



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

Tuesday, September 17, 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 and Maria Reed

Planning Board Members Absent: Shirley Shiver

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

Staff Absent: None

1. Mr. Viner opened the meeting at 7:02 pm

2.) Minutes:

- **August 20, 2019**

MOTION: Mr. Viner motioned to table the minutes until all Planning board members are present

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 4-0

3. Amendment to Stormwater Permit/Major Site Plan Extension – 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 updated the Planning Board with the updated material that Zero Point Development (ZPD) had recently submitted, which, included revisions to the plan. The new material was forwarded to Lenard Engineering for peer review. Mr. Dell'Aquila stated that at the last meeting the applicant was pending a meeting with the fire chief about the battery storage. Also, Mr. Dell'Aquila mentioned that he did not yet tour the Sterling facility but it has been operational for three years without incident. Points from last meeting that need to be discussed include; front setback, fire access, and water runoff. Additionally, Mr. Dell'Aquila noted that the applicant provided an acoustical analysis and decommissioning estimate that they were not required to provide in the original approval.

Harold Reader, ZPD, explained that his company was looking for a site plan amendment to include battery storage. There was a meeting with the fire chief and moved the equipment to the back of the property and discussed the new access road. Additionally, he provided the board

with the comments and responses from the most recent peer review by Lenard Engineering. Mr. Reader discussed that the meeting with the Fire Chief, Robert Parsons, went well and Mr. Parson felt comfortable with the data they provided and will develop a emergency response team in order to respond quickly if any issues came up. Also, Mr. Reader explained that they added a catch basin on the bottom right side of the parcel to help with the runoff; they shifted equipment to the center to reduce the road side and impact, and added a spot for snow storage. Additionally, ZPD provided the Planning Boar with an acoustical analysis, decommissioning bond, and Stormwater Pollution Prevention Plan (SWPPP).

Mr. Dell'Aquila asked about the new cross section and Mr. Reader explained the new cross section shows the line of sight and the equipment will not be seen. Mr. Viner asked about screening and containment around the equipment and Mr. Reader said they are not proposing anything at this time because according to the line of sight the equipment will not be seen. Mr. Viner asked what the operating hours would be and Mr. Reader stated that is regulated by National Grid and he believed the hours were 8:00am-4:30pm and Mr. Viner said he would like to see that in writing. Mr. Reader will try to find the literature and provide that to the board.

Mr. Viner opened the hearing to the public:

Matt Defosse, 7 Paul's Drive, asked the Planning Board what differentiates a new submission from the old and new plan. Additionally, Mr. Defosse stated that the Solar Bylaw Committee submitted their recommendations to the town and he feels that it would inappropriate for the Planning Board and the Town of Spencer to allow the battery storage before the Board of Selectmen workshop.

Mike Dow, 97 North Spencer Road, has concerns about the snow mobile route that runs along or through the property. Mr. Reader said there are certain areas they will not be touching. Mr. Ceppi said adding a condition that allows the Snowbirds to continue using the route could be an option. Mr. Reader did not believe they would be disturbing the land for the trail but Mr. Dow felt he should grant an easement or something in writing to give the Snowbirds permission. Mr. Dell'Aquila stated that on multiple occasions he has reached out to the Snowbirds to discuss their routes with different projects and they do not return his phone calls or emails. Also, Mr. Dell'Aquila noted that for the 369 Main Street Solar Farm the snowmobile trail was addressed. Mr. Reader said they will not touch the 25ft setback that would be the route for the snowmobiles and what is happening now may continue, however, he is unsure of putting it in writing for liability issues.

Jim Sadusky, 104 North Spencer Road, stated that as long as the applicant doesn't charge a fee than they are not liable. Additionally, felt that in 2010 the original plan agreed to the trail. Also, Mr. Sadusky would like 8 foot high trees planted for screening and kept maintained and any additional trees be planted at 8 feet tall.

