



Planning Board – Town of Spencer

*Minutes*

Planning Board Meeting  
**Tuesday, December 16, 2014 at 7:00 PM**  
McCourt Social Hall  
Memorial Town Hall

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

Planning Board Members Absent: None

Staff Present: Michelle Buck, Town Planner, Monica Santerre-Gervais ODIS Clerk

Staff Absent: None

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

**1. ANR Plans – Paxton Road (Matthew & Jolene Sicard)**

Jolene Sicard, 163 Paxton Road, was present for the meeting. The ANR plan is to create one new buildable lot by dividing an existing property into two lots. Ms. Buck said it was a large property. Mr. Whalen asked if the barn was on the property. Ms. Sicard mentioned the barn was in the middle and would be torn down because it is falling down.

**MOTION:** Ms. Shiver motioned to endorse the ANR plan as submitted.

**SECOND:** Mr. Ceppi

**DISCUSSION:** None

**VOTE:** 5-0

**2. Diversified Automotive, Request for Extension**

The project is the construction of a 12,600 s.f. of a maintenance facility and two refueling bays to service auto transport trucks. The project was approved on 12/18/2012 with completion date of 12/18/2014. Applicant is looking for a one year extension with the new completion date of 12/18/2015. No one was present from Diversified Automotive.

Mr. Whalen asked about whether the applicant got back to them about catch basins. Ms. Shiver said they didn't use an off the shelf manufactured unit they did a custom retrofit instead.

Mr. Ceppi said the applicant has worked on the garage and the extension is for the refueling bay.

**MOTION:** Ms. Shiver motions to approve the extension of the deadline to complete Diversified Automotive to December 18, 2015.

**SECOND:** Mr. Ceppi.

**DISCUSSION:** None

**VOTE:** 5-0

### **3. Sunset Holmes Subdivision Continued Public Hearing**

Mr. Whalen opened the continued public hearing at 7:07 pm.

Ms. Buck reviewed the Covenant and did not see any issue and asked the applicant to revise one paragraph because it mentioned the town being responsible for recording and the applicants need to do this. Ms. Buck handed out the new paragraph. Also, she addressed the emails from Steve Tyler and his concerns and that it is a really difficult situation with the applicant's inability to increase surety the end result could be a denial and the applicant would likely walk away from the project. Then the Town of Spencer would have another unfinished subdivision. Once this was explained to Mr. Tyler he agreed that it would be a worse issue if the applicant walked away. Therefore, between the emails from himself and Lenard Engineering is a good ground for a middle ground agreement. Mr. Tyler is requesting James Laney see how much surety his bank will grant him. Additionally, Kevin Quinn sent in a proposal today, which Ms. Buck handed out, with additional detail on what the applicant was proposing to do. Originally, Ms. Buck was thinking of granting a six month extension but with the winter months upon us maybe a nine month extension would be more reasonable. In addition, she feels this hearing should be continued so that Mr. Tyler can review the new submission.

Mr. Whalen agrees but would like to hear from the applicant.

Kevin Quinn, with Quinn Engineering, addressed the board that the reason they were here is because the new surety amount was too high and the applicant could not get approval for the amount from the bank. They feel they should amend the surety items to be addressed. Mr. Laney is willing to covenant all the lots in show of good faith. They are asking for changes in phasing, for the cul-de-sac portion on Holmes Street to be put on Phase 2, the dead end moved to Phase 2, and the sidewalks be put to Phase 2. During the extension Mr. Laney will finish the road, take out binder that is compromised, seal cracks, replace broken berm, level and finish coarse of asphalt, pavement will be done, clean up the retaining walls, guardrail will be installed, the basin will be recompleted, fix basin with new structures, clean basin, and put up street signs/ stop signs. The recommendations will be good for both parties because the road will get done.

Mr. Whalen asked when the applicant expected to start work. Mr. Laney said yesterday he put the street signs up and stop signs, started cutting brush around storm water drains, and cleaned up a dead tree on the side of the road. He will try to complete what he can during the winter months.

Dick Kirk, 22 Holmes Street, was still concerned about the detention basin has a wall that is no longer there and therefore no longer acting like a detention basin. He would like to see trees planted. There aren't a lot of kids in the neighborhood so sidewalks don't need to be addressed right away. Mr. Quinn said the trees were part of the plan, they will get done, but the road is the priority at this time.

