

Zoning Board of Appeals– Town of Spencer



Minutes

Zoning Board of Appeals
Tuesday, February 10, 2009
McCourt Social Hall
Memorial Town Hall

The Meeting was called to order at 7:15 p.m.

Zoning Board of Appeals Members Present: Allan Collette, Pamela Crawford and Albert Drexler (Alternate).

Zoning Board Members Absent: Chair Joanne Backus and Dee Kresco.

Staff present: Adam Gaudette, ODIS Director, and Bea Meechan, Senior Clerk, ODIS

In the absent of Chair Joanne Backus, Allan Collette is acting as the Chairman and Pamela Crawford appointed as acting Clerk.

New Business:

A. Special Permit, Archery Plus, 107 North Spencer Road, Spencer (Assessor's Map 48-4-107). Mr. Collette opened the public hearing at 7:15 pm. The Clerk then read the brief. The applicant, Brett Fritze, is requesting a Special Permit under Section 4.9.3.C of the Spencer Zoning Bylaw (Nonconforming Uses) to propose adding firearms sales to his existing sporting good retail business which is considered pre-existing nonconforming. The property is located in the Rural Residential and Residential Business Overlay District.

Mr. Collette asked the applicant for a presentation on the application.

Mr. Fritze explained that he wanted to add firearms sales to supplement the existing business. He has been in contact with an Agent from the Alcohol, Tobacco, and Firearms (ATF) in regards to their rules and regulations, including storage and security.

At this time Mr. Collette asked if Mr. Fritze had documentation as stated above.

Mr. Gaudette replied that there was no document from the Agent submitted with the application. He explained to the Board that the applicant started the process of applying for the Firearms Permit from the ATF. The Agent from the ATF advised Mr. Fritze to contact the Town of Spencer in terms of the Zoning Bylaw – *the applicant must be in compliance with the Town's Zoning before the process could continue.*

Note: The Board received an opinion letter from Town Counsel, Stanley Weinberg, regarding the nonconforming use. Mr. Collette requested that tonight's minutes acknowledge this opinion.

Mr. Collette then opened the Board for any questions or comments.

Mr. Drexler asked what filings and licensing are involved from the Town and the State? How would the storage of the firearms be managed?

In response, Mr. Fritze said that the Agent has suggested that he withdraw the application from the ATF, and to resolve any issues concerning the local Town Zoning Bylaws first. If the Town approves, then he can resubmit the application. Next is to contact Spencer Police Department and the State for the necessary filing. Mr. Fritze indicated that the ATF has very strict requirements on documenting every firearm, whether it is a traded-in or a new one for sale. The name, address, phone number and serial number must be recorded and documented. ATF will do periodic spot checks. The firearms and ammunitions must be stored separately from one another, and always locked up as well. Mr. Fritze said the Agent has visited the site of the business previously and seemed to be satisfied with everything.

Mr. Drexler asked if the alarm system is in place yet, and if it will be connected directly to the Spencer Police Station?

Mr. Fritze said the site of the business is fully alarmed. It is monitored through a Security System Company, which connects directly to the Spencer Police Station.

Mr. Drexler asked if the applicant is considering having a firearms shooting range at the place of business, or is it for retail firearms sales only.

Mr. Fritze indicated that he proposes firearms sales only.

Mr. Collette asked for the hours of the operation.

Mr. Fritze said the hours would remain the same as currently; 8:00 am to 8:00 pm Monday, Tuesday and Thursday; 10:00 am to 6:00 pm Friday; 10:00 am to 4:00 pm Saturday; 10:00 am to 2:00 pm Sunday; Wednesday is closed.

Ms. Crawford asked if there are any limitations of the type of the firearms the applicant can sales.

Mr. Fritze replied that based on the application he files with the ATF; he is limited to the sale of firearms that are considered "hunting weapons" only. Firearms prohibited from sales are fully automatic weapons, weapons of mass-destruction and warfare like weapons.

Mr. Drexler asked if there is a church structure located in the building of his business.

Mr. Fritze said there is a church on the property, but not within his building.

The Board asked the applicant to describe all the buildings on the property and the safety concerns of any break-ins to the building.

In response, Mr. Fritze said that his business is located on the second floor of a two-story building and does not have a common wall with anyone. The first floor has been vacant for quite sometime. It is on slab with no basement. The outside is well lit at night. There has been no history of break-ins.

After the Board reviewed the map (Plot Plan of Land prepared by the Land Surveyor), it demonstrated the location of all the buildings in the area. The Board thought that a site visit was not necessary.

For the record, there were no abutters present for this hearing.

Mr. Drexler then made a motion to close the public hearing. Ms. Crawford seconded the motion and the vote was 3-0 in favor.

At this time Mr. Collette announced the members voting are; Mr. Drexler, Ms. Crawford and Mr. Collette.

Ms. Crawford made a motion to grant the special permit for Brett Fritze to extend the existing retail use of sporting goods business, to allow for the retail sale of firearms at Archery Plus, 107 North Spencer Road, MA. Mr. Drexler seconded the motion and **the voting was 3-0** in favor. The following Findings and Condition were included in the motion:

Finding: The Board determined that the findings had met the requirement in M.G.L. Chapter 40 A., Section 9 and Section 7.2 of the Spencer Zoning Bylaws. In addition, the Board made the following in accordance with Section 4.9.3.C of the Spencer Zoning Bylaws:

1. That the proposed extension or change is not substantially more detrimental to the neighborhood than the existing nonconforming use.

Condition:

1. Construction activities and the sales operation associated with the use of this Special Permit shall not commence until all required approvals and permits (local, state and/or federal) are obtained.

Mr. Gaudette explained that once the decision has been filed with the Town Clerk, staff from ODIS will mail the copy of the decision along with the instruction to the application.

Approval of Minutes: For January 13, 2009

Mr. Drexler made a motion to accept the minutes for January 13, 2009. Ms. Crawford seconded the motion and the vote was 3-0 in favor.

Other Business: None

Mr. Drexler made a motion to adjourn the meeting at 8:00 pm. Ms. Crawford seconded the motion and the vote was 3-0 in favor.

Submitted by:

Bea Meechan, Senior Clerk