



Zoning Board of Appeals – Town of Spencer

***Minutes of Tuesday, November 10, 2020 at 7:00pm***

***REMOTE 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 in person: Allan Collette, Alyce Johns, Robert Emerson, and Steven Tyler

Zoning Board Member Absent: None

Staff Present in person: Ian McElwee, Interim Town Planner and Monica Santerre-Gervais, Clerk

Staff Absent: None

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

**2. 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.**

Mr. Collette read aloud a letter from Attorney Phillip Stoddard, regarding continuing this hearing until the next meeting on December 08, 2020.

**MOTION: Mr. Tyler motioned to continue the public hearing until 12/8/2020**

**SECOND: Ms. Johns**

**DISCUSSION: None**

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

**3. 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.**

The Zoning Board of Appeals (ZBA) members discussed closing this hearing at the last meeting and not hearing from the applicant.

**MOTION: Mr. Tyler motioned to close the hearing for the variance at 73 Wilson Street**

**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 deny the variance for 73 Wilson Street**

**SECOND: Ms. Johns**

**DISCUSSION: Mr. Collette noted denial was due to the fact that the petitioner did not attend or provide the material needed**

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

**4. 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.**

Mr. Collette explained that the applicant has requested to withdraw without prejudice.

**MOTION: Mr. Tyler motioned to close the hearing for the variance Bond Street for Warren Monette**

**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 accept the applicant withdraw without prejudice request for the variance on Bond Street**

**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/Owner: Donald Bonder; Location: 32 Lamoureux Lane, Spencer Assessor’s Map U25-29. The applicant is requesting a Special Permit under Section 4.4.1.B (Private Garage) of the Spencer Zoning Bylaw to build a 2-car garage, with carport, and 2nd floor storage. The property is located within the Lake Residential zoning district.**

Donald Bonder, 32 Lamoureux Lane, was on the call to answer questions.

Ms. Johns stated that she did not see a list of abutters from the Assessor’s Office and Ms. Santerre-Gervais stated she got the list from the Town of Spencer’s GIS Mapping and notified the appropriate abutters. Mr. Collette asked if they would be taking down a building and Mr.

Bonder said it was a vacant lot. Mr. Tyler asked what the nature of the special permit is for and Mr. Bonder answered for a detached garage, which, falls under 4.4.1 B section of the Zoning Bylaws. Ms. Johns asked about the right-of-way's and Mr. Bonder answered the right-of -ways are for access to the water on Lamoureux Lane. Mr. Tyler mentioned that Lamoureux Lane is a private road. Mr. Bonder mentioned there was only 1 lot that abuts the land, but he owns the rest of the parcels. Mr. Collette stated he wanted to do a site visit and Mr. McElwee said he would like to as well. There was much discussion regarding the property and if it was staked out for the site visit.

The chair opened the hearing up for public comments but there were no questions or comments.

**MOTION: Mr. Tyler motioned to continue the special permit for 32 Lamoureux Lane until 12/8/2020**

**SECOND: Mr. Johns**

**DISCUSSION: None**

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

**6. Variance – Applicants/Owners: Ethan & Diana O'Brien as members of Island View LLC; Location: 111 Wilson Ave, Spencer Assessor's Map U28-27. The applicant is requesting a variance under Section 5.2 (Table of Height & Bulk Requirements, Maximum Building Coverage) and 7.3 (Variance) of the Spencer Zoning Bylaw in order to remove and replace an existing seasonal camp and build a year-round single-family dwelling. The property is located within the lake residential zoning district.**

Brian MacEwen, Graz Engineering, was on the call to answer questions for the applicant.

Mr. MacEwen discussed how this lot was like the construction at 109 Wilson Ave, removing an existing camp that is seasonal and replacing it with a new year-round single-family home, the existing lot predated zoning for lot size and frontage and makes them grandfathered. Mr. MacEwen said the proposed house is 27 % lot coverage and asking for the relief from the excess and there will be no negative impact for the variance. Additionally, the applicant applied with the Conservation Commission and received an order of conditions and the septic was upgraded.

