



Planning Board – Town of Spencer

Minutes

Planning Board Special Meeting

Tuesday, August 18, 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 (in-person), Vice Chair Jeff Butensky (remote), Robert Ceppi (in-person), Shirley Shiver (in-person), and Maria Reed (remote)

Planning Board Members Absent: None

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

Staff Absent: None

There were some technical difficulties before opening the meeting

1. Mr. Viner opened the meeting at 7:21 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.”*

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

- **Special Meeting June 18, 2020-** the minutes were amended to address Mr. Viner’s comments from the last meeting.

MOTION: Mr. Ceppi motioned to approve the minutes of 6/18/2020

SECOND: Ms. Reed

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)

- **July 21, 2020 Minutes-**Mr. Dell'Aquila mentioned a name change it should be TJ Recuperero for the Ash Street Solar application not Mr. McCooper.

MOTION: Mr. Ceppi motioned to approve the minutes of 7/21/2020 with amendment

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)

3. ANR: 40/44 Clark Street, Brad Brousseau, New lots and Boundary line adjustment-

Mr. Dell'Aquila stated that the applicants ANR plan would reconfigure the existing parcels at 40 Clark (U04-29), 44 Clark Street (U04-28-2), and the vacant parcel at Clark Terrace Street (U04-28-2), to result in two new conforming lots. Additionally, the plan submitted complies with Spencer's ANR requirements. Mr. Ceppi and Mr. Viner asked some clarifying questions that were on the plan and there were no other comments or questions from the other members.

MOTION: Mr. Ceppi motioned to approve the ANR and the Town Planner can sign for the Planning Board

SECOND: Mr. Viner

DISCUSSION: Mr. Viner stated that before Mr. Dell'Aquila signs the ANR authorization form may need to be updated.

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 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 mentioned that the applicant submitted a continuance form. Mr. Viner asked if the hearing needed to be opened to the public and Mr. Dell'Aquila said no.

MOTION: Mr. Ceppi motioned to continue the public hearing until 9/15/2020

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 mentioned that since the last meeting, we have received Lenard's latest peer review memo (dated 7/31/20). There are 44 numbered items (many about the proposed solar project), as well as an attachment for Test Pit Logs witnessed by Lenard. Many of the comments

are issues that have been raised previously but not yet addressed by the applicant. The memo was forwarded to the applicant, but there has been no response or follow up yet provided. Comments concerning the Snowbirds were provided. Additionally, a revised subdivision plan was submitted earlier today but has not had the chance to be peer reviewed by Lenard Engineering.

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

Mr. Pikhul discussed the revised subdivision plan they submitted and discussed the changes such as the length of the road, the increase of frontage to 300 feet on the buildable lot, and drainage details. Also, the lot size increased to 9.9 acres. Mr. Viner mentioned that the plan was submitted earlier today and has not been properly reviewed by third party. Mr. Pikhul explained that the road length has doubled, they have better access, discussed their plans of pavement and stormwater runoff.

The Planning Board members all agreed that they did not have enough time to review the plan.

Mr. Dell'Aquila asked what the current access road length was, and Mr. Pikhul said 1000 feet. Mr. Viner mentioned that it looked like the access to the solar parcel is going through other lots and Mr. Pikhul said there is a dash line on the plan and there is 9.94 acres for the remaining lot and 95 plus acres for the solar field. Mr. Ceppi asked about the max length on roads and Mr. Dell'Aquila read aloud from the bylaws 2000 feet on a dead-end street and 1000 feet for unconventional.

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

Mr. Defosse, 7 Paul's Drive, stated that the submission was last minute, and the Planning Board should not be discussing or approving anything. Also, Mr. Defosse asked if Sunpin Solar LLC and Spencer Solar LLC are affiliated and Mr. Recuperero said no. Mr. Recuperero stated the last-minute submission was based on all the edits they made per the Planning Boards concerns and being able to conform to all the regulations. Mr. Defosse asked if the Planning Board had deadline requirements for submissions and Mr. Viner said 7 days prior to the meeting.

