



Zoning Board of Appeals – Town of Spencer

Minutes

Zoning Board of Appeals Meeting **Monday, November 10, 2014 at 7:15 PM** McCourt Social Hall Memorial Town Hall

Zoning Board Members Present: Dee Kresco, Bert Drexler, Robert Emerson, and Allan Collette (arrived late)

Zoning Board Member Absent: None

Staff present: Monica Santerre-Gervais, Clerk & Michelle Buck, Town Planner

Ms. Kresco opens the meeting at 7:17 pm

1. Open Meeting

2. Special Permit: Applicant/Owner: Stephen and Ann Trotto. Location: 1 Columbine Road, Spencer Assessor's Map R16/24. The applicant is requesting a Special Permit under section 4.8.1 (Accessory Apartment), 4.9.2.A.2 (Nonconforming Structures) in order to build a new two-car garage with an in-law apartment. The property is located within the Rural Residential zoning district.

Mr. Drexler appointed Ms. Kresco to read the application. Ms. Kresco clarified that it's a special permit. Ms. Buck originally thought they needed a setback variance, but that is not needed because the garage structure is no closer to the front lot line than the existing home. However, the applicant may need a variance for the size of the accessory apartment. This wasn't realized until the applicant provided details on the dimensions. After Ms. Kresco read the application it was announced by Mr. Drexler that the voting members on this application are Robert Emerson, Dee Kresco, and Robert Drexler.

Stephen and Ann Trotto, 1 Columbine Road, were present for the meeting and discussed their intent to add an attached two -car garage and the garage will have an in-law apartment.

Mr. Drexler asked if the driveway would be on Columbine Road and the applicants said it would be. Also, Mr. Drexler asked if the variance was because the frontage is less than 55 ft and it is an undersized lot. Ms. Buck said that was not correct, when the applicant originally submitted the application the variance was for the front lot line to the road but because they are no closer to the road they would only need a Special Permit [Section 4.9.2.A.2., Nonconforming Structures]. However, last week the dimensions were revised and more detail was submitted. Ms. Buck noted that the Zoning Bylaws accessory apartment require that the "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 square feet" (4.8.1 Accessory Apartments, Zoning Bylaw, Spencer MA 2006, p. 4-13). The applicant existing home is 1,342 sqft, the requested garage/in-

law apartment is 676 sqft and would be 50% of floor space of the living area but the applicants would be under the 700 sqft requirements. Mr. Drexler asked if they need a variance for the lot size because the applicant is under the 60,000 sqft requirement, Ms. Buck said that they wouldn't because it falls under the pre-existing non-conforming Special Permit.

Ms. Kresco asked the Board Members how they should interpret the "no case larger than 700 square feet," *4.8.1 Accessory Apartments, Zoning Bylaw, Spencer MA 2006*, p. 4-13. Ms. Buck answered it could be addressed with a variance unless the Board has handled the situation differently in past situations.

Mr. Emerson asked about the plot plan and their lot. Ms. Trotto said they own four lots. Mr. Drexler asked if Parcel 4A was their land and the applicants said it was. Ms. Buck added that the original plans show the garage at 30' x 30', but the applicant sent the revisions to reduce the garage to 26' x 26'. Ms. Trotto explained that the reasoning to reduce the garage size was to keep it under the 700 sqft requirement. Mr. Drexler stated that for the Building Inspector they would need to resubmit a new surveyed plan.

The Zoning Board complimented the applicant on the Photoshop picture submitted. They found the picture to be helpful in depicting where the garage will go.

Mr. Drexler addressed the applicants on them getting approval from the Board of Health in regards to the sewer. George Hammill, 211 Greenville Street, explained that Lee Jarvis told him the septic system was approved for five bedrooms and that the current septic system would be fine.

Ann Trotto asked the Zoning Board if the connection between the house and the garage needed to be enclosed or if they could connect the roofs with a breezeway to save money. Ms. Buck said the plan they submitted showed an enclosed breezeway and according to the Zoning Bylaw, Section 4.8.1 *Accessory Apartments*, "construction of an accessory apartment is allowed upon the granting of a special permit by the Zoning Board of Appeals, either within or attached to (by a completely enclosed breezeway type of structure)." Therefore, the breezeway between the existing home and the garage would need to be enclosed.

