



## Zoning Board of Appeals – Town of Spencer

***Minutes of Tuesday, November 09, 2021, at 7:00pm***

***REMOTE & IN PERSON MEETING***

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

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Zoning Board Members Present: Allan Collette (in-person), Gina Beford (in-person), and Steven Tyler (remote)

Zoning Board Member Absent: None

Staff Present: Town Planner and Monica Santerre-Gervais, Clerk (Remote)

Staff Absent: None

**1. Open Meeting** – Mr. Collette was acting chair and opened the meeting at 7:00pm

**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.**

Mr. Miller mentioned that he and the Building Inspector, Duane Amos, met with the LaLiberte's and they will be submitting a new plan and the fees will be re-calculated. Mr. Collette stated because there is insufficient information the hearing will be continued.

**MOTION: Ms. Bedford motioned to continue the hearing until 12/14/2021**

**SECOND: Mr. Tyler**

**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, stated the Building Inspector came out and set markers to where the pool needed to be moved and they moved the pool past the markers. Duane Amos, Building Inspector, stated he went to the site and the pool was moved passed the markers he placed, however, to be 100 percent certain they are not in the setbacks they would need to hire a professional surveyor. Mr. Miller mentioned that the applicant is no longer in violation than the item is mute. Mr. Tyler mentioned the best course of action would be to motion to allow the applicant to withdraw.

**MOTION: Mr. Tyler motioned to allow the applicant to withdraw without prejudice**

**SECOND: Ms. Beford**

**DISCUSSION: None**

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

**4. Continued 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.**

Cory Gallagher, Builder for 6 Walnut Street, was present at the meeting to represent Andrea and Christopher Burke. Mr. Gallagher explained he submitted different options for the project for the Zoning Board of Appeals to review. There was much discussion regarding the setback limits in each option presented. Mr. Miller explained he could not recommend any of the options because all the options encroach in the setbacks. Ms. Beford discussed the current and proposed parking. Mr. Tyler became a presenter and discussed another option that pushes the addition back and will help them stay out of the setbacks. Mr. Gallagher stated that there is a drop off in the back and felt the cost would be too great. Mr. Tyler is concerned about the options proposed because they deviate from the Town of Spencer’s zoning standards, cannot support allowing the applicant to violate the zoning standards, and he cannot see a hardship. Mr. Gallagher discussed the design process and the topography in the rear being the hardship.

Andrea Burke, 6 Walnut Street, felt the options they provided were functional for there house and she discussed the slope in the rear of the property. Mr. Miller mentioned that the cost of this project would not be considered a hardship.

Kathleen Fleming, 8 Walnut Street, is a direct abutter and asked about the setbacks and her rights since this project would affect her. Mr. Miller mentioned referring to the deeds that go with the two properties regarding access and property lines. The neighbors discussed access issues and ownership and additional surveys or lawyers may be needed.

The applicants to discuss options with the Building Inspector and Town Planner and then return to the next meeting to discuss.

**MOTION: Mr. Tyler motioned to continue the public hearing until 12/14/2021**

**SECOND: Ms. Beford**

**DISCUSSION: None**

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

## **5. Approval of Minutes 10/12/2021**

**MOTION:** Mr. Tyler motioned to approve the minutes for 10/12/2021 as submitted

**SECOND:** Ms. Beford

**DISCUSSION:** None

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

## **6. Town Planner Report-Todd Miller**

Mr. Miller discussed the Housing Production Committee, Solar Amendments that will be voted on at Town Meeting, N. Brookfield solar still in appeal process, and CVS still in appeal process.

## **7. New Business/ Citizens Input/ Adjournment**

Mr. Miller said he is working on old business such as Deer Run and no new business to report.

**Mr. Tyler motioned to adjourn the meeting at 8:08 pm**

**Mr. Collette Seconded**

**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: 2/8/2022**

### **List of Documents used on November 09, 2021:**

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

- Agenda
- Minutes from 10/12/2021
- Update for 203 Paxton Road pool location
- Updated plans and documents for 6 Walnut Street, dated October 29, 2012

#### Items submitted to ZBA members at the meeting:

- None