



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, November 14, 2017 at 7:15pm

Zoning Board of Appeals Meeting
McCourt Social Hall/Memorial Town Hall
157 Main Street, Spencer, MA 01562

Zoning Board Members Present: Allan Collette, Mary Stolarczyk and Alan Stolarczyk

Zoning Board Member Absent: None

Staff Present: Monica Santerre-Gervais, Clerk & Paul Dell'Aquila, Town Planner

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:19 pm.

2. Continued Hearing on Special Permit – Applicant/Owner: Anne & Timothy Boucher. Location: 218 Greenville Street, Spencer Assessor's Map R16-21. The applicant is requesting Special Permit under Sections 4.2(E.14) , 4.2(E.15), and 4.3.13 of the Spencer Zoning Bylaw to run a Boarding Kennel/Daycare/Pet Massage & Pet Reiki facility for dogs. The property is located within the Rural Residential zoning district.

Anne & Timothy Boucher, 218 Greenville Street, were present for the meeting.

Mr. Collette briefly described the applicant's request and discussed the revision of the fence location on the plot plan she submitted, which is a four foot wire fence that meets all the setbacks. Also, the hours of operations were read aloud "Hours of operation will be as follows: Doggie daycare 6am - 7pm. Boarding: between 7pm - 10pm dogs will only be outside during potty breaks between 10pm - 6am dogs will not be outside," per Ms. Boucher.

There were no abutters or public present for open discussion.

MOTION: Mr. Stolarczyk motioned to close the hearing

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Stolarczyk motioned to approve the special permit for the dog kennel operations at 218 Greenville Street for Anne and Timothy Boucher.

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

3. Special Permit (Renewal) – Applicant/ Owner: Peter Zukas. Location: 89 Smithville Road, Spencer Assessor's Map R30/01. The applicant is looking to renew their Special Permit under Sections 4.2 (H.1) and 4.8.6 of the Spencer Zoning Bylaw to continue a gravel removal operation. The property is located in the Rural Residential zoning district.

Mr. Collette opened the hearing at 7:24 pm and read aloud the narrative.

Jeff Zukas, 93 Smithville Road, was present for the hearing. Mr. Collette asked if there was any new information or any new areas that have been opened. Mr. Zukas said they are still doing small amounts of excavation work and they have not opened any new areas.

Mr. Stolarczyk mentioned Margaret Washburn inspection from the Conservation Commission with her approval with the renewal. Mr. Dell'Aquila mentioned the applicant has not done any real additional work besides some screening of loam.

There were no abutters or public present for open discussion.

MOTION: Mr. Stolarczyk motioned to close the hearing

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

MOTION: Ms. Stolarczyk motioned to approve the gravel permit renewal for one year

SECOND: Mr. Stolarczyk

DISCUSSION: None

VOTE: 3-0

4. Variance - Applicant/Owner: Vitold Zenkus. Location: 113 Ash Street, Spencer Assessor's Map R28/21. The applicant is looking for a variance under Sections 5.1 and 7.3 of the Spencer Zoning Bylaw as the lot does not meet the current zoning standards for minimum lot size and minimum lot frontage to allow construction of a new single family home. The property is located in the Rural Residential zoning district.

Mr. Collette opened the hearing at 7:30 pm and read aloud the narrative.

Vitold Zenkus, 78 Turner Road, Charlton, MA, was present for the meeting. Mr. Zenkus explained to the Zoning Board of Appeals that he purchased the land before the Zoning Bylaw changes in 2006. Mr. Zenkus was unaware that the bylaw change would affect his property and when the percolation test was done he found out his lot was non-conforming. Additionally, Mr. Zenkus said according to the Zoning Bylaws he is short on frontage by 3 feet and the square footage is short by 11,000.

Mr. Collette asked about the frontage on the plan and Mr. Zenkus said the number for frontage should be 196+. Mr. Dell'Aquila explained the diagram he attached to his memo has the dimensions and that the standards for minimum lot square footage and frontage were different before the bylaw change. Mr. Collette mentioned the grandfathering of building on the lot was 5-7 years and they have seen cases like this before because the land owners were unaware their lots became non-conforming. Mr. Stolarczyk asked about the right of way. Mr. Dell'Aquila discussed that a 55 and over townhouse community was approved to be put in, however, the project did not go through and the approval time limit lapsed. Mr. Collette asked where the house was going on the property and if he will be able to meet the setbacks. Mr. Zenkus said the

percolation test was done and approved and he should meet everything. Mr. Collette said he remembered the application for the 55 and over townhouses and remembered they had a lot of ledge and recommended the applicant observe that to see if another variance may be needed for the setbacks.

