



Planning Board – Town of Spencer

Minutes

Planning Board Meeting

March 19, 2024, at 7:00pm

REMOTE & IN-PERSON

Conference Room A, 157 Main Street Spencer, MA 01562

Memorial Town Hall

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

Planning Board Members Absent:

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

Staff Absent: Monica Santerre-Gervais, ODIS Senior Clerk

1. The Chair opened the meeting at 7:02pm

2. Special Permit – Applicant/ Owner: Stephen and Paula Gervais; Location: 19 Laurel Lane; Spencer Assessor’s Map U31-48. The applicant is requesting a Special Permit under 5.3.10 (Rear lot subdivision) of the Spencer Zoning Bylaw in order to establish a rear lot subdivision, creating an additional lot with a separate driveway. The property is located within the Rural Residential zoning district.

Ms. Vivier stated the lot is Rural Residential but the surrounding abutters on Laurel Lane are in the Lake Residential zoning district. The Deed of the property states the lots frontage is off of Donnelly Road.

Stephen Gervais, 19 Laurel Lane, stated when buying the property, the address was listed as 48 Donnelly Cross Road.

Jason Dubois, from DC Engineering, Representing Mr. Gervais, stated not all properties on Laurel Lane are Lake Residential, some are Rural residential as well. Mr. Dubois provided a Locus map to show the Board which properties on Laurel Lane were Rural Residential. Mr. Dubois then stated the front lot needs 120,000 square feet, and the rear lot needs 240,000 square feet. He stated they have more than the required 120,000 square feet for the front lot.

Mr. Dubois stated the proposed house would be located directly across from Howard Hurley Road. There is access frontage remaining for the other house, but it would be broken up into 3 separate frontages, which is 230 feet of frontage when combined. The 18 acres which is the rear lot has 200 feet of frontage and 100,000 footage and one of the reasons why they are asking for the Special Permit. There are two requirements one is having a frontage between 30 and 40 square feet and a common driveway. The applicant is requesting a waiver on both.

Ms. Shiver asked why the applicant is requesting a rear lot subdivision instead of an ANR. Ms. Vivier responded the existing house would be non-conforming because it would not have the continuous frontage needed and would help prevent any wetlands crossing.

Robert Ceppi, Planning Board Chair, asked Ms. Vivier if there were additional requirements for a rear lot for example more than 200 feet, Ms. Vivier stated no not more than 200 feet, she stated her assumption for the frontage requirement of 30 to 40 feet, was for “porkchop lots” but she was not there when it was put into place. Ms. Vivier stated it meets the lot requirement.

There were some questions between Ms. Shiver and Mr. Dubois about which lot is the rear lot. Mr. Ceppi stated it would not make sense for the applicant to give the neighbor 10 feet of frontage for “lot 1” to meet the required 30 to 40 feet of frontage.

Ms. Vivier stated the two waivers are the frontage and the common driveway. Mr. Ceppi confirmed with Ms. Vivier the Board is allowed to grant the waivers under special conditions.

Jonathan Viner, 34 Donnelly Cross Road, asked the Board if the draft Deed restriction has been provided. Mr. Dubois stated the draft has not been provided yet, but a restriction would be the common driveway. Mr. Viner stated the applicant needed to show the location of the proposed driveway to avoid any potential conflict with Howard Road. Mr. Viner stated input from the Highway Superintendent should be considered and sign off should be required.

Mr. Ceppi asked Ms. Vivier if the Board could add a condition to have the Highway Superintendent review the location of the proposed driveway. Mr. Ceppi asked Mr. Dubois if the land they are altering is grade level, and Mr. Dubois stated there is a slope that goes in towards the property. Mr. Dubois stated he did not want to give an exact location without looking at topography, septic, etc. Ms. Vivier stated the Highway Department is required to sign off on the building permit.

Mr. Viner stated the only thing he could recall regarding the required 30 to 40 feet was to prevent the rear lot being further subdivided in the future once the Deed restriction ran out. Mr. Viner stated a Deed restriction was only good for 30 years, and wanted to make sure the intent was not to subdivide later. Mr. Viner mentioned having the property rezoned to Lake Residential would give the property owner the right to have the rear lot further subdivided.

Mr. Gervais stated he has two sons and would consider dividing the lot in the future for the other son as they have 100 feet of frontage on Laurel Lane but would never intend for it to be subdivided into a subdivision. Mr. Gervais stated the town has two easements onto the property and did not think it was possible to build more homes.

Ms. Shiver stated the rear lot could not be divided again according to the bylaw as there is a Deed restriction.

Mr. Ceppi requested another condition be the driveway will not be directly adjacent to Howard Road.

MOTION: to close the public hearing motioned by Ms. Shiver

SECOND: Mr. Slack

DISCUSSION: None

ROLL CALL VOTE: S. Shiver- aye, C. Bellemer- aye, V. Slack- aye, R. Ceppi – aye. (vote 4-0)

Waivers discussed:

- a. 5.3.10. A – Frontage.

The Spencer Zoning Bylaw states that the frontage of the rear lot be between 30 – 40 feet.

