



## Planning Board – Town of Spencer

### *Minutes*

#### Planning Board Meeting

**Tuesday, August 21, 2018 at 7:00 PM**

McCourt Social Hall, 157 Main Street Spencer, MA 01562  
Memorial Town Hall

Planning Board Members Present: Chair Robert Ceppi, Jonathan Viner, Shirley Shiver, and Jeff Butensky

Planning Board Members Absent: Maria Reed

Staff Present: Paul Dell'Aquila, Town Planner and Monica Santerre-Gervais, ODIS Senior Clerk

Staff Absent: None

#### **1. Mr. Ceppi opened the meeting at 7:05pm**

#### **2. ANR: Boundary line adjustment on Westerly Side of Grant Street**

The applicant was not present. Mr. Dell'Aquila discussed the plan and said it meets the requirements of the Planning Board standards and both lots would be compliant after the boundary line adjustment.

**MOTION: Ms. Shiver motioned to endorse the plan**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 4-0**

**3. Continuation Major Site Plan Review/ Special Permit- Applicant: Ernest Mello, ZPT Energy Solutions II, LLC; Owner: Scott and Joyce Cycz, Location: 17 GH Wilson Road; Spencer Assessor's Map R17 - Lot 16 & Lot 9. The applicant is requesting a Major Site Plan Review under Section 7.4 and Special Permit under Section 7.2 of the Spencer Zoning Bylaw zoning to install a solar farm. The property is located within the Rural Residential zoning district.**

Kevin McGarry, Fuss and O'Neil, and Ernest Mello, ZPT Energy, was present to discuss the updates in there process in regards to GH Wilson. Mr. Mello explained that there is nothing new with the project and discussed the meeting was continued last meeting in order to speak to National Grid and Town Council. In addition, Mr. Mello went over the previous projects that came up during the last meeting and what had been completed. Mr. Ceppi asked about the rectifier and to briefly explain where the powers from the solar panels go. Mr. Mello explained that electrons are gathered through the solar panel, into invertors, and then converted from DC to AC. Mr. Ceppi asked about the inverters noise level. Mr. Mello said there is noise during the daytime during sun exposure, there is potential for battery storage, and the noise at night would be a controlled release. Mr. Ceppi asked if Mr. Mello was the one overseeing all the projects in Spencer. Mr. Mello said he interacts with the homeowners, real estate agents, and permitting process. Mr. Ceppi asked if he knows when the projects are up and running and Mr. Mello said he should know but just because an inverter is running may not mean it is generating electricity

and operational. Mr. Ceppi asked if the projects are generating electricity, even though, they haven't received Certificates of Occupancy and Mr. Mello said he doesn't know for sure. Mr. Ceppi stated that he should know when a project is up and running and Mr. Mello said he is not going to answer the question because he's a Project Manager and does not have that answer.

Mr. Dell'Aquila handed out draft conditions and reviewed some revised conditions.

#30 –Standard condition “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,” through Mr. Dell'Aquila's research the interconnection agreement allows to sell to grid, 30 days of execution.

#38- “The project must receive a Certificate of Occupancy before commercial energy generation commences. The applicant agrees to pay the Town of Spencer \$300 per day if commercial energy generation commences before the issuing of a Certificate of Occupancy.”

#39- Cleaned up current condition to read “A Certificate of Project Completion for the project, or a phase of the 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) final “as-built” plans, certified and stamped by the professional engineer of record, shall be submitted to the Planning Board and are subject to peer review. The submission package should include original mylars, three (3) full-size “as built” plan sets, one (1) 11” x 17” set, and a 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.”

Mr. Ceppi asked if the \$300.00 a day was a standard fine and Mr. Dell'Aquila said it is standard with what the Town of Spencer does, however, since this is a condition of approval then the Planning Board may change the amount.

Mr. Ceppi opened the meeting to the public:

Matt Defosse, 7 Paul's Drive, asked about additional concrete pads, for future battery storage, was the pad calculated into the stormwater plan and if the batteries have hazardous waste, and the use of the site being 24 hours operational. Mr. Mello stated there are currently no batteries being used for this site only the cement pads and the cement pads were added into the calculations. Mr. Butensky asked if the applicant comes back to discuss the batteries if they decide to use them. Mr. Dell'Aquila thought it may be an electrical or building permit. Mr. Ceppi stated that the cement pads added to the plans implicate batteries in the future. Mr. Butensky wants the applicant to come back if they decide to use the batteries onsite. Mr. Ceppi wants a condition about the batteries. Mr. Defosse suggested setting limits and perimeters now because if they add another concrete pad it will affect the stormwater calculations. Mr. Ceppi wanted the batteries entered into the decommissioning bond and Mr. Viner agreed. Ms. Shiver

asked how far are they were from possibly using the batteries onsite and Mr. Mello stated the technology is rapidly developing and the batteries are becoming more popular. Mr. Defosse stated he was concerned with the 24 hour usage.

