meeting up to the public and there was no comments or questions. Mr. Viner reminded the applicant that they still would like the applicant to address the remaining land.

MOTION: Mr. Ceppi motioned to continue the public hearing until 8/18/2020

SECOND: Mr. Butensky

DISCUSSION: None

ROLL CALL VOTE: Ms. Shiver, Mr. Ceppi, Ms. Reed, Mr. Butensky, and Mr. Viner all voted aye, and the motion was carried (vote 5-0)

4. Continued Public Hearing-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.

Mr. Dell'Aquila reminded the Planning Board that at the last meeting numerous issues were discussed and the Planning Board members wanted the applicant to address the subdivision and access road first. Additionally, in May and June test pits were done and supplemental materials were handed in last week, Conservation denied the Solar project, and Lenard Engineering has not completed their review.

Steve Pikhul, Bertin Engineering, Jeremy Chapman, TJ Recupero on the call.

Mr. Recupero discussed the updated documents that were submitted in July.

Mr. Viner expressed there must be better communication with third party and better mannerism with correspondences. Mr. Recupero said there were some disagreements and possibly confusion but feels it has been cordial. Additionally, they were denied by the Conservation Commission meeting in June for lack of information and felt there was an issue with having multiple peer reviewers.

There was much discussion regarding frontage and accessing the buildable portions from the subdivision. Mr. Viner mentioned that the solar array will be the principle use and will need its own lot and frontage. Ms. Shiver stated the Planning Board will never approve a subdivision to cross over someone else's land to get to another lot. There were different case laws and possible

solar exemptions brought up by Mr. Recupero. Mr. Viner stated that a subdivision needs to be able to stand by itself and Mr. Recupero said the subdivision can be built with linear frontage.

Ms. Shiver asked about the snowmobile trail and if there has been any communication with the Snowbirds. Mr. Recupero stated they sent a letter a couple of months ago but there was no response and to provide Mr. Dell'Aquila with a copy of what was sent.

Mr. Viner asked about the access around the solar arrays and Mr. Dell'Aquila mentioned the Fire Chief needs access around the pads. Mr. Viner asked the Planning Board members if they would allow a solar farm to not access through the 200 feet of frontage and Ms. Shiver stated they should set a precedent and any changes discussed during solar bylaw changes. Mr. Recupero said the Planning Board has the authority to waive that requirement. Mr. Dell'Aquila stated he would like to see the applicant design meeting the requirements before agreeing to any waivers.

Mr. Viner opened the meeting up to the public for discussion and there were no comments or questions.

MOTION: Ms. Shiver motioned to continue the public hearing until 8/18/2020

SECOND: Mr. Ceppi

DISCUSSION: None

ROLL CALL VOTE: Ms. Shiver, Mr. Ceppi, Ms. Reed, Mr. Butensky, and Mr. Viner all voted aye, and the motion was carried (vote 5-0)

5. Bond Review-N. Brookfield Road Solar

Mr. Dell'Aquila stated that the North Brookfield Solar array has changed ownership from Sunpin Solar to Next Era Energy and the Planning Board needs to approve the revised bond. Additionally, Town Council has reviewed, and one change was made.

Ralph Hicks, 21 Lyford Road, asked how much the bond was for and Mr. Viner said \$20,000.00. Mr. Hicks asked how many megawatts the solar array was and stated that the amount of the bond was too small. Mr. Dell'Aquila mentioned that this project was approved in 2011-2012 before the solar bylaws were approved. Additionally, Mr. Dell'Aquila mentioned that when the applicant came before the Planning Board with an amendment the Planning Board could have increased the amount of the bond with approval, but the amendment was denied.

Matt Defosse, 7 Paul's Drive, mentioned that the solar array was approved in May 2012 and discussed his concerns of misinformation on the bond. 1) Permit was granted to CTC Electric and wants to see documentation of the transfer from CTC Electric to Sunpin Solar, 2) look closely at #16 on the bond and what the applicant is not responsible for, 3) concerns that the solar array take millions to build but only \$20,000.00 to decommission, and 4) no mechanism for accelerator and the bond cannot exceed \$20,000.00. Mr. Defosse asked the Planning Board to review 16, 17, and 19 of the bond's language.

Ms. Shiver made a motion to adjourn because of time and there was no second.

