



## Planning Board – Town of Spencer

### *Minutes*

#### Planning Board Meeting

**Tuesday, September 19, 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, Shirley Shiver, and Jeff Butensky (not voting)  
Planning Board Members Absent: None  
Staff Present: Paul Dell'Aquila, Town Planner & Monica Santerre-Gervais, ODIS Clerk

#### **1) Mr. Ceppi opens the meeting at 7:00pm.**

#### **2) ANR: Carl Nelson; Owner: Raymonde Bergeron, Location: 9 West Ave**

Carl Nelson the applicant and Raymonde Bergeron the owner were present for the meeting. The ANR is for 9 West Ave where there are two residences on one lot and they are looking to subdivide. Mr. Dell'Aquila said the lots do comply with setbacks but not square footage; however, it is a pre-existing non-conforming lot. Ms. Bergeron explained that her father bought the property back in the fifties and there are three houses, two parcels of land, two houses are on one parcel, and it is difficult with the homeowners insurance and taxes.

Ms. Shiver asked if there was new construction and Mr. Nelson said there is one new house with a new foundation. Ms. Shiver asked if the lots now need to conform and Mr. Dell'Aquila said the only thing that they do not meet is the square footage.

Ms. Shiver felt there needed to be more clarification on the ANR because the calculations for the frontage on lot #2 are wrong. Mr. Nelson said it should be 104.5 and 110.5. Also, Ms. Shiver said the purpose under the notes on the plan could be clearer. Mr. Nelson said they had the land surveyor draw the lots as evenly as possible and will update the plan. Mr. Dell'Aquila asked if the applicant needed to come back to the Planning Board again and Ms. Shiver said that if the applicant makes the changes then Mr. Dell'Aquila could endorse the mylar.

There was discussion in regards to the new house and whether now the pre-existing non-conformity would still apply. Mr. Viner questioned the new house having a new foundation and why the applicant didn't come to the Planning Board before they went to the ZBA and built the house. Mr. Viner said a new foundation is a new house and they should have had to adhere to zoning. Mr. Nelson said there discussion with the Zoning Board of Appeals is that the house was pre-existing non-conforming use and they weren't going to make the condition worse. Mr. Viner asked if the Chapter 81 L specified more. Mr. Dell'Aquila quoted Chapter 81 L  
*"Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the*

*subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.*"Mr. Viner reviewed Chapter 81 L.

Mr. Ceppi asked about the septic system. Mr. Nelson said that Ms. Bergeron would have her own septic and they would not share. Planning on keeping all the land within the family.

**MOTION: Ms. Shiver motioned to allow Town Planner, Paul Dell'Aquila, endorse the new Mylar with the changes as discussed**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

**3) Major Site Plan Review/ Stormwater Permit – Applicant/Owner: Dustin Doray (Dustin Doray Trucking), Location: 17 West Main Street; Spencer Assessor's Map U9/18. The applicant is requesting a Major Site Plan Review under Section 7.4 of the Spencer Zoning Bylaw to install a truck parking garage with an office and to include three parking spaces. The property is located within the Industrial district.**

Jason Dubois, DCE Engineering, and Dustin Doray, owner, were present for the meeting. Mr. Dubois presented their intent to build a truck parking garage at 17 West Main Street. Mr. Dubois explained that the lot is just less than 2 acres and is partially cleared, there will be access from the right of way, and the proposed building will be 80 x 60 with parking. Mr. Doray runs a truck for hire business and needs the building for his office and to keep the trucks and equipment. Mr. Dubois said the right of way is not maintained by the town, they are proposing an exit to route 9. The runoff will be in the back of the site towards route 9, there will be catch basins, and oil/water separator and they meet the drainage requirements. There will be landscaping, lighting on the building, no lighting in the parking lot. Mr. Doray was present to talk about hours of operation and his business. Mr. Dubois said he received the comments from Lenard Engineering and Steve Tyler from the Highway Department and wanted feedback from the Planning Board so he could make all the changes all at once.

