



Planning Board – Town of Spencer

Minutes

Planning Board Meeting
Tuesday, October 20, 2015 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

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

Planning Board Members Absent: None

Staff Present: Larry Smith, Town Planner, Monica Santerre-Gervais ODIS Clerk

Staff Absent: None

Mr. Ceppi opened the meeting at 7:03pm.

1. ANR Plans –

William Casey Estates, LLC, dated 10/9/2015 - Lot 3R-1 Cranberry Meadow Road

Phillip Stoddard, 184 Main Street, was present for the meeting.

Ms. Shiver asked if Mr. Stoddard had ever subdivided this lot in question before and Mr. Stoddard said no. Mr. Ceppi asked about the current foundation present. Mr. Stoddard answered that there was a house on the foundation, but it did not have enough frontage, and so it was taken down. Mr. Ceppi asked if the property has enough frontage now and Mr. Stoddard explained that he bought more land and it has all the acceptable zoning square footage, side and rear, and frontage requirements. Mr. Ceppi asked about there not being enough room on the back of the home to put stair or a deck and was concerned the person building may come and ask for a variance. Mr. Stoddard explained there was enough room on the side of the home and that the foundation is already there and plans on using the same foundation. Mr. Ceppi asked Mr. Smith if he saw any issues and Mr. Smith said no. There was much discussion about what the Planning Board is looking for when they issue an ANR, that they can still approve an ANR that is not a buildable lot, and that it was up to the building inspector to determine whether it is a legal building lot.

MOTION: Ms. Shiver made a motion to endorse the plan as submitted.

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0 in favor

2. Extension Request/Sunset & Holmes Subdivision

James Laney and Kevin Quinn were present for the meeting.

Mr. Quinn, Quinn Engineering, representing Mr. Laney was recently at the July 21, 2015 meeting and was asked by the Planning Board to come back to this meeting with a status update of the Sunset/Holmes Subdivision. In addition, Mr. Quinn sent in a letter for a request for an

extension of the project. Mr. Quinn believes the last extension approval expires the end of October 2015. Mr. Smith explained that they would need to come back for the November 17th, 2015 meeting because the extension request requires a public hearing. Mr. Quinn said Mr. Laney is looking for a two year extension but is hopeful it will not take that long to complete. Currently, Mr. Laney has run into an issue getting paving contractors, the work is small but it has a lot of detail. Mr. Quinn said that Mr. Laney is lining up contractors in the spring to do the work. Ms. Ceppi asked Steven Tyler if he can concur with Mr. Quinn. Mr. Tyler said they are seeing an issue with getting paving contractors to commit to completing work. Mr. Laney said he has been looking for paving contractors since March. Ms. Shiver asked Mr. Tyler what MHD qualifications would make a paving contractor meet his expectations and if Mr. Laney can use a local contractor. Mr. Tyler answered they need a contractor with a good track record so the road doesn't need to be redone. Mr. Ceppi asked if Mr. Smith had anything to add and he said no.

Ms. Shiver mentioned she believes the bylaws only allow one year extensions. Mr. Viner mentioned that he felt Mr. Laney's extension ran out this month. Mr. Smith said that the request was in on time and because it was a specific condition in the Special Permit there needs to be a new public hearing for the extension. Ms. Shiver asked about the surety. Mr. Laney said the surety can be extended another year. Mr. Quinn mentioned that with the revised surety he believed it came to \$115,000.00. Mr. Smith asked what the amount the current bond was for and Mr. Laney said \$118,000.00. Mr. Quinn will bring to next meeting a revised surety estimate.

No motion was needed for this review. Mr. Laney is to pay for the public hearing notice and abutter notifications.

3. Discussion/Abbey Solar CESSWI

Jeffrey Walsh and Bryan LaRochelle, Graves Engineering, and Steve Plonsker, 225 W. Washington Street Chicago, IL, were present for the meeting.