Mr. Dell'Aquila read aloud battery condition "If any batteries or other energy storage devices are to be installed on the concrete pads shown in the approved plans, they must first receive building and/or electrical permits from ODIS. If any additional concrete pads are to be constructed in the future, the applicant must first receive permission from the Planning Board."

There was much discussion in regards to the concrete pads and future battery use. Mr. Dell'Aquila discussed the process that during construction the sites are inspected and the asbuilts would reflect if changes were made.

**MOTION: Ms. Shiver motioned to close the public hearing for Major Site Plan Review/ Special Permit 17 GH Wilson Road to install a solar farm**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

Mr. Viner asked the status of Sunset/Holmes solar farm and Paxton & Woodchuck Solar Farm. Mr. Dell'Aquila answered they put on lock boxes, performed the necessary training, and the asbuilts were submitted. Mr. Viner asked if the peer reviews were completed for the asbuilts and Mr. Dell'Aquila said not yet. Mr. Viner was concerned that nothing was done yet to address the abutters affected and Mr. Dell'Aquila stated that he does not have comment from the Conservation Commission and they are the ones handling the issues for Holmes Solar farm.

**MOTION: Ms. Shiver motioned to approve Major Site Plan Review/ Special Permit 17 GH Wilson Road to install a solar farm with the added and amended conditions as reviewed**

**SECOND: Mr. Butensky**

**DISCUSSION: Mr. Viner stated that he suggests continuing the meeting and holding off on the approval until the other site have been remedied. Ms. Shiver and Mr. Ceppi agree that the other sites need to be remedied but those were approved site plans and this application is different. Mr. Mello stated that those site plans were approved by the Planning Board and ZPT Energy does not own Holmes Street Solar but they are onsite trying to rectify the situation. Joyce Cycz, property owner for 17 GH Wilson, stated she has witnessed ZPT Energy onsite at Holmes Street trying to help.**

**VOTE: 3-1 (Mr. Viner opposed, motion was denied)**

Mr. Butensky asked for clarification on the voting and Mr. Dell'Aquila said they need 4 out of 5 and since Ms. Reed is absent there needed to be all four votes to approve. The applicant Mr. Mello clarified that the permit had been denied because of Mr. Viner stated, which, are recorded in the minutes and Ms. Shiver said yes. Mr. Dell'Aquila stated it is subject to appeal and Mr. Mello said yes and it will cost the town a lot of money.

**4. Continuation Major Site Plan Review/ Special Permit- Applicant: Ernest Mello, ZPT Energy Solutions II, LLC; Owner: Main Street Realty Trust, Location: behind 369 Main Street; Spencer Assessor's Map R35-1-3. The applicant is requesting a Major Site Plan Review under Section 7.4 and Special Permit under Section 7.2 of the Spencer Zoning Bylaw zoning to install a solar farm. The property is located within the Commercial zoning district.**

Kevin McGarry, Fuss and O'Neil, and Ernest Mello, ZPT Energy, was present to discuss the updates in there process in regards to discuss Main Street solar.

Mr. Dell'Aquila stated that the Planning Board approved the previous solar farms and they need to be careful about the decisions and how they vote, additionally, Mr. Dell'Aquila mentioned to the applicant that now would be the time if they wanted to continue. Mr. Viner stated that there is a proven record of the applicant not addressed issues with ongoing projects and it is not proper judgment to proceed with the special permit if the previous ones haven't been previously addressed. Mr. Mello said it is unfair that the landowners are being held hostage for previous projects and that's illegal. Mr. Dell'Aquila said the ongoing issues with the Holmes Street solar are Conservation Commission jurisdiction and they are being addressed. Mr. Mello said his company, Zero Point Energy, has nothing to do with building the site and is being held hostage along with the landowner and it is no basis to deny the special permit. Additionally, Mr. Mello will not request a continuance because the site has been ready for two months, the Planning is holding these projects hostage because of previous project, and if the Planning Board denies the permit he will hold them accountable and action will take place that will cost the Town money.

Matt Defosse, 7 Paul's Drive, said at a previous meeting the Town Administrator rattled off zones where Solar Farms were not allowed and Commercial was one of them and asked why the solar farm is going up in the Commercial zoning district. Mr. Dell'Aquila said an ANR was done previous to the solar bylaw, and it locked in the zoning use of the time. Mr. McGarry said they are still meeting all the performance requirements of the solar bylaw.

