



Planning Board – Town of Spencer
Minutes
Planning Board Meeting
Tuesday February 19, 2013 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

Planning Board Members Present: Chair James Whalen, Shirley Shiver, Ralph DiChiara, Mary Stolarczyk, Robert Ceppi and Associate Member Jonathan Viner.

Planning Board Members Absent: None

Staff Present: Michelle Buck, Town Planner and Brynn Johnson, ODIS Clerk

Mr. Whalen opens the meeting at 7:00pm.

1. New Business

A. Discussion, Small Farm APR, 3 Wire Village Road- Jan Parke President of the Common Ground Land Trust is here to represent the Small Farm. Ms. Park explains Common Ground Land Trust is helping the Small Family Farm on Wire Village Road with the application to place most of its land into an Agricultural Preservation Restriction. In order to get the APR the State likes to get comments from Town Boards such as the Planning Board, Selectman and Conservation Commission.

Ms. Parke states it's important to preserve this land. The entire farm has been identified as a rare species habitat. The farm also sits over the Aquifer Protection Zone.

Ms. Shiver asks if comments from the Planning Board will help in the States decision in accepting this as an APR property. Ms. Parke says yes; the State likes to know if the Town supports the farm. Ms. Buck adds this is on the agenda because as part of the APR application process the Planning Board has an opportunity to comment. The comment box on the application is small so the Board could submit a letter and attach it if they would like.

Ms. Shiver asks if this land will open to the public. Ms. Parke says margins of it will be open to the public. There will be some marginal access to the rivers and hiking trails, but the house and barn will be privately owned. This land will be used for farming so the public will not be able to walk across the fields and crops. This is mainly an Agricultural Preservation Restriction with some limited public access.

MOTION: Ms. Shiver makes a motion to support the project, with time to draft a letter of support. Ms. Stolarczyk seconds the motion. **VOTE:** 5-0 in favor

Ms. Buck will draft a letter for the Board to review.

B. ANR Plan – 49 Chickering Road (Owners Melvin Erickson & Margaret Tolman)

Richard Para the Land Surveyor explains this ANR plan. The Applicant, Mr. Maloney, wants to add lot A which is 5.48 acres to his land. It is to be conveyed to him by Melvin Erickson and Margaret Tolman. Lot A is adjoining land already owned by David Maloney-Stiles Nominee Trust. Lot A has no frontage and is labeled “not an individual building lot”.

Mr. Viner asks if there is a particular purpose for this land to be added to the Maloney property. Mr. Para says that it’s a nice wooded lot that abuts the Maloney’s land and they are just interested in increasing the size of their lot.

Ms. Shiver asks if the Maloney’s property extends all the way over to G. H. Wilson Road. Mr. Para says yes it does. The property is about 20 to 30 acres.

Mr. Whalen asks if there are any other questions. There are none.

Motion: Ms. Shiver makes a motion to approve this ANR plan. Mr. DiChiara seconds the motion. **Vote:** 5-0 in favor. Ms. Buck signs the plan.

C. ANR Plan – Rt. 49 Diversified Auto (Seven Mile River Associates) Attorney Mr. Peter Adams explains this ANR plan to the Board. This is a minor lot line revision from a lot shown on a plan approved by the Board last year. The lot line needs to be adjusted because part of the septic system over laps onto Diversified Autos land. The area (parcel B-2A) to be conveyed to Holston Land Company is about 9,000 sq. ft.

Ms. Buck says this is a confusing plan with a lot of detail and lines on it for things such as chain link fence and edge of pavement, but the client requested all these details be on the plan. This makes the plan difficult to read but the final outcome of this plan is to take a small portion of parcel B-2 which the Board previously signed off on about a year ago and add it to parcel A.

Motion: Mr. Ceppi makes a motion to accept this ANR plan. Mr. DiChiara seconds the motion. **Vote:** 5-0 in favor. Ms Buck signs the plan.

D. Discussion, Medical Marijuana Treatment Centers (potential Zoning Bylaw Amendment)

Selectman Don Berthiaume intended to be at tonight meeting to discuss this issue with the Board. However Mr. Berthiaume did not attend.

Ms. Buck gives a general overview. She explains this is on the agenda to get the Board’s opinion and feedback on how they feel Medical Marijuana Treatment Centers should be zoned. She has done some research on this and found that about a third of Towns are treating it for zoning purposes the same as adult entertainment in their bylaws. This includes Leicester. In Leicester

they wanted to limit where a Medical Marijuana Treatment Center can open they will have to be so many feet from a residential district, school, daycare or park. However when you actually map it out it still leaves a significant area. In Leicester this was a good compromise that worked for them.

Ms. Buck asks this Board how they feel about this issue, would they like to change the bylaw or do nothing and leave the bylaw as is. If the bylaw is left as it is now, Medical Marijuana Treatment Centers would fall under the classification of a Medical Clinic and would be allowed in the Central Business and Commercial districts by right and Village Residential by Special Permit.

Mr. Ceppi says by allowing it in the Town Center it will help to develop the downtown area by bringing more people to the center of Town.

Ms. Buck says it would be difficult for Spencer to take the same approach as Leicester because the zoning districts in Spencer are narrow. When mapped out the area that could be used for adult entertainment is very small.

