



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

Wednesday, August 17, 2022, at 7:00 PM

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall- **Remote and in person Meeting**

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

Planning Board Members Absent: None

Staff Present: Lauren Trifone, Town Planner/Conservation Agent (in-person) and Monica Santerre-Gervais, ODIS Senior Clerk (remote)

Staff Absent: None

1. Chair, Mr. Ceppi, opened the meeting at 7:00pm

2. Zoning Bylaw Amendments:

Ms. Trifone explained that this public meeting will be a review of the recommended bylaw changes for solar. Ms. Trifone added a vote tonight will send a draft to Town Counsel and Board of Selectmen for review and comments. Additionally, Ms. Trifone mentioned there will be another special meeting on September 20, 2022, then final approval to present at Town Meeting.

Ms. Trifone discussed the following changes:

Use Table, 4.2. H.7. Small Scale (15 kilowatts (kW) or less) DC Photovoltaic Generating Installation allowed by Special Permit from the Zoning Board of Appeals in the following Zoning Districts: Rural Residential (RR), Suburban Residential (SR), Village Residential (VR), Commercial (C), and Industrial (I). Mr. Bellemer felt that Lake Residential (LR) should be included to allow by special permit because he has enough room on his land. Ms. Trifone to change all zones allowable by a special permit from the Zoning Board of Appeals. 4.2.H.8 Remove Medium Scale (greater than 15kW or 200 kW DC Photovoltaic Generating Installation from the use table. Deliberation between the Planning Board members ensued regarding section 4.2.H.9 and the minimum kW for Large Scale Solar. Mr. Ceppi discussed the new bill with green energy incentives and allowing up to 30 kW. Mr. Bellemer mentioned his recent experience with Solar Companies and believes 20 kW would be sufficient. Ms. Trifone will change the maximum kW to twenty for Small Scale Solar and minimum to 20 kW for Large Scale Solar. For section 4.2.H.10, change wording from battery to “*Energy Storage System*”, will allow residential Energy Storage, but not for Large-Scale Energy Storage Systems. Ms. Trifone read aloud Energy Storage System codes.

Under section 4.4 Accessory Uses, 4.4.1.A add “*small scale ground-mounted installation, Energy Storage System (ESS) below 20 KWh.*”

Under section 4.7 Prohibited Uses add section D, *“Energy Storage System (ESS) not located on the site of, and specifically connected, accessory to, a permitted Large Scale Solar Installation (LSSI). For the purposes of this section, Battery Energy Storage System (BESS) is defined as a non-generating energy storage system that utilizes batteries and other commercially available technology capable of drawing electric power from existing electrical infrastructure, storing it for a period of time, and thereafter discharging electric power into the existing electrical infrastructure.”*

Margaret Emerson, 18 Highland Street, had concerns that the ban on Energy Storage Systems would not be approved by the Attorney General’s office and asked if another bylaw should be considered. Ms. Emerson read aloud Chapter 40A section 3 from the Massachusetts General Laws, *“no zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.”* There was discussion regarding different towns trying to ban solar and solar battery fields.

Scott Czyz, 104 Ash Street, discussed the transmission lines in front of Saint Joseph Abbey that could transmit the stored energy and mentioned the State of Massachusetts wants green energy.

Matt Defosse, 7 Paul’s Drive, expressed that the definitions are important, and the correct language will protect the town.

Ms. Trifone reviewed section 4.8.9 in the title add *“Large Scale,”* and add *“Small scale ground or building-mounted solar electric installations which are accessory to an existing residential or non-residential use do not need to comply with this Section but must comply with the other provisions of Spencer’s Zoning Bylaws as applicable.”* Ms. Trifone explained the added definitions for Accessory Use, Building Official, Energy Storage System (ESS), Large Scale Ground-Mounted Solar Photovoltaic Installation, Principal Use, Rated Nameplate Capacity, Roof-Mounted Solar Energy System, Site Plan Review Authority, and Small-Scale Ground-Mounted Solar Photovoltaic Installation. Mr. Slack explained a scenario where a homeowner could have a separate business on their parcel, with two meters, and the need for two small scale solar systems. Ms. Trifone will investigate and discuss with Town Counsel how to include two small scale solar systems on one parcel and add verbiage to the bylaw that it would need a special permit by the Zoning Board of Appeals. Ms. Trifone suggested adding an additional section under accessory use.

Ms. Trifone mentioned in section 4.8.9.E adding *“The owner or operator shall maintain the property’s landscaping. Grass height shall not exceed a height of twenty-four.”* Mr. Defosse asked who would enforce that requirement and Ms. Trifone said the Building Inspector. Ms. Shiver asked if there was a certain ground cover they could recommend to the contractor and Ms. Trifone said they only recommend a native ground covering.

