



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, October 13, 2020 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: Chair Allan Collette, Alyce Johns, and Steven Tyler
Zoning Board Member Absent: None

Staff Present in person: 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 7:05pm and read aloud Covid-19 statement. *“This Meeting of the Zoning Board of Appeals is being conducted remotely consistent with Governor Baker’s Executive Order of March 12, 2020, pursuant to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have suspended public gatherings, and as such, the Governor’s Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. We are meeting remotely and broadcasting live on Spencer Cable Access to ensure public viewing access.”*

The Chair changed the order of the agenda to put the CVS application last

2. Continued Public Hearing/ Variance – Applicant/Owner: Audrzej Sobiech/ 73 Wilson LLC. Location: 73 Wilson Street, Spencer Assessor’s Map U28-10. The applicant is seeking a variance under Section 7.3 (Variances) of the Spencer Zoning Bylaw to replace an existing deck within the side boundary setbacks. The property is in the Lake Residential zoning district.

Mr. Collette mentioned that the applicant does not need the variance Mr. Tyler was going to motion to continue or to take the item off the agenda since the applicant is not responding. Mr. Dell'Aquila mentioned the applicant is looking to withdraw without prejudice but has been unable to reach the applicant.

The chair opened the hearing up to the public but there was no questions or comments for this petition.

MOTION: Mr. Tyler motioned to close the public hearing

SECOND: Ms. Johns

DISCUSSION: None

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

MOTION: Mr. Tyler motioned to withdraw the application without prejudice

SECOND: Ms. Johns

DISCUSSION: None

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

3. 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 in the Rural Residential zoning district.

Karen Hubacz, Bond Construction, was on the phone call to answer any questions. Mr. Collette asked if the Conservation Agent, George Russell, inspected the site and Ms. Hubacz said yes in September. Mr. Tyler asked about the steep slope and applying vegetative/paper mulch methods, but Ms. Hubacz answered that was not Bond and there only issues were ATV activity. Mr. Tyler asked about the solar farm and drainage and Ms. Hubacz said they gave the town an easement but not clear on the status of the proposed solar farm. Mr. Dell’Aquila stated that the applicant for the solar farm is requesting an extension. Mr. Collette said the ATV’s have always been an issue and Ms. Hubacz said mostly around the train tracks, but they post signs.

The chair opened the hearing to the public:

Mike Gadbois, 60 Cranberry Meadow Road, stated that he is a direct abutter and wondered if they were becoming a processing plant. Ms. Hubacz responded there is no processing and any materials goes to jobsites or their main plant for processing.

Mr. Collette noted that Mr. Russell recommended approval in his inspection memo.

MOTION: Mr. Tyler motioned to close the public hearing

SECOND: Ms. Johns

DISCUSSION: None

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

MOTION: Mr. Tyler motioned to approve the special permit renewal with the previous conditions carried over to the Certificate of Decision (conditions read aloud).

SECOND: Ms. Johns

DISCUSSION: None

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

4. 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 on the phone to answer questions. Mr. Collette asked if any new areas have been opened and Mr. Aucoin said no, they have been dormant for 10-15 years, but would like to keep the renewal ongoing. Mr. Tyler noticed a typographical error in Mr. Russell's inspection report regarding the expiration date. Mr. Collette mentioned that Mr. Russell recommended renewal with conditions and read them aloud and Mr. Dell'Aquila stated the conditions are embedded in the decision.

The chair opened the hearing to the public and there were no questions or concerns.

MOTION: Mr. Tyler motioned to close the hearing

SECOND: Ms. Johns

DISCUSSION: None

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

MOTION: Mr. Tyler motioned to approve the special permit renewal with the following conditions: that the permit be valid for one year, applicant to follow all previous conditions of earlier permits, if the applicant wishes to open any new areas he must notify the board and may need additional conditions, applicant must apply for a Request For Determination of Applicability (RDA) with the Conservation Commission before doing any clearing or earth disturbance.