Mr. Dell'Aquila handed out the draft conditions and suggested using the battery language from the GH Wilson condition.

**MOTION: Ms. Shiver motioned to close the public hearing for the Major Site Plan Review/ Special Permit Main Street solar farm**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 4-0**

**MOTION: Ms. Shiver motioned approve the Major Site Plan Review/ Special Permit Main Street solar farm with the added and amended conditions as reviewed**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 3-1 (Mr. Viner opposed, motion was denied)**

**The applicant, Mr. Mello, stated to Mr. Viner he was hero. The owner Joyce Cycz stated that as a tax payer this is costing them more money and Mr. Mello said at least we know who is responsible.**

**5. Minor Site Plan Review- Applicant: Jeremy Ahern (Ahern Equipment, Inc), Location: 460 Main Street; Spencer Assessor's Map R34-08. The applicant is requesting a minor site plan review under section 7.4 of the Spencer Zoning Bylaw for pavement improvements. The property is located in the Commercial Zoning district.**

Mr. Dell'Aquila explained that the applicant requested to continue because he is currently going through Conservation Review process. Mr. Ceppi asked if the changes affected the Planning Board and Mr. Dell'Aquila said yes a water easement.

**MOTION: Ms. Shiver motioned to continue the public hearing to September 18, 2018**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

**6. Major Site Plan Review/ Special Permit - Applicant: James Schwartz, Independence Solar, LLC; Owner: Adgalanis Professional Services LLC, Location: 20 McCormick Road; Spencer Assessor's Map R44-10. The applicant is requesting a Major Site Plan Review under Section 7.4 and Special Permit under Section 7.2 of the Spencer Zoning Bylaw Zoning to install a Solar Farm. The property is located within the Rural Residential zoning district.**

**7. Major Site Plan Review/ Special Permit- Applicant: James Schwartz, Independence Solar, LLC; Owner: Adgalanis Professional Services LLC, Location: 32 McCormick Road; Spencer Assessor's Map R47-18. The applicant is requesting a Major Site Plan Review under Section 7.4 and Special Permit under Section 7.2 of the Spencer Zoning Bylaw Zoning to install a Solar Farm. The property is located within the Rural Residential zoning district.**

**\*\*\*20 and 32 McCormick Solar Farms were presented together\*\*\***

George Smith Landcraft Corp, Rebecca Baptista, Silva Engineering, and James Schwartz, Independence solar, were present for the meeting. Mr. Smith started the meeting by over viewing the meetings they had been to with the Conservation Commission and the surrounding abutters. The site is Adgalanis Farm, has 193 acres with the majority of the back land possibly going to the Common Ground Land Trust (if not possibly kept in chapter 61 B) , the site will have natural screening and will not be seen from McCormick Road, and the project complies with the new SMART solar program. Mr. Smith discussed the revenue from taxes per year with the solar farm. Also, the project will use new string inverters, they will need a waiver for panels being over 15% grade, they will adhere to the 10% slope for the fire trucks, and they will retain the old farm land and not remove the topsoil. Mr. Smith told the Planning Board they will be receiving revised plans and will show new driveway access locations.

Mr. Ceppi asked if the applicant meets the requirements on smaller parcel and Mr. Smith said yes. Mr. Schwartz said there will be less than 10 acres on the small parcel. Mr. Dell'Aquila asked if the applicant is requesting waivers for the fiscal and community impact in addition to the 15% grade and Mr. Smith said they will need to look into that but not right now. Mr. Butensky wanted clarity on it being two separate lots and receiving two separate actions and Mr. Dell'Aquila said yes.

Ms. Baptista presented to the Planning Board the items that were being changed for 20 and 32 McCormick Road such as access roads, test pits, and a row of panels that are being eliminated from the plan after meeting with the Conservation Commission. Mr. Ceppi asked how high the grade gets if they are seeking waivers and Ms. Baptista said 20%-22%. Ms. Baptista said the majority of the changes are on 32 McCormick not 20 McCormick. Mr. Dell'Aquila asked how the existing driveway was going to be treated if they are making a new driveway access and Mr. Smith said they can put in a gate. Mr. Viner asked about the proposed screening and Ms. Baptista said 32 McCormick has more screening and won't see the access way, they will be 600 feet from the abutter, and they will leave the existing woodlands. Mr. Viner asked what was north of 32 McCormick and Ms. Baptista replied vegetation. Mr. Viner asked about 20 McCormick and Mr. Smith said there is 60 feet of screening; the abutter is 1,000 feet south from the array and they won't see the array from the road.

