



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, December 08, 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 (Remote): Allan Collette, Alyce Johns and Steven Tyler

Zoning Board Member Absent: None

Staff Present in person: Ian McElwee, Interim Town Planner

Staff Absent: Monica Santerre-Gervais, Clerk

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:02pm

2. Continued 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.

Mr. Collette wanted to know if Donald Bonder wanted to add anything else to the Petition. Mr. Bonder said that he was all set. Mr. Collette said that he went out to the property with the Town Planner and the parking area was staked out. Mr. Tyler wanted to know what type of conditions would be in a situation like this. Mr. McElwee suggested a condition to maintain access for the right-of-way, given that there was a question about that. There was a discussion about the travel way across the property, and if Mr. Bonder needed to maintain it. Mr. Bonder said that the rights-of-way are the same as they always have been, and the access will be the same. Mr. Tyler was concerned that in the future, when someone else owned the property, they may want their property line back and gave examples from past issues. Mr. Tyler granted permission with the following conditions:

- All construction shall be per plans.
- Maintain existing travel way currently in use.
- Always maintain access for all users of the existing travel way.
- Provide stakes on all four corners of the foundation prior to filing for the building permit and include measurable offsets from those stakes to property lines.
- In the future, the property owner can relocate the travel way, at their own expense, to the right-of-way to regain full access to their property, with approval from the Highway Superintendent.

Mr. Bonder agreed with the conditions.

Open to the public:

Jonathan Viner, of 34 Donnelly Cross Road, wanted to know if the site plan shows the travel way and Mr. Tyler said that it does not show that. Mr. Collette said that it shows where it enters the

property. Mr. Viner felt the conditions were appropriate and the owner may want to get a better survey to ensure his property rights won't be impacted in the future.

MOTION: Mr. Tyler motioned to close the public hearing for the special permit at 32 Lamoureux Lane

SECOND: Ms. Johns

DISCUSSION: None

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

MOTION: Mr. Tyler motioned to approve the special permit at 32 Lamoureux Lane with the following conditions:

- All construction shall be per plans.
- Maintain existing travel way currently in use.
- Always maintain access for all users of the existing travel way.
- Provide stakes on all four corners of the foundation prior to filing for the building permit and include measurable offsets from those stakes to property lines.
- In the future, the property owner can relocate the travel way, at their own expense, to the right-of-way to regain full access to their property, with approval from the Highway Superintendent.

SECOND: Ms. Johns

DISCUSSION: None

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

3. Continued 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 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.

Mr. Collette said that at the last meeting the Planning Board asked the petitioner to make some changes to the plans to show the parking area and upstairs space with corrected bedrooms. Brian McEwen, Graz Engineering, was on the call to representative Ethan & Diana O'Brien. Mr. McEwen stated the new plans that were submitted had the dimensions of the pavement and updated the architectural plans. Mr. Tyler and Mr. McEwen discussed the impervious surface.

The chair opened up to the public and there were no questions or comments.

MOTION: Mr. Tyler motioned to close the public hearing.

SECOND: Ms. Johns

DISCUSSION: None

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

MOTION: Mr. Tyler motioned approve the variance for 111 Wilson Ave with the following conditions:

- 1. All construction shall be per plans submitted.**
- 2. Revised plans submitted with a revision date of 11/19/2020 on the site plan, including all building plans & attachments.**

SECOND: Ms. Johns

DISCUSSION: None

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

4. 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 on the call and discussed what happened in the last few months with the CVS building plans. Mr. Benoit stated they researched the downtown historic district, which includes a portion of the site, re-evaluated the building design, and third party approved the traffic analysis and site design. Also, Mr. Benoit stated they planned on turning the George Washington Monument to face Main Street and surround it with pavers. Mr. Benoit mentioned part of plan is to install a new monument that describes the Massasoit hotel with a decorative bench in stone that has verbiage on the history. However, Mr. Benoit said they are willing to work with any officials or Historic Society to discuss the monuments and Mr. Collette stated working with the Historical Society would be best.

Doug Grunert, BKA Architects, was on the phone and present the new design of the CVS building provided elevation slides, gables, they are proposing to use a brick terracotta color instead of clapboard to match the Town Center District, will do use arch windows like the Sugden library, dark bronze store front to represent mill design, decorative precast quoins, and revised renderings were presented to show how the new CVS will match the Town Center District. Mr. Collette said that they did a really great job of listening to the Zoning Board of Appeals comments. Mr. Collette asked about quoins and why it looks like they are floating, and Mr. Grunert said the pattern is centered, the area with no base is centered, and the quoining at the entry is a focal point. Mr. Collette suggested carrying down to footing up to the top and Mr. Grunert said that can be addressed. Mr. Collette asked about the material above the window and Mr. Grunert said it is a beige brick to give the red CVS sign more contrast. Mr. Tyler asked about the noise from the rooftop units as there were a few comments at the last meeting and Mr. Grunert answered that the roof is below wall height and will be like a sound barrier and sound transmission will be minimal. Mr. Collette asked if the unit were shown as yellow to show where they were and Mr. Grunert said yes. Mr. Tyler suggested more historic lighting to match what

the Town of Spencer has currently. Discussion of what is above the CVS sign the dark area to show variations. Ms. Johns asked about the drive thru and what would be the handover and Mr. Grunert said an awning to match storefront colors with overhang. Ms. Johns asked what type of lighting will be used at the drive-thru and Mr. Grunert answered recessed cans/ down lighting. Mr. Collette asked about wall lighting and Mr. Grunert said wall sconces.