Ralph Hicks, 21 Lyford Road, commented on the lapsed Special Permit but Mr. Viner stated this was not the correct agenda item.

Mr. Pikhul revised his numbers for the board and stated its 760 feet to the center of the cul-de-sac, 4440 feet frontage for the stand alone parcel, and 640 feet of frontage for the solar field. Additionally, the applicant wanted the Planning Board to vote on the new plan but all the Planning Board members agreed that the new submission needed to be peer reviewed.

Frank White, 35 R. Jones Road, asked who the owner of the property was, and Mr. Viner replied Ash Spencer Realty, LLC. Mr. White stated the property was owned by Westerman and it was determined that no blasting could be done on that land and Mr. Pikhul stated there would be no blasting.

Mr. Viner mentioned the plan still needs to show a cross section and the access road does not conform to the general bylaws. Mr. Recupero said the point was discussed at the last meeting and they will supply a legal letter about the Town of Spencer's definition of frontage. Mr. Dell'Aquila read aloud General Bylaw 4.7.7 Article 6 for the applicant.

MOTION: Mr. Ceppi motioned to continue until September 15, 2020

SECOND: Ms. Shiver

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)

6. 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 asked if the owner was correctly stated and Mr. Dell'Aquila answered that 123 Kids, LLC is James Laney. Mr. Dell'Aquila reviewed that since the last meeting regarding this application the road was paved, streetlights are in but need to be turned on, and as built needs to be submitted and reviewed before the applicant can have the road accepted. Mr. Viner mentioned that there still need to be roadway bounds and he drove by and noticed 1 manhole was sunk in.

Mr. Viner opened the hearing up to the public and there were no comments.

There was discussion regarding the expired bond and collecting additional money for peer reviews.

MOTION: Mr. Ceppi motioned to continue this hearing until September 15, 2020

SECOND: Ms. Shiver

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)

7. Public Hearing /Amendment to Approved Major Site Plan – Applicant: ZPT Energy Solutions II, LLC; Owner: Demeter Realty Trust C/O Brendan Gove. Location: 103 N. Spencer Road, Spencer Assessor's Map R49/1/1. The property is located within the Rural Residential zoning district. The applicant is applying for an amendment to the existing site plan, originally approved July 13th, 2010, under Spencer Zoning Bylaw Section 4.3.4 (Major Utility).

Mr. Dell'Aquila stated that the applicant has requested to eliminate the "shed" around the electrical equipment shown in the original site plan and use additional fencing/screening instead.

Fire, Building, Electrical have all said they are fine with that and, in fact, prefer it on safety grounds.

Pete Forte, Zero Point Energy, said they had a pre-construction meeting and mentioned that due to safety concerns they would want to eliminate the shed.

Mr. Viner opened the hearing up to the public:

Matt Defosse, 7 Paul's Drive, asked what the shed originally going to be used for. Mr. Forte said they bought the solar project and he was not sure what the intention of the shed was for. Mr. Ceppi said it could have been for noise abatement. Mr. Forte said they are willing to add a fence in order to divert the noise but feels safety should come first. Mr. Viner suggested keeping the shed and using it for fire suppression and Mr. Ceppi said it could be used for security purposes. Mr. Forte said they would be concerned about someone locking themselves in the shed and they are not proposing security on the shed.

Mr. Viner asked where the guardrail location was, and Mr. Forte said the parking area for Alta Crest Road and there would be no access for vehicles. Mr. Viner said a revised plan should be submitted for the Planning Board to decide. Mr. Defosse mentioned the Planning Board should review the conditions in place for this original application. Mr. Forte stated it might be hard to get a plan because it was not originally designed by them and Mr. Viner said they would need an as built in order to receive a certificate of completion.

MOTION: Mr. Ceppi motioned to continue this hearing until September 15, 2020

SECOND: Ms. Shiver

DISCUSSION: Applicant must provide plan for review

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)

8. Public Hearing – Special Permit/Major Site Plan Extension; Applicant: ForeFront Power, LLC; Owner: Laura Hopkins, Location: 36 Cranberry Meadow Road; Spencer Assessor's Map R12-4. The applicant is requesting an extension to the Special Permit and Major Site Plan under Sections 4.8.9, 7.2, and 7.4 of the Spencer Zoning Bylaw to install a 2.2 MW Solar PV Facility. The property is located within the Rural Residential zoning district.

