



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, October 08, 2019 at 7:00pm

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

Zoning Board Members Present: Allan Collette, Robert Emerson, and Alyce Johns
Zoning Board Member Absent: Steven Tyler
Staff Present: Paul Dell'Aquila, Town Planner and Monica Santerre-Gervais, Clerk
Staff Absent: None

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:03pm

2. Special Permit (Renewal) – Applicant/ Owner: Bond Construction Corp. Location: Cranberry Meadow Road, Spencer Assessor's Map R09-1 & R09-2. 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.

Karen Hubacz, Bond Construction, was present for the meeting and said that she is requesting renewal of the gravel pit. Ms. Hubacz said there is some activity, they had there inspection with George Russell from Conservation, they post several times a year for the ATV's, they have gates with locks and the police have a key for emergencies, but mostly it's been quiet and they have good neighbors. Mr. Collette asked to elaborate on the ATV's and Ms. Hubacz said they see more activity with the ATV's in the summer, fall, and weekends, and they have had to have police details in the past. Mr. Collette said that the inspection report from Mr. Russell noted the ATV track but not a continuing problem. Mr. Dell'Aquila asked when they see the most activity for the ATV's and Ms. Hubacz said when children are out of school in the summer. Ms. Johns stated that she lives in the neighborhood and it has been quiet.

Mr. Collette opened the meeting up to the public and there were no comments.

Mr. Dell'Aquila handed out the draft certificate of decision with conditions.

MOTION: Mr. Emerson motioned to close the hearing and approve the renewal of the Special Permit for the gravel pit on Cranberry Meadow Road

SECOND: Ms. Johns

DISCUSSION: None

VOTE: 3-0

3. Special Permit – Applicant/Owner: Leo Aucoin. Location: 89 Cranberry Meadow Road, Spencer Assessor’s Map R02-2-1. The applicant is looking to renew his 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.

Leo Aucoin, 89 Cranberry Meadow Road, and stated he was here looking to renew his gravel pit permit but in the 35 years he has owned it there has been no activity. Mr. Collette asked if Mr. Aucoin read the inspection report from Mr. Russell and Mr. Aucoin said no and Mr. Collette read aloud the inspection report. Mr. Aucoin questioned one of the items that had do with clearing at the site and Mr. Dell’Aquila stated that if it is 100 feet from a wetland then he would need to file with Conservation. Mr. Aucoin stated there is a wooded area behind the gravel pit that trees fall down and he cleans it up and Mr. Dell’Aquila said cleaning up is fine but no additional cutting of the trees. Mr. Collette stated there is a small river not on the property that he could be 100 feet from and Mr. Aucoin said that was his relative’s property.

Mr. Collette opened the hearing up to the public and there were no questions or comments.

Mr. Aucoin wanted to continue discussing that he was cleaning up saplings. Mr. Dell’Aquila explained to Mr. Aucoin that Mr. Russell is new in his position and being thorough and these conditions are not new.

MOTION: Ms. Johns motioned to close the public hearing

SECOND: Mr. Emerson

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Emerson motioned to approve the renewal of the Special Permit for the gravel pit on 89 Cranberry Meadow Road for Aucoin

SECOND: Ms. Johns

DISCUSSION: None

VOTE: 3-0

4. Special Permit– Applicant/Owner: John & Theresa Agnew. Location: 123 Smithville Road, Spencer Assessor’s Map R30/15. The applicant is requesting Special Permit under Section 4.8.1 of the Spencer Zoning Bylaw to construct an accessory apartment. The property is located within the Rural Residential zoning district. Ms. Johns read aloud the application description.

John and Teresa Agnew, 123 Smithville Road, were present for the meeting. Attorney Phil Stoddard, 184 Main Street, was present to represent Mr. and Mrs. Agnew.

Mr. Collette commented on the amended plans and the added breezeway. Mr. Stoddard said the new plans meet all the criteria for zoning. Mr. Emerson asked what the length of the connection to the home and accessory apartment is and Mr. Agnew said 10 feet. Mr. Stoddard added that the parcel is 44 acres. Mr. Collette asked the size of the accessory apartment and Mr. Agnew

said just under the 700 square foot requirement and Mr. Dell'Aquila said according to the plans it is 695 square feet. Mr. Dell'Aquila added that when his memo to the Zoning Board of Appeals was emailed out it did not cover the amended plan but now everything is covered and he did drive by the parcel and the house is setback from the road.

