

Planning Board – Town of Spencer

Minutes



Regular Planning Board Meeting
Tuesday, April 19, 2011 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

The meeting was called to order at 7:05 p.m.

Planning Board Members Present: Shirley Shiver, Paul Sauvageau, and Mary Stolarczyk.

Planning Board Member Absent: Chairman Fabio Carrera and Robert Ceppi.

Staff present: Michelle Buck, Town Planner, and Bea Meechan, Senior Clerk, ODIS.

New Business:

A. Election of the Officers. Since there are two members absent tonight, the Board decided to table the election of the officers to the next meeting (5/17/2011).

There is a second new business item (Determination of the Applicability of Site Plan Review) scheduled for tonight's meeting. Ms. Buck does not know whether the applicant is planning to attend or not. The Board decided to conduct other business first.

Old Business:

A. Draft Stormwater Regulations (SWR). Ms. Buck has been working with Ms. Scarlet and Mr. McNeil on the draft regulations for the past several months, and it was a significant re-writing of the regulations. Most of the sections were close to completion. When Ms. Buck prepared the draft regulations, she tried to avoid any involvement from more than one Board, but due to the different trigger mechanisms for the required permits [Site Plan Review (both Major and Minor Site Plan), Wetland Permits, and Stormwater Permits (SWP)] it has created ambiguity and complexity in determining what permit is applicable to the application and which Board should be the granting authority on the permit. The following table is a summary of the thresholds/trigger mechanisms for the above permits:

Permit Type	Threshold
Site Plan Review	Any project involves a new structure that has a footprint of 1,000 sq ft or less. There are 2 categories: 1) Minor Site Plan: Project that requires for permits to build, alter or expanded (non-residential buildings) where such construction will not exceed a total increase in the footprint of the structure by 2,000 sq ft. A drainage plan and a calculation are subjected to Conservation Commission's approval.

Permit Type	Threshold
	2) Major Site Plan: Project that has significant impact to the environment, neighborhood, town, etc., see Section 7.4.
Wetland Permits	Project that requiring disturbance of wetland resources defined in Article 7 Wetland Protection, Section 3.
Stormwater Permits	Project that involves in any land conversion activities specified in Section 2 (Definition) of Article 14 – Stormwater Management Bylaw. There are 2 categories: 1) Minor Project: Land conversion activity less than 1 acre and meeting 2 out of 3 conditions listed under Section 4.C (Applicability) of Article 14 – Stormwater Management Bylaw. 2) Major Project: Land conversion activity greater than 1 acre.

Ms. Buck explained the current draft SWP was written in the way such that if the project is classified as a Major Site Plan Review that involves wetlands, then Conservation Commission (ConCom) is the granting authority of the wetland permit and SWP. Ms. Buck asked whether the Board members agreed, or prefers the Planning Board be the SWP’s granting authority.

The members agreed that ConCom shall be the granting authority on SWP, since they are experts on dealing with wetlands and Mass DEP regulations.

A project that received a Wetland Permit and SWP from ConCom, and is still involved with multiple reviews and permits from different Town Department, Mr. Sauvageau asked if the Stormwater Management (SWM) Plan shall be included with other permit applications. In addition, does the Town have SWP procedures/processes in place; and did the Planning Board ever have an issue any SWP in the past?

Ms. Buck said the SWM Plan would be submitted with other required permit applications and be reviewed concurrently with the applicable Town Department. The Stormwater Management Bylaw was adopted 2 years ago, and in order to implement it the Town must have Stormwater Regulations in place.

Ms. Shiver inquired as to what office shall accept the SWP application, ODIS or U&F? If it is ODIS, who will be an assigned person reviewing and making the determination whether it is applicable to ConCom or Planning Board based on the whole scope of the project?

Ms. Buck said that all SWP applications will be submitted to ODIS. Since Ms. Buck is a part-time Town Planner, and so is Ms. Scarlet, the Wetland Agent (she is retiring at the end of June) - therefore it has to be staffing at ODIS who makes the determination on the permit applications. ODIS staff would require to be trained on the application reviewing process. Ms. Buck’s goal is to have the regulations easy-to-understand to staff and the public.

