



Zoning Board of Appeals – Town of Spencer

Minutes

Zoning Board of Appeals Meeting
Tuesday, April 12, 2016 at 7:15 PM
McCourt Social Hall
Memorial Town Hall

Zoning Board Members Present: Dee Kresco, Allan Collette and Robert Emerson

Zoning Board Member Absent:

Staff present: Monica Santerre-Gervais, Clerk & Larry Smith, Town Planner

1. Open Meeting – Mr. Emerson opens the meeting at 7:16 pm

2. Variance :

Applicant: Steven Broyer (ECOS ENERGY). Owner: PLH, LLC. Location: 144 Mechanic Street, Spencer Assessor's Map R23-41-2. The applicant is requesting a Variance under section 5.1 (Table of Area Requirements) of the Spencer Zoning Bylaw to create a parcel with less than the minimum required frontage on Mechanic Street. The property is located within the residential zoning district.

Steven Broyer, from ECOS Energy, was present for the meeting and discussed that he is currently going in front of the Planning Board to finally get the approval for the solar farm he applied for back in 2014, however, he needs to receive a variance for frontage. Mr. Collette asked how this was discovered and Mr. Smith explained that it was discovered on the ANR that was approved but it was not laid out correctly for the applicants needs. Mr. Broyer outlined on the plan the original plan, when land was split on the ANR ECOS Energy lost the frontage. In addition, they touched upon Michelle Buck's interpretation of the solar farm back in 2014 and she did not believe the use needed frontage. There was also discussion in regards to the technical review and the discussion revolved around receiving the variance in order start the project. Currently, there is 50' of frontage on Pleasant Street and plus or minus 50' of frontage on Mechanic Street. Mr. Collette asked Mr. Smith if everyone could leave the room to ask him a question and Mr. Smith said they could not do that unless this was Executive Session worthy and it should have appeared on the Agenda. Mr. Collette explained he is concerned on approving this variance due to the legal proceedings that is happening with the Paxton/Woodchuck solar farm. Mr. Broyer expressed that if this issue had been discussed back in 2014 than they would not have purchased the land. They purchased the land with the understanding that it was a legal lot for a solar facility. Mr. Collette just explained he was worried on how to word the variance.

Mr. Smith discussed the criteria the applicant needed to meet in order to receive a variance. Mr. Broyer said the way the ANR was approved it is not a buildable lot. Attorney Damien

Berthiaume, 4 Elm Street North Brookfield (who was not representing ECOS), suggested approving the variance but having legal counsel review for findings and conditions. Mr. Broyer wants the board members to try and look at this project separately and there is a paper trail for the approval of the use. There was much discussion about the new plan, the swamp that they can't have access near, the private road, the Spencer Fish & Game easement and the outlet in the pond. Suggestions were made to try and achieve frontage, however, ECOS Energy would still not make up the frontage needed. Mr. Broyer said that his plan now meet the requirements with all of Fire Chief Bob Parsons's requests. Mr. Emerson said after review he can see that the applicant meets the criteria for this variance.

MOTION: Ms. Kresco made a motion to close the public hearing

SECOND: Mr. Collette

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Emerson motioned to grant a variance to ECOS Energy for the location 144 Mechanic Street under the Spencer Zoning Bylaw section 5.1 for less than permitted frontage due to the topography of the wetlands from the frontage on route 31. The Zoning Board finds that the access to the site is limited with only occasional traffic after construction and there would be no substantial detriment to the public good. Also, due to the limited impact to abutter, particular to single family owners there would be little or no violation of the intent or purpose of the Spencer Zoning Bylaws.

SECOND: Mr. Collette

DISCUSSION: None

VOTE: 3-0

3. Special Permit Continuation:

Tattoo Parlor. Applicant/Owner: Brydi Ricard. Location: 52 Chestnut Street, Spencer Assessor's Map U7-11. The applicant is requesting Special Permit under Sections 4.3.20 of the Spencer Zoning Bylaw to open a Body Art Establishment. The property is located within the Town Center zoning district.

Brydi Ricard, 52 Chestnut Street, was present for the meeting to discuss her request for an extension of time. Mr. Smith and Ms. Ricard discussed the proposed Zoning Bylaw revisions for the tattoo parlors going to the annual town meeting and if approved Ms. Brydi would not need to get the Board of Health certification prior to the Zoning Board of Appeals approving her special permit. There was discussion on what the wording changes are and when the town meeting was being held. Ms. Brydi asked for a two month extension to June 14, 2016.

MOTION: Ms. Kresco motioned to approve to continue the special permit Hearing for the tattoo parlor to the meeting held on June 14, 2016.

SECOND: Mr. Collette

DISCUSSION: None

VOTE: 3-0

4. Variance Continuation:

Applicant/Owner: James Bouley. Location: 67 Jolicoeur Avenue, Spencer Assessor's Map U25/59. The applicant is requesting a Variance from the minimum yard setback requirements for the placement of a shed on his property. The property is located within the Lake Residential Zoning district.