Mr. Collette asked if they applicant can get to their well and Mr. MacEwen said yes and has a letter from the well company. Mr. Collette asked about having it on the 15 feet on side and Mr. MacEwen said yes. Ms. Johns asked if the new building would be 44 x 34 and Mr. Tyler noted the plans say 44 x 46. Ms. Johns asked if that included the decks and Mr. MacEwen stated the numbers represent the overall footprint, which, includes the deck and spiral staircase. Ms. Johns asked if the septic was upgraded and Mr. MacEwen said yes.

Mr. Tyler asked about the lot coverage including the impervious surface and Mr. Collette asked about the parking area. Mr. MacEwen discussed the 2-minute stride to the left corner on the plan that will be impervious. Mr. Collette asked if the driveway would be paved and Mr. MacEwen said it is planned but they did not get paved at 109 Wilson Ave and left it natural.

The chair opened the hearing up to the public for questions and comments.

Terry Maloney, 113 Wilson Ave, asked if the home will be 15 feet from his property line and how far back the house will be from the lake. Mr. MacEwen explained it is like the home at 109 Wilson Ave, there will be an out cove for the deck, and the deck will not be closer to the lake. Mr. Maloney asked if the new house will be closer to the lake and Mr. MacEwen said yes but only a couple feet and the closest point to the lake is 17.6 feet and 2-3 feet closer than the existing deck.

Mr. Collette asked about the line on the plan showing and if it is a high-water mark and Mr. MacEwen said yes. Mr. Tyler asked if parking spaces are per bedroom or is it 2 per lot and Mr. Johns read aloud the zoning bylaws regarding parking spaces. Mr. Collette felt it is a pre-existing non-conforming lot and it will not change the character of the area. Mr. Tyler stated the home will be two times bigger and Mr. MacEwen said originally the plan was for 4 bedrooms, but the septic could not handle it so now it will be 3 bedrooms. Mr. Collette asked about getting the new plan for the 3 bedrooms and Mr. MacEwen stated it would be the same footprint and the inside of the building would be a Board of Health issue. Mr. Collette felt new plans need to be submitted to show what is being built and Mr. Tyler agreed.

Ms. Johns asked about the garage under and Mr. Tyler answered its on the lake side for storage.

**MOTION: Mr. Tyler motioned to continue the variance for 111 Wilson Ave until 12/8/2020**

**SECOND: Ms. Johns**

**DISCUSSION: None**

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

## **7. Approval of Minutes October 13, 2020**

Ms. Collette mentioned to take out Robert Emerson from the attendance.

Mr. Tyler said on page 3 under the motion it is a request for determination of applicability and the abbreviation should be RDA, on bottom of page 4 it should have a 0 in front of .29, and top of page 5 on left side it should be site lines and should say lights, and then on page 6 during John Stevens comments the sentence stops. Ms. Santerre-Gervais discussed the feedback and noise that a note was put in the minutes that she could not hear what Mr. Stevens said. Mr. Tyler felt that Mr. Stevens ended the sentence with invest in downtown development.

**MOTION: Mr. Tyler motioned to approve the minutes for 10/13/2020 with amendments that were discussed**

**SECOND: Ms. Johns**

**DISCUSSION: None**

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

## **8. Town Planner Interim- Ian McElwee**

Mr. McElwee introduced himself, mentioned he would be here assisting for the month of November. Also, he noted that the December meeting will have a new application for a 40 B for a proposed 55 and over low-income housing at 17 Lake Street.

## **9. New Business/ Adjournment**

John Beauvais, 30 Bond Street, asked about clarification for the variance for Warren Monette and Mr. Collette answered the applicant withdrew his petition without prejudice, currently not ready, but can come back at a future date.

**Ms. Johns motioned to adjourn the meeting at 8:11 pm**

**Mr. Tyler seconded**

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

**Submitted By: Monica Santerre-Gervais, ODIS Clerk**

**Approved by the Zoning Board of Appeals: 1/21/2021**

### **List of Documents used on November 11, 2020:**

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

- Agenda
- Minutes from 10/13/2020
- Continuance request from Attorney Phillip Stoddard for the CVS petition, updated opposing signatures from William Fortin,
- Agreement to withdraw without prejudice for the variance petition on Bond Street/ Warren Monette
- Special Permit – Application: Donald Bonder/32 Lamoureux Lane
- Variance application and plans for Ethan & Diana O'Brien as members of Island View LLC/111 Wilson Ave

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

- None