Mr. Viner expressed concern that the new plan looks like the array has been moved more southerly. Mr. Reader responded that the original plan was 80 feet and they are keeping the same distance. Jim Sadusky came up to discuss the plan with Mr. Reader. Mr. Dow asked how they bond the batteries and Mr. Dell'Aquila responded that if the Planning Board allows the battery

storage than the bond would be required and would reflect the equipment. There was discussion in regards to the submitted decommissioning bond estimate and Mr. Viner felt it was too low and requested the manufacturer's recommendation for decommissioning. Mr. Dell'Aquila stated that everything still needs to be peer reviewed. Mr. Defosse agreed with Mr. Viner and is skeptical of the bond amount and said they need to take the life span of the batteries into consideration and still feels approval would be bad for the Town of Spencer.

Gary Sadusky, 102 North Spencer Road, asked about a discharge bond and doesn't want an increase of runoff on his property. Mr. Reader stated the proposed catch basin would be 2 1/2 – 3 feet deep, 30 feet wide by 46-60 feet in length to help with discharge. Gary Sadusky asked about maintenance for the batteries. Mr. Reader said they were self-monitoring but if a battery change is needed they have protocols with the fire suppression system and if the batteries leak a notification will be relayed. Mr. Butensky asked who gets notified and Mr., Reader answered that the notary of the array and could have notification to local authority too. Mr. Defosse said he saw the battery storage in Sterling, MA and it is impressive, however, there are hacking issues and if installed incorrectly it could be dangerous. Gary Sadusky asked what types of chemicals are used for the fire suppression system. Mr. Reader said they are a liquid base carbon non-hazardous material.

Gary Sadusky asked the Planning Board the criteria to see if this is a new submission. Mr. Dell'Aquila answered that they do not have a specific standard or numerical threshold to base the new submittal versus the old plan and it is up to the Planning Boards discretions. Mr. Dow asked about the road material and Mr. Reader said gravel base per the Fire Chiefs recommendation. Mr. Viner asked if the fence details were in line with their standards to have a 6" clearance on the bottom. Mr. Reader said it may say 2"-4" on the plan but they will revise to say 6". Mr. Dell'Aquila said 6" has been the standard. Mr. Viner asked about the storm rating for the basin and Mr. Reader said a 100 year flood. Mr. Viner asked about the outline pipes and the riprap in front and how the runoff gets to the basin. Mr. Reader said the grade goes from 7'12 to 7'10 and it will run down to basin. Mr. Viner asked if that had been reviewed by Lenard Engineering and Mr. Reader said yes and read aloud ZPD's third party response letter # 8 *there will likely be an increase in runoff due to the extended gravel road. The plans should account for the mitigation of the increase in runoff and the Stormwater report and calculations should be revised accordingly. The plans now include an infiltration basin used to mitigate the increased runoff and provided drainage calculations. The calculations show that there is no increased runoff from the site and this comment has been addressed.* Mr. Ceppi noted that new plans address the runoff issues.

Mr. Dell'Aquila asked about the material data sheets and Mr. Reader said they were included with the packet to the Fire Chief but will re-submit. Mr. Butensky asked about the setbacks and Mr. Dell'Aquila said the new plans looked different than the original plan but that issue has been alleviated. Mr. Viner asked if there would be clearing in the westerly setback and Mr. Reader said there will be slight clearing. Mr. Viner said that will need to be revised because no clearing is to be done within the setback. Mr. Ceppi asked Mr. Viner to clarify and Mr. Viner stated that the clearing was not outlined in the original plan. Mr. Reader stated they did not change any clearings.

Gary Sadusky asked if the access road will be maintained and Mr. Reader said yes there is a maintenance plan and snow will be removed. Mr. Defosse again commented that this submission should be reinforced as a new plan because the new plan has significant changes than the original plan. Also, he noted that not all snowmobilers are members of the Snowbird Club. Additionally, on North Spencer Road the Southern part catches water and can cause vehicular damage. Mr. Defosse asked the Planning Board to take in consideration the Abbey Solar Farm is close by and could be affecting the runoff. Mr. Dell'Aquila said there have been no complaints of additional runoff from the Abbey Solar Farm and it has been operational for years. Mr. Defosse said he just wants the board to take account the Abbey Solar Farm and now adding another solar farm. Mr. Dow said he could provide pictures of the water issues on route 31.