The Board reviewed the draft regulations at this time, the following were questions and comments from the Board:

2.0 Applicability

The Board asked if the State has a general Municipal Stormwater Regulations. Does the Town's Stormwater Regulations be imposed on any Mass Highway/Federal Project that meets the threshold (disturbance of greater than 1 acre) or due to the project oversees by the MEPA that is automatically superseded the Town's SWR?

3.0.1 Project Requiring a Wetland Application

Mr. Sauvageau suggested inserting a phrase to the first sentence which shall read: "All projects, *providing that they do not meet Site Plan Review's threshold*, requiring a Stormwater Permit that also require a wetland permit application with the Conservation Commission..."

3.0.4 Action

The Planning Board must take action within the applicable deadline, and failure to take the action shall be deemed approval of that application.

At the present time the Town Planner and the Wetland Agent are the only Town Officials in ODIS who can make determination on the applicable Boards (ConCom or Planning Board) based on the scope of a proposed project on the application. Due to both Town Officials are part-time positions with limited hours, the Board commented that this could have an impact on the applicable deadline.

4.0. A Major Projects Application Submittal Requirements – Stormwater Management (SWM) Plan

A SWM Plan, consists of 21 items, shall be submitted *in addition to the plans and information normally required* for Wetlands, Site Plan Review or Definitive Subdivision Approval. Many items on the list are already required for Site Plan Review (SPR) and/or Subdivision Plan.

The draft states that the SWM Plan submitted with the permit application [for Minor Projects] shall contain sufficient information to evaluate the environmental impact and effectiveness... The Board thought the term "sufficient information" shall be further specified for the purpose of preventing an unnecessary redundant work imposed upon on the applicant.

Ms. Buck responded when asked Ms. Scarlet of what ConCom considered as "sufficient information" the answer was "to understand the impact on the environment." Ms. Buck explained not all of the 21 items required [for Major Projects] are exactly the same with the requirements in the existing SPR and Subdivision Plans; they are redundant to a certain degree.

5.0.B Minor Project for Two Family Homes and Driveways

The current Driveways Bylaw regulates the grading, width of the driveway, and a minimum angle of the intersection. The Town is experiencing water issue relating to the driveways – excess water runoff flows onto the main road in some part of town, which is a nuisance to both the Town and residents.

A proposed Driveway Bylaw was established previously to set up standard requirements for all driveways and for all common driveways, but it has yet to be adopted by the Town. Under the draft SWR, applications for two-family homes and driveways shall be submitted to U&F. Ms. Shiver noted that construction of two-family homes is permitted in the RR district (providing that they are within an OSRD) and SR district only with special permit approval from the Planning Board. Ms. Buck asked if the Board would prefer to review this particular application (project for two family homes and driveways) also.

Due to the recent departure of Mr. Robert McNeil (Superintendent U&F) who is aware of the stormwater runoff issue, it has raised concern, said Ms. Shiver, and the certainty of when the position will be filled is unknown. While the position (Superintendent U&F) is still vacant, the Planning Board it is difficult to know how to address these types of applications (2 family-homes and driveways). If reviewed by ODIS/Planning, this might face the same problems (applicable deadline) due to lacking adequate staffing as mentioned earlier.

6.0.A. Best Management Practices

Mr. Sauvageau suggested referencing the *Massachusetts DEP Stormwater Best Management Practices* to the proposed draft SWR since the Operation & Maintenance Plan in section 4.0.B referencing that the maintenance plan shall ensure there is ongoing compliance with the permit and the *Massachusetts Surface Water Quality Standards*. It could be included in 6.0.A or somewhere within the draft.

Ms. Shiver said some towns have established “impaired waterway regulations” into their Bylaws requiring the developers/individuals to better implement the drainage devices (catch basin, deep-sum and pumping mechanism, etc) that adequately filter the surface water runoff from the hazardous/chemical material (salt, sand, sediments, etc). [Generally these materials will get mixed in with the water runoff onto the roadways and stormwater’s drainage, empty into the ponds and lakes; impair the Town’s waterways]. The State does have Waterway Regulation (MassDEP Waterways), Ms. Shiver does not know if MassDEP would mandate all towns to adopt this regulation into their Bylaws.

