



Planning Board – Town of Spencer

Minutes

Planning Board Meeting
Tuesday, March 15, 2016 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

Planning Board Members Present: Chair Robert Ceppi, Maria Reed (5 minutes late), Shirley Shiver and Jonathan Viner

Planning Board Members Absent: None

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

Staff Absent: None

*** **This meeting was not recorded due to an error with the recording device*****

Mr. Ceppi opens the meeting at 7:02pm.

The decision was made since Maria Reed would be late to the meeting that they would start with approving minutes.

1. Adoption of Minutes

- February 16, 2016

MOTION: Ms. Shiver motioned to accept the minutes as written

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 3-0

2. ANR: William Casey Road-

Philip Stoddard was present for the meeting to discuss changes he had made to a plan he submitted in January 2016 that he withdrew in due to some topography and had to correct on the current plan. Mr. Ceppi said it meets frontage and acreage. Ms. Shiver asked how many plans were recorded for the lot and Mr. Stoddard said two, however, he explained he bought a large lot and subdividing the land to sell. Ms. Shiver asked if prior recorded plans were on the current ANR and Mr. Stoddard said yes (the two plans that were dated 9/15/15 and 1/20/16 are on the plan).

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

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

3. Continued Public Hearing - Site Plan Review: Applicant: ZPT Energy Solutions, LLC, Owner: Daniel Lemanger. Location: 19 Woodchuck Lane, Spencer Assessor's Map U16/54. The applicant is requesting a Site Plan Review under Sections 7.4 of the Spencer Zoning Bylaw applying for a "major utilities" ground solar farm site. The property is located

within the suburban residential zoning district combined with; Continued Public Hearing - Site Plan Review: Applicant: ZPT Energy Solutions, LLC, Owner: Blair Enterprises, LLC. Location: 48 Paxton Road, Spencer Assessor's Map U17/1&2. The applicant is requesting a Site Plan Review under Sections 7.4 of the Spencer Zoning Bylaw applying for a "major utilities" ground solar farm site. The property is located within the rural residential zoning district.-

Brendan Gove, ZPT Energy, and Larry Sabean, Hannigan Engineering, were present for the meeting to discuss the revised changes to the revised plans. Mr. Sabean went over the changes that included but not limited to swales, drainage, sediment removal, grass height, motion sensor lighting, construction signs, and detention basins. In addition, the approval of the special permit is contingent on the accepted ANR plans that will be submitted to join the purchased land on Donnelly Road for the easement. Both parties felt that the construction traffic issues have been taken care of and prior to commencement of work the applicant will be submitting a SWWPP. Mr. Smith asked if the Conservation Commission had conditions and Mr. Sabean said yes. There was much discussion in regards to the chain link fence and additional screening with non-invasive vines. Mr. Smith briefly brought up the Zoning Board of Appeals and that their special permit was appealed by an abutter; however, the appeal does not affect the Planning Boards motion.

Mr. Viner asked about the lease line of Woodchuck Lane and discussed putting a condition in the motion that it is contingent on the accepted ANR that will be submitted so that two principle uses are not on one lot. There was more discussion about the pre-existing non-conforming lot, ANR submission, and the road being a right-of-way. Ms. Shiver suggests that when the ANR is submitted we have legal counsel view it. Mr. Viner want to see that the lines be approximate on the final draft and remove the pluses and minuses. Mr. Viner asked about the dimensions of the access easement and Mr. Sabean explained it would be on the ANR submitted. There was much discussion in regards to the boundary line adjustment for the ANR, the easement width requirements, and adding land to the non-conforming lot. In addition, Mr. Viner discussed an error on the plan that shows a fence being put up in the turnaround and they will require the applicant to change the location of the fence.

Mr. Ceppi opened the meeting to the public and no abutters were present. Without further discussion Mr. Smith handed out the drafted Solar Facility Conditions to go over. Mr. Gove went through the document and provided feedback for terms and conditions he wanted changed.

