



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, October 12, 2021, at 7:00pm

REMOTE MEETING

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

Zoning Board Members Present in person: Allan Collette, Gina Beford, and Steven Tyler

Zoning Board Member Absent: None

Staff Present in person: Town Planner

Staff Absent: Monica Santerre-Gervais, Clerk

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:10pm

2. Continued Appeal of Building Fee – Applicant/ Owner: James and Rachel LaLiberte; Location: 195 Charlton Road, Spencer Assessor's Map R13-16. The applicant is requesting relief from a building permit fee calculated by the Building Inspector for an indoor arena/barn. The property is located within the rural residential zoning district.

Rachel LaLiberte was present for the meeting and James LaLiberte was remote. Ms. LaLiberte discussed the plans that were submitted and is still in review. Mr. Miller said the plan is still in review and only received before the meeting so more time will be necessary.

Duane Amos, Building Inspector, said no plans were submitted but there were quite a few estimates provided and still in review. Also, Mr. Amos explained his concerns regarding the access to the site and the road there now will not be sufficient for this project for commercial traffic. Mr. and Mrs. LaLiberte asked that the Fire Chief deal with the driveway and just deal with the plot plan, trying to deal with the fee appeal, and asked if the Building Inspector makes the final decision or the Zoning Board of Appeal (ZBA) members. Mr. Tyler agreed that the applicant was only in front of the ZBA for relief on the calculated building permit fee and if the Building Inspector agrees on the fee than you don't need to be before the ZBA but at a previous meeting the ZBA asked to see a plot plan to see the setbacks. Ms. LaLiberte asked if they should withdraw the application since it is being brought before the building Inspector and Mr. Collette said to table the application until next meeting.

Mr. Miller said once they settle the fee schedule than the applicant should not need to come before the ZBA. Mr. LaLiberte expressed his concerns with the fee amount suggested by the Building Inspector and Mr. Miller stated the fee schedule is set and it is a large project and Mr. Amos would determine the fee. Ms. LaLiberte stated at the last meeting they attended the Building Inspector said he would allow the permit fee to be by construction cost and not square footage. Mr. Miller said it is a commercial project and would go by the \$7.00 per thousand. There was much discussion regarding the road, setbacks, and surveying.

Mr. Tyler asked Mr. Amos if he agrees the applicant may need to come back to the ZBA and Mr. Amos stated the applicant may need to get Site Plan approval and Stormwater approval. Applicants concerned about the change in the Conservation Agent, the wetlands letter, and additional permitting. Mr. Tyler discussed the stormwater permitting and the project would require a stormwater permit and altering a driveway would require a driveway permit.

MOTION: Mr. Tyler motioned to continue the public hearing until 11/09/2021

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

3. Appeal of Building Decision regarding Accessory Structure – Applicant: Jose Vasquez/ Ambassador Pools; Owner: Victor Apostolou; Location: 203 Paxton Road, Spencer Assessor’s Map R46-14. The applicant is requesting relief from a building permit denial by the Building Inspector for a pool installed that violates the setbacks. The property is located within the rural residential zoning district.

Victor Apostolou, 203 Paxton Road, mentioned that the applicant Jose Vasquez for Ambassador Pools was fired and now working with the owner. Mr. Collette said at the last meeting the deck was in the setback and possibly move the deck. Mr. Apostolou said he is a tough situation by putting his trust in Mr. Vasquez’s, Mr. Apostolou submitted some emails with email conversations between himself and Ambassador pools and will move the pool to meet requirements. Mr. Apostolou said the pool will move 4 feet, have Mr. Amos measure, and mark and inspect and confirm after the pool is moved. Mr. Miller said that Mr. Amos could be onsite when needed to meet compliance.

MOTION: Mr. Tyler motioned to continue the public hearing until 11/09/2021

SECOND: Ms. Beford

DISCUSSION: Applicant to submit withdraw without prejudice once the pool is moved and setback requirements are met.

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

4. 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, Executive Vice President for Bond Construction, present for the meeting. Ms. Hubacz discussed her request for the gravel pit renewal, her inspection with the new Conservation Agent, and discussed the reclamation and material at the site. Mr. Collette and Ms. Hubacz discussed acreage and the reclamation/disturbed material and areas at the site. Mr. Tyler and Ms. Hubacz discussed a previous site visit and the back area of the site.

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

MOTION: Mr. Tyler motioned renew the special permit for the Bond Construction Sand and Gravel with previous conditions.

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

5. Special Permit (Renewal) - 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, was present for the meeting. Mr. Aucoin said nothing on the site has changed and looking to renew his gravel permit. Mr. Collette if they are working out of the site and Mr. Aucoin said no.