Mr. Emerson reopened the public hearing at 8:04 pm. Attorney Damien Berthiaume was present to represent the applicant James Bouley. Mr. Berthiaume handed out copies of the septic design and discussed the property being split by the right of way. The applicant is requesting a variance for an 8'x16' shed on a rear of the parcel, 128 sqft and would take up less than 3% of the property, this particular lot is smaller than other lots creating a hardship for the applicant, and most of Mr. Bouley's lot has been taken up by his septic. Furthermore, Mr. Berthiaume discussed how Mr. Bouley does meet the variance criteria, there is a 6' fence and the height of the shed would only be 9' at the peak and the view obstruction would be minimal. Mr. Smith asked why the applicant could not purchase a smaller shed and Jen Bouley answered that they had already bought the shed and were originally unaware of the process they would need to go through in order to have permission for the shed.

Susan Tee, 69 Jolicoeur Ave, was present for the meeting as an abutter and said she has no opposition to Mr. Bouley putting up a shed and she lives right beside them. In addition, Mr. Smith discussed an email received 4/12/16 by an abutter, Laura Archambeault, in regards to her approval of Mr. Bouley getting the variance for his shed. Mr. Emerson asked if the shed would be on a concrete slab and Mr. Bouley said no it would be on cinder blocks. There was much discussion about the location of the shed and the right of way. Mr. Collette asked who owns/uses the right of way. Mr. Berthiaume explained that the right of way was provided for access to Cranberry Meadow Pond and it ends at Mr. Bouley's cousin's property.

MOTION: Ms. Kresco motioned to close the hearing

SECOND: Mr. Collette

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Emerson motioned to approve the variance to James Bouley, 67 Jolicoeur Ave, to have a shed on a non-conforming lot. The applicant meets the criteria due to the fact of the peculiar shape of the lot, the easements surrounding the lot, the topography of the septic design and location on the applicant's property causing the applicant a hardship. The board finds that it would not cause a detriment to the public good. Since it is a non-conforming lot the space is limited and is similar to lots that surround his land and all abutters seem to be in the same situation. The public good would not be interfered with by the granting of this variance nor would the intent or purpose of this variance be violated.

SECOND: Mr. Collette

DISCUSSION: Mr. Collette wants to make sure that the shed is put in the location. Mr. Smith said the hand drawn plan shows the shed being placed 2' setback from the fence and 2' setback of the right of way.

VOTE: 3-0

5. Public Hearing Continuation - Special Permit-

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 an addition onto restaurant. The property is located within the Commercial zoning district.

Christopher Gagne, Engineer, emailed on behalf of Steven Turner to continue to the next meeting due to the project being on hold awaiting NHESP approval.

There was much discussion in regards to what has been approved in the past and what the applicant/owners are looking for this special permit application.

MOTION: Mr. Emerson motioned to continue the special permit hearing to June 14th, 2016.

SECOND: Mr. Collette

DISCUSSION: Next meeting will not be held due to the upcoming town meeting scheduled on the same night and no new applications.

VOTE: 3-0

6. Extension Request – Special Permit - Spencer Veterinary Hospital LLC. Located at 401 East Main St., Spencer Assessor’s Map R35-31, Commercial Zone.

Mr. Smith read aloud the letter submitted by Waterman Design Associates, Inc., dated 2/26/16, in regards to a request for extension for the Spencer Veterinary Hospital.

There was much discussion about the Zoning Bylaws extension requirements and allowance.

MOTION: Mr. Collette motioned to allow the special permit extension for the Spencer Veterinary Hospital until May 6, 2017

SECOND: Ms. Kresco

DISCUSSION: None

VOTE: 3-0

3. Approval of Minutes:

- **March 8, 2016**

MOTION: Ms. Kresco motioned to approve the minutes as written.

SECOND: Mr. Collette

DISCUSSION: None

VOTE: 3-0

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

MOTION: Ms. Kresco motioned to close the meeting

SECOND: Mr. Collette

VOTE: 3-0

Submitted By: Monica Santerre-Gervais, ODIS Clerk
Approved by the Zoning Board of Appeals on 6/14/2016

List of Documents used on April 12, 2016:

ZBA mailing

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo to the ZBA dated 3/29/16, submitted by Larry Smith
- Special Permit Extension request letter, dated 2/26/16, in regards to Spencer Veterinary Hospital
- Variance application and plans submitted by ECOS Energy, in sufficient frontage for the proposed Meadow Solar Farm
- Letter from Brydi Ricard, in regards to an extension for the tattoo parlor special permit hearing continuance
- Minutes from 3/8/16

Items submitted to ZBA members at the meeting:

- Email dated 4/12/16, from Laura Archambeault for the variance request by James Bouley
- Email from 4/11/16, submitted by Christopher Gagne, in regards to an extension for the special permit request for Charlie's Diner