Mr. Ceppi made a general comment that if they do not approve this amendment that the applicant can build what was originally approved and the new plan has improvements. Mr. Viner asked Mr. Ceppi what the improvements are and Mr. Ceppi said the new submission helps with water runoff, more coverage, and the equipment was moved to the back away from residences. Mr. Dell'Aquila stated that the applicant does not need to provide acoustical analysis or a decommissioning bond and they have, also, if this project came to them with the solar bylaw than the project would only be half the size. Mr. Defosse stated that if the board decides to approve the new plan to include the battery storage it would be a mistake. Mr. Dell'Aquila said it needs further peer review. Mr. Ceppi agreed that they need to make sure it's done right. Mr. Viner would like the plan to show setbacks for proposed installation and the plan stamped by a Professional Land Surveyor (PLS). Mr. Dell'Aquila asked what other issues the applicant should address for the next meeting:

1. Battery Setup
2. Decommissioning recommendation from manufacturer
3. Additional peer review for the new material
4. Snowmobile trail/ Mr. Dell'Aquila to review previous applications with trail access
5. Automatic notification to emergency personnel
6. Property line delineation
7. PLS stamp on plan
8. Fence gap at bottom

Mr. Dow felt there is an issue with the setback near his property line. Mr. Butensky asked to see the clearance from the original plan to the new plan. Mr. Viner still feels the plans are different. There was much discussion about the differences between the new and original submission. Mr. Butensky asked if an additional area was being cleared and Mr. Reader said he will re-review. Mr. Viner wants to see the panel detail to include the racking system, the panel height, and the gap size for runoff. The planting species list was mentioned and Mr. Dell'Aquila said they have the list recommended by the Conservation Commission that they give to the applicants.

Gary Sadusky noted that the original plan seemed quieter and the new plan seems more active. Mr. Defosse asked if the acoustic analysis included the chillers and Mr. Reader said yes. Mr. Viner asked to get that analysis on the chillers and Mr. Reader said it was included with the analysis they submitted and will get the data sheet from the manufacturer.

MOTION: Mr. Butensky motioned to continue the hearing until October 15, 2019

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 4-0

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. Dell'Aquila commented that the applicant has submitted a revised site plan and it includes the Planning Boards input from previous meetings. Some changes include the access road for the westerly array will be the pre-existing cart path, the setbacks were pushed back to keep trees and help with visual mitigation, and added additional panels to northern array.

Andrew Vardakis, WOOD, was present for the meeting and apologized for the numerous continuances. Mr. Vardakis reviewed the original plan that was submitted in February 2019 and Lenard Engineering last reviewed in March 2019. The changes to the plan included the westerly arrays access road, no longer cutting trees in field, pushing back array to keep 50 foot tree line intact, relocated panels from the westerly array to the northern array, keeping the easterly array the same and possible wetlands so they will meet with the new Conservation Agent George Russell. Mr. Vardakis said the design changes will require updates to all the documents and wants to know where to go from here. Mr. Viner stated that the applicant needs to withdrawal without prejudice, re-submit new application, and provide re-notification. Additionally, Mr. Viner reminded the applicant that a ANR will be needed for the house lot.

Mr. Viner asked the total acreage for the project and Mr. Vardakis said 88 acres. Mr. Dell'Aquila asked if they were staying within the 50% threshold and Mr. Vardakis said yes. Mr. Viner would like to see the percentage of acreage for the wooded area and the area to be cleared and Mr. Vardakis said ok. Mr. Viner asked about the access to the access road and Mr. Vardakis said it will need to be approved by the Fire Chief. Mr. Viner recommended a gate at the entrance. Mr. Butensky said at the site walk there were large quantities of stuff on the access road and that will need to be removed and relocated and Mr. Vardakis agreed. Mr. Viner asked the applicant the reason for the westerly access and Mr. Vardakis said they would like to use the existing road for less of a disturbance.

