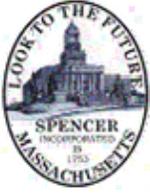


Zoning Board of Appeals– Town of Spencer



Minutes

Zoning Board of Appeals

Tuesday, April 28, 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 (Clerk), Pamela Crawford, Albert Drexler (Alternate) and Dee Kresco (Atternate).

Zoning Board Member Absent: Chair Joanne Backus.

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

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

New Business:

A. Special Permit – Cynthia Sprow, 4 Garrette Lane, Spencer. Mr. Collette opened the public hearing at 7:16 p.m. The Clerk then read the brief. The applicant is requesting a special permit in accordance with Section 4.8.1 of the Spencer Zoning Bylaw to construct an addition with an accessory apartment and a 2-car garage under. The property is located in the RR Zoning District.

Mr. Collette asked Mr. Gaudette to explain Section 4.8.1 of the Spencer Zoning Bylaw and the situation with the applicant to the Board and the public.

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

Mr. Gaudette referred to Section 4.8.1 of the Spencer Zoning Bylaw. An accessory apartment attached to the single-family dwelling is allowed by a Special Permit, and must follow certain restrictions. He had previously discussed with Bill Klansek, the Building Inspector, items G and H in Section 4.8.1. which states:

- G. Size of the accessory apartment is to be limited to no larger than one-third of the floor space of living area of the residence but in no case larger than 700 sq. ft.
- H. Any addition to the single-family structure, whether or not the addition houses the accessory apartment, shall not increase the size of the existing structure by more than 700 sq. ft.

Mr. Gaudette said based on items G and H, the essential item is the size of the living space of the addition which can't be more than 700 sq. ft. The garage under is a necessary part of the addition due to the topography and can be allowed as it is, not considered living space. An accessory apartment that meets the limited square feet is allowed to have its own complete kitchen, complete bath and toilet facilities according to Section 4.8.1.F. of the Spencer Zoning Bylaw.

Mr. Gaudette contacted Mr. Collette for a clarification. Mr. Collette concurred with Mr. Gaudette that the Zoning Bylaw seemed to read that the garage needs to be constructed first. However, Mr. Collette stated that intention (when the Bylaw was established) is mainly to limit the living space of an accessory apartment to 700 sq. ft.

Mr. Gaudette then told Ms. Sprow that she could submit the application to the ZBA. The proposed accessory apartment has a living space area of 690 sq. ft. The plan is reasonable and practical; it also meets the requirements.

Mr. Gaudette had several discussions with Ms. Sprow regarding the plan. The accessory apartment is for Ms. Sprow's daughter; she will be graduating from a college and is moving back to live with Ms. Sprow. Mr. Gaudette indicated that he would put a condition to restrict the property to only one accessory apartment.

At this time Mr. Collette opened the Board for any questions and comments.

Mr. Collette addressed to the Board that in view of the Zoning Bylaw, it is a good plan to set up the addition that way. He then asked if the window will be installed to the front of the existing house as part of the plan. Mr. Gaudette clarified that the window is there now.

Mr. Drexler made a comment that it is irrelevant to have a discussion on who would be occupying the apartment. In this case, the family member is the occupant; it isn't part of the criteria to apply for a special permit. At some point in time, that family member will move out, the apartment will be vacant. That opens the possibility of renting out to other people. Thus, in the past the Board has decided not to have any discussion regarding the occupant.

Ms. Sprow replied that she understood the Board's point of view on the matter. She then explained the circumstances to the Board. When her elder daughter moves out, at the same time her younger daughter will move into the apartment. In the previous discussion, Mr. Gaudette mentioned to Ms. Sprow that the primary residence must be owner-occupied as stated in the use regulations (Section 4.8.1).

Ms. Crawford asked about the capacity of the septic plan.

Ms. Sprow said that the septic tank has a capacity for a-4 bedroom house and it has been confirmed by the Board of Health.

At this time the Board reviewed the plan with the requirements in the Zoning Bylaw and found no issue with the plan. Mr. Collette made a request to include a restriction to one accessory apartment for this residence in the decision.

Ms. Crawford made a motion to close the discussion. Ms. Kresco seconded the motion and the vote was 3-0 in favor.

Ms. Crawford made a motion to grant the special permit to Cynthia Sprow to construct an addition with an accessory apartment and a 2-car garage at 4 Garrette Lane. Ms. Kresco seconded the motion and **the vote was 3-0**. The following was included in the motion:

Findings: The Board determined that the findings had met the requirement in M.G.L, Chapter 40A., Section 11 and Section 7.2 of the Spencer Zoning Bylaws:

1. That the proposed use (accessory apartment) is in harmony with the general purpose and intent of the Zoning Bylaw.
2. That the proposed use will not create undue traffic congestion nor unduly impair pedestrian safety.
3. That the purposed use will not impair the integrity or character of the district or adjoining zones, nor will it be detrimental to the health, safety, or welfare of the neighborhood or the Town.

The approval is granted with the following ***conditions:***

1. The plan that was submitted for the design, including a second floor accessory apartment with a 2-car garage, drive-under garage below, is herein incorporated as part of this decision. Any change requires re-submittal to the Board.
2. The primary single-family residence must be owner-occupied and may not be rented.
3. Additional accessory apartments for this residence are prohibited.
4. The outside appearance of the premises shall remain that of a single-family residence, as shown on the plan.
5. The accessory apartment shall have its own separate entrance from the outside, as shown on the plan.
6. There shall be no more than 2 off-street parking spaces

provided for the accessory apartment.

7. The accessory apartment shall have no more than one bedroom, plus its own complete kitchen and complete bath and toilet facilities, as shown on the plan.
8. The size of the accessory apartment is to be limited to no larger than 700 square feet, as shown on the plan.
9. The addition to the single-family structure shall not increase the size of the living space of the existing structure by more than 700 square feet, as shown as on the plan. It should be noted that the part of the addition that entails the garage-under is not considered part of the gross living area.
10. All applicable federal, state and local building and health codes must be satisfied including all bylaws of the Town of Spencer, including adequate provision for water supply and sewage disposal.
11. Construction activities shall not commence until all required approvals and permits 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 instructions to the applicant, and also to all abutters.

Approval of Minutes: For March 10, 2009 and March 24, 2009

Ms. Crawford made a motion to accept the minutes for March 10, 2009. Ms. Kresco seconded the motion and the vote was 3-0 in favor with Mr. Drexler abstaining.

Ms. Kresco made a motion to accept the minutes for March 24, 2009. Mr. Drexler seconded the motion and the vote was 3-0 in favor with Ms. Crawford abstaining.

Old Business: None

Other Business: None

Ms. Crawford made a motion to adjourn the meeting at 7:50 p.m. Ms. Kresco seconded the motion and the vote was 4-0 in favor.

Submitted By:

Bea Meechan, Senior Clerk, ODIS