



## Planning Board – Town of Spencer

### *Minutes*

#### Planning Board Meeting

**Tuesday, May 16, 2017 at 7:00 PM**

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

Planning Board Members Present: Chair Robert Ceppi, Maria Reed, Jonathan Viner and Shirley Shiver

Planning Board Members Absent: None

Staff Present: Paul Dell'Aquila, Town Planner

Staff Absent: Monica Santerre-Gervais, ODIS Clerk

#### **1) Mr. Ceppi opens the meeting at 7:04pm.**

**2)Continued Public Hearing – Special Permit (Rear Lot Subdivision) -** Applicant: Doug Cutler, Owners: Edward & April Bellefeuille c/o Douglas Cutler 12S LLC Location: 12 Sherman Grove, Spencer Assessor's Map U32/64. The applicant is requesting a Special Permit under Section 5.3.10 Of the Spencer Zoning Bylaw for a rear lot subdivision. The property is located within the Rural Residential zoning district.

Mr. Dell'Aquila explained that at the previous meeting the applicant was supposed to submit new information and/or have a tech review meeting. Mr. Dell'Aquila met Doug Cutler and it was expressed that Mr. Cutler was looking to withdraw without prejudice; however, there was nothing received in writing for the meeting.

**MOTION: Ms. Shiver motioned to close hearing at 7:08pm**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

**MOTION: Mr. Viner motioned to deny the application for the Special Permit for a rear lot subdivision**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 4-0**

#### **3) Continued Special Permit – Common Driveway**

**Applicants/Owners: Hamadryad, LLC/ Jim Hansen**

**Location: 68 & 70 Donnelly Road, Spencer Assessor's Map R36-29 & R36-29-6.**

Jim Hansen, Hamadryad, LLC, was present for the meeting and discussed that per the Planning

Boards request he has submitted the new plan and updated easement deed. In addition, Mr. Hansen handed out an email dated May 8, 2017 from his lawyer, Padgett Berthiaume, stating the document prepared for the easement plan was adequate to what the Planning Board had requested.

Mr. Dell'Aquila explained that on the revised plan they relocated the pump house and the applicant submitted new easement documentation.

Mr. Ceppi asked Mr. Dell'Aquila if the plan and deeds have been reviewed and if everything is satisfactory. Mr. Dell'Aquila said the pump house is now accurate on the new plans and the easement looks fine.

Mr. Hansen, exhibit D, contains similar language to exhibit C but contains the maintenance agreements.

Mr. Viner asked about the driveway width. Mr. Hansen said he asked for a waiver on a wider passage area, entire driveway is 175 feet; driveway is wide enough for two passing cars. Mr. Dell'Aquila said the only concern Steven Tyler, Highway Superintendent, was concerned about was the apron to allow proper turns in and out of the driveway. Mr. Hansen explained with the recommendation of Mr. Tyler, he will be curving the pavement out so there is no gravel at Donnelly Road.

Mr. Ceppi opened the meeting up to the public and there was no comment.

**MOTION: Ms. Shiver motioned close the hearing at 7:14pm**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

**MOTION: Ms. Shiver motioned approve the special permit for a common driveway at 68-70 Donnelly Road**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

#### **4) Special Permit – Solar Farm**

Applicants/Owners: Tom Li/ Sunpin Solar Development, Location: North Brookfield Road, Spencer Assessor's Map R39/14. The applicant is requesting to amend a Special Permit under Section 7.2, 4.2.B.3, and 4.8.9 Of the Spencer Zoning Bylaw to increase megawatt solar farm from 2 MW to 4.7 MW. The property is located within the Rural Residential zoning district.

Opened the hearing at 7:17pm

Joseph Bartzis, Sunpin Solar, introduced himself as Business Development Manager for Sunpin and spoke about his educational background. Sunpin is based out of Los Angeles, California but has history in solar development in the Northeast specifically in Massachusetts.

John Henry, Beta Group, is the Civil Engineer on the project and was present during the original permit that was approved in 2012 by the Zoning Board of Appeals.

