



Zoning Board of Appeals – Town of Spencer

Minutes

Zoning Board of Appeals Meeting
Tuesday, January 14, 2014 at 7:15 PM
McCourt Social Hall
Memorial Town Hall

Zoning Board Members Present: Dee Kresco, Albert Drexler and Allan Collette
Zoning Board Member Absent: None
Staff present: Michelle Buck, Town Planner, Brynn Johnson ODIS Jr. Clerk

Ms. Kresco opens the meeting at 7:15pm

1. 7:15 Open Meeting

Call to Order
Open Meeting Law Compliance
Roll Call

2. 7:30pm – Variance Continued- Owner/Applicant: Joyce A. Andrews. Location: Lot 18, 100 McCormick Road. The applicant is requesting a Variance from Section 5.1 of the Spencer Zoning Bylaw (lot area requirements) this lot is under the minimum 60,000 sq ft lot size requirement for the Rural Residential Zoning District. Lot is 45,062 sq ft. Continued from September 11, 2013 and December 10, 2013. Attorney Phil Stoddard is present to represent the applicant.

Ms. Kresco opens the hearing.

Attorney Stoddard explains since the last meeting as requested by the Board he met with Ms. Buck and worked with her to provide language for the decision that explains the uniqueness of this application. Ms. Buck drafted some language and he added that not only was it in common ownership and subdivided prior to the zoning change but after the zoning change the owner had the ability to subdivide the lot in question and add to it but simply neglected to do so before the sale. He feels having the ability to subdivide both before and after the change makes this an unusual situation.

Mr. Collette asks Attorney Stoddard to explain this further. Mr. Stoddard explains he wants to stress the fact that the two lots were in common ownership and subdivided prior to the change in the zoning bylaw and what really makes it unique is after the grandfathering period ended the owner still owner both lots and had the opportunity to subdivide and simply didn't do so. Mr. Collette says isn't that the same as saying they had the ability to do it but decided they didn't feel like it? Mr. Stoddard disagrees. Mr. Drexler says in terms of a variance this has to be a situation that has a topographical hardship or some other hardship not created by the owner and not in their control.

Mr. Collette would like to add that this property is only to be used as residential this is not a commercial lot. He wants to make it clear this cannot be used for anything other than a single-family home. This lot is not part of a development.

Mr. Stoddard adds for what it's worth he feels that if someone comes in and says they want a variance because of this one, they would be way off base. He says he will be back again in the future for another variance but he will not use this excuse. He says this is a onetime thing and it will never happen again.

MOTION: Mr. Collette makes a motion to close this discussion. Mr. Drexler seconds.

MOTION: Mr. Drexler makes a motion to approve the variance for Joyce Andrews 100 McCormick Road lot 18.

1. Owing to circumstances relating to soil conditions, shape, or topography of land, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise to the petitioner or appellant.

The fact that the two lots were in common ownership and subdivided prior to the change of the Spencer Zoning Bylaws, and have sufficient land area (215,625 S.F. ±) to have been reconfigured to conform after the lot size change, is unique to this application. Reconfiguration of the lots to conform to lot area requirements will result in the same number of lots on the total land area of Lot 17 and Lot 18 (two lots). However, such reconfiguration would involve substantial financial hardship to the applicant. Also, this project is not part of a subdivision and is only available for single-family residential development.

2. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this by-law.

Though Lot 18 is undersized, the number of building lots on the total land area comprised of Lot 17 and Lot 18 is two (2), and will not exceed the two (2) lots that would be allowed if the lot lines were configured to make Lot 18 conform with the current lot size requirement of 60,000 square feet.

VOTE: 3-0 in favor

3. Approval of Minutes - from October 8, 2013.

MOTION: Mr. Collette makes a motion to approve the minutes from October 8, 2013. Mr. Drexler seconds the motion. VOTE 3-0 in favor.

Submitted By: Brynn Johnson, ODIS Junior Clerk

Approved by the Zoning Board of Appeals on _____

List of Documents used on January 14, 2014:

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo from Michelle Buck, Town Planner dated 1/09/2014
- Minutes from 10/08/2013

Items submitted to ZBA members at the meeting:

- None