



## Planning Board – Town of Spencer

### *Minutes*

Planning Board Meeting  
**September 19, 2023, at 7:00 pm**  
**REMOTE & IN-PERSON**

McCourt Social Hall, 157 Main Street Spencer, MA 01562  
Memorial Town Hall

---

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

**Planning Board Members Absent: None**

**Staff Present in-person: Jeffrey Bridges, Town Administrator, Lauren Vivier, Town Planner/ Conservation Agent (Remote) and Monica Santerre-Gervais, ODIS Senior Clerk (Remote)**

**Staff Absent: None**

**1. The Chair opened the meeting at 7:05 pm**

**2. ANR's**

**ANR: Candlewood/ JC Kady**

Jason Dubois, DC Engineering, was remote for the meeting.

Mr. Ceppi discussed the plan and the last meeting for a Special Permit. Ms. Shiver mentioned the plan needed the PLS stamp. Mr. Dubois said the surveyor reviewed and stamped the plan.

**MOTION: Ms. Shiver made a motion to endorse the plan as submitted**

**SECOND: Charlie Bellemer**

**DISCUSSION: None**

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

**3. Continued Public Hearing Major Site Plan Review & Stormwater Permit – Applicant: Todd Tallman, Owners: Cornerstone Bank, Location: 176 &184 Main Street Spencer, MA; Assessor's Map U07-78 & 79. The applicant is requesting a Major Site Plan Approval under section 7.4 of the Spencer Zoning Bylaw and the Stormwater Permit under 7.4.2.E of the Spencer Zoning and Spencer Stormwater Regulations to improve façade of existing bank, demolish one office, and reconstruct parking lot/retaining walls. The property is located within the TC-Town Center zoning district.**

Attorney Philip Stoddard, and Ronald Mendez, Graves Engineering, were present for the meeting.

Mr. Mendez reviewed the project application, the peer reviews and peer review responses, and the newly submitted plans. Mr. Bridges read aloud the response from third-party peer reviewer, BSC Group, that they are good with the plan but had a couple of recommendations regarding the constructive management plan for fill needed to minimize impact from trucks. Also, regarding test pits and if the design changes, then they would need to come back to the Planning Board. Mr. Ceppi asked where the two hundred dump trucks of material are going, and Mr. Mendez explained they need to level and raise the back parking lot four feet and reduce the back steps. Mr. Ceppi had concerns regarding the existing retaining walls and Mr. Mendez stated they would not topple over them. Dominic Rinaldi, BSC Group, joined remotely and mentioned Geotech onsite would need to monitor the walls for safety.

The Chair opened the hearing to the public: no comments.

Mr. Slack mentioned on the south corner there is steep topography (referenced page 104), and the fill goes onto an abutter's property, but contours lines discussed showed no issues. Mr. Ceppi asked Mr. Rinaldi if the stormwater had been reviewed based on an abutters concern about water runoff. Mr. Rinaldi explained the abutter was in the Southeast and the drainage will be more Southwest, but this will not make anything worse.

**MOTION: Mr. Bellemer made a motion to close the Public Hearing.**

**SECOND: Ms. Shiver**

**DISCUSSION: Conditions will include recommendations from BSC Group and decision will be at the next meeting on 10/3/2023.**

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

**4. Public Hearing: Major Site Plan Review/ Stormwater Permit – Applicant/Owners: Jaime Scarff/ Spencer Solar Farm LLC. Location: North Brookfield Road, Spencer, MA; Assessor's Map R39-14. The applicant is requesting a Major Site Plan Review and Stormwater Permit under sections 7.4, 7.4.5, and 4.8.9 of The Spencer Zoning Bylaw and Stormwater Regulations to develop a large-scale solar PV facility. The property is located within the Rural Residential (RR) zoning district. (Resubmission of plans and documents for reconsideration of decision from the 6/06/2023 Planning Board Meeting.)**