Mr. Bartzis explained that the original permit in 2012 was issued to CTC Electric; Sunpin obtained the project in 2013 due to CTC not having the means to continue with the project. Sunpin was forced to revise the project in 2014 because of a new program issued by Massachusetts called the SREC II program. Sunpin had to suspend the project due to legislative lapse in the net metering credits and with the program. Additionally, there is a newer program that came out called the SMART Program. Mr. Bartzis said they are here to amend and increase the system size to meet the programs criteria. The new Spencer Bylaw for Solar has caused the need for a request for waivers.

Mr. Henry showed the difference in size between the two arrays proposed. Mr. Henry said the parcel is 35 acres and in 2012 proposed clearing a majority of the trees and the tree clearing for this application is almost the same with more clearing around property boundaries. The boundaries setbacks in 2012 application were 50 feet and now they are 25 feet because the footprint is larger and they need to minimize the shading. Mr. Henry explained the shadows will cause less output. Currently, the site sits on 28 acres of forested land with an open field and other parts wooded, they are proposing 26 acres of tree clearing, but in 2012 the approval was for 25 acres of tree clearing. The new bylaw limits the clearing to 50% of what there currently so the first waiver would be for the tree clearing. The second waiver would be for the height of the structures from ground to top of panel could be 11-12 feet high, where the new bylaw limits the height to 10 feet. The third waiver would be needed for the bylaw regulation in regards to slopes and installation on slopes greater than 15%; the current slope is anywhere from 12-18%. Mr. Henry said that there will be no grading and the panels will follow the natural contour of the land.

Mr. Bartzis added there was a tech review at the Town Hall this morning and one revision in the design would be to eliminate the service road in the middle of the panels because the Fire Chief, Robert Parsons, had concerns, therefore, the service road will now go around the perimeter of the solar array. Mr. Dell'Aquila explained the concern from the fire chief was for the turn radius.

Mr. Ceppi asked if the project could happen without the amended approval and Mr. Dell'Aquila mentioned the original special permit issued by the Zoning Board of Appeals is still valid until May 2018 and the applicant would still need to return to the Planning Board for a major site plan review and stormwater. Ms. Shiver said this amendment this seems like a new application and would need to comply with the new bylaws. Mr. Bartzis said that they would like to adhere to the bylaws as much as possible but they would need to request the waivers. Mr. Henry said the original permit that was approved and they could still do the 25 acres of clearing. Ms. Shiver asked the difference in area between the two footprints and how many arrays they would have. Mr. Bartzis explained about difference in language in regards to panels and arrays. Ms. Shiver asked about the difference in total capacity from 2012's project to this amended project. Mr. Bartzis said the original approved project was for 2 megawatts and they are requesting an additional 2.7 megawatts. Ms. Shiver said they are now doubling the capacity of the project, however, Mr. Bartzis said they would be doubling the size of the capacity but not the size of the system because they were able to increase the power density. Furthermore, Mr. Bartzis explained the increase of megawatts for 2017 would derive more tax revenue for the town. Ms.

Shiver asked if we have numbers of what the tax revenue would be. Mr. Dell'Aquila said no and explained that the Assessors do it based on the equipment installed on the site.

Mr. Dell'Aquila how many modules from 2012 versus now and Mr. Bartzis said 16,000-17,000 modules but the 2012 modules were less efficient to the ones they are proposing now. In addition, Mr. Bartzis discussed the difference between SREC I, SREC II, and the SMART Program. This project has maintained cost and is why they intend to increase the size. Ms. Shiver asked what the new solar plan was. Mr. Bartzis said it's called the SMART Program, no additional revenue stream, based on competitive procurements, with cap at 14 cents. Mr. Henry added that based on the new program it has more restrictions with fixed cost, in order to minimize you want to increase using higher efficiently modules to increase your output and increase your footprint. Mr. Henry said that Solar may peter out unless more incentives come out.

