



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, February 08, 2022, at 7:00pm

IN-PERSON & 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 (in-person), Gina Beford (in-person), and Steven Tyler (remote)

Zoning Board Member Absent: None

Staff Present in person: Town Planner, Todd Miller, (in-person) and Monica Santerre-Gervais (remote), Clerk

Staff Absent: None

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:06 pm

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.

James and Rachael LaLiberte, 195 Charlton Road, were present for the meeting. Mr. LaLiberte discussed the recent 44-page document that he emailed on 2/3/2022, he discussed his builder backing out of the project because of the time and effort being put into this project and discussed his interactions with the previous Town Planner and being told he only needed a building permit and a plan. Mr. LaLiberte discussed classifications and mentioned the Building Inspector, Duane Amos, is categorizing the arena under class A, which, is used for bowling alleys and it should be under class U. Additionally, Mr. LaLiberte discussed the barn/arena being agricultural and have zoning exemptions. Also, Mr. LaLiberte discussed past applications that the Building Department approved, and lack of paperwork needed for those projects and the fee being much less than what he is being charged. Mr. LaLiberte asked about needing site plan review for the barn/arena. Mr. Miller mentioned the barn/arena would be open to the public and Mr. Amos said there is only an exemption of requiring a Construction Supervisor License (CSL) if the arena was not open to the public.

Mr. LaLiberte discussed the cost associated with this project thus far and the previous applications for Moschini and The Spencer Fair and how they did not need to go through site plan approval. Mr. Miller stated the past applications are not applicable because the fees changed, and those employees are no longer working for the Town of Spencer. Mr. Collette asked about the fee and the estimate was \$12,000 but prior similar buildings did not go by square footage. Ms. Beford asked if the arena would be for public use and asked how similar it was to Royal Crest Farm and Mr. LaLiberte said there is a threshold of up to 100 people and it is agricultural use. Ms. Beford explained the board cannot waive the fee if there is no building permit or plans. Mr. LaLiberte said he does not want to spend more money if not exempted from sprinklers and paving the driveway. Mr. Collette said he did not believe site plan approval is

needed. Mr. Miller said stormwater needs to be reviewed and feels it would need a site plan review. Mr. LaLiberte said Mr. Millers opinion should not affect laws and they should be exempt. There was much discussion regarding stormwater.

Mr. LaLiberte stated they did a plot plan, they had surveyors come out, but they do not want to spend the money on a Civil Engineer and will only mitigate the building not the field and the driveway. Mr. Miller said the Highway Department will most likely require a licensed contractor. Ms. LaLiberte stated they lost their contractor due to this delay and they shouldn't have to go through this. Also, Ms. LaLiberte stated they supplied the Building Inspector with a 35-page document with several estimates and Mr. Amos would not accept any of them. Mr. Amos stated the fee is \$115.00 per square foot for commercial and Mr. LaLiberte did not include the road, engineering fees, 72 ft trusses and additional inspections in the estimates. Mr. Amos explained the previous building permits for Royal Crest and The Spencer Fair were approved by a previous Building Inspector and he is unsure how they came to those fees.

Mr. Tyler acknowledged the previous building permit mistakes but mentioned the need to move forward, there is a difference in a private arena versus a public arena, the applicant needs to generate a good faith estimate and what needs to be included in the estimate. Mr. LaLiberte said if he didn't contest the fee he would have been overcharged. Mr. Amos said the first step is to submit a building permit and plan. Mr. LaLiberte asked if an engineer put on the plan that it falls under use group U would Mr. Amos accept that and Mr. Amos said yes. Mr. LaLiberte asked about pages of plans and Mr. Amos said the plans must show occupancy, use, building materials, and connections. Mr. LaLiberte said he is using an Amish builder that does not have a Massachusetts CSL and wants to pull as a homeowner. Mr. Amos said he cannot pull his own permit if they allow the public in. Mr. Tyler added Zoning Analysis should be on the plans, looks like no site plan review required, if there is no site plan review than the applicant will need to go to Conservation or Highway for stormwater.

Jeff Bridges, Town Administrator, questioned the appeal because there is no permit, no plan, and no established fee. Also, Mr. Bridges was unsure if the Zoning Board of Appeals has the authority to change or waive fees.

MOTION: Mr. Collette motioned to continue until 3/8/2022

SECOND: Ms. Beford

DISCUSSION: None

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

3. 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.

Mr. Collette mentioned that the applicant has submitted an agreement to withdraw the application without prejudice.

MOTION: Mr. Tyler motioned to accept the agreement to withdraw without prejudice for 6 Walnut Street

SECOND: Ms. Beford

DISCUSSION: None

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

4. Zoning Determination Discussion: 4 Chickering Road

Mr. Collette explained an application was submitted to the Building Department to add a family room and the Building Inspector felt it was another dwelling unit because it has a kitchen and a full bathroom. Mr. Amos stated the plan shows what the applicant wants to do to have a separate area to use after and near the pool but and he has concerns that it could be used as an accessory apartment. Mr. Amos mentioned it's a separate entrance, it can be driven up to, has a kitchen, and a full bathroom. Mr. Collette agrees that it seems to be an apartment. Mr. Tyler said it could be an apartment or an entertaining area. Mr. Collette said the permit would go with the property and it would be an issue because a new owner could use it as an apartment. Ms. Beford agreed it looked like a studio apartment. Mr. Collette mentioned the bylaws should be changed to mention rules on this pertaining to the kitchen. Additionally, Mr. Collette stated it looks like an accessory unit and they would not be in support of issuing the Building Permit.

5. Approval of Minutes 11/09/2021

MOTION: Mr. Tyler motioned to approve the minutes of 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)

5. Town Planner Report-Todd Miller

Mr. Miller discussed the Housing Production plan and survey, working on ground mounted residential solar bylaw amendments, and still waiting for Attorney General approval for the recent Solar Bylaw Amendments.

6. New Business/ Citizens Input/ Adjournment

Mr. Miller mentions the May and July meetings have to be canceled and asked about scheduling new dates. Mr. Collette said they will wait to see what will be on the agendas and decide at another meeting.

Mr. Tyler motioned to adjourn the meeting at 8:22 pm

Ms. Beford 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: 3/08/2022

List of Documents used on February 08, 2022:

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

- Agenda
- Drafted Minutes for 11/09/2022
- 195 Charlton Road- 44-Page Document regarding use group, exemptions, and past building permits
- 6 Walnut Street- Request to Withdraw without Prejudice
- 4 Chickering Road- Building permit application and plans

Items submitted to ZBA members at the meeting:

- None