SECOND: Ms. Johns

DISCUSSION: None

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

5. Special Permit– Applicant: Brandy Linde; Owner: Linda Hart/ Dr. Mark Ledoux, Location: 144 Charlton Road, Spencer Assessor's Map R18-11. The applicant is requesting a Special Permit under Section 4.3.13 (pet grooming establishments) of the Spencer Zoning Bylaw to open a Dog Grooming Salon. The property is located within the rural residential zoning district.

Mr. Collette read aloud the petition and Brandy Linde (applicant) and Linda Hart (Owner) were on the phone to answer any questions.

Mr. Collette asked if the dog grooming business would be by appointment only and Ms. Linde said yes. Mr. Collette asked about the parking and vehicles being able to turnaround and Ms. Linde responded that she can fit 3 cars in the driveway, and they can turnaround. Additionally, Ms. Linde noted that she will only take one family at a time and only one vehicle at a time, her hour will be Monday-Friday with an occasional Saturday. Mr. Collette asked about the owner Ms. Hart and she explained she does not live at 144 Charlton Road she rents to Ms. Linde.

The chair opened the hearing to the public and there were no questions or concerns.

MOTION: Ms. Johns motioned to close the public hearing

SECOND: Mr. Tyler

DISCUSSION: Mr. Dell'Aquila mentioned he provided a draft decision with conditions.

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

MOTION: Mr. Tyler motioned to approve the special permit with the following conditions: operational hours will be Monday- Saturday 8:30 am- 6:00 pm, the animals must be kept inside the building, no more than four dogs at a time (excluding the owners dogs) and dogs must be leashed entering and exiting the building.

SECOND: Ms. Johns

DISCUSSION: None

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

6. Continued Major Site Plan Review/ Special Permit – Applicant: Arista Development LLC; Owners: The Estate of William D. Ekleberry, Richard Cormier, and S-BNK Spencer LLC, Location: 4 lots bounded by High Street, Main Street, and Pleasant Street; Spencer Assessor's Map U13-98, 99, 100, & 101. The applicant is requesting Special Permit under section 3.3.2 (zoning boundary dividing a parcel) and a Major Site Plan Review under Section 7.4 and of the Spencer Zoning Bylaw Zoning to develop a 12,850 sf CVS with Drive Thru. The applicant is also requesting a supplemental Special Permit for additional/alternative relief under Section 4.2.E.1 (small scale retail with no outside storage). The properties are located within the Town Center and Village Residential zoning districts.

Doug Benoit, Arista Development, was in-person to review the project. Arista Development has developed over 40 drug stores/ bank, they have reviewed the site, and presented a slide show showing the proposed CVS location. Mr. Benoit said they are looking to purchase 4 lots and Arista Development will be the owner of the land and CVS will be the tenant.

Phillip Stoddard, Attorney representing Arista Development, was present and discussed the permitting process and options to file for this special permit. Mr. Stoddard said that the CVS will be 12,080 square feet with a drive thru window and the lot can support the building. Mr. Stoddard talked about the lots that will be purchased by Arista and the Town of Spencer's master plan and the Town of Spencer's need for revitalization. Mr. Collette asked for a copy of the master plan.

Philip Henry, CDG Engineering, discussed exhibit B of the plan set, and explained from an engineering prospective overview of the proposed CVS project. Mr. Henry discussed the area calculations; parcel 1.47 acres, VR 0.48 acres, limit of work is 0.29 acres or 19%, and noted the development in village residential is much less than the town center district. The CVS project will have a drive thru window, with access on Pleasant Street and one way on Main Street, there will be five site lights, wall lighting along the building, and with the significant grade change