Mr. Viner asked about the impervious surface originally in 2012 the impervious was 9.7% and now with this application its 23% and Mr. Henry said yes. Ms. Shirley asked if by not following the bylaws is going to significantly impact the revenue from the solar farm. Mr. Bartzis explained their efforts to reduce the system size as much as possible; in addition, Mr. Bartzis summarized his background and would love to comply with the bylaws but would need approval for the waivers.

Mr. Ceppi opened the meeting up to the public: Due to the amount of abutters that showed up the chair went down the sign in sheet to make sure everyone that wanted to be heard.

Matt Defosse, 7 Paul's Drive, added first that from the minutes in 2012 if the application was amended then it would need to submit new application.

Michael Engel, 13 Paul's Drive, asked what the output would be with the new equipment compared to 2012 project. Mr. Bartzis said he didn't have the exact number but a rough estimate would be 4 million kilowatts a year. In favor for the current bylaws and the characteristics of the town is important for the rural characteristics of Spencer, is okay with the 2012 application, but not in favor of the expansion of the project. Of all the solar projects in Spencer this one has the greatest density of residential homes immediately adjacent and surrounding and would have a negative effect on the values in the neighborhood.

Matt Defosse, 7 Paul's Drive, asked what the difference between SREC I and SREC II and where to get more information and Mr. Bartzis said the Department of Energy Resources sets the standards and there is information on their website. Mr. Defosse asked about the metering cap and Mr. Bartzis explained that in the SREC I met cap, they proceeded to meet the requirements to meet the SREC II requirements and spent a considerable amount of money but then the SREC-II became suspended. Mr. Bartzis discussed what metering cap meant by being allowed to distribute through an existing infrastructure and need to wait until Legislature passes the extension in the metering cap. When the metering cap fills up projects need to be suspended or put on hold. Mr. Defosse asked who decides the metering cap and Mr. Bartzis answered the Department of Energy recommends and the Governor needs to sign off their approval. Mr. Defosse asked what happened to previous applicant CTC. Mr. Bartzis explained that CTC didn't have the means to finish the project. Mr. Dell'Aquila further explained that CTC went to the

Zoning Board of Appeals and received approval for the use; however, they still need the Planning Board and Conservation approvals. Mr. Defosse asked why the applicant should get the waiver for the height of the panels and Mr. Bartzis clarified that the bylaws are comprehensive, the original project came out in 2012 and then the new bylaws came out after, however, they would like to proceed with the project. Mr. Defosse stated that the tree clearing plan is a concern and the trees can't be restored. Mr. Henry explained they are only requesting 10% more tree clearing. Mr. Defosse has concerns about the buffers and Mr. Dell'Aquila stated that the applicant would have to come back for site plan review and that would be addressed. Mr. Defosse explained he is concerned because he only sees a 25 ft buffer to the panels, not happy about a chain link fence in his back yard, he has much concerns about screening and seeing the panels, and the narrative that the applicant submitted is inadequate. Mr. Defosse further asked about landscape amenities, vegetation, screening, animal life, erosion, topography and contamination of the wells. Mr. Henry said the panels are inert and there are no hazardous materials, the panels are made of glass, and the rain will run off the glass panels.

Mr. Viner asked if the racking system is pile driven for each one. Mr. Henry said that it was pending a geotechnical study but most likely 6 ft-10 ft. Ms. Shiver asked if the geotechnical study comes back and it's not a good site to be pile driven what is the backup plan and Mr. Bartzis said it would be ground screwed. Ms. Shiver asked about the removal of the piles and Mr. Bartzis said he would submit a decommissioning plan. Mr. Defosse asked if the pile drivers damage the homes who pays for that and Mr. Bartzis said the company has insurance. Ms. Shiver asked if they would have monitoring equipment on foundation during construction. Mr. Bartzis replied if it a concern they would reach out to a structural engineer. Mr. Defosse asked how many access points and Mr. Bartzis said one access road on North Brookfield Road.

Mr. Ceppi asked the distance from the abutter to the panels and Mr. Bartzis said about 150ft. Mr. Defosse spoke about the \$900,000 tax credit dispersed in 20 years to the town and why the town doesn't build its own and he wants to keep solar farms out of residential neighborhoods.