- b. 5.3.10. E. – Access.

The Spencer Zoning Bylaw requires that a rear lot subdivision have a common driveway.

MOTION: to approve waiver 5.3.10. A – Frontage in the Spencer Zoning Bylaw motioned by Ms. Shiver

SECOND: Mr. Bellemer

DISCUSSION: there was some discussion weather 19 Laurel Lane would have a new Deed.

ROLL CALL VOTE: S. Shiver- aye, C. Bellemer- aye, V. Slack- aye, R. Ceppi – aye. (vote 4-0)

MOTION: to approve waiver 5.3.10. E. – Access in the Spencer Zoning Bylaw motioned by Ms. Shiver

SECOND: Mr. Bellemer

DISCUSSION:

ROLL CALL VOTE: S. Shiver- aye, C. Bellemer- aye, V. Slack- aye, R. Ceppi – aye. (vote 4-0)

Conditions discussed:

1. All work authorized under this Special Permit shall be in accordance with the Application, supportive materials and testimony submitted by the Applicant and its representative to the Planning Board.
2. Prior to the commencement of the use permitted by this Special Permit, all necessary and required permits must be obtained from any and all other municipal, state and or federal departments, boards, commission or agencies, and all work shall be done in accordance with said permits.
3. All new lots within the rear lot subdivision shall be restricted through a deed restriction stating that no further subdivision of the lot is permitted, in accordance with the Spencer Zoning Bylaw, Section 5.3.10. I.

4. The location of the parent parcel's driveway shall be approved by the Town Planner prior to the issuance of a Driveway Permit and Building Permit.
5. The driveway to the parent parcel shall not be directly adjacent to the intersection of Donnelly Cross Road and Howard Hurley Road.

MOTION: to approve the Special Permit for 19 Laurel Lane Spencer Assessor's Map U31-48 under 5.3.10 (Rear lot subdivision) of the Spencer Zoning Bylaw for a rear lot subdivision with the conditions discussed.

SECOND: Mr. Bellemer

DISCUSSION:

ROLL CALL VOTE: S. Shiver- aye, C. Bellemer- aye, V. Slack- aye, R. Ceppi – aye. (vote 4-0)

3. Discussion: CVS As Built Review

Ms. Vivier stated everyone has a copy of the photos that were submitted as part of the response to Stormwater, the builders have yet to give a formal response, and need to update the plan showing underground drainage. Ms. Vivier stated a site walk took place last week with the peer reviewer and went over some concerns from the ZBA. Ms. Vivier stated it is best to wait to have a full response from the builders before sending it off to the peer reviewer. Ms. Vivier stated the builders are not willing to consider turning Main Street into an exit as they are looking to close out the project and have done everything according to plan. Ms. Vivier stated the applicant does not have their occupancy permit or their final sign off and still has a couple things to finish up before receiving them.

Mr. Ceppi stated originally the Planning Board was the Permit Granting Authority, but after some review the Zoning Board of Appeals became the PGA and the Planning Board was to only review Stormwater Authority. Mr. Ceppi stated in the photos provided it stated an infiltration system was installed. Mr. Ceppi is under the impression that the 12-inch pipe is supposed to flow into the infiltration system to catch it and have the water stay on site rather than having it tied into the town water system. Mr. Ceppi stated the plan does not show anything being tied to the town water system.

Mr. Ceppi stated the note from the peer reviewer stated the runoff water from the roof is attached to a downspout, going into the infiltration system, and should be staying on site.

Mr. Ceppi questioned if the system was a detention system or an infiltration system and stated the plans need to be updated. Mr. Ceppi asked Ms. Vivier to show the town's water system on the GIS Map but was unsure when the maps would be updated.

Ms. Vivier stated the peer reviewer, and the applicant should both be present to answer questions before signing off. Ms. Vivier stated more information will be provided regarding the town Stormwater, the location of where CVS ties into the town and the pipe size used.

4. Discussion: Solar Bylaws & Energy Storage Systems

Ms. Vivier stated everyone received via email the most updated bylaw amendment. There were a couple of changes from the selectmen but not anything concerning. The legal ad deadline for the April 2, 2024, date has passed so the new public hearing will be April 9, 2024, at 6:00pm in McCourt Social Hall. Ms. Vivier stated the amendment is broken up into three warrants making it easier for voters to understand. The first warrant will be definitions, the second warrant is for Agrivoltaics' Solar Arrays and the final warrant is for Battery Energy Storage Systems. Ms. Vivier stated Town Council did not see any reason for denial.

5. Planning Board Revolving Account Approval

This agenda item was skipped over.

6. General Board Discussion/ Board Liaison Reports

Ms. Shiver mentioned the CPTC Conference at Holy Cross and gave some key points she learned regarding deforestation and the process of how the Attorney General's office reviews bylaw amendments.

7. Town Planner Report

Ms. Vivier stated plans for North Brookfield Solar are available and the chair will need to sign off on the plan. Mr. Ceppi stated the Board should not be the one to review the plans and a third-party reviewer should be doing it instead. Ms. Vivier mentioned one of the conditions of the Special Permit was the Planning Board is the one to review it. Ms. Vivier stated she has requested the applicants to place some "No Trespassing" signs as there seems to be a lot of abutters walking on the property.

