



## Planning Board – Town of Spencer

### *Minutes*

#### Planning Board Meeting

**Tuesday, April 17, 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 Maria Reed and Jeff Butensky

Planning Board Members Absent: None

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

Staff Absent: None

#### **1. Mr. Ceppi opened the meeting at 7:02 pm**

#### **2. ANR's**

- **Westerly Side of E. Charlton Road, Hinarnie, LLC, Create new lots**

Leonard Jalbert, Jalbert Engineering, was present for the meeting to discuss plan 17244 which shows the two building lots (5 & 6) fronting on East Charlton Road being created from the southerly portion of R14-53-1. Mr. Jalbert discussed the lot size and frontage size and Mr. Dell'Aquila said that the lots meet all the zoning requirements. There was discussion in regards to previous ANR's and the second plan that was submitted.

**MOTION: Ms. Shiver motioned to endorse the ANR plan 17244 as submitted**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 5-0**

- **Central Southerly Side of I Capen Road , Hinarnie, LLC, Create new lots**

Leonard Jalbert, Jalbert Engineering, was present for the meeting to discuss plan 17245 shows the two building lots (3 & 4) fronting on I Capen Road being created from the northerly portion of R14-53-1.. Mr. Jalbert discussed the lot size and frontage size and Mr. Dell'Aquila said that the lots meet all the zoning requirements.

**MOTION: Ms. Shiver motioned to endorse the plan 17245 as submitted**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 5-0**

- **121 Charlton Road, David Wentworth, Boundary Line Adjustment**

Amy Perro, Century 21 Realty, was present to collect the ANR when it was endorsed. Mr. Dell'Aquila explained that the intent is to adjust the boundary between the two parcels. An ANR for these same properties was signed in February, but according to the applicant, after winter thawing, surveyors had to make an adjustment to the property lines to ensure that the driveway serving 119 Charlton Road is fully inclusive within the lot.

Mr. Ceppi mentioned that the notes on the plan are unclear. There was discussion in regards to the line delineation and the plan being unclear. Ms. Perro said four sets of attorneys have reviewed the plan and are ok with it. Ms. Shiver noted the ANR is unclear.

**MOTION: Ms. Shiver motioned to endorse the plan for 121 Charlton Road**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-1 Opposed (Robert Ceppi)**

- **Paxton Road, Paul & Susan Bouvier, Create new lots**

Mr. Dell'Aquila explained that Jason Dubois was unable to attend the meeting tonight because he was attending another hearing in another town. The intent is to create a new approximately 2.75-acre lot (Lot #100) out of a 31.54-acre property located at 139 Paxton Road. The property is located in the Rural Residential zone. The proposed lot would comply with current requirements for frontage and area. The ANR plan as submitted complies with the town's ANR submission requirements.

**MOTION: Mr. Viner motioned to endorse the plan for Paxton road as submitted**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 5-0**

**3. Public Hearing Continuation – Continued Special Permit/ Major Site Plan Review/ Stormwater Permit – Applicant: ForeFront Power, LLC; Owner: Laura Hopkins, Location: 36 Cranberry Meadow Road; Spencer Assessor's Map R12/4. The applicant is requesting a Special Permit under Section 4.8.9 of the Spencer Zoning Bylaw to install a 2.2 megawatt solar farm and Site Plan Review under Section 7.4 of the Spencer Zoning Bylaw. The property is located within the Rural Residential zoning district.**

Opened continued public hearing at 7:30 pm.

Mr. Dell'Aquila explained that we are still awaiting approval of the stormwater permit by the Conservation Commission.

**MOTION: Ms. Shiver motioned to continue to the meeting to May 15, 2018**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 5-0**

**4. 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.**

Mr. Ceppi opened the public hearing at 7:31pm.

Kevin McGarry, Fuss & O'Neil, and Pete Forte, ZPT Energy, were present for the meeting. Mr. McGarry explained that they have already presented to the Conservation Commission and there will be changes to the plan from their feedback. Recently they received their comments from the third party reviewer and they will be addressing them soon. Mr. McGarry handed out smaller 11x17 plans to the Planning Board members. The parcel is 52.5 acres, they will be clearing 20.9 acres, and will be grubbing 14.9 acres. Mr. McGarry said they are hoping to disturb less depending on stormwater. There will be four detention basins with drainage swales, 2 MW array, and the array is approximately 10.6 acres. Access to the site will be off of GH Wilson Road and will require a wetland crossing which will be permitted through the Conservation Commission. There will be groundwater and it will drain through large vegetation area. The solar panels are not one solid structure, will have intermittent gaps to help with drainage. There will be erosion and sediment control which will consist of silt fence, compost filter sock, catch basin inserts, hay bales, temporary sediment basins, and stone check dams throughout construction. Mr. McGarry explained that at the Conservation Commissions request they will be installing the crossing first; once the crossing is in the site will be cleared with trees and large branches to be chipped and reused onsite, secondly, the drainage structures will be constructed, and then the array construction will be done in 3 phases. Mr. Dell' Aquila explained to the Chairman that they are treating this site as a forested site not a cleared site. Mr. Viner feels that is a portion of the site was cleared then it can't be cleared more than 50%.