James Woods, 50 Woodside Road, asked where Woodside Road was in relations to where the solar arrays were going to be installed and it was explained to him that there was a large parcel in between and Mr. Bartzis offered to walk the site with abutters if necessary.

Kim Foley, 15 North Brookfield Road, expressed that the land is going to be sold regardless if the solar farm is approved or not. Ms. Foley said that a subdivision could go in with extra homes and children and the neighborhood would be affected and would be loud and unruly. Ms. Foley asked how high the fence would be and Mr. Henry said it would still be an 8ft high fence. Ms. Foley asked if panels would be visible from the road with the 8ft fence and Mr. Henry replied they would be visible on the hill. Mr. Bartzis said they will have a maintained vegetative border.

Ed Bemis, 24 North Brookfield Road, came forward and first discussed his belief in green infrastructure, however, he felt that Sunpin is on a different "green" page and more about the money aspect. Mr. Bemis agrees that the owner has the right to sell the property and would personally rather have solar panels instead of more housing go up. Mr. Bemis further discussed the application that was approved in 2012 that everyone came to terms with what was approved and is upset with the new applicants wanting more acreage and doesn't agree with the way the applicant is presenting, not coming to the meeting prepared, and abutters questions not being

answered. Mr. Bemis asked what the increase in system is and where the 30 percent comes in. Mr. Bartzis said they needed to increase the system and 12 acres versus the 20 acres and the impervious area has increased. Mr. Henry said its now 20-22 acres and in 2012 only 12 acres, however, the tree clearing is not much different from the first application and now. Mr. Bemis said they were approved in 2012 for a certain amount and now asking for more. Mr. Henry said it's not economical or financially favorable under the new program. Mr. Bemis doesn't agree with pushing the panels closer to the abutter's property.

Tina Bemis, 24 North Brookfield Road, loves solar, loves the looks of solar panels because they look futuristic, but doesn't agree with the panels being pushed closer to the abutter's property. Mr. Henry said the panels will be 100-200 feet from the property line. Mr. Bartzis said there is green protection with the fence. Mr. Defosse said he is not happy with the looks of the green protection and he likes the trees and doesn't want to wait 5 years for trees to mature. Mr. Viner asked if the fence would be 25ft from property line and Mr. Henry said yes. Ms. Bemis said she doesn't like the government but rules are in place to protect the land and the waivers being requested should not be approved. Ms. Bemis said there is no undue hardship and the applicant shouldn't get a waiver for financial gain. This is a new project and there should be a new application, and there is no good reason for the Planning Board to approve the waivers.

Allen Letendre, 23 North Brookfield Road, feels that there are now new bylaws for a reason and there hasn't been a good reason for the waivers to be granted. Mr. Letendre quoted the new bylaws

*Page 7, #10. Impact on Agricultural and Environmentally Sensitive Land - The Photovoltaic Generating Installation shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. No more than 50-percent of the total land area proposed for the solar electric field may be occupied by the solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state*

*Page 8, # 14. Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Photovoltaic Generating Installation or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. No more than 50% of the land parcel utilized for Solar Electric Generating Facilities shall contain land requiring clearing of forest.*

Mr. Letendre said when building a new home he needs to abide by the laws and rules in place. The applicant does not meet the criteria and shouldn't get waiver. Mr. Dell'Aquila explained that according to the Solar Bylaws, last page, *H. Waivers - The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.* And the applicant is following the bylaw by requesting the waivers. Mr. Letendre said as a new application if submitted now it wouldn't meet the bylaw requirements.

