



## Planning Board – Town of Spencer

### *Minutes*

#### Planning Board Meeting

**Tuesday, June 19, 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 7:03pm**

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

- **Cooney Road, Raoul Chalifoux**

Jason Dubois, DC Engineering, was present for the meeting. Mr. Dubois explained that an ANR was approved in March, that was not recorded, and the owner decided to shift a lot line.

**MOTION: Ms. Shiver motion to accept the plans submitted**

**SECOND: Mr. Viner**

**DISCUSSION: Mr. Dell'Aquila mentioned it should be noted that the current Lot R-38-31 is subject to a Chapter 61B lien, which will affect the taxation of the resultant parcels after this action. Otherwise, the ANR plan as submitted complies with the town's ANR submission requirements.**

**VOTE: 5-0**

- **6 Woodland Lane, Michael Aucoin**

Jason Dubois, DC Engineering, was present for the meeting. Mr. Dubois explained that this ANR plan was already approved two years ago and the registry of deed wanted updated approval before registering the plan and there is no change to the plan that was approved.

**MOTION: Mr. Viner motioned to approve the plan as submitted**

**SECOND: Mr. Butensky**

**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**

Mr. Ceppi opened the hearing at 7:13pm and read aloud the description.

Ed Switzer, Forefront Power LLC, was present for the meeting. Mr. Dell’Aquila mentioned that this has been ongoing through the approval process and recently the applicant has been waiting for the Planning Board to have the appropriate quorum. Additionally, it was noted that the megawatts for the solar farm decreased from 2.2 MW to 1.29 MW.

Mr. Ceppi opened the hearing to the public.

Alex Costa, 5 Martin Road, asked about the trees on the 25 feet from the property line. Mr. Switzer mentioned they will not be removing trees on the lot line and all the trees on his property will stay and on the lot line will stay. Mr. Dell’Aquila asked about the Southwest corner of 5 Martin Road that they would be within 25ft and asked about cutting or clearance and Mr. Switzer answered no cutting or clearance, however, there will be grading for the root system to help with stabilization. Mr. Dell’Aquila noted that during the tree plantings the third party will do inspections and the contractor will need to maintain the plantings throughout the project or they will receive violations and fines.

Mr. Dell’Aquila went over the draft decision and mentioned the only items that changed were items 26 & 36 in the conditions. Ms. Shiver mentioned on item 26 the date of the revised plan should be added. After much deliberation the final revision date for the plan was on March 20, 2018 and Mr. Dell’Aquila will edit that on the conditions.

**MOTION: Ms. Shiver motioned to close the public hearing for Cranberry Meadow Road Solar Project**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 4-0**

**MOTION: Mr. Viner motioned to approve the Special Permit/ Major Site Plan Review for Cranberry Meadow Road Solar Project**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 4-0**

**4. 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.**

Mr. Dell'Aquila explained that the applicant requested a continuance until the next Planning Board meeting because they need to revise the plans to allow fire access and an issue with slopes.

**MOTION: Ms. Shiver motioned to continue the public hearing to July 17, 2018**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 5-0**

**5. Continuation 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.**

Mr. Dell'Aquila explained that the applicant requested a continuance until the next Planning Board meeting because they want to combine the lot with the Paxton Solar farm. There was discussion that the applicant would need to adhere to the current zoning bylaws and Mr. Dell'Aquila said there would need to be additional review from the fire chief but that would be discussed at the next meeting.

**MOTION: Ms. Shiver motioned to continue the public hearing to July 17, 2018**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 5-0**

**6. Continuation Major Site Plan Review/ Special Permit/ Stormwater Permit – Applicant: Spencer Landfill Solar LLC, c/o Emily Mann; Owner: Town of Spencer, Location: 17 South Spencer Road; Spencer Assessor's Map R22/2. The applicant is requesting a Major Site Plan Review under Section 7.4, and Special Permit under sections 4.2, 4.8.9, 7.2 of the Spencer Zoning Bylaw Zoning to install a 4.4 MW Ground-Mounted Solar Array. This property is located within the Rural Residential and Industrial zoning district.**

Briony Angus and Brian Huntley from Tighe & Bond were present for the meeting. Ms. Angus discussed the peer review comments and their responses, as well as, Conservation Commission revisions and National Heritage involvement. Ms. Angus said they have reduced the size of the array in order to eliminate work in a portion of the wetlands. Due to the fact that the array has reduced in size they needed to submit new plans and update the stormwater analysis. The portion in the Southwest has a habitat of protected turtles, and in that area the perimeter road will be re-vegetated with no gravel and the Fire Chief approved with the change. Ms. Angus continued to say that they received sign off from the division efficient wildlife that the project will adversely affect the rear species.