Mr. Smith discussed that according to the Planning Boards original decision, condition number 47, the applicant was to require a certified CESSWI monitor and do all the work pertaining to the Abbey Solar project. However, at a recent pre-construction meeting it was learned that:

- A. The individual who the applicant proposed to use to undertake these tasks was a Certified Professional Erosion and Sediment Control (CPESC), not a Certified Erosion, Sediment and Stormwater Inspector (CESSWI) as was specifically referenced in 15 of the Decision's Conditions. The term "approved equal" could have been inserted, but it wasn't.
- B. They were proposing to have some of the field the tasks required performed by a person who was neither a CESSWI nor a CPESC.

Mr. Smith also mentioned that Margaret Washburn with the Conservation Commission has read and understands this and is okay with the change.

Jeff Walsh explained that since the meeting he has obtained his CESSWI. The junior field employee, Brian LaRochelle, does not have a CESSWI but plans to take the test in the future. Mr. Walsh explained they are asking the board to allow him to delegate a portion of the monitoring to that does not currently hold a CESSWI. Mr. Walsh explained that he will still be

making inspections and will handle all major responsibilities. Mr. LaRochelle is currently in the process of obtaining his CESSWI Certificate for the future but does not hold it currently. Mr. Ceppi asked what type of job training Mr. LaRochelle has had. Mr. Walsh said that Mr. LaRochelle has been working with the company for two years and was also there as an undergraduate. Mr. LaRochelle explained he went to college at the WPI and majored in Civil and Environmental Engineering, and has worked on a wide variety of projects containing monitoring in Grafton, MA and Boylston, MA consisting of peer review consulting. Mr. LaRochelle has been involved with the Abbey solar from the beginning. Mr. Walsh added that the project needs a large amount of monitoring and the junior staff can act as a second set of eyes.

Mr. Ceppi asked what obtaining a CESSWI entails. Mr. LaRochelle said there is a certain education qualification that one must have and work experience. Mr. LaRochelle added that he was accepted but he needs to study and schedule a test date. Mr. Walsh discussed further CESSWI qualifications. Mr. Ceppi asked if a date was scheduled for Mr. LaRochelle to take the test. Mr. LaRochelle said no but he is working on it. Mr. Ceppi asked about current project updates. Steve Plonsker explained they are working on the next phase which would require a pre-requisite to start work. Mr. Smith asked how it will be determined what Mr. LaRochelle will be responsible for. Mr. Walsh said he will take full responsibilities especially before, during, and after rainfall. Mr. Walsh felt the junior staff will handle routine monitoring, erosion control, and some earth moving. Mr. Smith mentioned the new contractor coming in. Steven Tyler asked about if Mr. LaRochelle will be full-time or part-time. Mr. Walsh said they have not worked that out with the client yet.

Mr. Tyler felt there was some flexibility and doesn't want Mr. LaRochelle to take the CESSWI test before he is ready and if it doesn't work out than the Town of Spencer would need to only require the field monitor to require the CESSWI. Ms. Shiver asked about rain events and what the scope of work will be in a 40 hour work week. Mr. Walsh explained he knows the towns expectations and has worked with much peer reviews with other municipalities. The level of effort can be affected by the contractor; the CESSWI overlooks the site and can stop the contractor at any time, any short comings that need to be addressed will depend on the contractor. Ms. Shiver asked if Mr. LaRochelle will be able to know when to stop construction. Mr. Walsh clarified that Mr. LaRochelle will be a set of eyes for him and he will be just a phone call away, Mr. LaRochelle will have no more authority then him, and if he needs to be onsite he will be.

Mr. Smith asked if there were more specific details on the work experience Mr. LaRochelle has had. Mr. Walsh answered that he worked with the Housing Authority, precise survey plans, bidding, and observations. Mr. LaRochelle said he did drainage repairs and assisted with monitoring at a waste water treatment facility that pumped 20,000 GPM per day. Mr. Tyler wanted to confirm we were just talking about Mr. LaRochelle assisting and Mr. Walsh said just Mr. LaRochelle because he is a good fit. Mr. Ceppi wanted to confirm that Mr. Walsh would be at the site before, during, and after rainfall and Mr. Walsh answered he would.