there will be a retaining wall will extend to 500 linear feet. Mr. Henry mentioned the project has been peer reviewed by Lenard Engineering with two rounds of comments and have answered all the technical comment. Additionally, that there will be stormwater runoff but will mitigate the volume and less runoff after the construction of the CVS, also, the sewer flow will be reduced by half, and the utilities will be tied into Main Street. Mr. Tyler asked what the date on the current plan set was and mentioned he did not have the latest plan. Mr. Benoit said the plan set should read last revised September 18th, 2020. Mr. Tyler asked Mr. Henry to clarify where the sight lines are, and Mr. Henry reviewed sheet 4. Mr. Tyler asked about the frontage and the guiderail and Mr. Henry said it's a wooden guardrail and the intention is to create a barrier. Mr. Tyler asked about stormwater, sheet 5, and how the site has a new close system and asked Mr. Benoit to explain the treatment. Mr. Benoit said the new system is comprised of catch basins, pipe, and infiltration systems.

Mr. Dell'Aquila noted that the Planning board will be the Stormwater granting authority. Mr. Henry discussed the watershed runoff calculations. Mr. Tyler asked if there was a catch basin and Mr. Henry said yes 4 feet and hooded. Additionally, Mr. Tyler asked why they needed to relocate one of the towns lights and Mr. Henry said it is located at the intro to the curb cut and the radius of access to the site so they moved the light 20 feet to the east. Mr. Tyler asked if they would be rebuilding the wall and Mr. Henry said yes to accommodate the vehicles and discussed the stone that would be used (sheet 4 site plan). Mr. Tyler asked if the landscape would be maintained by CVS and Mr. Henry said yes and discussed the vegetation that would be used and the fence that will be chain linked and 6 feet tall. Mr. Collette asked if the back wall will be 30 feet and Mr. Henry said no the grade will be 30 feet with an 18 feet wall. Mr. Collette discussed historical sites and building in the Town of Spencer and Mr. Tyler stated that Town Center is an historical district.

Kirsten Braun, Ron Mueller Associates, was present to discuss the traffic study that was done. Ms. Braun discussed the access to the site being on Pleasant Street and the traffic study was done before the Covid-19 virus hit. Additionally, Ms. Braun stated with the minimal move of CVS it will have a minimal impact. The site distance, advanced warning signs, and pedestrian access from slide 5 of their power point presentation was reviewed. Mr. Collette asked about the advanced signage and having better signage and Ms. Braun said they can investigate it. Mr. Collette asked about the north entrance site distance and Ms. Braun said they would be cutting back the retaining wall and grade and having better alignment. Mr. Tyler asked what the stopping sight distance was, and Ms. Braun answered 220 feet.

Doug Grunert, BKA Architects, was present and reviewed the building design and lighting. Mr. Collette mentioned he did not see an historical aspect with the look of the CVS and some of the buildings in town are over 100 years old and this design would not fit in within the Town of Spencer's historical district. Ms. Johns stated that the Sturbridge CVS blends in and should look similar. Mr. Dell'Aquila said he took pictures of 15-20 CVS' and took those into consideration. Mr. Collette was concerned with CVS being the face of downtown and the current design will not fit in to the historical district.

Ralph Hicks, 21 Lyford Road, commented to the architect that there should be three handicap parking spaces or maybe a fourth. Appreciates that the board mentioned the aesthetic look not blending with the Town Center.

Don Simulus, 1 High Street (could not make out name) stated that he currently lives on High Street and feels the CVS will have a detrimental impact on the neighborhood and the neighbors aren't happy about it.

George Kiritsy, Attorney representing Jeff Fortin 7 High Street, mentioned the petition that was submitted regarding residents against the CVS. Mr. Kiritsy explained that this application does not qualify for zoning under the bylaw because its not one lot, it is several lots, with several deeds, and the line separating the districts should be intentional. Mr. Kiritsy stated that over 200 people signed the petition against the CVS. The electrical transformer will be placed near a residential property and will depreciate home values. Mr. Kiritsy argued that this petition could not fall under small scale retail because it is too large. Additionally, Mr. Kiritsy stated that having a 24-hour drive thru would not be fair to the abutters, the project is not in harmony with the bylaw, and the CVS will undo all the good work the Town of Spencer has done with Main Street.