Mr. Dell' Aquila mentioned there was a tech review between department heads and the fire chief requested to eliminate sharp corners, and a question about 15% grade slopes. Mr. McGarry said they will be preparing a map to show the grade of the site. The array will not be on slopes greater than 15%.

Mr. Ceppi opened the meeting to the public.

Claire Groccia, 7 GH Wilson Road, said they received a letter in regards to lot 9 & 16. Mr. Dell' Aquila said they are assessor lot numbers not street numbers. Ms. Groccia handed in a description of the property when it was being sold from Zillow stating that the land was beautiful and not suitable for a solar farm.

Frank Dipadla, 5 GH Wilson Road, stated he did not get a notice. Concerned on what the solar farm is going to look like and concerned that the contractor will be using herbicides; there is a gas line that had been ruptured in the past. Also, Mr. Dipadla was concerned about the wildlife and

decommissioning of the project when it's no longer in use.

Mr. McGarry said they mow the site and do not use herbicides. Mr. Dell'Aquila stated that the Conservation Commission would not allow the use of herbicides. Mr. Ceppi said the applicant has to submit a decommissioning bond to cover the cost of decommissioning the solar array if the applicant doesn't.

David Sanchez, 11 GH Wilson Road, concerned with the road and power lines and use of energy generated. Mr. McGarry answered that all the electrons go back on the grid so they need to have three phase and the poles will need to be updated on GH Wilson Road and will be above ground. Mr. Sanchez asked if the poles would be taller and the disturbance to more trees by installing the new poles. Mr. McGarry answered that the poles will be 45 feet and go towards E. Charlton Road.

Janice Hill, 21 GH Wilson Road, said the power pole at the end of her driveway and is concerned about all the power being at that pole. Mr. McGarry said they will just change the pole to three phase.

Ms. Groccia stated the GH Wilson Road is in poor condition and logging trucks have beat up the road and has concern about the roads getting worse. Mr. Dell'Aquila said that it's a standard condition that the applicant be responsible for any damages to the road and cannot get their final sign offs until everything is to satisfaction with Steven Tyler at the Highway Department. Mr. Ceppi asked if there will be something to verify current conditions to compare the roadway and Mr. Dell'Aquila said they will begin documenting that.

Mr. Dipadla asked what type of vegetation they are proposing to oversee the area and Mr. McGarry answered that it is a grass mix. Mr. Dipadla also raised concern in regards to site visibility and property values and Ms. Groccia responded that they would be clearing on GH Wilson. Mr. Ceppi said the applicant would need to provide screening and Ms. Shiver said there is a visual impact requirement. Mr. Dipadla said they have a clear line of sight and they were able to see the logging trucks in their back yard. Ms. Groccia added that the property was logged 5 years ago and has been logged twice in the last 5 years and Mr. Ceppi said that will be noted. Mr. Dipadla said he missed the first Conservation Meeting but said he had a neighbor who filed an application and it was denied because there was a sighting of a rare fern. Mr. Sanchez bought land from them and the land has changed and disagrees with the amount of solar arrays that the Town of Spencer has. Mr. McGarry clarified that they are not proposing to do a major regrading. Ms. Shiver mentioned the bylaw Article 4 section 3 (4.8.9 Solar Bylaw) there is a visual impact mitigation that the applicant needs to follow. Ms. Hill asked if more trees will be planted and Mr. Ceppi said that question was answered by reviewing the Solar Bylaw. Mr. Dell'Aquila mentioned to the applicant that the abutters have raised concern and therefore should address their concerns for screening.

Jake Cassidy, 13-15 GH Wilson, asked if the solar array had electrical underground wiring and Mr. Forte answered said yes. Mr. Forte explained that National Grid will have their poles and connection would run up the pole at 17 GH Wilson Road. Mr. Dell'Aquila asked how many poles will be going up and Mr. Forte answered 4 off the street and then a 100 foot span. Ms. Shiver asked how far from the wetland crossing from the street and Mr. McGarry said he did not know that number but will get it.

Robert Cormier, 10 GH Wilson Road, said he was not notified.

Matt Defosse, 7 Paul's Drive, asked if this was in the rural residential zoning district and Mr. Ceppi said yes. Mr. Defosse asked where the stream flows into and McGarry said the Stile Reservoir. Mr. Defosse asked what type of racking style they were using and Mr. McGarry said screw in. Also, Mr. Defosse asked the height of the panels and Mr. McGarry said he will have that for the next meeting.