MOTION: Ms. Shiver made the motion to close the hearing

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

MOTION: Ms. Shiver made a motion to approve the site plan for 48 Paxton Road with the finding and conditions discussed. **(SEE BELOW)**

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

MOTION: Ms. Shiver made a motion to accept the site plan for 19 Woodchuck Lane with the findings and conditions discussed. **(SEE BELOW)**

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

Project Description/Findings:

1. The proposed ground-mounted solar farm project is comprised of a 17.5 acre rear parcel with frontage being created on Donnelly Road, but access will be from a 1.07 acre parcel (Tax Map U17/1) fronting on Paxton Road. This solar farm is being constructed in consort with an abutting facility to the south under separate permit. The project is located in the Rural Residential (RR) zoning district. This use is classified as a Major Utility under Section 4.34 of the Spencer Zoning Bylaw.
2. Trees will be retained along the extent of the proposed work to provide screening to abutting properties. The project has been designed to minimize re-grading and to keep all proposed work outside of the wetland resource areas and associated buffer zones. All proposed earthwork cut and fill volumes will be balanced to the fullest extent possible to minimize the hauling of natural site materials off the site or trucking of general bulk fill materials to the site. The facility will blend into the existing landscape given its relatively wooded site. Groundcover beneath the panels will be natural vegetation, including a slow-growing seed mix where appropriate. A chain link security fence with gated access will be installed around each of the solar farms to prevent unauthorized access. Access following construction will be limited to periodic maintenance crews.
3. The ZBA issued a special permit for this project on February 9, 2016.
4. The Planning Board finds that the proposed project, as shown on the approved plans and conditioned herein, meets the objectives of Site Plan Approval under Section 7.4.8 of the Zoning Bylaw.

Conditions:

General

1. The site plan that was submitted and subsequently revised through 3-8-16 is herein incorporated as part of this decision. Any significant change requires re-submittal to the Board. The Town Planner shall determine if changes warrant the Board's review.
2. Unauthorized deviations from the approved plan or failure to conform to the conditions included in this Decision may result in the Planning Board or Town Planner seeking the issuance of a Cease and Desist Order until the deviation is addressed. Violation of any condition contained herein or failure to comply with the approved plan shall subject the Applicant to a zoning enforcement action in accordance with the remedies set forth in M.G.L. c. 40A.

3. The Planning Board retains its jurisdiction and the rights to, on its own motion, modify, amend, rescind or revoke its approval of this Site Plan Approval after holding a Public Hearing in accordance with Chapter 40A, Section 9, when it believes that there is material noncompliance with the terms of this Site Plan Approval.
4. Members, Agent or other designees of the Planning Board shall have the right to enter the site at reasonable times to gather all information, measurements, photographs or other materials needed to ensure compliance with this approval. Members or agents of the Planning Board entering onto the site for these purposes shall comply with all safety rules, regulations and directives of the Applicant and the Applicant's contractors. The Planning Board may designate a Town of Spencer Official, or consultant paid for by the Applicant and reporting to the Planning Board, as Agent to act on its behalf. Other designated officials of the Planning Board shall include and not be limited to the following Town of Spencer Officials: U&F Superintendent, Highway Foreman; Conservation Agent; Zoning Enforcement Officer; Health Director; and other officials as may be designated by the Planning Board.
5. Litter and debris in the parking lots, landscaped and buffer areas shall be removed regularly to maintain a neat and orderly appearance. Daily cleanup and housekeeping is required for materials susceptible to wind, rain or other natural means of relocation. Other general cleanup and housekeeping shall occur weekly at a minimum.
6. All on-site landscaped buffer areas shall be maintained in good condition in perpetuity so as to present a healthy, neat and orderly appearance.
7. The Applicant shall maintain the chain link fence and screening vegetation for the life of the project.
8. This Site plan approval shall lapse after two years from the granting thereof if a substantial use thereof has not sooner commenced, except for good cause. Site plan approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
9. This approval shall lapse and become null and void three (3) years from the date of approval if the construction and all site improvements shown on the site plan are not completed within said three (3) years. The Planning Board may grant extensions for good cause, upon written request of the applicant.
10. At least 30 days prior to the sale and or transfer of ownership of the property and/or project, the current owner of the property and/or project (or his/her/their successor or assigns) shall notify the Planning Board, in writing, as to the identification and contact information of the prospective purchaser.

Pre-Construction

11. Construction activity shall not commence until all required approvals and permits are obtained.
12. Prior to any construction the applicant and/or other project representatives are required to schedule a preconstruction conference with the Office of Development and Inspectional Services to present all required permits and approvals, recorded information, provide

contractor and emergency contact information, and schedule required inspections. The applicant shall also submit an anticipated schedule of construction and documented conformance with all pre-construction requirements at or prior to said meeting.

13. The Applicant shall notify the Spencer Office of Development & Inspectional Services, in writing, of its intent to commence construction at least 48 hours prior to the beginning of construction.

