



Zoning Board of Appeals – Town of Spencer

*Minutes*

Zoning Board of Appeals Meeting  
**Tuesday, October 11, 2016 at 7:15 PM**

McCourt Social Hall  
Memorial Town Hall-157 Main Street, Spencer, MA 01507

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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 7:17pm.

**2. Special Permit (Gravel Renewal) -**

Ms. Stolarczyk read aloud the description; Applicant/Owner: Leo Aucoin. Location: 89 Cranberry Meadow Road, Spencer Assessor's Map R02-2-1. The applicant is requesting Special Permit under Sections 4.2 (H.1.) of the Spencer Zoning Bylaw to renew and continue with a gravel removal operation. The property is located within the Rural Residential zoning district.

Leo Aucoin, 89 Cranberry Meadow Road, explained he was here to renew his gravel pit and nothing has changed. Mr. Collette thought that the renewal process was every three years and didn't understand why that has changed.

Mr. Collette opened the meeting to the public:

Mary Ann Kauppila, 264 Charlton Road, explained she does not want Bond Construction to receive their renewal permit. Mr. Collette explained this was not the hearing for Bond Construction and it would be next on the agenda.

**MOTION: Mr. Collette motioned to close the hearing**

**SECOND: Ms. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

**MOTION: Ms. Stolarczyk motioned to approve the Special Permit renewal to Leo Aucoin for 89 Cranberry Meadow Road under 4.2 (H.1.) of the Spencer Zoning Bylaw.**

**SECOND: Mr. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

### **3. Special Permit (Gravel Renewal) -**

Ms. Stolarczyk Applicant Bond Construction Corp, Owner: Edward Hubacz & Joseph Hubacz, Jr., Location: Cranberry Meadow Road, Spencer Assessor's Map R9-1 & 2. The applicant is looking to renew their Special Permit under Sections 4.2 (H.1) of the Spencer Zoning Bylaw to continue a gravel removal operation. The property is located in the Rural Residential zoning district.

Paul Jones, 98 North Spencer Road, was present on behalf of Karen Hubacz/ Bond Construction Corporation. Mr. Jones explained that the gravel pit has been active and have been experimenting with loom reclamation, which requires a process of laying down recycled paper for 5-7 years to generate topsoil. Mr. Jones further explained that they have extracted some gravel and that Margaret Washburn had done her inspection and didn't have any issues with the site. Mr. Jones did mention that they are working with the Spencer Police Department because of the ATV's that continue to vandalize and trespass on the site. Mr. Collette asked how long ago the paper technology came out and Mr. Jones said it has been around for awhile. Mr. Collette asked what does it get mixed with and Mr. Jones answered other topsoil. Mr. Collette asked if the product was to sell or just as ground cover. Mr. Jones said it would be used mostly as a cover because it takes 5-7 years for the process. There was some discussion in regards to the worker who was killed because of an ATV. Mr. Stolarczyk asked if there had been any major extraction and Mr. Jones said no mostly only landscaping stone.

Mr. Collette opened the meeting up to the public:

Mary Ann Kauppila, 264 Charlton Road, explained that she was requesting the Zoning Board of Appeals deny the renewal because the large trucks that drive by her home makes the home shake, the roads are destroyed, she has had to replace vehicles because of the road, and the trucks make a lot of noise. Mr. Jones answered that her home is near the stop sign and the trucks should be slowing down near her home. Ms. Kauppila said her taxes are high because the heavy trucks ruined Route 31 that needs to be repaired. Mr. Jones explained that Bond Construction Corporation has to pay heavy road taxes per vehicle every year. Paul Dell'Aquila, Town Planner, asked if there was anything new or has the gravel pit been consistent. Mr. Jones said they are hoping to receive business from the contractor repairing Route 31. Mr. Collette explained to the Zoning Board Members the earlier process and requiring bonds. Mr. Stolarczyk asked how long had the gravel pit been there and Mr. Jones said since the late 1980's. Mr. Collette further explained that the original owner walked away from the gravel pit and the Town of Spencer learned the hard way to request bonds for gravel pits. Mr. Collette asked Mr. Jones how much 200 cubic yards amounted to and Mr. Jones responded 17-18 truck loads. Mr. Collette felt that 17-18 truck loads was not a lot of traffic congestion for the year of 2016.

**MOTION: Mr. Collette motioned to close the hearing**

**SECOND: Mr. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

**MOTION: Mr. Collette motioned to approve the Special Permit renewal for Bond Construction Corp, Owner: Edward Hubacz & Joseph Hubacz, Jr., Cranberry Meadow Road under Sections 4.2 (H.1) of the Spencer Zoning Bylaw.**

**SECOND: Ms. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

**4. Public Hearing Continuation - Special Permit -**

Mr. Collette opened the public hearing at 7:56pm and read aloud the description, Applicant: Christopher Gagne. Owner: Steven Turner. Location: Charlie's Diner, 5 Meadow Road, Spencer Assessor's Map U11/12-1. The applicant is requesting a Special Permit under section 3.4.1.G.1 (Permitted Uses/ Agricultural), 3.4.1.G.2 (Permitted Uses/Forestry), 5.4 (Bulk Requirements), and 6.1.1.D (Parking/ Maximum number of spaces) in order to build a new building and expanded parking. The property is located within the Commercial zoning district.