Ms. Shiver said that an as-built will need to be submitted. Mr. Butensky asked if there was a curb cut already on route 9. Mr. Ceppi asked about the slope and Mr. Dubois said about 8 percent. Mr. Dubois said no but they did submit the application and still haven't heard from MassDOT and it's been six weeks. Mr. Dell'Aquila commented on the driveway bylaw question in regards to the slope that the Planning Board has some discretion. Mr. Dell'Aquila stated that Chief Parson and Mr. Tyler did not show concern over the grade of the driveway. Mr. Ceppi said his concern is having a flat area at route 9 when coming down. Mr. Doray said they have tractors and trailers with sizes up to 50' long. Ms. Shiver asked if the driveway would be wide enough and Mr. Doray said yes. Mr. Ceppi asked about the trees around the existing house and Mr. Dubois said they would be remaining. Mr. Ceppi asked if there were any zoning buffers from residential to industrial and Mr. Dell'Aquila answered 60 ft buffer located adjacent to another district. Mr. Viner referenced Lenard Engineering's comments and asked ownership rights of the right of way. Ms. Shiver asked if they would be using the access road and they said

they would but are requesting the curb cut for the route 9 for a driveway. Mr. Dubois said they researched the deeds and there wasn't any clarity on who owns or maintains the access road and it only references an old subdivision with the lots. Ms. Shiver asked who the cul-de-sac belonged to. Mr. Dubois said it's a private right of way owned by the all the lots.

Mr. Dell'Aquila mentioned the tech review and talked about the items brought up during the meeting; 1) the request for an oil/water separator to be placed inside the garage for cleaning of trucks, Mr. Doray said they would be washing the trucks in the garage. And Mr. Dell'Aquila said that would need to be added to the plan. 2) Gravel and salt storage areas- Mr. Dubois said he would show that on the plan. 3) Route 9 driveway pending DOT approval possible gate? Mr. Doray felt it was unnecessary since he will have cameras. Mr. Viner said he might need a sign that says private. 4) Mr. Tyler wanted to see paved parking spaces and Mr. Dell'Aquila said those are shown on the plan. 5) Gas tie in? Mr. Dubois said he did not believe there was gas in the right of way. 6) Mr. Dell'Aquila asked about the runoff from the roof to the ground and Mr. Dubois said there will be recharge basins. 7) Fuel tank onsite? Mr. Doray said he does plan on in the future having a fuel station, although, it wouldn't be immediate but will be put on the plan.

Mr. Viner asked about stock piling and erosion control and Mr. Dell'Aquila said the Building Inspector, William Klansek, would be the appropriate person to coordinate with.

Mr. Ceppi opened the meeting to the public: 7:52pm

Mike Hippert, 27 West Main Street, works at Venus Corporation and wanted to clarification on if the applicant would be using the access road . Mr. Dubois said they are trying to get a new driveway but they will also you the access road. Mr. Hippert asked how the applicant would help maintain the access road since the Venus Corporation currently pays to have it maintained. Mr. Dubois said that they should down and discuss the maintenance of the access road and the Planning Board members agreed.

**MOTION: Ms. Shiver motioned to continue the public hearing until October 17, 2017**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 4-0**

**4) Continued Special Permit/ Major Site Plan Review/ Stormwater Permit – Applicant: ForeFront Power, LLC; Owner: Laura Hopkins, Location: 36 Cranberry Meadow Road; Spencer Assessor's Map R12/4. The applicant is requesting a Special Permit under Section 4.8.9 of the Spencer Zoning Bylaw to install a 2.2 megawatt solar farm and Site Plan Review under Section 7.4 of the Spencer Zoning Bylaw. The property is located within the Rural Residential zoning district. Opened hearing at 7:57 pm.**

Juliet Caplinger and Tom Daniels from TRC were present for the meeting. Ms. Caplinger handed out new plans and documents to the Planning Board members. Mr. Dell'Aquila recapped about Forefronts previous meeting and that the meeting was continued in order for the applicant to meet with the Conservation Commission, however, due to quorum issues the Conservation Commission had to cancel three meetings but have received notes from Margaret Washburn

along the way. Ms. Caplinger said they are on the next Con Com meeting agenda on 10/11/17. Ms. Caplinger went through items they have updated since the last meeting including researching that the panels would be considered as a pervious surface according to the DEP; they heard from Chief Parson and widened the access road for trucks, soil testing completed, additional landscaping added, moved invertors more south to be farther away from 5 Martin Road, and updated stormwater report in regards to grading. Mr. Daniels said the grading issue has been fixed to meet 15 percent. Ms. Caplinger they have a construction route figured out and there operational hours during construction will be Monday through Friday not after 6:00 pm and no weekends, updated seed mix under the landscape plan, visual assessment was updated, and there noise audible study shows that from 50-100 ft away the noise from the invertors is inaudible.