Mr. Ceppi asked for a quick review of changes and if they have addressed all of the third party review concerns. Ms. Angus said they will now be 200 feet from the river and with no change on the design. Mr. Huntley said the changes to the perimeter were approved by the Fire Chief, Robert Parsons. Ms. Angus said the operation and Maintenance (O&M) plan had been updated per the third party reviewer. The only item not changed was the estimate for decommissioning, Ms. Angus explained the erosion was added but third party wanted the recyclables allowance removed from the estimate, however, the

applicant felt there would be value in the decommissioned panels. Also, the items third party review asked for were addressed and they kept the estimate at the original size and have not recalculated, even though, the size has decreased in size. The system has decreased from 4.26 to 3.9. Mr. Dell'Aquila said the third party did not get a chance to review the responses yet. Mr. Dell'Aquila said it would be up to the Planning Board to decide on the salvage issue.

Mr. Viner asked if prevailing wage rates were used for labor in the decommissioning estimate. Also, Mr. Viner did not agree that the recycling value should be added to the bond. Mr. Huntley did not agree because if town went out to bid it would be lump sum. Mr. Ceppi felt the value of scrap would need to be evaluated over the past 10 years and would need to be very conservative. Mr. Dell'Aquila said he did not have examples of decommissioned projects to compare. Mr. Huntley mentioned they have a lease agreement with the town and in the lease agreement it mentioned that the project needs to be decommissioned and removed by a legal document. Ms. Shiver asked what the life of the solar farm is and Ms. Angus felt there would be additional extensions past the 20 years. Ms. Shiver asked if the equipment would still be working and Ms. Angus said they will be updated as needed. In addition, Ms. Angus added that solar panels are being upgraded all the time and Mr. Huntley said the inverters are more likely to be upgraded and the panels would still function at a high level.

Mr. Viner asked if the use issue had been addressed. Mr. Dell'Aquila said he reached out to other communities with solar on landfills and some had no other uses, in one case the lot was split, and others considered solar would be the primary use with all other uses grandfathered as a non-conforming use. Mr. Dell'Aquila said the lot is large enough to carve out. Mr. Ceppi asked for written confirmation from Town Council.

There was much discussion on St. Joseph Abbey having Solar, as well as, a brewery/gift shop/ Food Manufacture and solar being listed as the primary use. The Planning Board members agreed on written clarification from Town Council.

Mr. Ceppi opened the hearing to the public at 7:59pm. No comments or questions.

Ms. Shiver asked if the SREC (Solar Renewable Energy Credit) goes to the town and it does not. Ms. Angus said SREC is being phased out and new program is SMART program (Solar Massachusetts Renewable Target), which the utilities purchase and the only relationship with the town will be the lease.

**MOTION: Ms. Shiver motioned to continue the public hearing to July 17, 2018**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 5-0**

**7. Public Hearing/ Special Permit Amendment– Applicants/ Owners: Angelique and Todd Vitkos, Location: Lot 3 & 4 Bacon Hill Road; Spencer Assessor's Map R07-28-4 & R08-28-3. The applicant is requesting to amend an approved special permit under Section 5.3.10 and 7.2 of the Spencer Zoning By law to allow for a variance on front setback. This property is located within the Rural Residential zoning district.**

Mr. Viner recused himself from the special permit public hearing due to previous employment.

Mr. Ceppi opened the hearing at 8:03pm.

Mr. Dell'Aquila summarized that the rear lot subdivision was created in 2007, the lots were recorded, lot 3 has a house built on it but despite engineering and Town Staff review and sign-offs, the house was built with a 63-foot setback, which while exceeding the 55 foot requirement for the underlying RR Zone, it does not comply with the required 75-foot setback under Section 5.3.10 for setbacks in a rear lot subdivision pair. This non-compliance came up during the due diligence stage of a real estate sale and is now holding up this transaction. Mr. Dell'Aquila mentioned that he did reach out to Town Council and he stated that the Planning Board has the authority to amend the Special Permit but do so delicately. The idea was thrown out to do an ANR and combine lots 3 & 4 but they are not owned by the same person.

Blaze Berthiaume, 7 Jolicoeur Ave, was there to represent Jason Dubois and Diamond Construction. Mr. Berthiaume said the Occupancy was issued and the final asbuilts was submitted and no one caught the setback issues. Mr. Dubois based his drawings and placed the house to meet regular setbacks and was unaware of the rear lot requirement. In addition, Mr. Berthiaume stated that in section 5.3.10.H the Planning Board has the right to amend the Special Permit. Mr. Dell'Aquila mentioned requiring deed restrictions and stated that Steven Tyler, Highway Supervisor, signed off on the driveway permit and read aloud his recommendations: *That the front setback requirement on Lot 3 only be established at 63 feet, as building plans were approved and verified by the Town with that front setback, and a house was subsequently built according to those plan specifications. The setback requirement on the other three lots created under this Special Permit will remain at 75 feet.* Furthermore, I will note that the Rear Lot Subdivision by law also requires that all new lots within a rear lot subdivision shall be deed-restricted with no further subdivision of the lot permitted, and that the lot may not be combined with other parcels to increase development potential. Thus, I would suggest that this requirement also be reiterated for the applicant since it does not appear that the deed restriction has been recorded.