Note: several additional conditions throughout this Decision are required to be addressed prior to construction. Please review all conditions carefully.

Construction (General):

14. From the commencement of construction, all work shall continue in an uninterrupted and timely fashion until the project is completed. Failure to so comply may be reason for the Planning Board to rescind approval of this Site Plan Approval.
15. The Applicant and/or his representatives must post a 24"x 30" weather resistant sign on the premises during construction, which states the hours of operation and the phone numbers of the owner and the enforcing agencies (the Spencer Police Department and the Office of Development and Inspectional Services). This sign shall be installed prior to commencement of construction.
16. The site shall be kept reasonably clear of construction debris and trash, and said debris and trash shall be removed periodically from the site. Debris or trash which becomes a nuisance to abutters or which blows onto the adjacent roadway shall be removed immediately upon notification by the Town or its representative.
17. During Construction adequate and effective measure shall be undertaken to prevent trucks and construction vehicles from dragging soil, mud onto the public way. Sediment tracked onto public roads from construction activities shall be swept at the conclusion of each construction day, until all work areas have been properly stabilized.
18. During construction, adequate provisions shall be made on-site for the parking, storing, stacking of construction and contractor vehicles and materials, as well as delivery vehicles/trucks, including off-hours, sufficient to prevent said vehicles from parking, storing, stacking on the public way.

Project –Specific Conditions:

19. Primary access to the site shall be via Paxton Rd. from parcel U17/1 (fronting on Paxton Road)
20. The applicant agrees to remove, patch and repair any damaged pavement on Paxton Rd. resulting from this project at the conclusion of construction, if determined necessary by the Spencer Highway Superintendent to, the extent required by the Spencer Highway Superintendent.
21. Clearing of vegetation shall be limited to the extent necessary to construct or operate the solar facility. Proposed screening landscaping shall be installed as early as is practical during the construction process. Completed landscaping shall be approved by the Planning Board or its designated Agent prior to issuance of the final certificate of project completion.

22. The applicant's construction site manager or supervisor shall arrange and conduct a monthly construction progress meeting with appropriate town officials. The time and location of the meetings shall be coordinated by the site manager. The frequency of the meetings can be reduced or increased as appropriate by the Planning Board or Agent.
23. Spill kits adequate to address potential hazardous materials release risks shall be kept on site at all times.
24. All existing topsoil for areas to be disturbed shall be stockpiled on site and shall be surrounded with silt fence and hay bales or shall be covered with a solid woven fabric or tarp to prevent erosion or loss of usable top soil materials. The removal of topsoil from the site is prohibited. Other earthen materials shall only be removed where duly permitted by the town.
25. The Applicant of the facility shall be responsible for providing necessary training to Town officials in regards to the operation/emergency response for the facility prior to operation. The Applicant shall be responsible for additional training at the site to understand any new systems as technology or equipment is changed or updated.
26. The Applicant shall install a key lock box on site to provide access for Town emergency officials to the satisfaction of the Fire Department.
27. The Applicant/Owner shall submit a copy of the executed Interconnection Agreement with National Grid within 30 days of its execution, with confidential information redacted.
28. The Applicant shall provide contact information for the maintenance/operations company when available; the Board shall also be notified of any future change in the maintenance/operations company.
29. Warning signage shall be installed along the fence in accordance with all applicable laws and regulations, but not less than every 100 feet along the fence surrounding the project.
30. This solar photovoltaic installation shall be removed when it has which has reached the end of its useful life or has been abandoned. The owner or operator shall physically remove the installation no more than one (1) year after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
31. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the project fails to remove the installation in accordance with the requirements of this section within one (1) year of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

32. The applicant shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal (net of salvage value) in the event the Town of Spencer must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board (hereafter referred to as the Removal Bond). The *proposed* amount and form of the Removal Bond shall be submitted for Planning Board review prior to commencement of construction. The Board shall have 60 days for review of the proposed surety; if the proposed surety is rejected, the Board shall have 60 days to review any new proposed surety. Final surety shall be submitted prior to issuance of a building permit. The proposed surety shall be structured to reflect increases in cost due to inflation. Regardless of the form of surety or assurance, if the project is decommissioned or abandoned and the amount available is insufficient, the Town may decommission the project and place a lien on the property for the cost in excess of the surety available.
33. Three (3) full-size, one (1) 11"x17", one half-size (12"x18") and a pdf version of the full set of final plans and the final Stormwater Drainage Analysis shall be delivered to the Planning Board within fourteen (14) days from the date of this Decision.
34. Removed trees that are not sold shall be ground and removed off-site or used in accordance with applicable laws. Prior approval is required if wood chips are proposed for use in erosion control. Wood chips shall not be stored in any 100 foot Buffer Zone to any Wetland Resource Area.