Attorney John Eichman discussed the history of the project including Special Permit approval in 2012, site plan approval was obtained in 2018, Building permits were applied for but were denied due to the lapse in required time, the decision was appealed, and the land court decided the Special Permit was still in existence, but the Site Plan approval had lapsed. Mr. Eichman stated they are in appeals by the Supreme Judicial Court with consideration suspended temporarily to allow this proceeding to move forward, and if the Major Site Plan is approved then the appeal would be dismissed. Mr. Eichman stated that during the appeal the applicant had submitted a Site Plan Approval that the Planning Board denied in June due to the proposed tree cutting being more than the fifty percent requirement in the Zoning Bylaws. After the draft decision was available the applicant asked the Planning Board for a reconsideration, the Planning Board voted on reconsideration, a new meeting date was scheduled for a public hearing, and then

ad notice and abutter notification. Furthermore, Mr. Eichman stated the applicant submitted a revised plan to reduce the amount of tree cutting.

Dominic Rinaldi, BSC Group, explained there was one minor drainage change, and the applicant addressed the comments, and all the Stormwater aspects are satisfactory.

Attorney Tad Heuer for the applicant was present for the meeting and stated the applicant is seeking a reconsideration for the denial and approval of waiver requests. Mr. Heuer stated he agrees with Town Counsel, but the issue tonight is narrow, the three waivers need to be revoted and peer review agrees with the waivers, and the technical issue regarding clearing is met and the Planning Board cannot deny or introduce added information. Mr. Ceppi asked for clarification on what the Planning Board can approve and deny and mentioned reviewing the waivers, decommissioning amount, Stormwater plan, and the new plan. Mr. Bridges said there is a draft decision and Ms. Vivier is on remotely.

Christopher Nolan, PARE Corp, reviewed the new plan and how they were able to reduce the clearing limits and they maintained stormwater controls.

The Chair opened the hearing to the public:

Matt Defosse, 7 Paul's Drive, stated he came in to review the plans and the applicant submitted late documents and the Planning Board should not accept them. Mr. Defosse said the plan could not meet clearing requirements due to the basin in the Southeast corner and they discussed the arrays movement. Mr. Defosse asked how many acres would be fenced, and Mr. Nolan answered 10-11 acres. Mr. Defosse asked about the subdrainage basin in the west that is not on the plan and soil types not listed. Mr. Rinaldi said the applicant met the Stormwater requirements. Mr. Defosse is concerned with the project being in a wellhead protection area, near prime farmland, and could become an issue to the soil down the road. Mr. Defosse asked about the number of panels that would be onsite and Mr. Nolan stated they have not purchased the panels yet and they are unsure of the quantity of panels. Additionally, Mr. Defosse stated the decommissioning estimate for \$20,000 was too low and the Planning Board should only accept cash, the applicant should not get a waiver to allow grading over 15%, and issues with ownership changing hands five times. Also, Mr. Defosse expressed concerns about neighbors' properties, fires, changing the rural character of the neighborhood, and the fenced in area in will redirect wildlife.

Matt Blanchard, 5 Paul's Drive, asked for interpretation of the bylaw and how the 50% clearing is calculated because the land was already forested. Mr. Eichman answered it would be 50% of the land. Mr. Blanchard mentioned the stone walls and asked if the Planning Board could make a condition regarding protection of the stone walls. Also, Mr. Blanchard expressed his concerns regarding allowing the 18% slope.

Steve Drew (Snowbirds), 97 Chestnut Street, was present for the meeting and they realized the snowmobile trail trials run through the site and they are looking to get permission to use the property for the trails. Mr. Drew said that if the applicant decided they could not use the property, would end the snowmobile trail. Mr. Heuer stated this would not be a basis to deny the

project, however, they are willing to collaborate with the Snowbirds. Mr. Nolan mentioned at the beginning of this process he sent an email to the Snowbirds, and no one got back to him.