Mr. Ceppi opened the hearing to the public at 8:18pm.

Richard Moberg, 72 Bacon Hill Road, said he is diagonal from the house and has no issue with the Planning Board amending the special permit. Additionally, he added that he owns 17,000 sqft of property that someone has dumped vegetation on and buried the stone wall and Mr. Dell'Aquila said to contact the Board of Health for assistance on that matter.

Mr. Dell'Aquila mentioned the findings the Planning Board need to be found.

**MOTION: Mr. Butensky motioned to close the public hearing**

**SECOND: Ms. Shiver**

**DISCUSSION: None**

**VOTE: 4-0**

**MOTION: Ms. Shiver motioned to approve the amendment to the Special Permit in order to amend the Certificate of Decision from 8/16/2007 for the setback for lot 3 to 55 feet and lot 3 needs deed restriction**

**SECOND: Ms. Reed**

**DISCUSSION: None**

**VOTE: 4-0**

**8. Minor Site Plan Review- Applicant: Todd & Jennifer Davis (JAD Realty Trust), Location: 401 East Main Street; Spencer Assessor's Map R35-31. The applicant is requesting a Minor Site Plan Review under Section 7.4 of the Spencer Zoning Bylaw to erect a new building in the rear of a Veterinary Office and update parking.**

Jason Dubois, DC Engineering, was present for the meeting and said the property is located at 401 Main Street; the Spencer Veterinary Office is looking to expand with an addition in the back. The Veterinary office would not need additional parking, currently; the Veterinary Office has 23 spaces and is a single story office, not looking to change parking, but will need to change the handicap space near the side entrance. Originally, they were going to do a full site plan but it was too large.

Ms. Shiver asked if this was reviewed by third party for drainage and Mr. Dell'Aquila said it is only a minor site plan review. Mr. Viner mentioned that when they originally came before the Planning Board there were issues with drainage with a neighbor and they were supposed to remediate the runoff. Mr. Dubois did not do the original site plan and was unaware of any issues. Ms. Shiver wanted to review the minutes from the previous application. There was much discussion in regards to the riprap and swales shown on the plan. Also, Mr. Viner said the plan should be stamped by a surveyor. Mr. Ceppi said because there were abutters who had concerns before he felt that abutters need to be notified if additional work is being proposed or the old application needs to be reviewed to make sure there is proper public access and safety.

Mr. Ceppi said they should continue for additional review. Mr. Dell'Aquila will review the Conservation Commissions Stormwater Conditions. Mr. Dell'Aquila mentioned that the original proposal was much larger than this and this is a minor site plan review.

**MOTION: Ms. Shiver motioned to continue the public hearing to July 17, 2018**

**SECOND: Mr. Butensky**

**DISCUSSION: None**

**VOTE: 5-0**

**9. Adoption of Minutes**

- **May 15, 2018**

**MOTION: Ms. Shiver motioned to approve the minutes from May 15, 2018**

**SECOND: Mr. Viner**

**DISCUSSION: None**

**VOTE: 5-0**

- **May 29, 2018**

**MOTION: Mr. Viner motioned to approve the minutes from May 29, 2018**

**SECOND: Ms. Shiver**

**DISCUSSION: Mr. Butensky was not present for the meeting**

**VOTE: 4-0**

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

- **Solar Meeting-** Happened before Planning Board meeting possible zoning changes
- **Green Communities-** possible zoning change, alternate electric cars, solar by right, and stretch code
- **Sugden Block-**Discussed RFP
- **Lake Street School** –Discussed RFP
- **ZBA Member-** looking for members, only have one member

**MOTION:** Ms. Shiver motioned to adjourn the meeting at 9:04

**SECOND:**

**DISCUSSION:** None

**VOTE:** 5-0

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

**Approved by the Planning Board on:** 7/17/2018

### **List of Documents used on June 19, 2018**

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

- Agenda
- Memo emailed from Paul Dell'Aquila to Planning Board Dated
- Updated plans for GH Wilson Solar
- Updated plans for Main Street Solar and clearing analysis
- Continuance form for GH Wilson Solar and Main Street Solar
- Peer Reviews for Landfill Solar dated 5/31/2018 & 6/13/2018
- Lot 3 & 4 Bacon Hill special permit amendment application and plan
- Spencer Veterinary Minor site plan application
- Minutes for May 15, 2018 and May 29, 2018

#### **Items submitted at the Meeting:**

- Draft Decision for Cranberry Meadow Solar
- Draft Decision for Bacon Hill
- Draft Decision for Spencer Veterinary