Joseph Foley, land owner for North Brookfield Road, commented that he is selling the land and needs the money regardless and could be turned into SMOC Housing. Mr. Defosse asked about an environmental impact study and Mr. Ceppi said that will be addressed another time. Mr. Engel said he is at a higher elevation so the line of site would be directly looking at the solar

panels and would want the original smaller solar array than the larger one being proposed. Mr. Defosse said the 2012 project versus the 2017 project, looking for the town to support the abutters, the proposed facility will not have connection to the town once installed; the owners/investors are from out of town and they won't have to look at it every day for the next 20 years and collect checks if it's profitable. Mr. Bemis reiterated his concerns in regards to water damage, wildlife, well contamination, and the 100 year old trees are irreplaceable. Mr. Dell'Aquila discussed the process for solar projects and they are required a special permit, site plan review, and stormwater processing. Much of in question would be answered during the site plan review. Mr. Defosse asked about the depreciation for house values and Mr. Bartzis said it's unique to each area. Mr. Bemis asked about a performance bond and Mr. Ceppi said the board does require one during the site plan review. Ms. Reed said she will speak to different appraisals and get their expertise on the property values before and after a solar farm is installed in a neighborhood.

Mr. Letendre asked about the telephone poles and Mr. Bemis added that three phase telephone poles are taller. Mr. Bartzis said yes new poles would go in. Mr. Bemis asked if the poles were wooden and Mr. Bartzis said yes. Mr. Viner commented that the new poles would need a larger clearance and it would be safe to assume that at least branches would be cut in order to accommodate. Sheila Smith, 7 Paul's Drive, asked the Planning Board members to treat this as if it were there home.

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

**SECOND: Mr. Viner**

**VOTE: 4-0**

**DISCUSSION:** Mr. Dell'Aquila said the Planning Board is either going to grant or deny the waivers and/or issue a continuance. Mr. Viner asked if this is just to request the waivers for the existing permit or a new special permit with waivers. Mr. Dell'Aquila said they don't have guidelines for amending existing permits and Mr. Viner said it should be procedural to request a new permit. Mr. Viner expressed that the waivers requested harm the bylaws that were recently established. Ms. Shiver agrees that the bylaws were established for a certain purpose and cannot support the waivers requested. Mr. Dell'Aquila said procedurally all the Planning Board members would need to vote in order for it to pass. There was discussion in regards to the applicant trying to revise the waiver and plans and giving them a chance to come back. Mr. Bartzis reviewed that there is no money in the 2012 plan and it would induce more of a risk to decrease the size. Mr. Dell'Aquila mentioned there was a tech review this day and the applicant walked away with some feedback that they would need to review and revise. Mr. Henry said that it seems that the biggest issues is the tree clearing and that they would still need to clear the same amount.

The Planning Board members agreed to continue the meeting in order for the applicant to review the waivers and try to make the changes needed.

**MOTION: Ms. Shiver motioned to continue the hearing to June 20<sup>th</sup>, 2017**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

## **5) Approval of Minutes:**

**4/18/2017-** Mr. Dell'Aquila said he noticed one error on page 1, 1<sup>st</sup> paragraph, to change 24 dwellings to 34 dwellings.

**MOTION: Ms. Shiver motioned to approve the minutes with the changes**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

## **5) Town Planner Report/ General Board Discussion**

- Mr. Dell'Aquila spoke about the new bylaw changes that will be for the fall Town Meeting.
- Mr. Dell'Aquila discussed the Marijuana Moratorium was turned down and the Town's People voted on to ban.
- Mr. Dell'Aquila discussed next meeting will have the board reorganization

**MOTION: Mr. Viner motioned to adjourn the meeting at 9:36pm**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 4-0**

**Submitted by: Monica Santerre-Gervais ODIS Clerk**

**Approved by the Planning Board on: 6/20/2017**

## **List of Documents used on May 16, 2017**

Items sent to Planning Board prior to Meeting by email:

- Agenda
- Memo from town Planner, Paul Dell'Aquila, dated 4/11/17
- Common Driveway, Hamadryad, LLC, easement deeds, revised plans dated
- Sunpin Solar- Narrative, application, and plans to amend solar farm Special Permit on North Brookfield Road
- Minutes for 4/18/2017

Items submitted at the Meeting:

1. Common Driveway easement deed, revised exhibit c
2. Email from Padgett Berthiaume, lawyer for Jim Hansen, stating the documents meet the needs of the town.