



Planning Board – Town of Spencer

Minutes

Planning Board Special Meeting

Thursday, October 01, 2020 at 7:00 PM

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall- **Remote Meeting**

Planning Board Members Present: Chair Shirley Shiver (remote), Vice Chair Jeff Butensky (in-person), Robert Ceppi (remote), Jonathon Viner (remote), and Maria Reed (remote)

Planning Board Members Absent: None

Staff Present in-person: Paul Dell'Aquila, Town Planner

Staff Absent: Monica Santerre-Gervais, ODIS Senior Clerk

1. Ms. Shiver opened the meeting at 7:05 pm and Ms. Shiver 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.”*

Mr. Dell'Aquila noted that Mr. Butensky was in person and Mr. Ceppi, Ms. Reed, Mr. Viner, and Ms. Shiver are participating remotely. Mr. Butensky was surprised no one else was at the meeting and hopes in the future more members come to the meeting in person.

2. Proposed Zoning Amendment: Zoning Bylaw Section 4.8.9 Solar Photovoltaic Generating Installations

Mr. Dell'Aquila mentioned that back in December 2019 the Solar Bylaw Review Committee submitted a report to the Board of Selectmen (BOS) for review, the proposed changes were submitted to the Planning Board for the hearing, there was an initial hearing on March 12th, 2020 and went through some items. The meeting was continued but then Covid-19 came, and the Town of Spencer continued meeting was suspended. The intent of this meeting is to pick up where the Planning Board left off and make recommendations to the Board of Selectmen to be included on the Town Meeting warrant. Mr. Dell'Aquila brought up the minutes from March 12th and what was discussed including recommendations from the Solar Bylaw Review Committee, setback, visual mitigation, noise mitigation, decommissioning bonds, and general public notification and involvement. Mr. Dell'Aquila noted the zoning changes is separate then the Solar Moratorium that the Planning Board will be discussing on October 20th, 2020. Mr. Butensky asked about the moratorium article and if the Planning Board can change the article and Mr. Dell'Aquila said it was a recent recommendation from the BOS and the Planning Board

is allowed to make recommended changes but the BOS are not required to accept the recommendations. Ms. Shiver discussed that there are 17 solar projects in the rural residential districts, 62 megawatts on 212 acres of land, and the Planning Board needs to discuss the impacts of battery storage. Mr. Viner and Mr. Ceppi felt that public comment first would be appropriate before the Planning Board discussion.

Ms. Shiver opened the public hearing to the public;

Ralph Hicks, 21 Lyford Road, very concerned about the decommissioning fees and the payment in lieu of taxes (PILOT) program. Currently, one developer is no longer negotiating the PILOT and then said he won't be paying property taxes because some law exempts them. Mr. Hicks said the reason for his concerns for the decommissioning fees is because the amounts vary in extremes and he believes the decommissioning fee should be 100,000 or more per megawatt. Mr. Hicks referenced the Planning Board to turn to the excel sheet generated by the Town Planner that discusses each project and the solar decommissioning bonds. The increase will ensure the town does not have to pay or go after the property owner. Secondly, Mr. Hicks stated he has an issue with the setback requirement and feel there are some solar projects that are too close to the road. Additionally, Mr. Hicks stated he would like to see more vegetation planted to hide the solar farms. The town needs to be protected and the citizens need to be protected. Lastly, Mr. Hicks concluded with his concerns with battery storage and a current issue with the developer on GH Wilson having battery storage, even though, the Planning Board did not approve them.

Gary Woodbury, 219 Charlton Road, stated the reason why the BOS wanted a moratorium is because there are constant changes in the solar field. If you research other communities, they have numerous solar moratoriums and now the big push is for battery farms with electrical storage for stronger returns. Mr. Woodbury explained that some communities have 250 feet of frontage and 200 feet setbacks on each side and rear. Solar panels life expectancies are now 30 years, able to produce more power on less land, need more research and not rush into the bylaw requirements for solar.

Margaret Emerson, 18 Highland Street, member of the Conservation Commission, discussed the Arizona fires due to the battery storage from solar farms. Ms. Emerson will send copies to Mr. Dell'Aquila for review and to forward to the Planning Board members. Ms. Emerson urges the Planning Board to approve the moratorium.