Phil Stoddard summarized what he presented during the October meeting. Mr. Stoddard explained that the applicant is requesting a Special Permit under sections 3.3.2 of the Spencer's Zoning Bylaws, special permit for small retail with no storage is allowed in the Town Center Zoning District under 4.2.E.1, will not be detrimental to the neighbors or the town, and an addition to downtown structure, which is an important building block to the revitalization of downtown.

Mr. Collette discussed the revised site plan and wanted to know about the landscaping in the rear to screen the roof from abutters views. Phil Henry, CDC Engineering, stated there would deciduous and evergreen trees and Mr. Collette suggested at the corner of the north side to do arborvitae which would help screen the roof view in for the neighborhood. Mr. Henry said that they are already installing firs and spruces at 7-8 feet at install. Mr. Collette wanted to know about the roof elevation to the sidewalk and suggested arborvitae to continue for visual aspects. Mr. Henry said a visual wall of arborvitae would be possible. Mr. Tyler brought up the concern of lighting and get fixtures more traditional. Mr. Collette raised concerns on how high the lighting is and to make sure the lighting is warm not white. Mr. Benoit said they will investigate into more decorative lights. Mr. Tyler asked about the relocation of the streetlight and the fixture and had some concerns regarding traffic. Also, Mr. Tyler mentioned at a Board of Selectmen hearing, within the last month, changed the signalization at the intersection for pedestrians and have the applicant revisit the traffic study to avoid backups at the intersection.

Gary Woodbury, Board of Selectmen member, said the issue will be revoted and said there needs to be a change, especially after the pedestrian was hit.

The chair opened the hearing up to the public:

Thomas Simulus, 1 High Street 2nd floor, said that his front door faces the proposed CVS, and the 28-foot lights are going to shine on his residence and will be a detrimental impact. Mr. Simulus said this is not small scale and is a proposed 12,000 square feet building. Also, Mr. Simulus said there are going to be bright lights, loud noise from roll up doors, and trailer trucks delivery will impact him.

William Fortin, 5 & 7 High Street, agrees with Mr. Simulus and said the home was built in 1903 and it has a historic attachment to the Town of Spencer. Mr. Fortin said they invite the neighborhood to feel the history of the town. Mr. Fortin is upset that Arista Development is coming forward to tear down two historic homes with a CVS. Mr. Fortin said families feels will be negatively impacted by this application.

George Kiritsy, Attorney representing Mr. Fortin, and explained that the project is not small scale and property does not qualify as a split lot, does not qualify in the bylaw or law, and referred the Zoning Board of Appeals to his previous statements and letters.

Mr. Collette asked about the guardrail and Mr. Henry explained the plans shown on sheet 14 the guardrail is wooden, and one is metal. Mr. Tyler concurs with the applicants design of guardrails. There was much discussion regarding guardrails and the fence.

Tony Pepe, Board of Selectman member, 1 Lake Ave, commented the concerns from the public, said that he understands and respects their concerns, but he thinks it is an important project to revitalize the Town of Spencer.

Gary Woodbury, 219 Charlton Road, discussed the lighting and wanted to comment on the developers, by saying that they went above and beyond to fit it in with the aesthetics of the historic district.

Jonathan Viner, 34 Donnelly Cross Road, joined that meeting and wanted to know about the 4 lots and clarity if the former bank building is part of this project. Mr. Benoit said the bank building is on two separate lots, the owners of the bank own both lots, and the bank owns the parking lot and only own a portion to buy the southern lot so he may continue to own his parking area. Mr. Viner wanted to know if the proposed drive -thru meets Spencer's Zoning Bylaws design standards, concerns with site line distance, and entrance on Main Street. Kirsten Brown, Traffic Engineer, discussed snow removal and site line. Mr. Benoit said the drive-thru meets the design standards in the Spencer Zoning Bylaws. There was much discussion about the snow piles and site distance. Mr. Tyler said that whenever it snows, for every road and driveway the site distance goes down. Mr. Viner said its worth noting that the site line profile the applicant provided means having to maintain a 75 foot stretch of ground that would need to be maintained with a foot of snow at all time.

Mr. Fortin commented to bring to attention that there are people trying to speak who are unable to comment and Mr. Tyler unmuted all people on the phone.

