

# Zoning Board of Appeals – Town of Spencer

## *Minutes*



Regular Zoning Board Meeting  
Tuesday, June 8, 2010 at 7:15 PM  
McCourt Social Hall  
Memorial Town Hall

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The meeting was called to order at 7:20 p.m.

Zoning Board Members Present: Chairman Allan Collette, Clerk Pamela Crawford, Joanne Backus, Albert Drexler, alternate, and Delores Kresco, alternate.

Zoning Board Member Absent: None.

Staff present: William Scanlan, AICP Planning Consultant and Bea Meechan, Senior Clerk ODIS.

### **Old Business:**

**A. Continued Public Hearing** – Special Permit, David DeFosse, owner, Delmont Realty LLC, c/o Doug Roesch, applicant, for property located at 2 Bixby Road. Mr. Collette opened the hearing at 7:20 p.m. At the previous hearing (5/25/2010) the Board decided that a site visit was necessary prior to any determination on the application. The Board also wanted clarification on the Negative Determination from Ms. Ginny Scarlet, Spencer Wetland/Soil Specialist. The hearing was continued to tonight, June 8, 2010.

Ms. Scarlet submitted a memo (dated 6/8/2010) to the Board which read as follows:

“We have agreement. Jason Dubois working for the seller and bank, the potential user, Doug Roesch, and I met at 2 Bixby on June 6, 2010. We agreed on functional modifications of the detention pond and new outlet. Mr. Roesch brought a drawing of the plan site proposing changes on the rest of the site. Approximately half the gravel parking will be regarded, loamed and planted with grass, which will function well with the detention pond system and outlet as proposed. Together the changes will provide good drainage without adverse wetland impacts, and avoid discharge into a town road. Mr. Dubois will provide a letter committing the bank/seller to the drainage changes. I don't have that in hand yet but anticipate receiving it tomorrow. When the drainage work is finished he will provide an as-built plan to the Conservation Commission. So, I think your decision can rely on implementation of the new drawing and the Conservation Commission's approval. None of our issues are likely to conflict with ZBA considerations or conditions. While it's not in the Conservation Commission jurisdiction, the Commission

commented that there should be a barrier around the detention basin. The basin has very steep walls and is deep. The stone lining makes it difficult to climb out of. Thorny vegetation or fencing would be good.”

Mr. Collette asked if the revised plan has been submitted to ODIS because Mr. Scanlan and ODIS staff have no knowledge of the plan.

Mr. Roesch stated that the revised plan was submitted to the Conservation Commission, but has not yet been forwarded to ODIS. He then presented the revised plan to the Board.

Mr. Roesch went over the revised plan with the Board. The plan proposes three grassing/loaming areas on the parking lot – the majority of parking lot will be covered with loam and grass. The existing white panel fence will be removed and re-set. Since only one side of the detention basin locates behind the white fence, the plan proposes to install a 4-foot high chain link fence around the other three sides of the basin with a locked gate. Only the authorized personnel will have access to the detention basin. The vertical line, from the detention pond across the parking lot to the other end, might be moved back and forth due to the uncertain amount of space required for a delivery truck to turn around. (The vertical line is between the grass and the parking area for the delivery truck and customers/employees’ vehicles).

*Note:* Mr. Clifford Dyer, the abutter, was here this evening.

The Board and Mr. Scanlan reviewed the plan at this time. The Board invited Mr. Dyer to look at the plan.

Mr. Dyer said that the white fencing should be continued to the end of the lot line (where it meets the beginning of the Spencer Rescue’s driveway) as originally agreed at the meeting.

Mr. Collette commented that he didn’t recall any ZBA meeting in regards to that agreement. He then asked if the meeting was officially held by the other Board.

Mr. Dyer responded that there wasn’t any Board meeting. The meeting and the agreement was between the current owner, Mr. DeFosse, and himself, prior to a construction of the existing building and the parking lot. He is also concerned with the amount of dust and the safety of the detention pond.

The Board said that most of the parking lot will be covered with grasses which will help in the elimination of the dust volume. The Board pointed out grass areas on the plan to Mr. Dyer. As for the detention pond, Mr. Roesch has already addressed it at the beginning of the hearing.

Mr. Roesch said that he will only remove/re-set the existing white panel fence with the same length as the original fence was.