Building & Occupancy Permit/Final Completion

35. If the Applicant wishes to obtain an certificate of final completion/occupancy permit for a phase or the entire project prior to installation of required landscaping or other stabilization and site work not otherwise covered by the Stormwater Bond, the Applicant is required to provide monetary surety, in the form of a check or cash, which upon receipt will be deposited into an interest bearing account at a local bank, for the purposes of securing the landscaping or other stabilization site work as shown on the approved site plan. The amount of the surety to be provided should be accompanied by a detailed estimate (number of plants, species, cost per plant, labor, etc.) for the proposed landscaping and/or stabilization work and should be provided at the cost that it would be to the Town, if the applicant were to fail to install the landscaping as designed.
36. A Certificate of Project Completion for a phase or the entire project shall not be issued until:
 - a) the project engineer has submitted a written statement, with his/her seal/stamp affixed, certifying that all work has been done in accordance with the approved plans and conditions of this Site Plan Approval, and that all systems are functioning as designed,
 - b) a construction plan "as-built" has been provided,
 - at a minimum final "as-built" plans shall be certified and stamped by the professional engineer of record and the submission to the Planning Board shall include original mylars, three (3) full-size, two (2) half-size and an Adobe PDF electronic file format version of the full set of "as-builts".

- c) the improvements have passed inspection by the Office of Development & Inspectional Services and other relative Town departments. Phasing for these purposes requires pre-approval by the Planning Board. A Temporary Certificate of Project Completion may be granted, but shall be valid for no longer than six (6) months.
37. Approval of this Site Plan Approval is subject to an ANR plan being submitted by the applicant, approved by the Planning Board and recorded by the applicant at the Registry of Deeds subdividing the portion of the project on parcel U16-54 into a separate lot.
 38. Approval of this Site Plan Approval is subject to an ANR plan being submitted by the applicant, approved by the Planning Board and recorded by the applicant at the Registry of Deeds creating the minimum required frontage for each of parcels U17-2 and U16-54 on Donnelly Road as shown on the approved plans.
 39. Honeysuckle vine, or an approved non-invasive equal, shall be planted along the chain link fence at sufficient spacing to provide screening/camouflaging of the fence minimizing its visibility from abutting properties.
 40. Within the solar facility the chain link fence's location shall be adjusted so as not to interfere with the hammerhead turn-arounds, and shall be so indicated on the submitted "as built" plans.

4. Continued Public Hearing – Amendment to an approved definitive subdivision plan – Sunset Holmes, Applicant/Owner: James Laney/ 123 KIDS, LLC, Location: off Sunset and Greenville Road, Spencer (Assessors Map U04, U06 & Map R28). The applicant is requesting an extension of deadlines related to this subdivision. This subdivision plan was originally approved by the Planning Board on December 6, 2005.

Brendan Gove from ZPT Energy, Chris Anderson and Larry Sabean from Hannigan Engineering were present for the meeting. Since the recent tech review they received feedback and made the necessary changes to the plan. Mr. Anderson discussed the Zoning Board of Appeals request to fix the unsightly detention basin so they are proposing to add a vegetation buffer and berm with a vegetation screen. They will make the berm larger and maintain the existing structure. There was much discussion in regards to basins, riprap slopes added to prevent soil migration, sub drains, and tree clearings. Mr. Smith asked if there were any changes addressed by Conservation Commission and Mr. Anderson explained they didn't see that much would need to be changed. Mr. Smith expressed it would be better to continue the hearing until the applicant has met with the Conservation Commission. Mr. Anderson went over comments from Lenard Engineering and their responses.

Mr. Ceppi opened the hearing up to the public.

Dick Kirk, 22 Holmes Street, addressed the board with his concerns about never being notified of the meetings and only saw the hearing information in the paper. There was discussion of the range of abutters that receive notifications. Mr. Kirk is two lots down from a large detention basin and he has stormwater concerns as his home has been affected by runoff. Mr. Kirk does not want his conditions to worsen because in 2005 when the construction for the subdivision

started he had six feet of water in the basement. Mr. Kirk said Mr. Laney did fix the wall. It was discussed that when Mr. Laney comes back for the subdivision changes it will require a public hearing and Mr. Kirk would receive a notice.