Christopher Gagne, 7 Elizabeth Street, Dudley, MA, was present for the meeting. Mr. Gagne explained that when they had gone before the Conservation Commission the National Heritage found that they were located in a wood turtle nesting habitat, therefore, the plans had to be changed. Mr. Gagne explained that the new plans submitted reflect the changes needed by the Conservation Commission. Also, Mr. Gagne explained that they are requesting a Special Permit for parking and for the stand alone retail building. Originally, the applicant was requesting a Special Permit for section 5.4 (bulk Requirements) but due to the revisions they no longer need the Special Permit.

Mr. Stolarczyk expressed it is a good re-design. Mr. Collette reviewed the sections the applicant is requesting a special permit under section 3.4.1.G.1 (Pre-existing non-conforming), 3.4.1.G.2 (Permitted Use), and 6.1.1.D (Parking). Mr. Collette asked about run-off and Mr. Gagne said the more impervious coverage would require a better drainage system. Mr. Collette asked how many parking spaces they were planning to have. Mr. Jones answered that they originally wanted 116 but because of the new plan design they will have 106 parking spaces.

**MOTION: Mr. Collette motioned to close the hearing**

**SECOND: Ms. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

**MOTION:** Mr. Collette motioned to grant a Special Permit to applicant: Christopher Gagne. Owner, Steven Turner, for Charlie's Diner located at 5 Meadow Road under section 3.4.1.G.1 (Pre-existing non-conforming), 3.4.1.G.2 (Permitted Use), and 6.1.1.D (Parking) with the following findings and conditions:

Findings: the Spencer Zoning Board of Appeals made the following findings as required by M.G.L. Chapter 40 A., Section 9 and Section 7.2 of the Spencer Zoning Bylaw:

1. That the proposed use is in harmony with the general purpose and intent of the Zoning Bylaw, as the subject site is already being used as a restaurant, a permitted use in the Commercial zoning district. Moreover, Special Permits have previously been issued for the site.

2. That the proposed use will not create undue traffic congestion nor unduly impair pedestrian safety, as Meadow Road is already a commercially-oriented road with adequate physical dimensions. Additionally, the Highway Department and Police Department have expressed no concerns about traffic issues at the site.
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. There are multiple commercial uses already active nearby, so the general character of the area would not be negatively impacted. Additionally, considerations have been given to the site's location in the Aquifer Protection Zone and also the presence of protected turtle species under Natural Heritage Endangered Species Program.
4. In addition, the Board also found parking to be sufficient to serve the proposed use under Section 6.1 and that the provision of more than the required parking would not negatively impact the site or adjacent properties.

In addition, the Board also made the additional findings under Section 3.4.1.I.4 as follows:

1. The proposed use will in no way, during construction or thereafter, adversely affect the existing or potential quality of quantity of water that is available in the Aquifer Protection District when done in accordance with approved wetlands and storm water management permits issued by the Conservation Commission.
2. The proposed use will be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed in accordance with approved wetlands and storm water management permits issued by the Conservation Commission.
3. All fill material to be used on the site will be clean and free from hazardous materials, construction debris and any leachable material which is a potential hazard to the ground or surface waters in accordance with approved wetlands and storm water management permits issued by the Conservation Commission.
4. Appropriate measures will be taken to ensure that any increase in stormwater runoff is artificially recharged into the aquifer by means of dry wells, infiltration trenches, retention basins and others in accordance with approved wetlands and storm water management permits issued by the Conservation Commission.

**Conditions:**

1. All work authorized under this Special Permit shall be in accordance with the Application, supportive materials and testimony submitted by the Applicant and its representative to the Zoning Board.
2. Prior to the commencement of the use permitted by this Special Permit, all necessary and required permits must be obtained from any and all other municipal, state and or federal

departments, boards, commission or agencies, and all work shall be done in accordance with said permits.

3. Approval of the Special Permit is based on plans “Charlie’s Diner Proposed Building and Building Addition with Associated Parking, 5 Meadow Road (aka 32 West Main Street) Spencer, Massachusetts 01562” dated December 15, 2015, revised December 30, 2015, revised January 28, 2016, revised September 6, 2016, revised October 6, 2016

**SECOND: Ms. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

#### **5. Approval of Minutes:**

- September 13, 2016

**MOTION: Ms. Stolarczyk motioned to approve the minutes as submitted**

**SECOND: Mr. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

#### **6. Discussion/ Adjournment:**

There will be no meeting November 8, 2016.

With no further discussion the meeting is adjourned at 8:27pm.

**MOTION: Ms. Stolarczyk motioned to adjourn**

**SECOND: Mr. Stolarczyk**

**DISCUSSION: None**

**VOTE: 3-0**

Submitted By: **Monica Santerre-Gervais, ODIS Clerk**

Approved by the Zoning Board of Appeals on **1/10/2017**

#### **List of Documents used on October 11, 2016:**

10-04-2016 ZBA emailing

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo to the ZBA dated 10/04/16, submitted by Paul Dell ‘Aquila
- Minutes from 9/13/2016
- Special Permit Gravel renewal application, narrative, inspection by Margaret Washburn, photos from Margaret Washburn for Leo Aucoin/ Cranberry Meadow Road

- Special Permit Gravel renewal application, narrative, inspection by Margaret Washburn, photos from Margaret Washburn for Bond Construction Corp/ Cranberry Meadow Road

Items submitted to ZBA members at the meeting:

- Plans and narrative received 10/11/2016 for Charlie's Diner from Christopher Gagne