Mr. Scanlan asked if the parking lot will be surfaced at all, or left as it is. The concern is that when vehicles drive over the surface this will generate dust.

Mr. Roesch said that he might consider surface only the parking spaces area with gravel, and leave the rest as it is. He explained that the estimated costs, gravel, excavating, grasses, loam, and hydro-seeding are about \$12,000, and this is just for the 20,000 square feet area. In addition, the white fencing panel cost is about \$4,000 to \$5,000 – just to straighten out the fence.

The Board inquired as to the quality of loam and a hydroseed mixture.

Mr. Roesch explained that the plan indicates 1” of loam, however, the actual thickness will be 2” as suggested by the professional landscaper in order for loam to have sufficient organic materials. The hydroseed mixture use will conform to the Massachusetts’ state standard seed tolerant to heat and drought conditions.

With no further questions or comments from the Board or the public, Mr. Collette made a motion to close the hearing at 7:45 p.m. Ms. Kresco seconded the motion and the vote was 5-0 in favor.

Mr. Collette announced the members sitting in the voting were Ms. Backus, Ms. Kresco and himself.

Ms. Backus made a motion to grant a special permit to current owner David DeFosse for applicant Doug Roesch, Delmont Realty, LLC to operate a manufacturing, assembling, and packaging of goods business at 2 Bixby Road which met all required criteria of Section 4.2.G.6 of the Spencer Zoning Bylaw. Ms. Kresco seconded the motion and the **vote was 3-0 in favor**. The following was included in the motion:

***Findings:*** The Board determined that the proposed use met the requirements for a special permit in M.G.L. 40A, Section 9 and Section 7.2 of the Spencer Zoning Bylaw:

1. That the proposed use (manufacturing) 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 proposed 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.

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

1. The applicant shall plant the portions of the existing parking lot as shown on the June 2, 2010 Plan prepared by J.M. Grenier Associates with two inches of loam and a hydroseed mixture conforming to state approved standards with seed tolerant to drought and heat conditions in Massachusetts.

2. To prevent unauthorized access to the detention basin, particularly by children from the adjacent Child Care facility, the applicant shall re-set in a permanent manner the existing white panel fence on the road side of the detention basin and install a chain link fence with a minimum height of four feet and a locked gate.

Mr. Collette 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 to all abutters.

**New Business: None**

**Other Business:**

**A. Resignation** – Mr. Drexler announced his resignation as an Associated Member of the ZBA effective June 30, 2010. The Board expressed an appreciation for the past 18 years of service Mr. Drexler served with the ZBA. Mr. Drexler will be greatly missed.

**B. New ZBA Meeting Schedule.** Mr. Adam Gaudette, Town Administrator, is currently working on a part-time planner for ODIS. He has suggested the idea of one ZBA meeting per month. The Board discussed and agreed to hold one (1) ZBA meeting on the second Tuesday of the month effective July 1, 2010.

Ms. Backus made a motion to accept new ZBA meeting schedule, there will be one meeting on the second Tuesday of the month beginning from July, 2010. Ms. Crawford seconded the motion and the vote was 5-0 in favor.

**Other Discussion:**

**A. Gary and Denise Jacobs** – 183 South Spencer Road. The Board had an informal discussion with the Jacobs on May 25, 2010. The Jacobs sought advice from the Board in regards to a proposed construction of a farmer's porch on the front of their home at 183 South Spencer Road. The Board directed Mr. Scanlan to ask the Building Inspector's opinion on subsection J in Section 5.1 and Section 5.2.5 of the Spencer Zoning Bylaws and report the outcome back to the Board.

Mr. Scanlan said that Mr. William Klansek, the Building Inspector, responded that Section 5.2.5.J does not apply to the situation with the Jacobs. Mr. Klansek determined that Section 5.2.6 is more appropriate for the Jacobs, and they may submit a special permit application to the Board.

Mr. Scanlan also sent a letter to notify the Jacobs of the outcome.

**Approval of Minutes: None**

With no further discussion, Ms. Kresco made a motion to adjourn the meeting at 7:55 p.m. Ms. Backus seconded the motion and the vote was 5-0 in favor.

Submitted By:

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Bea Meechan, Senior Clerk, ODIS