



# Zoning Board of Appeals – Town of Spencer

## *Minutes*

Regular Zoning Board of Appeals Meeting

**Tuesday, June 12, 2012 at 7:15 PM**

McCourt Social Hall

Memorial Town Hall

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The meeting was called to order at 7:15 p.m.

Zoning Board Members Present: Allan Collette, Albert Drexler, Dee Kresco and Joanne Backus  
Chair

Zoning Board Member Absent: None

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

### **1. Old Business:**

**A. Special Permit & Variance Continued**– Applicant: Celeste & Joseph Couture. Project Location: 68 Cherry Street. The applicant is requesting a Special Permit in accordance with Section 4.2.A.3 & 7.2 to allow conversion of a two-family structure to a three-family (multi-family) structure and a variance from Section 5.1 for a three-family structure on an undersized lot. The property is located within the Village Residential Zoning District.

Ms. Backus reopens the hearing from May 15, 2012.

Mr. Couture starts by showing the Board a map of his property. He has marked 6 parking spaces on the map. He also shows photos of parking area with cars parked in some of the spaces. He explains there is parking in the driveway for 6 cars and the by-law only requires parking for 4.5 cars. The parking spaces are 9’x20’ the by-law only requires 9’x18’.

Mr. Collette asks if they can add parking behind the house if needed. Mr. Couture explains a parking area could be added in the back if the driveway gets to crowded. Three spaces could be added behind the house.

Mr. Collette tells Mr. Couture to be aware of impervious coverage. The new parking area may have to be crushed stone or something other than pavement. Fifty percent (50 %) is the maximum impervious surface coverage for the zoning district village residential (VR).

The Board reviews the parking area photos and map. After some discussion back and forth they ask Mr. Couture to rearrange the parking spaces to make 6 spaces on the right side of the driveway along the fence and 1 space on the left near the front. Also a turnaround area at the end of the driveway

behind the house, so residents won't have to back their cars out of the driveway. The new plan now has 7 parking spaces and a turn around. Mr. Couture agrees with this parking arrangement he revises and signs the plan. This will be added as a condition.

Ms. Backus asks the public and the board if they have any questions. There are no further questions.

Ms. Buck reads the added condition. Condition: 1. The applicant shall relocate parking and add a turnaround area at the rear of the site, for a total of seven (7) parking spaces, as described at the public hearing and shown on the plan marked and signed by applicant on 6/12/2012.

Ms. Kresco makes a motion to close the discussion. Mr. Collette seconds the motion. Vote is 3-0 in favor.

**Motion:** Mr. Collette makes a motion to grant Celeste and Joseph Couture a Special permit and Variance for 68 Cherry Street. Approved under section 7.2 (Special Permit) and 7.3 (Variance) to allow the conversion of a Two-Family to a Three-Family structure. The petition meets the requirements for a Three-Family multi family structure on an under sized lot (Section 5.1). The property is located within the Village Residential zoning district. The condition: Condition: 1. The applicant shall relocate parking and add a turnaround area at the rear of the site, for a total of seven (7) parking spaces, as described at the public hearing and shown on the plan marked and signed by applicant on June 12, 2012. Ms. Kresco seconds the motion.

**Vote:** 3-0 in favor

**B. Special Permit Continued** – Applicant: Borrego Solar Systems, Inc. Project Location: 115 Wilson Street. The Applicant is requesting a Special Permit in accordance with Section 4.2.B.3 & 7.2 of the Spencer Zoning Bylaw to establish a large-scale ground mounted solar facility. The property is located within the Rural Residential Zoning District. Present representing the applicant were Roy Smith (Vice President RJ O'Connell & Assoc.), Charles Barbanti (Borrego Project Manager), Carl Wilson (land owner) and Jared Connell (Sr. Project Developer).

Ms. Backus reopens the hearing.

Mr. Smith gives an update on their progress. They have met with the Planning Board and the Conservation Commission. After a discussion at the planning board meeting they have decided to move the construction access road from Paxton Road to Wilson Street. This will ease some of the construction noise concerns of abutters. Also Borrego has added a gate to the permanent access road on Paxton Road, to ease abutter's concerns of potential security and safety problems at that location. The permanent access road has to be on Paxton Road because that is where the three phase power lines are. The access road off Wilson Street will only be used for construction.