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

MOTION: Mr. Tyler motioned renew the special permit for 89 Cranberry Meadow Road with previous conditions.

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

6. Special Permit– Applicant/ Owner: Jeremy Feldman; Location: 10 Grove Street, Spencer Assessor's Map U14-62. The applicant is looking for a variance under section 4.3.3 (Conversion of a Single-Family Home to a Multi-Family Home) of the Spencer Zoning Bylaw to convert a pre-existing single-family home into a multi-family home. The property is in the Village Residential zoning district.

Jeremy Feldman, 10 Grove Street, was present. Mr. Feldman bought the home as a two-family, but the Town of Spencer has it listed as a one-family, the neighbors thought it was two-family. Mr. Miller provided letters with neighbor support, Mr. Amos visited the site, and Mr. Feldman is looking to sell the home as a two-family. Mr. Collette asked about parking and Mr. Miller confirmed there was ample parking for a two-family. Mr. Amos said the house meets all the requirements to be two-family. Mr. Tyler asked about the water and sewer and Mr. Feldman said they currently have one service.

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

MOTION: Mr. Tyler motioned to close the hearing for 10 Grove Street.

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

MOTION: Mr. Tyler motioned to approve the special permit for a single family to a two-family home.

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

7. Variance – Applicant/ Owner: Christopher and Andrea Burke; Location: 6 Walnut Street, Spencer Assessor’s Map U29-04. The applicant is looking for a variance under section 7.3 and Section 5.1 (Table of Area Requirements) of the Spencer Zoning Bylaw to construct a 31’ wide x 24’ deep addition to a pre-existing single-family home, the addition would be within the front and left side setback. The property is in the Village Residential zoning district.

Andrea Burke, 6 Walnut Street, and Julian Votruba, New England Environmental Design, were present for the hearing. Mr. Votruba discussed the plan that was submitted to the ZBA regarding the addition for a new garage. Mr. Collette asked about a drop off in the back of the property and Mr. Tyler explained to the applicant the need to know why they need to build in the setbacks. Mr. Votruba said it is to keep the building uniformed and there is an existing garage currently, but the new building will be a little further, but further from the street. Mr. Collette said the lot shape alone would be enough to grant a variance. Mr. Tyler asked where vehicles park and Ms. Burke said she parks parallel from garage into the street and this new garage would help with them not parking in the street. Mr. Collette asked the distance between the road and existing garage and Mr. Votruba said 10 feet. Mr. Collette suggested pushing back to get vehicles off the street. There was much discussion between the ZBA members regarding the plan and possible scenarios to avoid parking in the street.

Mr. Collette opened the hearing up to the public.

Kathleen Fleming, 8 Walnut Street, was present. Ms. Fleming discussed the distance of the garage to her property. Ms. Fleming was concerned about the addition being on her property and agrees with the letter from the Building Inspector. Ms. Beford said they would need clarification on the distance from the garage and the neighbor’s property. Mr. Tyler has an issue with the 14-foot clearance, the concerns of the abutter, and hoping for a redesign of the plan.

MOTION: Mr. Tyler motioned to continue the public hearing until 11/09/2021.

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

8. Approval of Minutes 9/14/2021

MOTION: Mr. Tyler motioned to approve the minutes for 9/14/2021

SECOND: Ms. Beford

DISCUSSION: None

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

9. Town Planner Report-Todd Miller

- New Housing Production Plan Committee
- New Master Plan in process
- Master Plan Committee being developed

10. New Business/ Citizens Input/ Adjournment

No new business.

Ms. Beford motioned to adjourn the meeting at 9:00 pm

Seconded: Mr. Tyler

ROLL CALL VOTE: S. Tyler- Aye, G. Beford-Aye, and A. Collette-Aye (Vote 3-0 motion carried)

Submitted By: Monica Santerre-Gervais, ODIS Clerk

Approved by the Zoning Board of Appeals: 11/09/2021

List of Documents used on October 12, 2021:

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

- Agenda
- Minutes from 9/14/2021
- Special Permit Gravel Pit Renewal application, plan, and inspection for Bond Construction
- Special Permit Gravel Pit Renewal application, plan, and inspection for Leo Aucoin
- Special Permit application, plans, narrative, and pictures for 10 Grove Street
- Variance application and plans for 6 Walnut Street

Items submitted to ZBA members at the meeting:

- 203 Paxton, emails between the homeowner and the owner of Ambassador Pools
- 195 Charlton Road, updated estimates, and plot plan