Mr. Viner opened the hearing to the public:

Dave Meterville, 30 Norcross Road, wanted more information about the access road and Mr. Vardakis said it's a conceptual design and will be surveyed. There was much discussion about the road width. Mr. Meterville asked the distance from the abutter and Mr. Vardakis said 25 feet. Mr. Viner asked about driveways being allowed in setbacks and Mr. Dell'Aquila read aloud section 6.2.4 of the Spencer Zoning Bylaws; *for driveways/curb-cuts that involve a Special Permit, Site Plan Review or Variance the permit granting authority may permit:*

A. a driveway closer than 10 feet to any side or rear lot line where they find that said driveway will still:

- 1. provide safe and reasonable access for emergency vehicles*
- 2. be consistent with the purposes of this section*
- 3. not have a detrimental impact on public safety.*

Mr. Dell'Aquila said the standard is 10 but the board has discretion and Mr. Vardakis said they want to do the least amount of disturbance.

Mr. Meterville asked about wetlands and Mr. Vardakis said he needs to meet with the Conservation Commission agent. Mr. Viner asked about connecting the culvert and Mr. Vardakis said yes but they need to meet and review with Utilities and Facilities.

Amy Yanover, 30 Norcross Road, asked about plans for screening from the road. Mr. Vardakis said they have no plans for screening but it is open for discussion. Mr. Yanover asked if that road would be the primary access and Mr. Vardakis answered that it connects to the eastern array but the eastern array has its own access. Ms. Yanover asked where the invertors/transformers are located. Mr. Vardakis said originally they were closer to the road but with the new conceptual design they will be pushed back but will need to be reviewed by the Fire Chief. Mr. Yanover asked about the location of the poles and Mr. Vardakis said the poles location has not changed. Ms. Yanover stated at the original meeting there was an abutter who was concerned about wildlife being able to pass through and Mr. Vardakis said the fence line will change but the arrays will still be fenced individually to allow passing of wildlife.

Matt Defosse, 7 Paul's Drive, asked if the access road would be paved and Mr. Vardakis said it will be gravel. Mr. Defosse confirmed that the access road does not go around the whole northern array and Mr. Vardakis said it's conceptual and will review and approval from the Fire Chief. Mr. Defosse mentioned there was a pond across from the eastern array and if that would be a Conservation issue. Mr. Vardakis said they received minor feedback before for the pond but it should not be an issue. Mr. Defosse asked about grading and Mr. Vardakis said everything is still conceptual and will need to review the grades and third party will need to review. Mr. Defosse asked about the decommissioning bond and Mr. Vardakis said third party was okay with the \$110,000 bond.

Ms. Yanover asked if there would be battery storage onsite and Mr. Vardakis answered no. Ms. Yanover asked about bonds for runoff and Mr. Dell'Aquila stated they will require the applicant to issue a Stormwater bond either through the Conservation Commission or Planning Board. Mr. Defosse asked if the Stormwater bond was for the life of the project and Mr. Dell'Aquila said yes. Mr. Meterville feels that by removing the trees and the slope the runoff will be worse and present issues. Mr. Viner had some construction access concerns and felt a review with Utilities and Facilities was needed. Also, Mr. Viner would like a staging plan and Mr. Vardakis will provide that with the new plans.

Matt Blanchard, 5 Paul's Drive, asked if there would be soil removal and Mr. Vardakis said no. Mr. Blanchard wanted to know if they had frontage on North Brookfield Road and Mr. Vardakis said yes. Mr. Viner would like in writing the restriction on the lot being further subdivided. Mr. Blanchard asked if the land will still be farmed and Mr. Vardakis was unsure. Mr. Blanchard

asked if they did still farm the land if that would affect the primary use restriction and referenced the portion of field in the south. Mr. Ceppi felt farming might fall under auxiliary use. Mr. Viner said that usually agricultural is exempt from a lot. Ms. Yanover asked if they could ANR lot and Mr. Viner said could be. Mr. Viner asked if there were stonewalls in the back of the field and Mr. Vardakis said yes and they will need to be removed and Mr. Viner further discussed the stone wall in the front of the property.