Mr. Collette opened the meeting to the public.

Carolyn Fecteau, 101 Ash Street, wanted to raise concerns of a pond that runs behind the property and has seen vernal pools and would like the Conservation Commission to be aware of. Mr. Dell'Aquila said that when a building permit is submitted the Board of Health and Conservation Commission need to sign off and the issues will be addressed.

Robert Fecteau, 101 Ash Street, said that Ms. Fecteau is his mother and they are concerned because 115 Ash Street had a sewer leak in the pond and they use the pond for swimming, fishing, skating, etc.

Mr. Dell'Aquila said there are stricter bylaws in place for new septic.

MOTION: Ms. Stolarczyk motioned to close the hearing

SECOND: Mr. Stolarczyk

DISCUSSION:

VOTE: 3-0

MOTION: Ms. Stolarczyk motioned to approve the variance at 113 Ash Street to Mr. Zenkus

SECOND: Mr. Stolarczyk

DISCUSSION: Mr. Collette explained that the applicant proved to have a hardship since the lot was complaint with zoning when he brought the property and then the bylaws changed and the applicant was unaware he was no longer conforming. Mr. Dell'Aquila added that the applicant adhere to all Board of Health and Conservation criteria before building.

VOTE: 3-0

5. Special Permit – Applicant: Steven Briggs Owner: Stephen Boyle and Tracy Griffin Location: 36 A Laurel Lane, Spencer Assessor's Map U31/47. The applicant is looking to obtain a Special Permit under Sections 4.4.1.B under Accessory Use of the Spencer Zoning Bylaw to construct a three bay garage with storage area on a vacant lot across the street from their primary residence. The property is located in the Lake Residential zoning district.

Ms. Stolarczyk read aloud the narrative.

Mr. Dell'Aquila mentioned that his memo said variance but the agenda was correct and it's a special permit for accessory use.

Steven Briggs, 109 Old Webster Road, Oxford, MA, is the contractor for the project and was present for Stephen Boyle.

Mr. Collette asked if the home was across the street and Mr. Briggs said yes. Mr. Briggs said that the garage meets all the required setbacks and when Mr. Boyle bought the lot the Building Inspector, William Klansek, signed a letter stating there could be a garage there. Mr. Collette asked how many stories and Mr. Briggs said it would be a 3-bay drive under garage with a workshop on top. Mr. Collette asked about having a well or septic and Mr. Briggs said they wouldn't be getting either.

Mr. Collette opened the meeting to the public and there were no abutters present.

MOTION: Mr. Stolarczyk motioned to close the hearing

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Stolarczyk motioned to approve the special permit for an accessory at lot 36 A Laurel Lane / across from 10 Laurel Lane.

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

6. Approval of Minutes -

- **October 10, 2017**

MOTION: Mr. Stolarczyk motioned to approve the minutes for 10/10/2017

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

7. Town Planner/ Adjournment -

Mr. Dell'Aquila reviewed what would be coming up at the next meeting and mentioned we may not have quorum with Ms. Stolarczyk planning on being absent and that the next meeting would still be opened and continued.

Mr. Stolarczyk motioned to close the hearing at 8:10 pm

Ms. Stolarczyk seconded

VOTE 3-0

Submitted By: Monica Santerre-Gervais, ODIS Clerk
Approved by the Zoning Board of Appeals on 1/09/2018

List of Documents used on November 14, 2017:

Items emailed/handed out to ZBA members prior to meeting:

- Agenda
- Memo from Town Planner dated 11/6/2017
- Minutes from 10/10/2017
- Special Permit application, Anne Boucher/ dog kennel. Updated fence plan with setbacks and an email with hours of operations.
- Special Permit Application- Zukas Gravel Pit renewal
- Variance application- Vitold Zenkus, 113 Ash Street, non-conforming lot size and frontage
- Special Permit application and plans- Stephen Boyle and Tracy Griffin on lot 36 A Laurel Lane to build a 3 car garage across the street, signed letter from William Klanssek stating the project could be allowed.

Items submitted to ZBA members at the meeting:

- None