MOTION: Ms. Shiver made a motion to allow Mr. Walsh to delegate routine monitoring to a junior staff; whom is in the process of obtaining there CESSWI certification. In addition, Mr.

Walsh will be on-site to monitor all major events, as well as, before, during, and after rainfall.

SECOND: Ms. Reed

DISCUSSION: NONE

VOTE: 3-1 (Mr. Viner did not vote for the motion)

4. Review of Abbey Solar Decommissioning Plan, Cost Estimates and Bond

Steve Plonsker, 225 W. Washington Street Chicago, IL, was present for the meeting.

Mr. Smith handed out the updated decommissioning plan, dated 10/20/2015, for the Abbey Solar. Mr. Smith said the bond did not change and what was added was the 120 day notification was added to model DEP requirements. Mr. Smith said the only question, on page 4, is the decommissioning assurance. Both parties should reevaluate and recalculate the bond. However, in the case of who has final say, therefore, a line item was added that says: *“Developer may at any time substitute an escrow or irrevocable letter of credit as the means of decommissioning assurance. Any substitute decommissioning assurance must be acceptable to and approved by, the Town and the Abbey, which approval shall not be unreasonably withheld.”*

Mr. Smith also explained the five year anniversary review and the only wording issue know is the wording request versus require, *“For avoidance of doubt, in disapproving an updated estimate of decommissioning costs, the Town or the Abbey may reasonably request [require] that updated estimate be increased.”* Mr. Smith said the Town of Spencer would like the word require instead of request. Mr. Plonsker said there is no issue with that and they agree. Mr. Ceppi asked who reviews the numbers. Mr. Smith answered Lenard Engineering and mentioned there was question about transportation costs. Mr. Smith added that according to the Planning Board Decision they are allowed to deduct the salvage recyclable value. Mr. Plonsker added that there was no net cost in the salvage value so they did not deduct that portion out. Mr. Smith asked what the dollar value amount was currently and Mr. Plonsker answered \$230,000.00. Mr. Ceppi clarified that no salvage value was deducted and Mr. Plonsker said that was correct.

Mr. Viner asked about the deduction of the decommissioning labor. Mr. Plonsker said they didn't really deduct it and it is more of a separate issue. Mr. Viner asked that an additional \$88,000.00 be added to the \$230,000.00 for the labor portion. Mr. Plonsker said he doesn't have the numbers with him at the meeting and also mentioned that a hired salvage company would make that estimate. Mr. Ceppi mentioned that the salvage values are low right now so the credit wouldn't be good. Ms. Shiver asked if a spreadsheet with assumptions of labor were available. Mr. Plonsker explained again he did not have that information available. Mr. Smith mentioned that the applicant provided an email from the AG's Office indicating that drawing on the bond would not require the paying of prevailing wage rates. Mr. Smith asked if the Planning Board members would sign the last page and make a motion subject to Town Counsel's review and approval.

MOTION: Ms. Shiver accepts the Abbey Solar Decommissioning Plan, dated 10/20/2015, subject to review and approval of Town Counsel.

SECOND: Mr. Ceppi

DISCUSSION: There was more discussion about adding the labor for salvage items to the assurance number. Mr. Plonsker said there was a big cushion of a half of a million dollars. There was some discussion about the accepted storm water bond. Also, Lenard Engineering will be

doing the peer review and the applicant will pay for that.

VOTE: 3-0 in favor. Mr. Viner abstained from voting.

5. Discussion/Zoning Bylaw Revision-Tattoo Parlor/Body Piercing

Mr. Smith wanted to discuss with the Planning Board some discrepancies he has noticed with the Zoning Bylaw, one of the issues being the Tattoo Parlor Special Permit voting authority. Mr. Smith handed out the Tattoo Parlor verbiage that was voted on at Town Meeting. It was intended that the Planning Board was to be the voting authority but the wording was not submitted and currently it still goes to the Zoning Board of Appeals (ZBA) to decide. Mr. Smith asked if the Planning Board would like to vote on Tattoo Parlors. Ms. Shiver feels it should stay with the ZBA. Mr. Ceppi discussed other towns and the Planning Boards responsibilities and maybe it should under the Planning Board.