Motion to close the discussion: Ms. Kresco makes the motion to close the discussion, Mr. Emerson seconds.

Vote: 3 – 0.

Motion: Ms. Kresco makes the motion to Grant the Special Permit and variance to applicants Stephen and Ann Trotto to construct a two car garage with an in-law apartment at 1 Combine Road in Spencer, MA.

Findings (Section 7.2.3):

- A. The use is in harmony with the general purpose and intent of this Bylaw and any applicable subsections herein.
- B. The proposed use will not create undue traffic congestion nor unduly impair pedestrian safety.

- C. 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.

Conditions:

The applicants must submit new plans for the new 26' x 26' garage and keep original setbacks.

Mr. Emerson seconds. Under discussion Mr. Drexler notes that the application also meets the requirements for variances (Section 7.3.2), specifically topography.

Vote: 3-0

3. Variance Extension, 100 McCormick Road/Andrews:

Request for a six month extension on the variance for 100 McCormick Road. No one was present for the meeting. There was brief discussion on whether to approve or continue to a future meeting. Board members had no concerns with the request.

Motion: Mr. Emerson makes motion to extend the variance for six month, Ms. Kresco seconds.

Vote: 3-0

4. Special Permit, continued public hearing/ Meadow Solar:

This is a continued public hearing for Meadow Solar project. The last hearing was continued pending a site visit by the Zoning Board members.

Ms. Kresco wanted Steve Broyer to address the tree line/ perimeter close to the shooting range and felt that there is a need for more trees. Mr. Broyer mentioned that he had met with the Spencer Fish and Game onsite and brought GPS points and discussed the ricochet of bullets. Mr. Broyer drew up a sketch to build up the easement and construct a bigger berm to address the concerns. In addition, he has cleaned up all the open questions each Board made points on and will be submitting new plans. Mentioned that the percolation tests for groundwater were higher than anticipated but will be able to handle those concerns with the Conservation Commission.

Mr. Drexler asked what the percolation results were. Mr. Broyer said the elevation of infiltration was getting groundwater but Mr. Broyer hasn't seen the geotechnical borings to see if possibly clay that's keeping the water up. Mr. Collette wanted to know why there is a need to do percolation testing for this project. Mr. Broyer answered that he treated gravel as an impervious surface and they needed to meet the TSS removal rates in the four bays for stormwater treatment. According to Lenard Engineering the gravel is not an impervious surface like concrete or a rooftop and therefore, they are not as concerned with infiltration or runoff of stormwater. Mr. Drexler commented that there will mostly be grass at the site. Mr. Broyer agreed and said there will be a small amount of stormwater but they still needed to address it.

Mr. Broyer continued to state that the Spencer Fish and Game are now in support of the solar project. He felt that there was great points at the last meeting as to what the land could potentially be sold for and Vic Lacroix with Spencer Fish and Game feels the Solar Farm would be the best use of the land. Mr. Drexler pointed out they had similar arguments from the abutters on the Wilson Solar Farm and some residents on Paxton Ave changed their minds when the trees came down and they have better views. However, some others would disagree.

Mr. Drexler asked if there had been a new submission on the fence. Mr. Broyer added he is still waiting on the town and what they want to do and he will do what the town wants. The Conservation Commission wants the fence to sit up 6" off the ground to allow smaller animals to pass through. Ms. Buck made a note that a Solar Farm in Leicester needed to add a foot of barbed wire at the top of the fence and the fence went to the ground. Mr. Collette is confused about having the fence sit up 6" high off the ground and adding the barbed wire on the top would encourage someone to dig under the fence to get in. Ms. Buck mentioned that the Planning Board Members preferred the knotted fence over the chain link fence because they felt chain link looked too industrial. Mr. Collette does not feel the Planning Board should be concerned with the fence. Ms. Buck mentioned that an issue may come up if both Boards decide on two different fences. Mr. Drexler added that only the inverter should have the security of a barbed wire fence as the panels pose less of a danger than the inverter. However, the panels would need to be fenced in to try and avoid vandalism.