Mr. Drexler asks why are there no spruce trees proposed for planting behind the Maggio Living Trust or the Hoffman properties? Mr. Smith says that the existing vegetation in these two areas is thicker so the landscaping consultant did not propose additional understory trees in those areas. Additionally, the area behind Dr. Hoffman's property contains an existing wetlands system thereby creating a thicker vegetative buffer. Based on this and as part of the Planning Board

process, they proposed the evergreen plantings where the existing vegetation was thin in order to supplement the vegetation accordingly.

Ms. Backus asks how big the trees will be at planting. Mr. Smith says the trees will be 8-10 feet when planted.

Ms. Backus opens the hearing to the public.

David Padavano, resident of 65 Paxton Road, asks if a 25 foot vegetation buffer and 8-10 foot tall trees will be enough of a buffer to block noise produced by this facility. Mr. Padavano noted a report done by the Oregon Department of Transportation that states in order to noticeably decrease the noise level a vegetation buffer of 100 feet wide and 20 feet high is needed. Mr. Connell says the border of their fence to any abutter property line on Paxton Road is at or over 100 feet. Noise from the inverters is about 40-45 decibels, similar to the sound a refrigerator makes. From a distance of 100 feet the abutters should not be bothered by the sound. Mr. Padavano states all the noise information provided has been from people involved with the project. The noise study provided was done by the inverter manufacturer. To be sure the facts provided are true, he wants an independent noise study done.

Rodney Foisy, 12 Rustic Lane, shows the Board photos of a similar solar farm on Stafford Street in Leicester. He wants the board to be aware of what solar farms look like.

Mr. Foisy asks if a community impact study has been done. Mr. Smith says yes this was done as part of their submittal process.

Mr. Foisy asks if an environmental study has been done. Mr. Smith explains yes they are working now with the Conservation Commission.

Mr. Foisy asks if solar farms have a negative impact on property values in the neighborhood. Mr. Smith says it shouldn't have a negative impact on property values because it is a passive use of the land there are no smells, lights, traffic and very low noise.

Mr. Foisy asks will cutting down trees have an impact on wells and septic systems in the area. Mr. Smith says no they have addressed all stormwater issues.

Mr. Foisy asks if they will be using any herbicides or pesticides. Mr. Smith explains no herbicides or pesticides will be used. They will only cut the grass a few times a year. They have no issue with vegetation growing in. And the fence will be 6 inches off the ground to allow small animals to pass under freely.

Mr. Foisy asks are there any fire safety issues at this site. Mr. Barbanti answers this site will meet all building and electrical safety codes. They will have to get building and electrical permits and pass inspection.

Mr. Foisy asks what the noise and visual impact on the area be. Mr. Smith explains they are leaving a natural vegetation buffer and planting a supplemental buffer to screen the view of the

array. The vegetation buffer and the distance the inverters are to any abutter property will minimize the noise.

Mr. Foisy asks Mr. Wilson how much of this property is going to be placed under APR. Mr. Wilson explains this land has been in his family since 1740. He wants to preserve as much as possible. The only part of the 149 acre property that would not be included in the APR would be the 20-21 acre solar farm and two (60,000 sq. ft.) lots one for his son and one for himself.

Mr. Foisy asks what will happen if Borrego goes bankrupt and abandons the solar farm. Mr. Wilson says he believes as part of the agreement the solar farm would become his. Mr. Connell explains they have a bankruptcy plan with the bank.

Mr. Padavano, 65 Paxton Road, wants one of the conditions to state there will be no permanent outdoor lighting at this site. Mr. Connell says they would agree to this condition. The only lights they may have to use would be in case of emergency and would be temporary.

Mr. Collette asks if they are going to have a light at the entrance. Mr. Smith says they are not planning on having a light at the entrance. This site will only be visited 2-4 times a year those visits should be during the day.

Mr. Padavano asks who will monitor this site to make sure there is no hazardous waste. The board says the Conservation Commission would be the ones who check up on that. Mr. Padavano expresses concern about ground water and the safety of his well water.

Julie Collette, 71 Paxton Road, asks if the array could be struck by lightning. Mr. Smith explains the site will be grounded.

Paul Arsenault, 77 Wilson Street, says his house is downhill from the array. He wants to know what will be washing downhill toward his property. Mr. Smith explains they have a stormwater plan with detention basins also the land slopes away from Wilson Street.