Mr. Bellemer asked if the noise regulations were part of the Department of Environmental Protection (DEP) and if it needed to be added to the bylaw. Ms. Trifone will review the DEP regulations. Under section 4.8.9.F.13, Ms. Trifone would like all bonds issued be in the form of cash because there have been too many issues with paper bonds and all the Planning Board

members agreed. Ms. Emerson explained when she was on the Solar Bylaw Review Committee the Town of Spencer should be requiring more for the decommissioning bonds because it cost more money to recycle the panels, package the panels, and ship the panels.

Ms. Trifone reviewed the changes to section 4.8.9.G.2 for Design Standards, *“Energy storage system shall have a setback from front property lines and public ways of at least three hundred feet, and a setback from side, and rear property lines and public ways of at least two hundred feet. If the solar installation abuts an open field, farm, or pasture the battery storage shall have a setback from front, side, and rear property lines, and public ways of at least four hundred feet.”* Mr. Bellemer did not think it was wise to make batteries further away because it could be harder to get to. Ms. Shiver asked if the electrical could be underground and Ms. Trifone did not want to promote more ground disturbance, the battery system should be in the middle of the array to protect the neighbors and residences.

Ms. Trifone discussed adding section 4.8.9.G.16 for Design Standards, Large-Scale Solar Photovoltaic Facilities - *The total number of Large Solar Energy Facilities concurrently within the Town shall be limited to twenty-five. Included within this number are large facilities that have received a permit to operate from the Spencer Planning Board as of the effective date of this Solar Energy bylaw. The total number of Large Solar Energy Facilities shall be quantified by the personal property bill and/or tax agreements, which is determined by the Town of Spencer’s Assessor.”* Ms. Trifone stated that currently the Town of Spencer has twenty-two solar farms and gave an example of the Saint Joseph Abbey solar arrays taxed separately and each property bill counts separately. Mr. Ceppi expressed reaching out to Town Counsel for clarity. Joyce Cycz, stated with her experience they must pay taxes on each parcel that has solar. Ms. Trifone noted that Central Massachusetts Regional Planning Commission (CMRPC) stated the Attorney General has approved the cap on solar arrays in other Towns, but not challenged in court yet.

Also, add section 4.8.9.G. 17, *“Electric Storage System Unit: Applicant-Developer shall submit plans for proposed on-site battery storage unit(s) for review by the Spencer Fire Department and by such consultants as deemed necessary by the Planning Board, at the expense of the applicant. Plans shall include but not be limited to storage unit specifications, battery type, battery storage configuration, and fire extinguishing system.”* Ms. Trifone mentioned that in section 4.8.9.G.17, I, and J; MSDS sheets required, fire suppression system language, compliance standards, Energy Storage System capacities, and quarterly operation and maintenance reports with yearly inspections. Ms. Trifone mentioned that when speaking with the Fire Chief, Robert Parsons, they would let the Electric Storage System Units burn. Ms. Emerson discussed her research with the Electric Storage System fire in Arizona that caused massive damages and death due to an improper suppression system. Ms. Emerson recommended the Planning Board ban lithium batteries. Mr. Ceppi was unsure if they could ban lithium batteries and Ms. Trifone will ask Town Counsel. For section 4.8.9.K, *“Completion – No large-scale solar photovoltaic generating installations shall be issued a Certificate of Occupancy until the Spencer Planning Board has issued a Certificate of Completion.”* Ms. Emerson stated the solar arrays are generating power before getting Certificate of Occupancies now. Ms. Trifone stated she is aware and looking to enforce fines.

Ms. Trifone asked for more feedback regarding section 5.2, Interpretation notes for area, and if the Planning Board would like to keep the fifty-foot setback or reduce to a ten-foot setback. Mr. Bellemer felt it should be like any other accessory use like a garage.

Questions & Answers:

Mr. Defosse mentioned his involvement with the Solar Bylaw Advisory Committee and stated the recommendations are online on the Town of Spencer's website. Mr. Defosse stated the Planning Board must protect the town and the residents, has issues with commercial solar and developers deforesting properties for profit, and taking advantage of small towns.

MOTION: Ms. Shiver motioned to submit the Solar Bylaw Amendments with changes to Town Counsel for review

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 recommend the Solar Bylaw Amendments with changes to the Board of Selectmen for review

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

3. New Business/Adjournment

Ms. Trifone mentioned at the last meeting we needed to vote on the \$132.60 coming out of the Revolving Account to pay Stonebridge Press.

MOTION: Mr. Ceppi motioned to approve \$132.60 from the Revolving Account to pay Stonebridge Press

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 adjourn at 9:04pm

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 Clerk

Approved by the Planning Board on: 9/15/2022

List of Documents used on August 17, 2022.

Items sent by email to the Planning Board and printed out for use at the meeting:

- Agenda
- Drafted Solar Bylaw Amendments

Items submitted/ brought to the Meeting:

- None