Ms. Buck asked the Zoning Board if they had a preference on the fence being knotted or chain link. Mr. Drexler does not care on what type of fence just as long as there is the required space underneath. Mr. Collette added he is not in favor of the space underneath but he feels if there is a space than not to make the fence 6 ft high. Mr. Collette asked Ms. Buck if the other Solar Farms needed the space under the fence, she replied that the other Solar Farms did have that requirement through the Conservation Commission just not the Zoning Board. Mr. Drexler asked Mr. Broyer if copper has been stolen from other sites. Mr. Broyer said there is more aluminum than copper onsite and they really haven't seen much stolen from other solar projects. Mr. Drexler asked Ms. Buck what the Planning Board wanted for the fence height and she explained they did not get too much into height but they want the fence 6" off the ground. Mr. Drexler asked the Board for their thoughts and make recommendations on the fence topic to make conditions for future use. There was much discussion about the preference of the knotted fence and a chain link fence concerning aesthetics, safety, and accessibility. Mr. Collette made the recommendation that if all the other Solar Farms are have chain link then they should stay consistent. All the Zoning Board members agreed that they should stay consistent. Mr. Emerson suggested leaving it up to the applicant on whether they want a 6 or 7 foot fence and Ms. Buck agreed. Ms. Buck asked if the condition of the fence would be a chain link fence, 6" off the ground, and the height 6-7 feet depending on the applicable regulations. The Zoning Board agreed.

Ms. Buck asked Mr. Broyer about the berm and any information he could provide. Mr. Broyer said that he is hoping to submit something by Wednesday November 12, 2014 and it is difficult to meet deadlines with the Town of Spencer's three day work week. Mr. Broyer needs to submit additional information to the Conservation Commission as well.

Mr. Collette asked about the site's signage. Mr. Broyer said he submitted that there will be danger signs every 300 ft along the fence. There will not be any entrance signage. However, there will be a sign on the main gate. Mr. Collette asked if there will be signs posted for the cameras and Mr. Broyer said there will be signs for the cameras. The cameras will be on a few poles throughout the site that will be 12'-14' high. The camera will point in the direction it senses movement and can be moved off-site.

Mr. Drexler asked if it was tougher dealing with liberal California or liberal Massachusetts. Mr. Broyer said that doing the work in California is more difficult due to the property tax law.

Mr. Drexler said if there are no further comments there can be a motion to close the discussion.

Ms. Kresco makes a motion to close the discussion, Mr. Collette seconds.
Vote: 3-0.

Motion: Mr. Collette makes motion to approve the Special Permit at the address of 144 McCormick Street.

Findings (Section 7.2.3):

- A. The use is in harmony with the general purpose and intent of this Bylaw and any applicable subsections herein.
- B. The proposed use will not create undue traffic congestion nor unduly impair pedestrian safety.
- C. 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.

Conditions:

- 1) The project shall be limited in scope and use to what is described in the plans identified as Spencer Meadow Solar Development Review Documents dated August 18, 2014, application materials, and as conditioned herein. Any expansion of structures, additional structures, or change in use shall be subject to amendment of this approval. Additional permits and approvals may be necessary depending on the nature and scope of proposed changes. Changes required by the current Planning Board or Conservation Commission approval process that do not increase the scope of the project or reduce proposed buffers do not require re-approval by the Zoning Board of Appeals., and
- 2) The fence surrounding the project shall be chain-link, 6 or 7 feet high (in conformance with code requirements), and shall have a 6 inch space underneath the fence.

Ms. Kresco seconds.
VOTE: 4-0

5. Approval of Minutes:

Mr. Drexler had one edit to the minutes. On page three, middle paragraph, starting with “Mr. Drexler addressed the abutters,” add “or need of money” at the end of the sentence.

➤ October 14, 2014

MOTION: Mr. Collette makes the motion to accept the minutes as amended by Mr. Drexler, Ms. Kresco seconds.

VOTE: 4-0

6. Adjournment: with no further discussion the meeting is adjourned

Motion: Ms. Kresco makes the motion to adjourn the meeting, Mr. Emerson seconds.
VOTE: 4-0

Submitted By: Monica Santerre-Gervais, ODIS Clerk 11/18/2014

Approved by the Zoning Board of Appeals on 1/13/2015

List of Documents used on November 10, 2014:

11-4-2014 ZBA mailing

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo from Michelle Buck, Town Planner dated 11/12/14
- Minutes from 10/14/2014
- Special Permit Application, plans, and documents for 1 Columbine Road

Items submitted to ZBA members at the meeting:

Email from Steve Broyer dated November 5th, 2014.