



Planning Board – Town of Spencer

*Minutes*

Planning Board Meeting

***April 16, 2024 at 6:00pm***

***REMOTE & IN-PERSON***

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall

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Planning Board Members Present: Chair Robert Ceppi (in-person), Vice Chair Shirley Shiver (in-person), Charlie Bellemer (in-person), Vaughn Slack (in-person), and Gina Beford (in-person)

Planning Board Members Absent: none

Staff Present in-person: Lauren Vivier, Town Planner/ Conservation Agent (in-person), Sarah Campbell, Planning Assistant (in person)

**1. Open meeting at 7:02pm**

**2. Solar Bylaw Amendments: Zoning Bylaw Article 2.2, Definitions; Article 4.2 Use Table Principal Uses; Article 4.8.9, Solar Photovoltaic Generating Installations; and Article 5.5, Interpretation notes for height and bulk.**

**Newly Proposed Article: Zoning Bylaw Article 4.10, Battery Energy Storage Systems (BESS).**

Ms. Vivier stated there was one comment that came in via email, regarding the first article, on page 4, section 4.8.9b. it should read "...50% or more priority habitat".

Mr. Bellemer stated on page 3 number 3, should say personnel instead of occupants. On page 5 at the very bottom, he questioned how the applicant could show no flooding or damage would occur. Ms. Vivier stated to the best of their ability through stormwater.

Ms. Vivier stated two comments regarding amendment 2 that came in via email. One comment was grass height for agrivoltaics' and waiving the height requirement of 24 inches. Another comment was in section 4.8.9g. which is waiving pesticides, herbicides, and fertilizers etc. for agrivoltaics projects.

Mr. Bellemer asked if on the bottom of page 10 and top of page 11 is asking for a waiver. Mr. Bellemer asked if verbiage for a bond could be added on page 12 number 4.

Matt Defosse, 7 Paul's Drive, mentioned having legends throughout the amendment so the public can be aware. Mr. Defosse questioned if the Board could waive something that states is mandatory in section 4.2 of the bylaw. Mr. Defosse expressed concerns regarding the verbiage throughout the document and suggested using more specific language for legal purposes.

Johnathan Viner, 34 Donnelly Cross Road questioned page 9, and having agrivoltaics in all districts. Mr. Viner asked how agrivoltaics fit in the industrial or commercial districts.

Ms. Vivier stated agriculture is allowed in all districts in the bylaw currently, which agrivoltaics follows farming.

Carol McPherson, 125 Pleasant Street, stated she had some comments regarding amendment one but never got the opportunity to speak. Ms. McPherson stated the intent is to have a citizen's petition removing the Boards ability to grant waivers in section 4.8.9h. (Waivers - The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.) Ms. Vivier stated if removed then the Board would not be able to grant any waivers for projects besides were stated for agrivoltaics projects. Ms. Vivier stated examples of waivers granted in the past were for hours of operation, and slope.

Ms. Shiver stated the project mentioned at the last meeting, where some waivers were mentioned would not be able to be discussed if section 4.8.9h was removed.

Ms. Vivier stated Town Council would know more information regarding removing the language for waivers and would have some more information at the next meeting.

Ms. Vivier and the Board discussed amendment three in detail. Mr. Bellemer had comments for page 15 number 3 should be updated to read all districts. Mr. Bellemer had questions regarding the storage capacity versus the generation capacity. Mr. Bellemer was under the impression the capacity had to be greater than the panels. Ms. Vivier stated verbiage stating if it is greater than the capacity, the applicant needs to provide in writing information as to why.

Ms. Shiver questioned if Tier 3 and Tier 4 stand alone systems were protected under chapter 40A. Ms. Vivier stated after hearing back from the attorney general's office, it does. Ms. Vivier stated due to timing restrictions the initial battery storage overlay district would have been too hard. Mr. Bellemer stated the BESS will always be located near a high-tension wire but was unsure of the exact location of them throughout the town.

Ms. Vivier stated at the last meeting the Board decided to have Town Council review page 22 section h(C) regarding no occupancy until the Planning Board approves an as built plan. Ms. Vivier stated Town Council stated to change "granted" to "allowed".

Mr. Ceppi asked Ms. Vivier where the new article came from. Ms. Vivier responded that the article was from approved municipality bylaws within the past year. Ms. Vivier stated most of the information came from Athol.

Mr. Bellemer stated a submission requirement should be an ariel photo within 3 months of the initial application regarding tree clearing and also require photos throughout the process.

Ms. Vivier stated the applicant would be responsible for hiring a drone company or someone capable of taking an ariel photograph.

Ms. Shiver asked Ms. Vivier if a current solar company would like to add batteries or switch to batteries would it require a new special permit. Ms. Vivier stated yes, the applicant would be changing the use causing a new special permit to be required.

Mr. Ceppi opened amendment three to the public.

Through discussion Mr. Viner, the Board and Ms. Vivier discussed the use regulation table and the sections referred to in the table. Mr. Viner questioned the definition of “residential” and how a subdivision could operate from panels or batteries. Ms. Vivier stated Town Council could review the use regulation table referred to section to see if it needs to be changed.

Mr. Viner raised concerns regarding having Battery Energy Storage Systems allowable in every zoning district. Mr. Viner had some questions regarding why the text from 4.8.9.G. is being removed and added to section 4.8.10. Ms. Vivier explained 4.8.10 is a new section and addresses BESS.

Mr. Viner questioned page 15 section 3a regarding the verbiage and had a different interpretation than the Board. Gary Woodbury, the selectman, stated he read the initial amendment like Mr. Viner did and suggested changing the verbiage. The Board and Ms. Vivier decided through discussion to change the verbiage and change the nameplate capacity requirement to the electric schematic.

Both Mr. Defosse and Mr. Viner raised concerns regarding the Noise section of the amendment. Mr. Viner stated an average of an hour was not sufficient. Through discussion the Board decided to take the original text in section 4.8.9., regarding noise and apply it to 4.8.10. (see full text below)

Noise generated by Photovoltaic Generating Installations and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

- (a) Increases the broadband sound level by more than 10 db(A) above ambient, or
- (b) Produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence.

"Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP.

Mr. Defosse questioned the definitions of open field, pasture, and field, and asked if it was stated in the bylaw definitions. Ms. Vivier stated open field and pasture were defined in the bylaw, but the word “field” was not.

Mr. Defosse asked what penalties would be put into place if an applicant violates a condition. Mr. Defosse had one spelling correction for Ms. Vivier.

**MOTION: to close public hearing, motioned by Mr. Bellemer**

**SECONDED: Mr. Slack**

**VOTE: R. Ceppi- aye, C. Bellemer- aye, V. Slack- aye, S. Shiver- aye, G. Beford- aye. (vote 5-0)**

Mr. Defosse read a narrative regarding North Brookfield Solar. Please see the attached for a full copy of the narrative.

### **Adjournment**

**MOTION: to close public hearing, motioned by Mr. Bellemer**

**SECONDED: Mr. Slack**

**VOTE: R. Ceppi- aye, C. Bellemer- aye, V. Slack- aye, S. Shiver- aye, G. Beford- aye. (vote 5-0)**

**Submitted by Sarah Campbell, Planning Assistant**

**Reviewed by Monica Santerre-Gervais, ODIS Senior Clerk**

**Approved by the Planning Board on: May 7, 2024**

### **List of Documents used on April 2, 2024**

#### **Items sent to Planning Board prior to Meeting by email:**

- Agenda
- Bylaw amendment

#### **Items submitted/ brought to the Meeting:**

- none