Mr. Ceppi opened the meeting to the public:

Robert Laprade, 35 McCormick Road, asked about the drainage on the road. Ms. Baptista said they are waiting on the drainage review to see what will need to be fixed if needed. Mr. Laprade said he is an abutter across the street and Mr. Ceppi said he should not see more water and hopefully the applicant can make it better. Ms. Baptista said the panels have a 1 inch gap and the water will run off the 3'x6' panels. Mr. Laprade asked about the barn and the green space on the site plan and asked where it drains and Ms. Baptista said in a French drain culvert.

Tanya Mcauley, 28 McCormick Road, asked about the buffer and if they were planting small trees. Mr. Smith said they would plant white pines that start at 12 feet and if needed could be put on a berm where the trees would be allowed to mature and grow. Ms. Mcauley asked where the staging of truck would be and Mr. Smith showed her on the site plan. Ms. Mcauley asked about phase II and Mr. Schwartz said there is no planning for phase II, nor, did the Planning Board have any knowledge of a phase II for the project. Ms. Mcauley asked that her land be flagged so she knew where her lot lines are.

Mr. Laprade asked if the applicant knew what way the power would run and Mr. Schwartz said they did not have that answer yet.

Matt Defosse, 7 Paul's Drive, asked about the left hand corner and the land trust and the pilot program. Mr. Smith said the cost for the land is low to sell; they put a permanent easement, or keep in open space. Mr. Dell'Aquila said the pilot program is on the equipment not the land. Mr. Defosse mentioned the grade was 5% for fire and Mr. Dell'Aquila confirmed it is 10%. Mr. Defosse asked about stormwater and Mr. Dell'Aquila said that is through the Conservation Commission.

Virginia Patton, 33 McCormick Road, asked about the access road and the distance from her driveway and it was determined one access road is a couple hundred feet away and the other is 2,000 feet away. Ms. Patton is concerned with issue she is currently experiencing with water washing out the front of her property. Mr. Ceppi mentioned to contact the highway department and Mr. Dell'Aquila said he would email the highway department. Mr. Viner asked about clarification about the driveway grade and it is 5% driveway and 10% fire access. Ms. Patton asked if a couple of houses are going to be built as well and Mr. Schwartz said no.

**MOTION: Ms. Shiver motioned to continue the public hearing until to September 18, 2018**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

**\*\*\*Side conversation while Planning Board members signed decisions for GH Wilson Solar Farm and Main Street Solar.**

**Mr. Butensky asked if a decision needed to be unanimous and Mr. Dell'Aquila and Mr. Viner stated majority, Mr. Butensky said all four, Mr. Dell'Aquila said three people to have a quorum and for Special Permit it needs four affirmative votes. Ms. Santerre-Gervais asked about Site Plan, and Mr. Dell'Aquila said they would need majority, Ms. Santerre-Gervais asked if the Site Plan Review, Mr. Dell'Aquila said the correct action was probably not followed and technically the motions should have been separated. Mr. Viner said if there is no use than the Planning Board cannot vote on Site Plan Review.**

## **8. Adoption of Minutes**

- **July 17, 2018**

**MOTION: Mr. Butensky motioned to approve the minutes from July 17, 2018**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

## **9. Town Planner Report/General Board Discussion**

- **Green Communities- Potential Zoning changes, Paul will send a memo with potential Zoning Changes and try to schedule a meeting with the Planning Board members**
- **Board Elections- Ms. Shiver suggested to table the election because Ms. Reed was not present**
- **CMRPC Delegate- Mr. Viner suggested to table because Ms. Reed was not present**

**Matt Defosse, 7 Paul's Drive, stated that he commended Mr. Viner for his vote for GH Wilson solar and Main Street Solar and he was concerned about the applicant's attitude towards the board. Mr. Butensky noted that any Planning Board member has the right to vote yes or no for a decision. Mr. Defosse asked about the solar committee being formed and Mr. Dell'Aquila said he would need to speak to the Board of Selectman.**

**MOTION: Mr. Ceppi motioned to adjourn the meeting at 9:02pm**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 4-0**

**Submitted by: Monica Santerre-Gervais ODIS Clerk**

**Approved by the Planning Board on: 10/16/2018**

**List of Documents used on August 21, 2018**

**Items sent to Planning Board prior to Meeting by email/ print outs:**

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board Dated 8/13/2018
- Minor Site Plan Review for Ahern Continuation Form
- Minutes for July 17, 2018
- SP/ Major Site Plan Application, narrative, and plans 20 McCormick Road
- SP/ Major Site Plan Application, narrative, and plans 32 McCormick Road
- CMRPC Delegate/ Costs Brochure

**Items submitted at the Meeting:**

- Draft Decision for GH Wilson Solar
- Draft Decision for Main Street Solar
- Plans from 20 & 32 McCormick Solar