Ms. Buck mentioned a concern about taking sidewalks out of Phase 1. If the sidewalks are moved to Phase 2 there is a possibility Phase 2 may not happen and then sidewalks wouldn't ever be completed. Mr. Ceppi and Mr. Laney mentioned that currently there are no sidewalks.

Mr. Quinn felt that moving the sidewalks to Phase 2 made more sense because the housing is in Phase 2.

Mr. Viner asked Mr. Kirk if the detention basin is impacting his property. Mr. Kirk said that it is making his back yard wetter. Mr. Ceppi asked Mr. Laney if he is addressing Mr. Kirk's concerns and Mr. Laney said he would make it his number one priority to fix the issue. Ms. Shiver asked if the basin would need to be re-engineered. Mr. Quinn said the berm is depressed and they are small basin with basin number three doesn't hold water. The basin's two feet deep and will just need to be refilled.

Ms. Shiver asked will the road be done to the town approval. Mr. Quinn said it has to be. Ms. Shiver asked if any new borings have been done. Mr. Quinn said the road is in pretty good shape and has lasted six winters. There is some shrinkage cracks, some spots need to be cut out and replaced, and some cracks are too wide and will be cold planned and the road is savable.

Ms. Buck wants to discuss this more with Steve Tyler because it was his recommendation along with the engineer to replace all of the binder. Ultimately, the Utilities and Facilities Department will need to sign off on the roads completion so the applicant should meet with Mr. Tyler. Mr. Ceppi said he drove down the road and wondered who made the determination of the road. Mr. Quinn feels the new plan will help with the surety of the road getting completed so the Town of Spencer will not have to worry about it not getting done. Mr. Viner agrees the whole road doesn't need to be redone; however, there were some areas that need to be re-excavated, removed, or repaved. Also, they need to add gravel and structures and resubmit a new letter. Mr. Quinn agrees and can amend the letter to what the board wants and to include gravel. Ms. Shiver expressed that the road needs to be a priority but is concerned on Phase 2 and Mr. Laney's expectations. Mr. Laney said at the current time with today's market he doesn't have the expectations to build on the lots, however, he would like to build on the two lots he does have in Phase 2 (lots 1 & 3). Mr. Laney spoke with an environmental engineer and he said two lots he cannot build on.

Mr. Whalen brought up the requirements from last meeting and how he agrees doubling the surety wasn't an option for Mr. Laney. He discussed that the applicant was supposed to go to his bank and see what he could get approved for or continue the surety Mr. Laney has now. Mr. Laney said the bank will continue the current surety but will not raise the surety and added he will get the road done. In addition, Mr. Whalen asked how long he felt the completion of the road would take and if he knew when buying the property in 2011 if he was aware of the Permit Extension Act. Mr. Laney said he was not aware of the Permit Extension Act and is shooting for the road completion to be in Fall of 2015 (9-12 months).

Mr. Kirk addressed the Planning Board to discuss the detention basin again, wanted to know if the berm was built correctly, if the berm originally disappeared, and what Mr. Laney plans on doing to repair it. Mr. Quinn answered that Mr. Laney was not the one who built the berm, Mr. Laney will fill with soil material, he will dig deep to see if there is an organic material that caused the berm to fail. Ms. Shiver asked about the soil type used typically. Mr. Quinn said common soil not sand or gravel because water should not be able to pass through the berm.

Mr. Whalen asked about granting a nine month extension with periodic reviews by Ms. Buck or Mr. Tyler for accountability. Mr. Laney said he could drop a letter monthly with pictures on what has been accomplished.

Mr. Ceppi discussed Mr. Laney's intention of possibly putting a driveway on one of his lots on Cherry Street. Mr. Ceppi said that Mr. Laney wouldn't have the required frontage to do that. Mr. Laney said he is not familiar with the lots frontage and the Zoning Bylaw. Mr. Ceppi just mentioned that they had run into a similar problem with another subdivision for Phase 1 of Deer Run. Mr. Laney he wasn't looking on addressing that right now since he is not building right now and will address that later on.

Mr. Shiver said she would like to find a way to work with the applicant and it would be in the best interest of the Town of Spencer for the applicant to complete the road. She hopes the economy improves so that Mr. Laney can proceed to Phase 2 because she does see a need for the two-family subdivisions. Mr. Ceppi said the road needs to be finished; nothing will be unfinished.