Mr. Viner asked how the existing conditions determined and Mr. McGarry said there was a survey included in their application packet. Mr. Viner mentioned that it was delineated on November 2017.

**MOTION: Ms. Shiver motioned to continue the hearing until the next meeting on May 15, 2018**

**SECOND: Jeff Butensky**

**DISCUSSION: None**

**VOTE: 5-0**

**5. Major Site Plan Review/ Special Permit- Applicant: Ernest Mellow, 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 & O'Neil, and Pete Forte, ZPT Energy, were present for the meeting. Mr. McGarry stated that an ANR was approved in 2016 and locked in the old zoning regulations before the Solar Bylaw. Mr. McGarry said the property is surrounded by commercial properties, the parcel is 25.5 acres, with 8.3 acres of clearing and 6.5 acres of grubbing, and the array inside the fence is 4.4 acres. There will be 550 feet road from Main Street to the gate, there will be 4 detention basins, drainage swales are constructed to divert, solar panels are broken up to allow sunlight to establish vegetation, and stormwater flow, large vegetation areas, erosion and sediment controls will be implemented but does not have a crossing, and the construction sequence is similar to the GH Wilson Solar.

Mr. Dell'Aquila mentioned the peer review and that it was emailed to the Planning Board members and inside their packets.

Ms. Shiver asked if the purchased the land from the veterinarian and Mr. Forte said last year. Mr. Dell'Aquila said that there were 3 ANR's done for this lot but only 2 ANR'S were recorded and Mr. McGarry said that the GIS Mapping on the Town of Spencer's website does not show these changes. Mr. Viner pointed out that the most recent ANR after the 2016 ANR and the Zoning show attach to the most recent ANR. Mr. Ceppi said that made sense to him and Mr. McGarry said he did not have the answer. Mr. Dell'Aquila gave some information on the ANR's; in 2015 they created 2 lots, then in 2016 they needed to create frontage for woodchuck and Paxton Solar array, and in 2017 they switched the frontage to the Western area and added some land to the former substandard frontage. There was much discussion in regards to an ANR is repeated does the vesting zone freeze get lost because it's no longer the same land. Mr. Ceppi asked how would that answer affect this application and Mr. Viner stated that in Mass General Law that definitive subdivision plans and ANR's if acted upon by the Planning Board it creates a freeze for a three year period and new zoning cannot restrict the lot, therefore, he interprets that since there was a subsequent ANR done than the zoning freeze be applicable to that and would need to adhere to

those Zoning Bylaws. Mr. Dell'Aquila will reach out to town counsel for an answer. Mr. Viner asked how the answer would affect this applicant and Mr. Dell'Aquila answered that it would affect the use and solar use is not allowed in the Commercial Zoning District.

Ms. Shiver said they were all present for those ANR's and it was not specified to freeze zoning and agrees that they would need legal council to review. Mr. Viner stated that he believes the purpose for any plan being filed. Mr. Dell'Aquila stated that regardless of the intent the zoning freezes from when it is recorded.

Mr. Dell'Aquila mentioned the initial tech review was done and the Police and Fire Chief asked to eliminate the sharp corners for emergency vehicles and they will need to go through Mass DOT for driveway access, and the snow mobile trail runs through the site and they would need to be accommodated. Mr. Viner asked if the snow mobile trail had legal rights and Mr. Dell'Aquila said it's his understanding that it's an informal arrangement and in theory it's up to the property owner to accommodate.

Mr. Ceppi opened the meeting to the public and there were no comments.

**MOTION: Ms. Shiver motioned to continue to the May 15, 2018 meeting**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 5-0**

#### **6. Adoption of Minutes:**

- **March 20, 2018**

**MOTION: Mr. Butensky motioned to approve the minutes from 3/20/2018**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 5-0**

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

- **Selectman workshop being held for Solar**
- **6 Treadwell Drive, 61 B**

**MOTION: Mr. Collette motioned to close the meeting at 8:57pm**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 5-0**

**Submitted by: Monica Santerre-Gervais ODIS Clerk**  
**Approved by the Planning Board on: 5/15/2018**

**List of Documents used on April 17, 2018**

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

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board Dated 4/11/2018
- ANR's- application/ plans, Hinarnie, LLC, I Capen & E. Charlton Road plans 17244 and 17245
- ANR- application/ plans, David Wentworth, 121 Charlton Road
- ANR- application/ plans, Paul & Susan Bouvier, Paxton Road
- Updated plans and Addendum package for Cranberry Meadow Solar and continued document from ForeFront
- Major Site Plan Review/ Main Street Solar, plans/ application, Stormwater Report, and NOI for Con Com
- Major Site Plan Review/ GH Wilson Solar, plans/ application, Stormwater Report, and NOI for Con Com
- Minutes for March 20, 2018

**Items submitted at the Meeting:**

1. Peer Review for Major Site Plan Review/ Main Street Solar