Mr. Dell'Aquila reviewed that the applicant has submitted request for a two-year extension to their Site Plan Approval for the proposed solar farm at 36 Cranberry Meadow Road. That project's approvals would have lapsed in June, but all permit deadlines are currently extended for 45 days following the end of the declared COVID-19 emergency.

Mr. Ceppi likes the idea of a one-year extension. Mr. Viner reviewed the letter that was submitted by the applicant. Mr. Dell'Aquila said Town Council said they allow additional conditions with the differential changes.

The applicant was not present, and the board would like to continue to the special meeting on August 25th, 2020 to allow commentary from the applicant.

MOTION: Mr. Ceppi motioned to continue this hearing until August 25, 2020

SECOND: Ms. Shiver

DISCUSSION: Applicant must provide plan for review

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. Discussion: 20/32 McCormick Road Solar PV Facilities-

Mr. Dell'Aquila mentioned that since the last discussion Attorney Damien Berthiaume has shared a follow up letter with me reiterating many of the points he made at the last meeting (sent separately). Beyond the legal points raised by the applicant through Attorney Berthiaume, the Board had additional questions about who had oversight over aspects of the project.

Ms. Shiver asked the point of having this discussion on the agenda and Mr. Viner said to discuss the property and issues raised. Mr. Viner discussed Mr. Berthiaume's three main points in his letter.

Damien Berthiaume, Attorney, mentioned he submitted a letter in July and August and asked the letter Mr. Viner was referring to. Mr. Berthiaume mentioned that the any issues with the project should have gone through the Town Planner and not a reopening hearing. To date, Mr. Berthiaume, has not had any communication to any concerns or issues with the project and all the professionals involved are satisfied with the project.

Mr. Viner stated the first issue in the letter from July was the notice and details raised in concern to the notice should be raised with the Town Planner and staff. Mr. Dell'Aquila stated the public hearing was turned into a discussion at the last meeting. Mr. Berthiaume asked what the issues are that the Planning Board wants to discuss. Mr. Viner asked if the culvert change was deemed minor and approved by the Town Planner and Mr. Berthiaume said yes. Mr. Dell'Aquila stated he did not approve the changes but said the Conservation Commission was the stormwater authority for the project. Mr. Berthiaume mentioned the changes were approved by Conservation and Mr. Viner said they have not been approved yet. Mr. Ceppi said putting three culverts under a road is a substantial change and Mr. Berthiaume stated the changes were recommended by third party. Mr. Viner asked why Conservation and third party have the right to recommend changes and Mr. Berthiaume said the changes were identified to the Town Planner and he did not feel they warranted Planning Board approval. Mr. Berthiaume recommend the board review condition 1 of the certificate of decision. Ms. Shiver asked to the chair what the point of the discussion was, and the purpose and Mr. Viner said he was getting to his reasonings.

Spencer Cable Access went offline, and the remote callers let the Planning Board know.

Ms. Shiver motioned to recess the meeting due to time shutoff with Spencer Cable Access, the meeting will continue at the Special Meeting on 8/25/2020

Seconded by Mr. Ceppi
Vote 5-0

Submitted by Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 10/20/2020

List of Documents used on August 18, 2020

Items sent to Planning Board prior to Meeting by email:

- Agenda
- Town Planner memo
- Minutes for Special Meeting on June 18, 2020 and July 21, 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
- Graves Site visit reports for 17 GH Wilson Road
- Ash Street Solar updated slope and drainage reports
- Road Acceptance memo
- Letter from Berthiaume and Berthiaume regarding 20 and 32 McCormick from July 2020 and August 2020
- Rules and Procedures of the Planning Board

Items submitted/ brought to the Meeting:

- Drainage calculations for Ash Street Solar / Subdivision
- New submitted Plan for Ash Street Solar dated 8/18/2020