MOTION: Ms. Shiver motioned to continue the public hearing until April 19th, 2016.

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

5. Candlewood Estates Phase II Subdivision – Extension Request

Damien Berthiaume, 2 Elm Street North Brookfield, MA, was there to represent Brian Murkland for his request for an extension to Candlewood Estates Phase II. Mr. Berthiaume explained that phase one was accepted, they were granted a two year extension for this phase and it expires 12/2016. Mr. Murkland is requesting another two year extension because the economic conditions have not improved. Mr. Smith said the Planning Board would need to waive the only one year extension. Mr. Murkland expressed that he is looking for the extension to finish the project and not just to walk away. Mr. Ceppi said he was okay with granting the applicant the two year extension.

MOTION: Ms. Shiver motioned to extend the Candlewood Estates Phase II subdivision for two years, 12/18/18.

SECOND: Mr. Viner

DISCUSSION: None

VOTE: 4-0

6. Zoning Changes:

- **Driveways-**

Mr. Smith discussed some revisions Steve Tyler changed section 4.7.14 and add “or surface”, the changes suggested at last meeting are highlighted in yellow, and Mr. Smith discussed section 6.2.5.A Common Driveways brackets “Common driveways are not intended to circumvent the legal requirements for each lot having the required accessible minimum frontage.”

MOTION: Ms. Shiver approved the driveway regulations to include all changes and accept the driveway regulation dated 3/15/16 for general bylaw and recommend to Board of Selectman for Town Meeting.

SECOND: Ms. Reed

DISCUSSION: It was discussed that an attorney reviews the bylaws and legal review and 4.7.7 limit lot that doesn't have frontage.

VOTE: 4-0

- **Fences and Hedges-**

Mr. Smith explained the only change was adding the capital letters to section E, “C” “S” “T”.

MOTION: Ms. Shiver recommends sending the drafted article 6 dated 3/8/16 for general bylaw and recommend to Board of Selectman for Town Meeting.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: 3-0

ABSTAINED: 1

7. Town Planner Report/ General Board Discussion

Mr. Smith discussed that Meadow Solar was coming back to continue his solar farm application. The issue of the parcel having only 50' of frontage came up at the Technical Review Meeting and Mr. Smith handed out a portion of the minutes of the 5/20/2014 Planning Board Meeting, regarding signing the ANR plan, that contained wording that Michelle Buck, previous Spencer Town Planner, stated "this lot is proposed as the site of a solar farm, which under our zoning is not considered a structure that requires frontage." He noted that the Building Inspector does not agree and that he feels that these solar farms are principal uses and require the minimum frontage, as the Planning Board has been requiring. The Special Permit was granted by the Zoning Board of Appeals and the ANR was approved by the Planning Board, however, the applicant still does not have adequate frontage. Per Zoning Bylaw 5.3.3 Frontage requires. No dwelling or building shall be erected on any lot which has no frontage on the street. On the document handed out by Mr. Smith there is additional information with regards to the definitions of "building" and "structure." There was discussion in regards to what should not have been approved and the steps the applicant may need to take to make it right.

MOTION: Mr. Ceppi motioned to close the meeting

SECOND: Ms. Shiver

DISCUSSION: None

VOTE: 4-0

Submitted by: Monica Santerre-Gervais ODIS Clerk

Approved by the Planning Board on: 4/19/2016

List of Documents used on March 15, 2016

Items sent to Planning Board prior to Meeting

Mailed paper copies:

- Agenda
- Memo from Larry Smith to Planning Board Dated 3/8/2016.
- ANR for William Casey Road/ Philip Stoddard, plans dated 3/7/16
- New plans submitted by ZPT Energy in regards to 48 Paxton Road Solar Farm
- New Plans submitted by ZPT Energy in regards to 19 Woodchuck Lane Solar Farm
- New Plans submitted by ZPT Energy in regards to Sunset Lane/Holmes Street Solar Farm
- Hannigan Engineering response letter to Lenard Engineering date 3/8/16
- Revised drafted Driveway Regulations dated 3/15/16
- Revised article 6 fences and hedges regulations dated 3/8/16
- Minutes for February 16, 2016

Items submitted at the Meeting:

1. Adjudicatory Hearing Form- for Maria Reed as evidence of listening to the tape recording for 2/16/16 meeting.
2. Larry Smith handed out documentation in regards to Meadow Solar minutes dated from 5/20/2014, to explain the resubmission of the solar farm proposed and the issues that have come up during the application process.