Mike Dow, 97 North Spencer Road, explained one of his concerns that he has heard throughout the solar meetings is peer reviews. Mr. Dow recommended having a peer review at the beginning, middle, and end of the projects. Mr. Dow does not think it is fair to rely on the Building Inspector because he may not have all the information. Also, Mr. Dow recommended having level of modifications because there does not seem to be a system in place to judge what is a minor or major modification.

Nancy Tame, 25 Lake Whittemore, was on the Solar Bylaw Review Committee, and stated they considered a moratorium and would vote yes for it and agrees with Mr. Woodbury that things are changing. Ms. Tame said she is not against solar but so far, the projects have not been done correctly. Ms. Tame asked if both solar items will be on the warrant for Town Meeting or just one. Ms. Shiver said the Planning Board is by law to have a hearing on any bylaw amendments.

Matt Defosse, 7 Paul's Drive, former member on the Solar Bylaw Review Committee, and expressed that he should be able to speak throughout the whole meeting and would like a chance to comment

now and if something comes up later in the meeting. Ms. Shiver said they may keep the public hearing portion open after board deliberation. Mr. Defosse had numerous points to make; 1) Moratorium is overdue and the Town of Spencer should have a Moratorium for Solar Farms, 2) Mr. Defosse asked Mr. Dell'Aquila if there were any new solar application since Ash Street project and Mr. Dell'Aquila said Charlton Road/ Bacon Hill is in the process of finalizing there submittals, 3) Mr. Defosse said that proper siting is a major issue in residential neighborhoods, 4) McCormick Road, there are 150 Poles, who pays for the poles and the wiring and Ms. Shiver said they were unsure but looking for commentary on the solar bylaw, 5) does the town have a solar plan for development, solar cap, maximum amount of acreage, etc. and Ms. Shiver said they were trying to discuss/determine that at this meeting, 6) signage to be large enough at the development sites, 7) Developer to place notification in the paper, increasing the abutter notification radius, and possibly a reverse 911 call to the town residents, 8) increase setbacks to 200 feet for front, side and rear of the property, and 9) securities and bonds should be in cash with a minimum figure. Mr. Defosse ended with stating that the Planning Board should review and take the recommendations from the Solar Bylaw Review Committee and concerned with the lack of knowledge regarding solar is dangerous to the town.

Mr. Woodbury brought up the towns to west of us and how they are facing the same issues as our town. Mr. Woodbury answered Mr. Defosse's question that the interconnection agreements are public knowledge and connections can cost over a million and there is money in solar development. Mr. Defosse encouraged the Planning Board members to read 4.8.2 A, 1-5, of the Zoning Bylaw.

Tatyana McCauley, 28 McCormick Road, corrected Mr. Dell'Aquila that the Solar Bylaw Review Committee submitted the report in August 2019. Ms. McCauley agreed that solar is evolving. Ms. McCauley expressed her concerns for town residents that live next to or close to the solar farms and she is one of them, the right of the abutters needs to be more discussed, the Town Planner should demand the material safety data sheets (MSDS) for panels, invertors, and transformers because they contain toxic chemicals. Ms. McCauley is concerned about the disposal on panels and what happens to them because she discussed with a worker and he said he was directed to run over damaged panels with heavy machinery and bury them on site. Additionally, Ms. McCauley discussed more information that was addressed in the Solar Bylaw Review Committee. Ms. McCauley commented on setbacks and increasing the setbacks for abutters. Lastly, Ms. McCauley asked about how far the Planning Board got in the study at the meeting in March.

Mr. Hicks said the solar companies operate as LLC's (limited liability corporations) and can dissolve at any time and heightens the need for cash bonds or surety because the only person they can come after if they dissolve is on the landowner.

Mr. Viner noted that for the bylaw to be recommended to progress to Town Meeting we need to present the actual language for the bylaw and feels the Planning Board is far from submitting an amended bylaw. Also, Mr. Viner thinks having an actual bylaw on the Town Meeting is not ready. Mr. Dell'Aquila said during the March meeting the Planning Board felt there was too many things to go after at one time but could tackle some easier topics and then have other meetings in the future. Mr. Dell'Aquila said he has counted 16 distinct issues are there some items to put on the bylaw for this Town Meeting. Mr. Butensky said he would be surprised if the moratorium didn't pass and thinks it would not be practical to put anything on the Town Warrant for the solar bylaw changes. Ms. Shiver talked more about the process in changing bylaws. Mr. Butensky said possible May 2021 Town

Meeting and need to subdivide the topics per meeting because addressing all at once wont work well and Mr. Viner agreed. There was discussion on making a motion or tabling the discussion.