Mr. Dell'Aquila went over what was discussed at the first meeting and if they had any stats on the coverage requirements. Ms. Caplinger said the parcel is 15.6 acres and 8.7 would be the solar farm. Mr. Dell'Aquila said there are two requirements that would affect the coverage requirements and that would up to 50 percent of the site can be used for solar and up to 50 percent of the site can be cleared under the conditions of Spencer Zoning Bylaws. Mr. Dell'Aquila said that at the end of the last meeting a punch list was generated where the applicant needed to provide the Planning Board calculations of solar, calculations of land clearing versus natural state, panel heights, screening and visual mitigation, and change of location of invertors. Additionally, Mr. Dell'Aquila said some items have been addressed but the rest would need to be answered. Ms. Caplinger said they did not put in writing the solar panel height but felt they weren't going to be past 8 feet.

Mr. Ceppi asked about the clearing issues. Mr. Dell'Aquila said they don't have an exact calculation. Ms. Caplinger said their argument from the last meeting is that the site is 50% forested and the other percent is cleared. Mr. Dell'Aquila talked about how much is the site is actually forested now. Ms. Caplinger said they have been doing some filed studies and reviewed aerials and 50% is forested and the other half cleared. Need to show on a plan the how many acres would be just for the fenced in area of the solar field. Mr. Ceppi asked when the land was cleared. Mr. Dell'Aquila answered that the site was largely cleared of forest in 2016. Ms. Shiver expressed that they would need a visual mitigation, the applicant would need to maintain the rural character, and the abutters need more visual mitigation. Ms. Caplinger said from the Northeast it's so sparse from clearing and they will be putting in landscaping for the abutter and referenced C-102 in the plans. Ms. Shiver explained that they need to maintain the trees along the road way to maintain the rural character. Mr. Viner commented that the footprint of the panels can't exceed 50% of the property and need to illustrate 50% of the amount of area forested. Mr. Dell'Aquila referenced the Spencer Solar Bylaw language and there was much discussion in regards to when the parcel has been forested/ cleared and how much can be cleared. Mr. Viner asked since the parcel is cleared is the applicant still over on the clearance requirement. The Planning Board member felt more comfortable with more detailed calculations being submitted for the next meeting. Mr. Ceppi asked if they have the applicant go back 5 years to start the calculations and the Planning Board members agreed. Ms. Shiver mentioned getting the forestry records from DCR. Ms. Caplinger said they still feel they may still need a waiver on the land clearance. The parcel is 15.6 acres, the max can only be 7.8 acres, and the solar farm will be 8.7 acres so the applicant will have to show why they do or do not meet the requirement.

Open to the public at 8:41 pm:

Jeanette St. Peter, 11 Martin Road, asked about the height of the fence. Ms. Caplinger said the fence will be 6 feet. Ms. St. Peter asked if they were going to put in trees and Ms. Caplinger said a portion of it will have trees planted. Mr. Daniels said they were leaving 25 feet of trees. Ms. St. Peter is hoping for more landscaping for abutters on 7 and 11 Martin Road and Ms. Caplinger said they would look into it. Mr. Ceppi asked if the emergency access road would cause any issues and Mr. Daniels said it would be inside the fence.

Matt Defosse, 7 Paul's Drive, asked what the town is benefiting from the solar farms. Mr. Dell'Aquila answered it would be on the taxes from the land and equipment. Ms. Caplinger said they could get the developer to do the calculations. Mr. Defosse asked what the profit is over the 20 year lifespan and Mr. Ceppi said that wasn't relevant.

Alex Costa, 5 Martin Road, handed in a letter with pictures to the Planning Board in regards to water runoff concerns. Mr. Ceppi explained that the applicant will calculate and deal with the run-off. Mr. Daniels said the steepest part would be 25%-33% and they plan on making it less steep, with stump grinding, and will have a protection berm. Mr. Costa said he does not want gravel and Mr. Daniels said it would be wood chips. Mr. Ceppi asked if they are leaving the vegetation to re-grow and Mr. Daniels said yes. Mr. Dell'Aquila told Mr. Costa that he would forward the letter to the Conservation Commission. Mr. Costa explained how different the site is since his family moved there in October 2014 and he wants the character of his neighborhood to stay the same. Mr. Dell'Aquila said he went to the Costa's residence and took pictures.

