



Planning Board – Town of Spencer

Minutes

Planning Board Meeting
September 05, 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, and Monica Santerre-Gervais, ODIS Senior Clerk

Staff Absent: Lauren Vivier, Town Planner/ Conservation Agent (on leave)

1. The Chair opened the meeting at 7:00pm

2. ANR's

25 Borkum Road/ Katie Watson/ Boundary Line Adjustment

Jason Dubois, DC Engineering, was present at the meeting.

Mr. Ceppi explained the plan is to combine lot 2 with the main lot, the line will be removed on lot 2 and the current lot. Mr. Ceppi asked the applicant to show the lot lines being removed as a dash line. This land is in Chapter 61 A, but the land is going family to family.

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/Special Permit/Stormwater Permit – Applicant: Peter Rundle-Solar Smart, LLC, Owners: Hillside Baptist Church, Location: 472 East Main Street, Spencer, MA; Assessor's Map R34-8-1. The applicant is requesting a Major Site Plan Review, Special Permit and Stormwater Permit under sections 7.2, 7.4, and 4.8.9 of The Spencer Zoning Bylaw and Stormwater Regulations to develop a large-scale ground mounted solar PV array (2.917 MW). The property is located within the Rural Residential (RR)/Commercial with the arrays in RR zoning districts.

Mr. Bridges stated the applicant has requested a continuance and the Planning Board agreed to continue to 10/3/2023.

MOTION: Ms. Shiver made a motion to accept continuance to 10/3/2023 for the large-scale ground mounted solar PV array located at 472 E. Main Street.

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.

4. Special Permit Application – Applicant/Owner: JC Kady Realty LLC. Candlewood Estates, located off Greenville Street/Candlewood Drive, Spencer (Assessors Map R28-9-(7,9,20,23,25,28,31). The applicant is requesting a Special Permit under section 5.3.10. of the Spencer Zoning Bylaws for a rear lot subdivision. The zoning district is RR (rural residential).

Jason Dubois, DC Engineering, and Jesse Kady, 185 Flag Road, East Brookfield, MA., were present at the meeting, and Attorney Damien Berthiaume was remote.

Mr. Ceppi started by making a comment to Mr. Kady that he did not appreciate him threatening a 40B project at the location if the Special Permit was not approved.

Mr. Ceppi explained that the application and the Candlewood Subdivision had a lot of history and is very complicated. Mr. Ceppi reviewed plot plans from phase 1 and 2, frontage, the “paper” road that does not exist, and the list of waivers. Rear lot Subdivision waiver 1.) 5.3.10.D, *5.3.10 Rear lot subdivision, Setbacks: The front lot shall have a minimum front setback of 75 feet, and the rear lot shall have minimum setbacks of twice that required in Section 5.1 (for all setbacks).* Waiver 2.) 5.3.10.E, *Access: The two lots created by the rear lot subdivision shall have access on a common driveway pursuant to Section 6.2, unless in the opinion of the Special Permit Granting Authority there are significant environmental or safety impediments to requiring the common driveway.* Waiver 3.) 5.3.10.F, *no more than two front/rear lot pairs may be created from a single parcel which existed as of November 16, 2006, and such subdivisions are not permitted on adjacent parcels if said parcels are in common ownership.* Waiver 4.) 5.3.10.G, *no rear lots are permitted within subdivisions where a new road was created (i.e., subdivision of land not eligible for the Approval Not Required [ANR] process).*

Mr. Ceppi stated his concerns that lot 4R used to have 200 feet of frontage in phase 2, don’t have the 200 feet, taking a conforming lot and making it non-conforming, and removing frontage. Mr. Bridges explained that the frontage does not exist today because it’s only on paper. Mr. Dubois asked if the Town Counsel reviewed and provided comments. Mr. Bridges mentioned that Town Counsel interpretation was the applicant is not making it worse or better. Mr. Berthiaume stated the applicant is making 4R better. Mr. Dubois stated there is no current road, the land is under the contractor, and the proposed plan will not the current homeowner’s current frontage. Mr. Ceppi asked if an ANR could change this road and Mr. Bridges read aloud the opinion from Town Counsel regarding endorsement of an ANR or rear lot subdivision.

The abutters in the audience discussed their fear of the land being turned into 40 B because the State can waive the bylaws. Mr. Bridges explained that there are still certain criteria for 40 B

projects. Mr. Ceppi stated that a developer must apply for the 40B, the contractor needs to submit the plans, and it would still go through a process.

Ms. Shiver discussed her view regarding the waivers. Mr. Kady stated he has been before the Planning Board multiple times for the road and had to return deposits from interested homeowners to build new homes. The Planning Board members went through the all the waivers regarding Rear Lot Subdivisions in the Spencer Zoning Bylaws and how the applicant complies with some of the requirements and the interpretation of the waivers being requested. Mr. Bellemer is concerned about the Planning Board granting waivers because of other applicants who were denied or are currently seeking waivers. Mr. Dubois stated the Planning Board has the authority to approve the waivers, the current project is unique in circumstances, and there is a room full of abutters that support the developer and the project.