Jonathan Viner, 34 Donnelly Cross Road, asked if the decommissioning amount was peer reviewed and Mr. Bridges said yes and BSC Group had concerns. Mr. Viner asked about the acoustic analysis and Mr. Nolan said they performed the analysis last fall, and BSC reviewed. Mr. Rinaldi stated they are not acoustic engineers, but it was minimal sound.

Mr. Defosse said he had mentioned the acoustic analysis at a previous meeting and felt it was for a different site and did not do that near the closest residence.

Mr. Blanchard asked that since the snowmobile trail may need to be relocated to have a condition that additional trees should not be cut down for the snowmobile trail.

Mr. Viner said there are two elements to address for the 50% land clearing and read aloud the bylaw and past interpretation. Mr. Eichman stated that the interpretation Mr. Viner used adds language that is not in the bylaw and the bylaw would need to change the language if that is what the Planning Board wishes. There was a discussion regarding clearing and forestry.

Mr. Bridges said he has an issue with the decommissioning amount and the applicant should not be discounting the salvaged material and the bond amount is too low. Mr. Ceppi agreed with Mr. Bridges on the salvage value because it may not be salvageable in the future and needs to add the applicant comes back every five years to revisit bond amount. Mr. Bridges asked Mr. Rinaldi if the number from 2022 was still good and Mr. Rinaldi said it depends on if the Town of Spencer accepts the salvage number. Mr. Heuer reviewed how they calculated the decommissioning number. Mr. Rinaldi stated the estimate does not include clearing of the site and will cost less to take down. Mr. Viner asked if the estimate reflects current prevailing wage rates and Mr. Heuer said yes. Mr. Viner stated the recycled value is a credit, if abandoned it would not be appropriate for the Town of Spencer to decommission out of pocket, and it would be problematic for the town's budget. Mr. Bridges answered that first there would need to be something catastrophic that happened, take it to tax sales, file a lien on the property, also there is the law behind the town to recoup the cost. Discussion ensued regarding the amount of the decommissioning bond and Mr. Heuer countered with a \$116,000 surety bond with five-year revision with the Planning Board and the Planning Board agreed that was fair.

Mr. Heuer and the Planning Board members reviewed the waivers and conditions and voted on them.

**First waiver for section 4.8.9.F.16.A, regarding scale requirement of the drawings being 1" = 40' but the drawings submitted are 1" = 80'.**

**MOTION: Ms. Shiver made a motion to approve the waiver for section 4.8.9.F.16.A**

**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.**

**Second Waiver for section 4.8.9.G.14, slope requirement not to be over 15%.**

Ms. Shiver asked what percentage of the site would be above the 15% grade and the applicant did not have those calculations ready. Slope and grading discussed at length.

**MOTION: Ms. Shiver made a motion to approve the waiver regarding section 4.8.9.G.14.**

**SECOND: Mr. Bellemer**

**DISCUSSION: None**

**ROLL CALL VOTE: Ms. Shiver, Mr. Slack and Mr. Bellemer all voted aye, (vote 3-1 Mr. Ceppi voted nay) motion carried.**

**MOTION: Ms. Shiver motioned to close the public hearing**

**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.**

Ms. Vivier discussed the Certificate of Decision and needing to modify certain sections. Also, when Ms. Vivier comes back to the office, she will need to update the decision to reflect the plan dates and revisions. Applicants, Town Planner, and Planning Board Members discussed standard conditions, pre-construction conditions, construction conditions, inspections and reporting, stormwater management, surety, covenants, and decommissioning, special conditions, and occupancy permit/final inspection. Applicant to provide the Planning Board with a survey plan of tree clearing plan before installation of panels, quarterly follow-up, and inspections.