Ms. Viner asked if there are infrastructures or facilities on the road for example fire hydrants. Mr. Quinn said all utilities in Phase 1 are for Phase 1. Mr. Laney said there are three fire hydrants. Mr. Ceppi asked if they were all accessible. Ms. Shiver asked if they were hooked up. Mr. Laney assumes they are usable considering the base coat of the road was finished and two are on Sunset Lane. Mr. Ceppi asked if there is a hydrant in the cul-de-sac, which, may not get built in. Mr. Quinn said he and the applicant can address their concerns. Catch basins would be on phase 2. Mr. Viner asked about the running water now. Mr. Quinn said there are active basins now and will revise and resubmit a final report.

MOTION: Mr. Whalen motions to grant the applicant a nine month extensions with periodic reviews and Mr. Quinn to submit a new letter.

DISCUSSION: Mr. Ceppi suggested they should take Ms. Buck's suggestion and grant the 30 day extension so that Mr. Tyler can review the new submission.

Mr. Whalen withdrew his motion.

MOTION: Mr. Ceppi motioned to grant a 30 day extension to reevaluate all the work that is going to be completed.

SECOND: Ms. Shiver

DISCUSSION: Ms. Shiver mentioned that Mr. Tyler must review and agree on how the road will be completed. Mr. Viner pointed out that the abutter's basin needs to be addressed. Mr. Whalen mentioned that the current motion could be amended. Mr. Quinn said he will submit an amended letter with what the Planning Board had asked him to address. Mr. Kirk appreciated the board hearing him out and would like to see Mr. Laney get the extension. Ms. Shiver thanked Mr. Kirk and said that she was glad to hear Mr. Laney say he would make the berm a priority.

VOTE: 5-0 in favor. (Maria Reed voted on this matter)

Ms. Buck addressed the Planning Board and told them they should make a second motion to accept the revised submitted covenant.

MOTION: Ms. Shiver motioned to accept the Covenant as revised.

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 5-0 (Maria Reed voted on this matter)

#### **4. Meadow Solar Continued Public Hearing**

Hearing opened at 7:49 pm.

Steven Broyer, ECOS Energy, addressed the Planning Board mentioning that he resubmitted plans and on items that have been addressed on his punch list. Mr. Broyer said the letter from Lenard Engineering should have already addressed most of the concerns. Terracon came out at the end of October and did test pits and the ground water levels were too high so ECOS revised the Hydrology on the site and footprints have gotten larger. Mr. Broyer said the new plans show additional details such as the grading of the swales, interconnection layout, Maple Street address, access road and requirements, and one major item is the footprint revision with National Grid they are now asking for a temporary grading easement of five feet into Astorwood and are in negotiations in regards to compensation. EcoTec was hired by the Town of Spencer as a wetland consultant and are reviewing New England Environmental delineation flags to make sure everyone agrees. Mr. Broyer is still waiting on their response as that will determine if items need to be changed or not (Arthur Allen will be onsite next week). Mr. Broyer is working with the Spencer Fish and Game club on their notice of Intent (NOI) with their land in regards to the berming and grading to help with the safety. At first they were planning on doing a temporary easement, however, Margaret Washburn with the Conservation Commission would like to see a separate easement. Vic LaCroix will be the applicant of the NOI but it should still be tied to this project. Also, Mr. Broyer is working with National Grid and Kinder Morgan for the proposed work but both needs to be approve the work. The preliminary electric design has been drafted since the electrical lines are crossing the gas lines

Ms. Shiver asked if Kinder Morgan was the real estate section of the gas line. Mr. Broyer said that was correct.

Ms. Shiver asked about the fence. Mr. Broyer said it the fence was decided by the Zoning Board and the fence will be seven feet high, six inches off the ground, with no barbed wire on top.

Mr. Whalen asked about Lenard Engineering responses. Mr. Broyer said the italicized were ECOS Energy's responses to their questions.

Mr. Whalen asked about the concerned abutter's view of site from her home. Mr. Broyer said nothing more was discussed but it reminded him that he owed an abutter and the Board noise calculations. Mr. Whalen said the noise calculations are a common request. Mr. Viner asked if he could overlay the current plan. Mr. Broyer said it would be in a different format, it is 42 decibels, and asked if he should go to a consultant. Mr. Viner said the manufacturer's specifications would be sufficient. Mr. Whalen and Mr. Broyer discussed inverters and how that there will be 70 modules per inverter.

Ms. Shiver asked when Mr. Broyer thought the project would be completed. Mr. Broyer said he needed to wait for Mr. Allen's response and the NOI issue. Ms. Shiver asked how much time is usually needed and Mr. Broyer said the intentions to create final civil documents by the first of the year. Ms. Buck mentioned that the issues are minor but it still needs to be approved by the Conservation Commission and hopefully doesn't require large changes.