Mr. Defosse expressed that the he felt the decommissioning bond was too low and should be re-evaluated. Mr. Dell'Aquila explained that if the applicant agrees than procedurally they would request to withdrawal without prejudice, they will then re-submit the new material, and new notifications and peer reviews will be completed.

MOTION: Mr. Butensky motioned to close the public hearing

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 4-0

MOTION: Mr. Ceppi motioned to approve the agreement to withdraw the petition without prejudice for 22 Norcross Road Solar Farm

SECOND: Mr. Butensky

DISCUSSION: None

VOTE: 4-0

***** Short Recess*****

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).

Mr. Dell'Aquila mentioned that when he sent the memo he had not heard from Jim Laney, Town Council, KP Law, was concerned about the new bond exceeding the old bond and needing additional third party review. Since sending the Planning Board memo Mr. Dell'Aquila has traded voicemails with Mr. Laney and he mentioned trying to work with the paving company but needs to get another paving company. Additionally, Mr. Laney's wife called to let Mr. Dell'Aquila know he would not be at the meeting but was looking into a bond.

Mr. Viner asked Mr. Viner to explain KP Law's concern. Mr. Dell'Aquila stated that KP Law mentioned that the Planning Board cannot ask more of an applicant than from what was approved and they want to make sure the amount is bullet proof. Mr. Viner argued that part of the approval was to make a road that would be accepted by the town and doesn't think there should be an issue. Mr. Dell'Aquila doesn't dispute but can't comment on behalf of town council. Mr. Viner mentioned that the last bond for \$118,000 was only a partial amount of the bond. Mr. Dell'Aquila stated that he is unsure of what KP Law was aware of and just wants to be the town to be consistent since the ultimate goal is to have Mr. Laney finish the road. Mr. Ceppi stated that the book of excuses Mr. Laney has is getting too thick and Mr. Dell'Aquila agreed that it is unfortunate how long this process has taken.

Mr. Viner expressed concern for anything Mr. Laney does to the road without getting acceptance from the Planning Board and they need to get Mr. Laney to agree to what he is going to do. Mr. Dell'Aquila said he will advise Mr. Laney to attend the next meeting with a plan and bond. Mr. Viner wants to see a copy of the contract with the company doing the work outlining the scope of work and the bond money amount needs to be established and submitted.

Mr. Viner opened the hearing up to the public:

Matt Blanchard, 5 Paul Drive, asked if they would be sending the bond request letter certified mail and Mr. Dell'Aquila said yes. Mr. Blanchard stated that it would seem the applicant doesn't want to be put on record and attend meetings.

MOTION: Mr. Butensky motioned to continue the public hearing until 10/15/2019

SECOND: Mr. Ceppi

DISCUSSION: Mr. Dell'Aquila will share any new information with the board as it becomes available

VOTE: 4-0

6.) Town Planner Report

- **Planning Board policies and procedures-** need to review and resolve
- **CMRPC-** LPA Hours discussed

MOTION: Mr. Ceppi motioned to have the Planning Board be the delegate for LPA/CMRPC hours

SECOND: Ms. Reed

DISCUSSION: NONE

VOTE: 4-0

7.) Board Liaison-

- **Solar Committee-** it was stated that the committee submitted their recommendations to the Board of Selectmen and they are taking the recommendations under advisement and looking at potential workshop dates. Mr. Dell'Aquila said it could be an agenda item for the next meeting and the Planning Board members agreed.

8.) New Business- None

MOTION: Mr. Ceppi motioned to adjourn the meeting at 9:51 pm

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

Submitted by: Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 10/15/2019

List of Documents used on September 17, 2019

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

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board
- Minutes: August 20, 2019
- Site Plan Amendment-103 North Spencer Road solar Farm, updated plans, peer review response, acoustical analysis, and decommissioning bond estimate
- Updated conceptual plan for 22 Norcross Road Solar Farm

Items submitted at the Meeting:

- Agreement to withdraw petition without prejudice for 22 Norcross Road Solar Farm dated 9/17/2019
- Additional SWPPP copies for 103 North Spencer Road and response to Third Party Review dated 9/13/2019