Mr. Ceppi asked the difference between bond and cash surety and what the Planning Board should accept. Mr. Eichman said bonds are a common source with large-scale solar arrays. Mr. Ceppi discussed the importance of the Planning Board receiving the as-built plans to ensure the array is built to the plans submitted. Additionally, Mr. Ceppi noted having an engineer review the plans submitted for a building permit to verify they are the same plans approved by the Planning Board. Mr. Heuer said a Building Inspector has thirty days to approve or deny a building permit. Mr. Bridges suggested the final plans be sent to BSC Group to conclude the plans are the ones approved, two sets of the plan will be submitted to the Planning Board to get initialed, and that initialed plan will be given to the Building Inspector.

Mr. Bridges mentioned the concern of the public regarding stone removal and on condition thirty-three to keep the stone walls in place and if the walls get knocked down then the applicant must rebuild the walls.

Mr. Ceppi asked if the daily fines could be increased, and Mr. Heuer stated it is State Law. In condition forty-two, Mr. Eichman suggested the language to add a phrase “that the town may pursue all other available legal remedies.”

Mr. Viner asked about the Certificate of Occupancy process. Mr. Bridges answered there are elements to the finalization of this project, which includes the Building Inspectors Certificate of Occupancy and then a Certificate of project completion issued by the Planning Board. Mr. Viner

mentioned the intent of the Planning Board is to have the applicant come back to the Planning Board for final approval before the Building Inspector does his final inspection. Mr. Bridges did not know if that would be legal, and Mr. Eichman discussed the Building Inspectors role.

**MOTION: Ms. Shiver motioned to approve the Major Site Plan Review to develop a large-scale solar PV facility on North Brookfield Road with the conditions discussed and reviewed and the approved waivers.**

**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.**

**MOTION: Ms. Shiver motioned to approve the stormwater permit to develop a large-scale solar PV facility on North Brookfield Road to supersede the original Stormwater Permit approval.**

**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.**

**\*\*\* Discussion between Mr. Eichman and Mr. Heuer regarding extension of time for the Supreme Judicial Court and the applicant agrees to a continuance to September 26, 2023, as the date to file the final decision. The Planning Board agreed that once they reviewed and given the okay the Town Planner can sign the Certificate of Decision.**

**MOTION: Ms. Shiver motioned to delegate Lauren Vivier, Town Planner, a designee to sign the Certificate of Decision.**

**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.**

## **5. General Board Discussion/ Board Liaison Reports**

No discussion.

## **6. Town Planner Report**

Mr. Bridges discussed 2024 Planning Board scheduled dates and the Planning Board members said to cancel both meetings that fell on Election dates.

## **7. Citizen Input**

Jonathan Viner, 34 Donnelly Cross Road, reviewed his previous statements on the conditions regarding Certificate of Completion, how the conditions created were done because of the

recommendation of the Town Administrator at the time, Town Planner at the time, and he believed Town Counsel too. Mr. Bridges replied that if the Building Inspector were not the Zoning Enforcement Officer and was an agent of the Planning Board then those conditions would work.

Matt Defosse, 7 Paul's Drive, stated the same discrepancies he keeps seeing with Solar Developers are unable to answer questions about their own plans and it should be a concern to the Planning Board.

#### **8. Approval of Minutes- 8/15/2023 and 9/5/2023**

Minutes not discussed and tabled to the next meeting.

#### **9. Adjournment**

**MOTION: Mr. Bellemer made a motion to adjourn at 10:25 pm.**

**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.**

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

**Approved by the Planning Board on: 10/18/2023**

#### **List of Documents used on September 19, 2023**

##### **Items sent to Planning Board prior to Meeting by email:**

- Final Agenda R2
- Memo from Town Planner
- ANR's- Candlewood/JC Kady
- Major Site Plan Review & Stormwater Permit – Applicant: Todd Tallman, Owners: Cornerstone Bank, Location: 176 & 184 Main Street Spencer, updated plans and peer review
- Major Site Plan Review/ Stormwater Permit – Applicant/Owners: Jaime Scarff/ Spencer Solar Farm LLC. Location: North Brookfield Road, plans, application, peer review, and demolition cost estimates.
- Drafted minutes for 8/15/2023 and 9/5/2023

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

- None