Mr. Emerson asked if there were any wetlands. Mr. Agnew answered that they will be 200 feet away from the wetlands.

Mr. Collette opened the hearing up to the public and there were no questions or comments.

MOTION: Mr. Emerson motioned to close the public hearing

SECOND: Ms. Johns

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Emerson motioned to approve the Special Permit for the accessory apartment at 123 Smithville Road

SECOND: Ms. Johns

DISCUSSION: None

VOTE: 3-0

5. Approval of Minutes

- July 09, 2019

MOTION: Mr. Emerson motioned to approve the minutes for 7/09/2019 as submitted.

SECOND: Ms. Johns

DISCUSSION: None

VOTE: 3-0

6. Town Planner Report

- **ZBA Rules and Procedures-** Mr. Dell'Aquila handed out the draft rules and procedures and discussed that he did not have clarity yet on the precise enabling act in section 1. Mr. Collette said he had not gone all the way through the document and needed more time. Mr. Dell'Aquila said that it should be a formal agenda item for the next meeting. Ms. Johns asked who does the minutes if the minute's clerk is absent and Mr. Dell'Aquila said the minutes are always recorded and will be transcribed from the recordings. Mr. Emerson wants clarity for article 3. "*No person speaking at a public hearing shall be subject to cross-examination.*" Mr. Dell'Aquila said he will get guidance but feels it may imply that members of the public cannot ask direct questions.
- **Workshops-** Mr. Dell'Aquila handed out upcoming workshops the members might be interested and said the cost can be reimbursed by the town.
- **Special Permit for 48 Pleasant-** At the July meeting the applicant withdrew their application without prejudice because the transaction fell through but a decision wasn't formal and just need signatures from the Zoning Board of Appeals members to reflect the decision.

- **Start time-** Mr. Dell'Aquila asked the members if a 6:30 pm start time would work for them and Mr. Emerson said no he had other obligations so the meetings start time will remain at 7:00pm

7. New Business/Adjournment

- **Lake Street School-** Mr. Collette asked about plans for Lake Street School and Mr. Dell'Aquila stated that there is too much asbestos and the school will need to be demolished but there is no imminent date scheduled.
- **Public Comment:** Daniel Estevez, Owner of Families Together LLC, in the process of renting out part of the facility at 407 Main Street. Mr. Estevez said the business is an adult/senior daycare. Ms. Jones asked if he already talked to the Veterinary Clinic and Mr. Estevez said yes and Attorney Phil Stoddard is working on the lease agreements. Mr. Estevez said he will be submitting a special permit application for the next meeting but wanted to see if the board members needed additional information from him. The hours of operations are 8:30 am- 3:00 pm; they have 60 people now but plan on growing that number when they move. Ms. Johns asked how many employees he has on his staff and Mr. Estevez said currently 18 employees. Mr. Collette said there isn't more they can do until a formal application is submitted.

Mr. Collette motioned to adjourn the meeting at 7:47 pm

Ms. Johns seconded

VOTE 3-0

Submitted By: Monica Santerre-Gervais, ODIS Clerk

Approved by the Zoning Board of Appeals: 12/10/2019

List of Documents used on October 08, 2019:

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

- Agenda
- Memo from Town Planner
- Minutes from 7/09/2019
- Special Permit application to renew gravel pit for Bond Construction with Conservation Commission inspection report
- Special Permit application to renew gravel pit for Aucoin with Conservation Commission inspection report
- Special Permit application and plans for 123 Smithville Road for an accessory apartment

Items submitted to ZBA members at the meeting:

- Draft Certificate of Decision for Special Permit renewal for Bond Gravel Pit
- Draft Certificate of Decision for Special Permit renewal for Aucoin Gravel Pit
- Draft ZBA Rules and Procedures
- Upcoming workshops