Ms. Vivier stated the Highway Department has a contract with Fuss & O'Neil to review our Stormwater bylaw, and our Stormwater regulations to be compliant with MS 4 regulations and Stormwater Handbook. The engineer has provided some feedback and Ms. Vivier is currently reviewing the notes provided and will give an updated Stormwater regulation to the Board to discuss further. Ms. Vivier stated there were some notes regarding changes being made to the Zoning Bylaw as well as our General Bylaw but since it requires a Town Meeting it would not be until the fall.

Ms. Vivier stated there is a new member of the Planning Board, Gina Beford, who was the Zoning Board of Appeals chair. She will be attending the next meeting. Ms. Vivier asked if the Board needs anything to contact Monica or Sarah as Ms. Vivier will not be available for the next week.

8. Citizen Input

Matt Defosse, 7 Paul's Drive, mentioned CVS regarding pulling out onto pleasant street and stated the site of line is still blocked and the hill could be graded to improve it. Mr. Defosse mentioned the stop sign by the exit has been knocked over a couple of times, and the island

where the sign is located could be cut back to allow more room for cars to pass. Ms. Vivier stated to mention his concerns to the Zoning Board of Appeals as it is their purview.

Mr. Defosse provided a narrative regarding Solar Arrays and the North Brookfield Road Solar array. Mr. Defosse asked questions regarding the Special Permit process being vested. Ms. Vivier stated the Supreme Court decided the Special Permit was vested and needed to provide a new site plan, and Stormwater Authority.

David Nussey, 227 Charlton Road, asked the Board the status of the subdivision on Charlton Road. Ms. Vivier stated the application was denied, and the applicant did not appeal the decision. Ms. Vivier stated the applicant may be looking for alternatives.

Ms. Vivier read the email Carol McPherson, 125 Pleasant Street, wrote to the Board. Ms. McPherson stated the Solar Bylaw has some room for judgement, and the ability to waive provisions regarding setbacks and slope should be eliminated from the bylaw.

Ms. Shiver stated the language that states the Planning Board has the right to waive those provisions can be taken out. Ms. Vivier stated the language is also in the general bylaw and would need to be addressed at an annual town meeting and could look to make some improvements.

Mr. Ceppi stated if the Board denies a waiver can the applicant appeal it to the Zoning Board of Appeals. Ms. Vivier stated yes, that is correct, for example the two application denials talked about tonight could have gone to the ZBA for an appeal.

Ms. Shiver stated the solar project on Main Street behind the church had no controversy, and the site plan was done thoroughly and received approval for the Special Permit and Site Plan review at the same time. Ms. Shiver stated the project regarding North Brookfield Solar was controversial and went to the courts. Ms. Shiver stated the Special Permit was approved and was decided to be considered vested even after all this time, which makes it hard for the public to understand. Ms. Shiver stated once the Special Permit was approved the Board could not deny the Site Plan if all requirements were met. Ms. Shiver stated if the Board had denied the Site Plan, the court system would have been involved costing tax dollars and the Town would have lost.

Ms. Vivier stated when Ms. Shiver stated the Attorney Generals office has no background information regarding Solar when approving the bylaw, Ms. Vivier stated she included all memos which gave the AGs' office our Solar Array background. Ms. Vivier stated Town Planners should do the same to see the impact solar is having on small municipalities.

Mr. Defosse, 7 Paul's Drive, stated Ms. Shivers comments regarding going to court and loosing is her opinion and the court system is there to figure those situations out not the Planning Board. Mr. Defosse stated decisions should not be made based on the cost of things, it should be based on what is going to help the town in the long term. Mr. Defosse stated the Boards and representatives of the Town are here to protect and represent the town's people.

Approved minutes 2/20/2024

Mr. Slack stated one correction regarding the minutes.

Mr. Bellemer stated he would like to see a paragraph on page 3 to be reworded or asked for the numbers to be a bullet list instead.

MOTION: to approve the minutes dated 2/20/2024 with the two corrections motioned by Ms. Shiver

SECOND: Mr. Slack

DISCUSSION: None

ROLL CALL VOTE: S. Shiver- aye, C. Bellemer- aye, V. Slack- aye, R. Ceppi – aye. (vote 4-0)

10. Adjournment

MOTION: Ms. Shiver

SECONDED: Mr. Bellemer

ROLL CALL VOTE: S. Shiver- aye, C. Bellemer- aye, V. Slack- aye, R. Ceppi – aye. (vote 4-0)

Submitted by Sarah Campbell, ODIS Planning Assistant

Reviewed by Monica Santerre-Gervais, ODIS Senior Clerk

Approved by the Planning Board on: May 7, 2024

List of Documents used on (March 19, 2024)

Items sent to Planning Board prior to Meeting by email:

- Agenda
- Application for 19 Laurel Lane including Plan
- Carols narrative

Items submitted/ brought to the Meeting:

- Matt Defosse's narrative