The Planning Board members and the applicant reviewed what is needed on the plan for next meeting:

- Calculation 50% of use and 50% clearance based on historical imagery dated back 5 years.
- Detail of panels with height
- Additional mitigation for Martin Road

**MOTION: Ms. Shiver motioned to continue the hearing until 10/17/2017.**

**SECOND: Mr. Viner**

**DISCUSSION: Mr. Butensky could not vote**

**VOTE: 4-0**

**5) Pre-application Conceptual Decision: Pre-Applicant: Sunpin Solar Development**

**Owners: Joseph R. & Susan C. Foley, 16 North Brookfield Rd., Spencer, MA 01562**

**Location: North Brookfield Road, Spencer Assessor's Map R39-14.**

Joseph Bartzis Sunpin Solar and John Henry from the Beta Group were present for the meeting.

Mr. Dell'Aquila reviewed with the Planning Board that there was a Special Permit granted in

2012 for the use, the applicant came back to try and amend the application and was denied, now the applicant is coming back to the Planning Board with a preliminary design to receive clarity and feedback from the board. Mr. Bartzis introduced himself to the Planning Board and let Mr. Henry explain the plan. Mr. Henry explained 2012 plan versus the preliminary plan to show what they are hoping to come back and do at the site plan review. In 2012 the parcel is 35 acres, 7 acres of field and the balance of the parcel is wooded, 27.8 acres of tree cutting, footprint of parcel were 10.6 acres, the fencing around 13.2 acres and with vegetation screening. The 2017 plan tree cutting limit would be 27.6 acres; the footprint will be 10.5 acres, the fenced in area will be 13.1 acres, and the enhanced vegetation of 27 linear feet of plantings. The applicants brought a power point presentation to show the minor difference between the plan from 2012 and 2017. Mr. Henry discussed the 15% grade and they would like to avoid grading. Mr. Dell'Aquila felt that the Special Permit was granted in 2012 and shouldn't need waivers. Mr. Viner suggested letting the Zoning Board of Appeals know of the applicants new plan since they were the original approving authority. Mr. Dell'Aquila said Allan Collette is the only one left from the ZBA that was present for the original meeting and will discuss it with him.

All the Planning Board members felt the plan looked fine, the applicant has the approved use from 2012 and the new bylaw does not apply to this site plan review.

**No motion needed**

#### **6) Minutes – 8/15/2017**

**MOTION: Ms. Shiver motioned to approve the minutes for 8/15/2017**

**SECOND: Mr. Viner**

**DISCUSSION: Mr. Butensky could not vote**

**VOTE: 4-0**

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

- Discussed the FinCom/BOS visioning meeting
- Discussed Abbey Solar- nearing final asbuilts
- Discussed Bixby Road- Getting some Occupancy Permits on some units. They need to come back to approve HO documents to finish up.
- Discussed Richland Ave Subdivision- looking for road acceptance
- Discussed Deer Run- Letter given to members, Planning Board members discussed previous meetings and lot release

**Ms. Shiver motioned to adjourn the meeting at 9:50 pm**

**Mr. Viner Seconded**

**Vote: 5-0**

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

**Approved by the Planning Board on: 10/17/2017**

## **List of Documents used on September 19, 2017**

### Items sent to Planning Board prior to Meeting by email/mail:

- Agenda
- Memo from town Planner, Paul Dell'Aquila, dated 9/12/2017
- ANR- 9 West Ave
- Application and plans for Doray Trucking
- Lenard Engineering letter in regards to Doray Trucking
- Cranberry Meadow Solar updated plans
- Preliminary plan for Sunpin Solar, 15 North Brookfield Road
- Minutes for 8/15/2017

### Items submitted at the Meeting:

1. Updated plans from Forefront, Cranberry Meadow solar, dated XXXXXX
2. Letter from Ashley and Alex Costa, 5 Martin Road, dated 8/12/2017, pertaining to Cranberry Meadow Solar