Mr. Whalen says he would like to know how the Selectmen feel about this because they are the ones that are going to end up sponsoring a bylaw change at town meeting. Ms. Buck says they could but the Planning Board also often sponsors zoning amendments. Zoning amendments also have a required public hearing with the Planning Board.

Ms. Shiver asks why every town needs a Medical Marijuana Treatment Center. Why can't they just have a regional center? Ms. Buck says not every town will get one at first there will be only be 35 in the whole state and only 5 per county. It's highly unlikely Spencer would get overrun with them.

Mr. Ceppi would like to know what the negatives are that people are so afraid of. Mr. Whalen agrees and wishes those who are against it had attended tonight's meeting so they could get their opinion.

Mr. Whalen asks the Board if they would like to wait on this until they have further discussion and input from Selectmen. He feels they should wait. Ms. Stolarczyk agrees. Mr. Whalen would like to formerly invite the Selectmen to the next meeting. Ms. Shiver feels they should keep the bylaw as is for now.

Mr. DiChiara says everyone is for progress. Take solar farms for example; everyone supports them but if he had known how bad the one on Paxton Road and Wilson Street would look he would never have supported it. He regrets supporting that project. At the time it was a new concept and everyone was for it. Now the new thing is these medical marijuana treatment centers and everyone is for positive health and helping people who need marijuana for medical reasons, but he knows a methadone clinic in Worcester (Spectrum Health) that has a constant flow of people and cars coming and going. They had to extend the parking lot and it has had many unexpected issues. He can easily see these marijuana clinics getting overrun with patients in the same way. He wants to protect the image of this Town. The idea seems good now to have a small clinic to help sick people but next thing you know everyone would want marijuana will say their

sick get a prescription and you will have 500 people a day coming and going. This could totally change the image and area of where ever this center is located within this Town.

Mr. Whalen asks if there is a Motion.

MOTION: Ms. Shiver makes a motion to keep the bylaw the same. Mr. Ceppi seconds the motion.

VOTE: 4 in favor - 1 abstained (Ralph DiChiara)

Mr. Whalen still wants to hear the opinions from the Board of Selectmen. He would like Ms. Buck to invite them to the next Planning Board meeting.

2. Approval of Minutes- Minutes for December 18, 2012. **MOTION:** Mr. DiChiara makes a motion to approve the minutes for December 18, 2012. Ms. Shiver seconds the motion.
VOTE: is 6-0 in favor.

3. Town Planner Report:

A. Inclusionary Housing By-Law

Ms. Buck updates the Board on the draft inclusionary housing bylaw and the recommendations that have been made by CMRPC. The draft still has to go to Town Counsel for review. In her research she has found a couple a recent court cases which some communities have interpreted to mean you can't have a mandatory inclusionary housing bylaw, but other communities have interpreted it the other way. The approach of making inclusionary units mandatory is definitely pushing the envelope and could be challenged as an illegal tax or taking. There has not been a direct challenge of a bylaw like this one, but there have been challenges to similar bylaws.

Ms. Shiver states she thought this was being heavily pedaled by the smart growth initiative. Ms. Buck says it is but a majority of communities they are incentive not mandatory. The only 100 % legal way that is mentioned in the state zoning act is if you require a certain percentage of units be affordable and in exchange you get a density bonus. This approached pushes the envelope more. Ms. Buck says the Board should schedule a public hearing.

The Board schedules a public hearing for March 26, 2013 to discuss the Inclusionary Housing By-Law.

B. Miscellaneous Project Updates-

Green Communities Act - Ms. Buck informs the Board she discussed the Green Communities Act with Adam Gaudette, Town Administrator, and he does not recommend going forward with this program. He felt the changes to the building codes are unlikely to be adopted at Town Meeting. Also, the Town would be required to allow alternative energy generation or manufacturing by-right somewhere. Spencer does not allow this by-right in any zoning district.

Permit Extension Act – There are some subdivisions in Town that have lots that have not been built on yet. Some of these lots do not meet current zoning requirements for lot sizes, because

the lot size requirements were changed in 2006. The question came up “does the permit extension act extend the grandfathering of these lot sizes?” This question was given to Town Counsel and the answer is no. When a definitive subdivision plan is approved it has 8 years of protection on the lots. If they have not built on the lots within the 8 years the lots are no longer grandfathered and must comply with current zoning requirements. This was the case with Paul’s Drive; their zoning freeze expired in 2011 and they had made the argument that because of the Permit Extension Act they had until 2015 to build. Several subdivisions will have expiring zoning freezes in the next few years.

Upcoming Project – There will be an upcoming Major Site Plan Review for a solar farm at 22 Treadwell Drive.

4. Adjournment: With no further discussion the meeting is adjourned at 8:21 pm.

Submitted by: Brynn Johnson, Jr. Clerk

Approved by the Planning Board on: _____

List of Documents used on February 19th 2013

Items sent to Planning Board prior to Meeting:

- Agenda
- ANR Application and Plan 47 Chickering Road
- Memo from Michelle Buck dated 2/14/2013
- Medical Marijuana land use concerns handout (by: Barbara J. Saint Andre, ESQ.)
- ANR Application and plan for Seven Mile River Nominee Trust (Rt. 49)
- Small Farm APR application
- Draft Inclusionary Housing Bylaw
- Minutes December 18, 2012