The draft SWR had started in Fall of 2010 with cooperative effort among Ms. Buck, Ms. Scarlet and Mr. McNeil. It has since been re-written a few times due to the complexity of the procedures. With the current circumstances, Mr. McNeil departed 2 weeks ago and Ms. Ginny announced her retirement this week (her last employment date is June 30th); it is a challenging to finalize and complete the draft regulations. It may take time to find the suitable candidates for these 2 positions, when they are filled Mr. Buck will get them involved with the draft regulations.

In summary, the draft SWR is a good start to formulating final regulations, commented the Board. There were several important and legitimate questions and concerns discussed tonight. The Board and Ms. Buck will continue working on the draft.

New Business – Continued:

B. Determination of Applicability of Site Plan Review, Sunoco, 73 West Main Street (conversion of service bays to retail). Mr. Joshua Shea e-mailed questions to Ms. Buck stating that he is proposing to convert the bays into a convenience store. There is no expansion to the existing building. There appears to be enough space for the required parking on the site although they will most likely have to put down striping to designate parking spaces. Does this require a site plan review, if it does, would it be a Minor or Major Site Plan Review?

The traffic volume of the location has always been heavy throughout the day. With Flexcon and McDonald's being nearby the proposed site, the Board expressed concern on the circulation of the vehicles within the parking lot, and number of parking spaces required in relation to the total gross floor area for the retail use. The Board's consensus was that the proposed project does need a site plan review – a minor site plan.

Mr. Sauvageau made a motion that the proposed plan is required for a Minor Site Plan Review. Ms. Shiver seconded the motion and the vote was 3-0 in favor.

Ms. Buck will contact Mr. Shea in regards to the Board's decision.

Approval of Minutes: Minutes for March 15, 2011

Mr. Sauvageau made a motion to accept the minutes for March 15, 2011. Ms. Shiver seconded the motion and the vote was 2-0 in favor.

Town Planner Report:

1. Planning Board Report on Zoning Amendments. There are there 2 zoning amendments in Article 22 which will be presented and distributed to the voters at the Town Meeting on May 5th. Ms. Buck asked if the Board has any questions or comments, in addition what is the Town's practice on presenting the Zoning Article - does it require the Planning Board Chairman or the Town Planner to be a presenter of the Article?

The Board did not have any questions or comments on the Zoning Article. Board members suggested contacting Adam Gaudette regarding any presentation at Town Meeting.

2. Residential Project Updates: Candlewood and Sunset/Holmes surety. Ms. Buck sent the letter to Mr. Brian Murkland per request from the Board. Though Mr. Murkland finally submitted the new amount of the performance guarantee to ODIS, he had interpreted the letter as "a threat" and does not wish to receive something in that format again. The Board commented that the notification letters were sent out more than once, the most recent letter was written in a manner to ensure that the requirement is met, and it did - it was not a threat.

Mr. James Laney, owner of Sunset/Holmes, submitted documentation related to the transfer of the Letter of Credit to 123 Kids, LLC – owned by Mr. Laney. However, he has not yet to address the new amount of the performance guarantee. Ms. Buck will send him another letter.

3. Updates on Long-Range Projects. Ms. Buck has continued working on the Inclusionary Housing Bylaw based on the discussions with the Board during the past few months. Open Space Plan has shown a lot of progress, however Ms. Scarlet is leaving her position in June and is working on the mapping portion of the plan. It isn't yet clear how much Ms. Scarlet can finish before she leaves.

With no further discussion, Mr. Sauvageau made a motion to close the meeting at 8:10 p.m. Ms. Shiver seconded the motion and the vote was 3-0 in favor.

Submitted By:

Approved By:

Bea Meechan, Senior Clerk

Shirley Shiver, Planning Board Member

List of Documents used on April 19, 2011

- Draft of Zoning Amendments.
- Draft Stormwater Regulations.
- Article 14 Stormwater Management Bylaw.
- E-mail from Joshua Shea to Ms. Buck, Ref: Sunoco – 73 West Main Street, on 4.13.11.