Steven Baubalis, 10 High Street, have tenants and they are concerned with the project, they are concerned with the transformer close to the property, and the drive-up window. Mr. Baubalis asked what the recourse when they are done and if it is detrimental to the neighborhood and if the CVS would be 24-hours. Mr. Collette said there is no recourse. Mr. Baubalis asked if not residential then why do the special permit and Mr. Collette said a part of the property is residential. Mr. Baubalis asked why the Zoning Board of Appeal can change the zoning of the property. Mr. Kiritsy said the Zoning Board must make a finding that the application has no detrimental impact. Mr. Kiritsy said this is not a legal split lot and the applicant can only have 30 feet and it will need to go 100 feet into the residential zone, redirecting traffic, and gave a petition with 300 signatures against this project. Mr. Stoddard answered the comments from Mr. Kiritsy and felt it will not be more detrimental. Mr. Fortin said his residential zone should be treated fairly because families live there.

Albert Booth, 95 Main Street, said there are already Tractor Trailer and UPS Trucks going there all the time and will not change the noise.

Mr. Tyler said that all the boards questions and concerns were addressed.

MOTION: Mr. Tyler motioned to close the hearing

SECOND: Ms. Johns

DISCUSSION: None

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

Mr. Tyler rescinded a previous motion to include the request by Mr. Stoddard to have the separate special permits be motioned upon.

REVISED MOTION: Mr. Tyler motioned to approve the Special Permits 3.3.2.1 for boundary district distance allowance for Arista Development for the proposed CVS with the following conditions:

- 1. Alternative lighting like traditional historical style and not bringing in additional lighting that would affect the neighbors-Needs final approval by the Zoning Board of Appeals**
- 2. A landscaping plan -Needs final approval by the Zoning Board of Appeals**
- 3. Coordinate verbiage on the historical monuments with the Spencer Historical Commission.**
- 4. All perimeter plantings approved under the landscape plan be maintained for the life of the development, or until changed by future permit, and includes screening.**
- 5. To maintain snow clearance within the property boundaries and adjoining public right-of way to provide the best level of line of site possible during winter conditions.**

SECOND: Ms. Johns

DISCUSSION: Ms. Johns asked about section 7.4 and Mr. Collette amended the motion to include that Arista Development knew that before receiving a building permit, they must first receive approval from the Zoning Board of Appeals for the lighting and landscaping.

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

REVISED MOTION: Mr. Tyler motioned to approve the Special Permit, 4.2.E.1 small scale retail for Arista Development for the proposed CVS with the following conditions:

- 1. Alternative lighting like traditional historical style and not bringing in additional lighting that would affect the neighbors-Needs final approval by the Zoning Board of Appeals**
- 2. A landscaping plan -Needs final approval by the Zoning Board of Appeals**
- 3. Coordinate verbiage on the historical monuments with the Spencer Historical Commission.**

4. All perimeter plantings approved under the landscape plan be maintained for the life of the development, or until changed by future permit, and includes screening.

5. To maintain snow clearance within the property boundaries and adjoining public right-of way to provide the best level of line of site possible during winter conditions.

SECOND: Ms. Johns

DISCUSSION: Mr. Collette amended the motion to include that Arista Development knew that before receiving a building permit, they must first receive approval from the Zoning Board of Appeals for the lighting and landscaping.

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

MOTION: Mr. Tyler wanted to motion for the board to approve Site Plan Review sec. 7.4 and approve the amended plans.

SECOND: Ms. Johns

DISCUSSION: Mr. Collette amended the motion that all conditions on previous motions be included with this motion.

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

5. Comprehensive Permit/40 B – Applicant/Owner: Women’s Institute Realty.

Location: 17 Lake Street, Spencer Assessor’s Map U15-01. The applicant is requesting Comprehensive Permit Pursuant to M.G.L. c.40B, §§ 20-23, and 760 CMR 56.00 et seq/ the applicant is looking to construct a new, 3-story building and will consist of a total of 31 rental units for seniors aged 62 years or older, including a total of twenty-nine (29) one bedroom units and one (1) two-bedroom units. The property is located within the Village Residential zoning district.

Mr. Collette opened the hearing at 9:44 pm and said this application will be continued to January 12, 2021. Ms. Johns commented on the units and the totals don’t add up correctly.

MOTION: Mr. Tyler motioned to continue the meeting to January 12, 2021

SECOND: Ms. Johns

DISCUSSION: None

ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

7.Minutes:11/10/2020

Mr. Collette asked to table the minutes until the next meeting and all the board members agreed.

8. Town Planner Report:

- Mr. McElwee wanted to know if the board would like the meetings to start at 6 or 7 p.m. for the 2021 year and the Zoning Board of Appeals members would like the meetings to start at 7: 00 p.m.
- Status of hiring a new Town Planner.

9. New Business: None

Mr. Tyler motioned to adjourn the meeting at 9:50 p.m.

Ms. John seconded

ROLL CALL VOTE: ROLL CALL VOTE: Mr. Tyler-Aye, Ms. Johns-Aye, Mr. Collette-Aye (Vote 3-0 motion carried)

Submitted By: Jane Green and Monica Santerre-Gervais, ODIS Clerks

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

List of Documents used on December 08, 2020:

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

- Agenda
- Minutes from 11/10/20
- Special Permit application and plans for 32 Lamoureux Lane.
- Variance permit application and Plans for 111 Wilson Ave
- Special Permits and Site plan review documents for Arista Development/ CVS
- 40 B application and plans for 17 Lake Street.

Items submitted to ZBA members at the meeting:

- None