In addition, Mr. Smith wanted to discuss wording in the voted bylaw that has raised some issues. According, to the Zoning Bylaw for tattoos under section A; *“Tattoo parlors and body piercing studios shall provide, as part of the special permit review, proof of Board of Health Review and certification that the facility complies with all Board of Health regulations. Failure to provide such evidence shall be considered grounds for denial of the Special Permit. Revocation of Board of Health approval shall be deemed grounds for revocation of the Special Permit.”* Mr. Ceppi asked if they should change the way it is written and Mr. Smith answered it could be reworded that the Board of Health permit was also required and had to be obtained in addition to the Special Permit, but not necessarily before it. Ms. Shiver mentioned that the applicant cannot get the Business Certificate without the Board of Health approval so that condition should be taken out. All Planning Board members agreed to take the Board of Health language out of the bylaw.

6. Discussion/Zoning By-Law Revision – Table of Uses/clarification of Special Permit Granting Authority

Mr. Smith also wanted to discuss the Zoning Bylaw Table and see if the Planning Board thought any changes needed to be made. Mr. Ceppi discussed the ZBA should be more for Variances and hardships. Mr. Smith said the biggest issue is when a Special Permit triggers a site plan review and then the applicant needs to go before two boards and spend more on the application fees. Issues discussed were site plan review, ZBA not having enough experience with site plans, and site plans should not be separated. Ms. Shiver asked what the ZBA’s standpoint will be. Mr. Smith answered that they have yet to present this to the ZBA. Mr. Ceppi agrees they need to change the responsibilities. Ms. Shiver pointed out that if the Planning Board takes on more responsibilities then they will have to meet two times a month. Mr. Smith mentioned the site plans reviews already come under the Planning Board. Ms. Shiver noted they should be responsible for storm water permits, wireless data transfer stations, and solar farms. The Board asked Mr. Smith to suggest which Special Permits he thought they should be issuing.

7. Adoption of Minutes

- September 15, 2015

MOTION: Ms. Shiver motioned to accept the minutes for 9/15/15 as submitted.

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0 in favor.

8. Town Planner Report/ General Board Discussion

Mr. Smith mentioned that he has received notice of three more solar farms in the process of being submitted. One of the solar farms is being located at Sunset/Holmes property. Mr. Smith passed out a projected site plan of the Sunset/Holmes solar farm.

Submitted by: Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 11/17/2015

List of Documents used on October 20, 2015

Items sent to Planning Board prior to Meeting

Mailed paper copies:

- Agenda
- Memo from Larry Smith to Planning Board Dated 10/06/2015
- ANR's- William Casey Rd/ William Casey Estates
- Letter from Quinn Engineering, dated 10/6/2015, in regard to 2 year extension request for Sunset/Holmes.
- Letter from Quinn Engineering, dated 10/6/2015, in regards to the request to readjust surety for Sunset/Holmes.
- Email from Steve Tyler, dated 9/29/2015, in regards to the road for Sunset/Holmes.
- Letter from Graves Engineering, dated 10/5/2015, for St. Joseph Abbey Solar Farm (condition #47).
- Email from Steve Tyler, dated 10/6/2015, in regards to St. Joseph Abbey CPESC instead of CESSWI.
- Memo from Margaret Washburn, dated 10/13/15, in regards to Graves Engineering letter for St. Joseph Abbey.
- Decommissioning Plan for St. Joseph Abbey dated October, 2015.
- Zoning Bylaw draft revisions completed by Larry Smith
- Minutes for September 15, 2015

Items submitted at the Meeting:

- Memo with additional comment from Steven Tyler for St. Joseph Abbey, dated 10/20/2015
- Updated Decommissioning Plan for the St. Joseph Abbey, dated 10/20/2015