John Stevens, 3 Thompson Pond Road, mentioned he was on the Board of Selectmen and it was hard to get people to invest in downtown development.

*Some abutters wanted to comment but there were some technical difficulties.

Linda Hopkins, 19 High Street, and stated part of the land is in village residential (VR) and CVS is not a small-scale retail business and she has concerns with pedestrian safety.

Jeff W. Fortin, 7 High Street, stated he purchased his home in 2012 because he loved the style of the homes and the architecture on High Street. Mr. Fortin thought he was protected from someone building a commercial business in his front yard and is concerned about the transformer that will be 100 feet from his bedroom window. Additionally, Mr. Fortin appreciates the traffic study but feels the entrance will only cause a mess and CVS is not right for that location.

Danielle Gebo, 13 Brown Street, expressed that MR. Fortin has a home business and trailers come and go from his property causing traffic. Ms. Gebo feels that the new CVS will serve the Town of Spencer well.

Tony Pepe, 1 Lake Ave, said he is on the Board of Selectmen and the Economic Development Committee, feels there may be more flexibility to incorporate more brick to the outside of the building but the CVS is critical to the development to the Town and the Town of Spencer needs it.

Mr. Fortin said that he spoke to a representative for CVS and they will stay and town and make it work on a different piece of property if needed.

Justin Fancy, 1 High Street, he is not for a CVS at the proposed location and feels there should be something else to keep the significant historical value of the town. Mr. Fancy said the recent remodel of Main Street has caused him more issues when he pulls out of High Street. Also, Mr. Fancy is concerns with the lighting and truck deliveries.

Andrea Burke, 6 Walnut Street, asked if there would be a final resident vote and the answer was that the residents get to comment but the Zoning Board of Appeals get the final vote.

Mr. Stoddard wanted to reply to Mr. Kiritsy's comments and stated that the attorney was hired by Mr. Fortin. The developer is looking to move the current CVS 200 feet to the new location and if the aesthetic portion is the main concern than it can be addressed.

MOTION: Mr. Tyler motioned to continue the hearing until 11/10/2020

SECOND: Ms. Johns

DISCUSSION: None

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

7. Variance– Applicant/Owner: Warren and Roberta Monette; Location: Bond Street, Spencer Assessor's Map R35-32. The applicant is requesting a Variance under Section 4.8.2 of the Spencer Zoning Bylaw for frontage. The property is located within the rural residential zoning district.

The chair stated that this hearing will be heard at the next Zoning Board of Appeals meeting on 11/10/2020

8. Town Planner Report

- Two more hearing in November
- Mr. Dell 'Aquila's last meeting with the ZBA

9. Approval of Minutes

- September 08, 2020 and Special Meeting September 29, 2020

MOTION: Ms. Johns motioned to approve the minutes for 9/08/2020 and 9/29/2020 as submitted.

SECOND: Mr. Tyler

DISCUSSION: None

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

10. New Business/Adjournment

Meeting adjourned at 10:12pm

Submitted By: Monica Santerre-Gervais, ODIS Clerk
Approved by the Zoning Board of Appeals: 11/10/2020

List of Documents used on October 13, 2020:

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

- Agenda
- Memo from Town Planner
- Minutes from 9/08/2020 and 9/29/2020
- Special Permit application, Brandy Linde; Owner: Linda Hart/ Dr. Mark Ledoux, Location: 144 Charlton Road, dog grooming
- Special permit application renewal for gravel pit, Bond Construction Corp/Cranberry Meadow Road, and Inspection memo from the Conservation Commission
- Special permit application renewal for gravel pit, Leo Aucoin/ 89 Cranberry Meadow Road, and Inspection memo from the Conservation Commission
- Variance application and plans, Warren and Roberta Monette /Bond Street, for frontage
- Site Plan Review/ Special Permit, CVS/ Arista Development, updated plans and drainage reports, abutter written responses, for & against petition sheets, letter from Attorney Phillip Stoddard and George Kiritsy, and peer reviews

Items submitted to ZBA members at the meeting:

- None