David Hook, 59 Paxton Road, would like a larger buffer behind his property. His back yard slopes downward so in order for him not see the solar array the evergreen tree buffer the plants would have to be 50ft tall. Also he expresses concern about the noise from the inverters.

Mr. Arsenault asks if there will be any blasting done during construction. Mr. Barbanti states there is no blasting being done.

Mr. Padavano expresses concern of exposure to EMF. Mr. Connell says the EMF's from this type of system are extremely low and not harmful.

Peg Hook, 59 Paxton Road, expresses concern of narrow buffer and noise. Mr. Barbanti explains there will be noise during construction but after that the sound made by the inverters is so low they will not hear it.

Mr. Collette asks why the inverter in system 2 is closer to abutting properties on Paxton Road. Mr. Connell explains they looked into moving it, but moving it would not noticeably change the sound or views.

Ms. Collette understands the power from this site is being sold to a college in Worcester, but wants to know if there's any way to let the abutting homes have some of the power produced at this site. Mr. Connell makes it clear this cannot happen since they have a contract to sell 100% of the power to this College.

Mr. Padavano states again that he would like an independent noise study done.

Mr. Hook states he's not against the solar farm he just doesn't want to see or hear it. He feels the buffer should be larger, so he doesn't have to see or hear it and to protect his property value.

Mr. Collette asks Borrego if they have a similar solar farm nearby that he can go look at and listen to. Mr. Connell says he can see the one in Leicester but the inverters are not on yet. The closest finished project they have is in Dartmouth, MA.

Mr. Drexler asks if the inverters can be enclosed by some sort of sound proofing. Mr. Connell says they would be open to building some kind of wall around the inverters.

Mr. Collette asks how large the inverters are. Mr. Connell says they are about 3 ft wide x 7 ft long and 7 ft tall.

Mr. Foisy tells the board he spoke to Mass Audubon Society. Mass Audubon is working with the state and local communities to have by-laws changed to restrict solar farms to industrial areas.

Mr. Hook is unhappy the wetlands get more of a buffer than people's homes.

The Board discusses and decides they will walk the property line of abutters on Paxton Road to view the thickness of the existing vegetation to gain a better understanding of the proposed buffer. Board members will do this separately before the next meeting which has been scheduled on June 26, 2012.

**MOTION:** Ms. Kresco makes a motion to continue the hearing to June 26, 2012. Mr. Collette seconds the motion. Vote is 3-0 in favor.

**2. Approval of Minutes-** Minutes for:

- **April 10, 2012-** Mr. Drexler makes a motion to approve the minutes from April 10, 2012. Ms. Kresco seconds the motion. Vote is 3-0 in favor.
- **April 25, 2012 -** Ms. Kresco makes a motion to approve the minutes from April 25, 2012. Mr. Drexler seconds the motion. Vote is 3-0 in favor.

- **May 2, 2012** - Mr. Drexler makes a motion to approve the minutes from May 2, 2012. Ms. Kresco seconds the motion. Vote is 3-0 in favor.
- **May 15, 2012** - Mr. Collette makes a motion to approve the minutes from May 15, 2012. Ms. Kresco seconds the motion. Vote is 3-0 in favor.

3. **Adjournment:** Mr. Collette makes a motion to adjourn the meeting. Ms. Kresco seconds the motion. Vote is 4-0 in favor. With no further discussion Ms. Backus adjourns the meeting at 9:20 pm.

Submitted By: Brynn Johnson, Junior Clerk ODIS

Approved by the Zoning Board of Appeals on \_\_\_\_\_ July 10, 2012\_\_\_\_\_.

**List of Documents used on June 12, 2012:**

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo from Michelle Buck, Town Planner dated 6-05-12
- 115 Wilson Street Solar Farm revised plan
- Minutes 4-10-12
- Minutes 4-25-12
- Minutes 5-02-12
- Minutes 5-15-12

Items submitted at meeting:

- Map showing parking area for 68 Cherry Street
- Photos showing parking area 68 Cherry Street
- Color copy of updated plan 115 Wilson Street
- Photos of a Solar Farm on Stafford Street in Leicester
- Handout with info evergreen trees planned for 115 Wilson Street