Mr. Viner wanted to discuss some important points regarding battery storage, he has read the reports that Ms. Emerson discussed about Arizona and feels the other Planning Board members should too and discussed other issues with battery storage and how dangerous they can be. Mr. Viner felt there needs to be a discussion and agreement on if the battery storage is allowed the transportation, the accessibility, the location of the units, and distance from immediate facilities. Mr. Viner discussed the interconnection agreements between generating facility and developer, and it states part of the agreement of installation of poles and wiring and cost of modifications at substation is the developer's responsibility.

Mr. Ceppi feels the biggest concern is when conditions are attached to decisions and the developer changes the plans, and there is no way to ensure the projects are done correctly. Additionally, Mr. Ceppi wants peer review involvement at the beginning and during construction. Ms. Shiver said the Planning Board can ask for additional peer reviews going forward. Mr. Dell'Aquila will share scope with BSC for peer review during construction and agrees that there should be peer review for submissions for building permits to ensure it's the same the plan that was approved by the Planning Board. There was much discussion regarding reviewing plans, additional peer review, and the development of solar projects.

Mr. Viner touched upon PILOT agreements and how they need to be decided and in place before the special permit is issued. Mr. Dell'Aquila said the Planning Board is not included in the PILOTs and it is based on the amount of equipment on the ground but can discuss revised permits of approval. Mr. Dell'Aquila said a draft PILOT is a fair condition but it would not be finalized. Ms. Shiver replied she did not know what the process would be for PILOTs if it can be clarified.

Mr. Defosse wanted to thank the Planning Board and the public for their input and implement the moratorium as soon as possible. Ms. Shiver said that the moratorium meeting will take place on October 20, 2020. Mr. Woodbury said Mr. Dell'Aquila and Mr. Ceppi made some good points about peer review. Additionally, Mr. Woodbury suggested PILOT language to force the developed to finalize the PILOT before the developer can start their projects and not walk away and not do the PILOT. Mr. Woodbury feels the new Building Inspector knows everything about solar farms and that is why more knowledge is needed before putting forth new bylaws.

Mr. Viner said it would be appropriate to close the public hearing and have additional public hearings or have a workshop. Mr. Butensky asked if it could be continued to a later date or close the hearing. Mr. Dell'Aquila said the board could procedurally continue and recommended continuing to the October 20th meeting to have dates to reconvene.

MOTION: Mr. Butensky motioned to continue the Solar Hearing until 10/20/2020

SECOND: Mr. Viner

DISCUSSION: Mr. Viner asked about the moratorium hearing and if it conflicts with the zoning bylaw amendment and Mr. Dell'Aquila explained the process and the Town of Spencer looking to modify the solar bylaw. Mr. Woodbury felt that if the Planning Board does not close this hearing it might affect the moratorium and the Planning Board members discussed their understandings of the process. Mr. Dell'Aquila will get further guidance from Town Council.

ROLL CALL VOTE: Butensky-yes, Reed-yes, Ceppi-yes, Viner-no, Shiver-yes (Vote 4-1 motion carried)

3. Adjournment

MOTION: Mr. Viner motioned to adjourn the meeting at 9:05 pm

SECOND: Mr. Butensky

DISCUSSION: None

ROLL CALL VOTE: Butensky-yes, Shiver-yes, Reed-yes, Ceppi-yes, Viner-yes (Vote 5-0)

Submitted by Monica Santerre-Gervais ODIS Clerk

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

List of Documents used on October 01, 2020

Items sent to Planning Board prior to Meeting by email:

- Agenda
- Memo from last December on the SBAC's report (sent previously)
- Minutes from 3/12/20 special meeting
- Spreadsheet comparing solar zoning requirements from neighboring communities
- Spreadsheet (with multiple tabs) compiling data on existing and proposed solar projects
- Report of the Solar Bylaw Advisory Committee (sent previously)

Items submitted at the Meeting:

- None