Mr. Whalen asked about the surety and what was in place. Ms. Buck mentioned that the Planning Board has yet to address the surety, the applicant has submitted a suggested amount and Lenard Engineering has reviewed it and felt it was sufficient. The current surety amount submitted by Mr. Broyer was \$195,768.86 for decommissioning and site work \$148,120.00. The recycle value of the modules was \$49,698.68. Ms. Buck agreed that the surety will be the \$195,768.86; however, there are still other items the Planning Board need to address such as the type of security. Mr. Broyer said the security would be paid in cash. Ms. Buck said that cash would be easier and simpler.

Ms. Buck asked Mr. Broyer about if the Spencer Fish and Game was satisfied with the proposed berm. Mr. Broyer said they were satisfied. Additionally, Ms. Buck handed out the email from Margaret Washburn dated 12/9/2014 in regards to the recommendation to replace the proposed trees to native species. Mr. Broyer said he received the email from Ms. Washburn and he is okay with changing the trees to the native species.

Mr. Viner asked if Lenard Engineering reviewed the bond calculations. Mr. Whalen said Lenard Engineering was okay with the current quote. There was additional discussion with the amount of the bond. Mr. Ceppi said there was no amount listed for racking removal/ excavator, it summarizes man hours, but it does not list the equipment. Mr. Broyer said there was a mobilization fee of \$15,000.00. Mr. Whalen and Mr. Ceppi would like the decommissioning amounts to be reviewed and addressed. There was some discussion on the recycling amounts on the steel and copper. Also, Mr. Broyer added that if they walked away from the project the equipment and modules left onsite will have a lot of worth and a lot of the equipment onsite might not be accounted for. Mr. Whalen mentioned he researched the company online and the company is worth \$60-\$70 Billion and they have the assets to back up this project.

MOTION: Ms. Shiver to continue the hearing until January 20, 2015 and extend the deadline to January 30, 2015 for a decision.

SECOND: Mr. Ceppi

DISCUSSION: Mr. Broyer mentioned that Margaret Washburn would like the Planning Boards approval for the Conservation Commission will approve. Ms. Buck took note and said she can discuss that with Ms. Washburn.

VOTE: 4-0

##### **5. ANR Plan- William Casey Estates**

*[Note: This item was mistakenly left off the agenda. However, the applicant submitted the ANR in time].*

Phil Stoddard was present at the meeting. Ms. Buck explained that the ANR is for one lot on a huge parcel and has the required frontage and area.

MOTION: Ms. Shiver motioned to endorse the ANR as submitted.

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 5-0 in favor

## **6. Adoption of Minutes**

- November 18, 2014

MOTION: Ms. Shiver motioned to approve the minutes from 11/18/2014 as submitted.

SECOND: Mr. Ceppi

DISCUSSION: None

VOTE: 4-0 in favor

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

- **Discussion – Zoning Bylaw Changes**

Ms. Shiver addressed the Planning Board with her concern of having a broader discussion on Bylaws that should be changed and are not serving Spencer. She mentioned driveways and tattoos should be addressed and asked what other Bylaws should be looked at.

Mr. Whalen agrees that Bylaws need to be addressed and that the Planning should keep an open communication line with the Board of Selectmen especially the new liaison for the Planning Board Chris Newbury.

Ms. Shiver mentioned possibly holding a public hearing.

Ms. Buck agrees that the Bylaws do need to be addressed by the Planning Board and Ms. Shiver is raising a good concern.

Ms. Shiver said the Bylaws haven't been amended since 2006.

Mr. Ceppi said there needs to be a Town Center change. Ms. Buck mentioned the PARP Consultants recommendation to reconsider uses in Town Center and allow more Special Permits.

Mr. Whalen mentioned that when he went in front of the Board of Selectmen he mentioned he took Brydi Ricard's application more seriously because she submitted all the signed petitions at the last meeting.

Ms. Buck said with the amount of signatures Ms. Ricard received she could get an amendment on a Town Meeting warrant on her own.

Ms. Shiver feels the Planning Board should be careful with individual applicants requesting changes to the bylaws and she gave an example of a defective bylaw change that had happened in the past.

Mr. Whalen agrees and would like to be proactive.

Ms. Shiver ended with that they need to manage the bylaw changes better.