Mr. Hicks stated that he will be contacting Town Council himself to get the bond amount revised. Mr. Defosse expressed concerns about how many transfers of ownership. Mr. Viner asked if the permit runs with the land and Mr. Dell'Aquila said yes. Mr. Ceppi asked if Sunpin owns the land and Mr. Defosse stated that Sunpin purchased the land. Mr. Viner asked if a new pilot needs to be submitted with new ownership and Mr. Dell'Aquila said he will investigate it.

MOTION: Mr. Viner motioned to table the minutes until the next meeting

SECOND: Mr. Butensky

DISCUSSION: Mr. Dell'Aquila stated that minutes should not be verbatim

ROLL CALL VOTE: Ms. Shiver, Mr. Ceppi, Ms. Reed, Mr. Butensky, and Mr. Viner all voted aye, and the motion was carried (vote 5-0)

6. Town Planner Report

- **GH Wilson Solar-** Mr. Dell'Aquila said they are nearing completion.
- **Landfill Solar-** Mr. Dell'Aquila stated the asbuilt has been submitted and is being reviewed by third party and Conservation. Mr. Viner would like Mr. Dell'Aquila to send the Planning Board members the asbuilts.

7. General Board Discussion-

The Planning Board members discussed the possibility of opening the meetings to the public and/or having Planning Board members coming in during meetings. Mr. Dell'Aquila stated he was waiting on more guidance and discussed there is a capacity regulation due to Covid-19. There was suggestion to have the meetings in the Great Hall, but Aaron Keyes, from Spencer Cable Access, said they do not have the ability to have conference calls in the Great Hall. Mr. Hicks stated he would be working with the Town Administrator and Spencer Cable Access and can discuss ideas with the Planning Board. Mr. Viner suggested adding additional meetings because there was more on the agenda that he removed. Mr. Ceppi stated all items should have stayed on the agenda and then continued if the Planning Board could not get to them.

There was more discussion regarding 20 and 32 McCormick Solar Farm and the changes that were not approved by the Planning Board. Ms. Shiver stated that Conservation Commission and the Zoning Enforcement Officer should handle the issues. Mr. Ceppi want a discussion item added to the next agenda and Mr. Butensky said a discussion on their authority is more important.

MOTION: Mr. Ceppi motioned to add 20 and 32 McCormick discussion and authority on the next agenda

SECOND: Mr. Viner seconded but retracted. Mr. Butensky seconded
DISCUSSION: Ms. Reed did not answer and might have lost call
ROLL CALL VOTE: Ms. Shiver-Nay, Mr. Ceppi-aye, Mr. Butensky-aye, and Mr. Viner-aye, and the motion was carried (vote 3-1)

8. Board Reorganization

Mr. Ceppi mentioned he likes the way the board is organized now.

Ms. Shiver motioned Jeff Butensky as chair and Mr. Butensky respectfully declined.

Possibility that Ms. Reed is not on call.

MOTION: Ms. Shiver motioned to table this until all members are present
SECOND: Mr. Ceppi
DISCUSSION: Mr. Dell'Aquila stated that minutes should not be verbatim
ROLL CALL VOTE: Ms. Shiver, Mr. Ceppi, Ms. Reed, Mr. Butensky, and Mr. Viner all voted aye, and the motion was carried (vote 5-0)

9. New Business/ Adjournment

Mr. Viner mentioned his concern with the mannerism of Ms. Shiver's attitude through her emails. Ms. Shiver wanted more clarification, and the discussion was ended with adjournment motion.

MOTION: Ms. Shiver motioned to adjourn the meeting at 10:07 pm
SECOND: Mr. Ceppi
DISCUSSION: None
ROLL CALL VOTE: Ms. Shiver, Mr. Ceppi, Ms. Reed, Mr. Butensky, and Mr. Viner all voted aye, and the motion was carried (vote 5-0)

Submitted by Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 8/18/2020

List of Documents used on July 21, 2020

Items sent to Planning Board prior to Meeting by email:

- Agenda
- Town Planner memo
- Minutes for Special Meeting on June 18, 2020
- Graves Site visit reports for 20 & 32 McCormick Road
- Certificate of Decision for 36 Cranberry Meadow Road Solar
- Graves Site visit reports for 103 No. Spencer Road Solar
- Ash Street Solar updated slope and drainage reports
- Road Acceptance memo

- Letter from Berthiaume and Berthiaume regarding 20 and 32 McCormick.

Items submitted/ brought to the Meeting:

- Drainage calculations for Ash Street Solar / Subdivision