The Chair opened the hearing to the public:

Cathy Williamson, 9 Candlewood Drive, stated this project has had multiples phases, complications, and different developers and the Planning board can use language to explain why they are approving the waivers.

Ramchandra Moennsad, 10 Candlewood Drive, stated the land is unique and the project needs to move forward for the residents in that neighborhood.

Frank Conti, 12 Candlewood Drive, has been a long-time citizen and appreciated the Planning Board but they have reviewed the application in so much detail that and would think granting waivers for this project would be a different situation.

Jonathan Viner, 34 Donnelly Cross Road, felt the applicant could get approval and it would be easier if the applicant applied under section 5.3.11 and feels it would be a better solution. Mr. Dubois agrees but the frontage would still need a waiver. Mr. Berthiaume stated there are benefits for the applicant to apply under section 5.3.10.

MOTION: Ms. Shiver made a motion to close the public hearing.

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 made a motion to waive section 5.3.10.D (75 Foot Setback), because it is an existing condition that the board has no control over.

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 made a motion to waive section 5.3.10.E (access & common driveway) because it is a safety issue because of the three-family.

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 made a motion to waive section 5.3.10.F because they are reducing lots and not creating new lots.

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 made a motion to waive section 5.3.10.G because they are reducing the non-conformity and create more conforming lots.

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 made a motion to approve the Special Permit for a rear lot subdivision.

SECOND: Mr. Slack

DISCUSSION: Need applicant to return with an Engineered Stamped ANR Plan

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

*****AGENDA ITEMS 5 & 6 were discussed together*****

5. Discussion/ Possible Action- to set a hearing on 10/17/2023 to rescind the constructive approval for Spencer Solar II, LLC c/o Melink Solar Development for Subdivision Approval on Charlton Road, Assessors' Map R08-10, and reinstate the Planning Board denials of the subdivision.

6. Discussion/ Possible Action- to set a hearing on 10/17/2023 to rescind the constructive approval for Spencer Solar, LLC for Subdivision Approval on Ash Street, Assessors' Map R27-1, and reinstate the Planning Board denials of the subdivision.

Mr. Bridges stated that at the end of the subdivision process the applicants Attorney filed Constructive Approval for both Ash Street and Charlton Road, the subdivisions were denied, and Town Counsel recommends that the Planning Board rescinds the Constructive Approval and reiterate denial of both projects. Mr. Bridges let the Planning Board know that the applicant has filed an appeal with the court.

MOTION: Ms. Shiver made a motion to add Ash St Subdivision & Charlton Road Subdivision to the public hearing on 10/17/2023 to rescind the Constructive Approvals and reinstate the denials.

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.

7. Discussion: Solar Bylaw Amendments

1. Large Scale Commercial Solar

2. Energy Storage Systems

On September 19, 2023, at 6:00pm there will be a special meeting for the two moratoriums. Regarding the Energy Storage Systems (ESS), Mr. Bridges reported that it creates a loss in Open Space, it impacts forested land, and changes the rural character of the community. Mr. Bellemer felt that ESS should only be in rural residential areas and not in overly populated areas. Mr. Bridges said he would like the Planning Board to provide evidence for the meeting and would like to see the Solar Bylaw updated by the Spring Town Meeting.

8. Revolving Account Approval

Mr. Ceppi stated the members need to vote on one invoice from Stonebridge Press.

MOTION: Ms. Shiver made a motion to approve the invoice and pay it using the Planning Boar Revolving Account

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.

Mr. Bridges stated the invoice from the last meeting for the recording fee for Deer Run Phase 1 road acceptance was reimbursed using other funds and did not use the Planning Board Revolving Account.

9. General Board Discussion/Board Liaison Reports

No discussion.

10. Town Planner Report

No discussion.

11. Citizen Input

Matt Defosse, 7 Paul's Drive, encouraged the Planning Board members and the citizens to review the report from the Solar Bylaw Committee.

12. Approval of Minutes-8/15/2023

The minutes were not ready and were tabled until the next meeting.

13. Adjournment

MOTION: Ms. Shiver made a motion to adjourn at 9:42 pm.

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 Senior Clerk

Approved by the Planning Board on: 10/3/2023

List of Documents used on September 05, 2023

Items sent to Planning Board prior to Meeting by email:

- Final Agenda R1
- Memo from Town Planner
- ANR's- 25 Borkum Road
- 472 East Main Street-Continuance request
- Special Permit updated plans recieved 9/5/2025 for the rear lot subdivision off Greenville Street/Candlewood Drive
- Solar Moratorium Memo dated 9/5/2025
- Invoice for Stonebridge Press

Items submitted/ brought to the Meeting:

- None