- **Tattoo Parlor Zoning Amendment**

Ms. Buck talked about the draft Tattoo Bylaw change and asked the board if they had any questions or concerns.

Mr. Whalen mentioned that when he went in front of the Board of Selectmen they were okay with the Tattoo Parlor being Special Permit in Town Center. They do not want to get rid of section 4.3.20 and all the setbacks and possibly reducing the setbacks. There was only one Board of Selectmen who wasn't for the Town Center change.

Mr. Viner felt it would be a moot point because it is Special Permit.

Ms. Shiver brought up the Marijuana Bylaw and the setbacks.

Ms. Buck said there is a small area allowed for Tattoos when you add the setbacks.

Ms. Shiver addressed Mr. Whalen as to why he went in front of the Board of Selectmen. Mr. Whalen said he spoke with Mr. Newbury and mentioned meeting with the Board and Mr. Newbury scheduled him. Mr. Ceppi happened to be present at the meeting because he was there on a personal matter. Ms. Shiver mentioned that the Board of Selectmen can still deny the drafted request.

Mr. Ceppi said the Board of Selectmen seemed more accepting to the change and that the Planning Board needs to draft the recommended changes.

Mr. Viner mentioned the setbacks and whether Chestnut Street would be able to have the tattoo parlor. Ms. Shiver said Chestnut Street would not be able to.

Mr. Ceppi wants to know why the Board isn't treating tattoo parlors as a regular business. Mr. Whalen said setbacks are going to be an issue and where would the Planning Board draw the line. Ms. Shiver said they should plan for how the meeting could go. Mr. Ceppi said tattoo parlors are more accepted now and even the Board of Selectmen was okay with the tattoo parlors being Town Center. Ms. Shiver remained strong that the setbacks or streets need to be listed. Mr. Ceppi still wants the tattoo parlor to be listed as a regular business. Ms. Shiver feels there still is a stigma around tattoo parlors.

Mr. Whalen mentioned that Ms. Ricard may also use the business as an art gallery. Ms. Shiver said there still should be setbacks. Mr. Viner said a tattoo parlor will not depreciate Chestnut Street and Town Center is reasonable. Ms. Shiver feels they need concrete information in order to amend bylaw. Mr. Whalen mentioned they could eliminate setbacks but still mention school distance and see if a compromise could be met to eliminate setbacks but have guidelines. Ms. Shiver said there needs to be defined guidelines. There was much more discussion on Zoning, setbacks, and positions.

- **Treadwell Solar Project Changes** – postponed until January 2015 meeting.

- **CMRPC Project Update-** District for downtown study Ms. Buck is getting a draft report at the end of December 2014.
- **DLTA Grant-** Ms. Buck spoke with Adam Gaudette and Spencer may be submitting a regional collaboration grant.
- **Miscellaneous Project Updates**
  1. Bixby Trail Estates  
Ms. Buck said there was a pre-construction meeting for Bixby Estates. It was approved for affordable housing, the permit extension act gives them until February 20, 2015 to commence work. They deposited the required \$36,000.00, will start tree clearing in the next month, and it will have 41 rental units. Ms. Shiver asked if they were three bedroom units. Ms. Buck said that half will be two bedrooms and the other half will be three bedrooms.
  2. Summer Nationals may be coming to the Spencer Fairgrounds.

Meeting adjourned at 9:15PM.

Submitted by: Monica Santerre-Gervais ODIS Clerk

**Approved by the Planning Board on: 1/20/2015**

**List of Documents used on December 16, 2014**

Items sent to Planning Board prior to Meeting

Mailed paper copies:

- Agenda
- Memo from Michelle Buck to Planning Board Dated 12/10/2014
- ANR- Paxton Road (Matthew & Jolene Sicard)
- Public Hearing: Sunset Holmes Subdivision Continued- Letter from Quinn Engineering dated December 3, 2014, Lenard Engineering email dated December 10, 2014, and the current and proposed definitive Subdivision plans.
- Public Hearing: Meadow Solar Continued- Lenard Engineering letter dated December 9, 2014, Transmittal/ Memo from ECOS Energy dated November 18, 2014, Updated Site Plans dated 11/13/2014 and draft Certificate of Decision on Site Plan.
- Minutes for November 18, 2014
- Drafted Tattoo Parlor Zoning Bylaw Amendments and Memorandum for CMRPC dated December 02, 2014.

Items submitted at the Meeting:

1. Email from Quinn Engineering dated 12/16/2014
2. Email from Margaret Washburn dated 12/9/2014