



## Zoning Board of Appeals – Town of Spencer

### *Minutes*

#### Zoning Board of Appeals Meeting

***February 21, 2024, at 7:00 pm***

In-Person & Remote

McCourt Social Hall, 157 Main Street Spencer, MA 01562

Memorial Town Hall

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**Zoning Board Members Present: Donna Parker (in-person), and Alan Collette (in-person), and alternate Jennifer Dufresne (in-person)**

**Zoning Board Members Absent: Chair Gina Beford, alternate Jeff Butensky**

**Staff Present: Lauren Vivier, Town Planner/Conservation Agent (in-person), Sarah Campbell, ODIS Planning Assistant (in-person)**

**Staff Absent: Monica Santerre-Gervais, ODIS Senior Clerk (remote),**

#### **1. The Chair opened the meeting 7:01pm**

**2. Public Hearing: Special Permit– Applicant: Francis DeFalco, Owner: Angela DeFalco; Location: 64 Chickering Road, Spencer Assessor’s Map U30-21. The applicant is seeking a Special Permit under Sections 5.2.6 (Detached Accessory Structure) and 4.4.1.A (Accessory Uses) of the Spencer Zoning Bylaw to replace an existing shed with a larger shed (12 x 24), free standing/ preassembled. The structure will be 25’ from the front property line. The property is in the Lake Residential (LR) zoning district.**

Mr. Francis DeFalco, 64 Chickering Road, stated the existing shed is currently too small and would like to replace it with a bigger one. Mr. DeFalco stated the waterfront is what he considers to be the front yard, but everyone else considers the street side to the front yard.

Mr. Collete asked Town Planner, Lauren Vivier what the front yard is, either the waterfront or the street. Ms. Vivier stated the front yard was the street side. Mr. Collete asked Ms. Vivier if she could show where the shed is located now.

Mr. DeFalco stated the shed will be located further back from the right of way.

Mr. Collete opened the hearing up to the public and there were no additional questions or comments.

**MOTION: Ms. Parker motioned to close the public hearing.**

**SECOND: Ms. Dufresne**

**ROLL CALL VOTE: J. Dufresne-Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**Conditions discussed:**

1. All work authorized under this Special Permit shall be in accordance with the Application, supportive materials and testimony submitted by the Applicant and its representative to the Zoning Board of Appeals.
2. Prior to the commencement of the use permitted by this Special Permit, all necessary and required permits must be obtained from any and all other municipal, state and or federal departments, boards, commission or agencies, and all work shall be done in accordance with said permits.

**MOTION: Ms. Parker motioned to grant the Special Permit under section 5.2.6 (Detached Accessory Structure) and 4.4.1.A (Accessory Uses) of the Spencer Zoning Bylaw to replace an existing shed with a larger shed (12 x 24), free standing/ preassembled. The structure will be 25' from the front property line. The permit was granted with the conditions discussed.**

**SECOND: Ms. Dufresne**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne -Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**3. Public Hearing: Special Permit– Applicant: Amanda Chase, Owner: WWB Properties; Location: 152 Main Street (1 Mechanic Street), Spencer Assessor's Map U07-64. The applicant is seeking a Special Permit under Sections 4.2.G.2 of the Spencer Zoning Bylaw to have a Custom print shop business. The property is in the Town Center (TC) zoning district.**

Amanda Case, the applicant, stated the shop would do custom print and apparel and had nothing else to add unless there were questions from the Board.

Mr. Collete asked the applicant where customers are going to park, and what the hours of operation would be and also asked how big the rental space is.

Ms. Case responded there was a parking lot down the street on Mechanic and there was also some on-street parking available. Ms. Case stated hours of operation may have changed since initially discussing due to the hearing being postponed a couple of times. The planned hours of operation would be 2-7pm during the week and weekends 11-7pm.

Mr. Collete opened the hearing up to the public and there were no additional questions or comments.

**MOTION: Ms. Parker motioned to close the public hearing.**

**SECOND: Ms. Dufresne**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne-Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**Conditions discussed:**

1. All work authorized under this Special Permit shall be in accordance with the Application, supportive materials and testimony submitted by the Applicant and its representative to the Zoning Board of Appeals.

**MOTION: Ms. Parker motioned to grant the Special Permit under sections 4.2.G.2 of the Spencer Zoning Bylaw to have a Custom print shop business. The Special Permit is granted with the conditions discussed.**

**SECOND: Ms. Dufresne**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne-Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**4. Special Permit– Applicant: Daniel Rubin/ Freedom Forever, Owner: Michael Fish Location: 23 Condon Drive, Spencer Assessor’s Map R21-17. The applicant is seeking a Special Permit under Sections 4.8.9 (solar photovoltaic generating installations) of the Spencer Zoning Bylaw to install 5kw ground mounted solar panels with 16 modules for private use. The property is in the Suburban Residential (SR) zoning district.**

Ms. Vivier stated the applicant requested to be continued to the next meeting date of March 12, 2024.

**MOTION: Mr. Collete motioned to continue the public hearing to March 12, 2024.**

**SECOND: Ms. Dufresne**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne-Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**5. Special Permit– Applicant/Owner: Sheena and Anthony Toscano; Location: 89 Hastings Road, Spencer Assessor’s Map R48-17-2. The applicant is seeking a Special Permit under Sections 4.8.1 (Accessory Apartments) of the Spencer Zoning Bylaw to add an accessory apartment in new addition. The property is in the Rural Residential (RR) zoning district.**

Anthony Toscano, 89 Hastings Road, was present and stated the proposed plan calls for a 700 square foot addition.

Ms. Parker asked if the breezeway was covered or enclosed.

Mr. Toscano stated it will look like an enclosed walkway with the same roof line as the house.

Ms. Parker stated she asked because she was unsure how it was supposed to look like one building, and if the sides of the breezeway needed to be enclosed also.

Mr. Collete opened the hearing up to the public and there were no additional questions or comments.

**MOTION: Ms. Parker motioned to close the public hearing.**

**SECOND: Ms. Dufresne**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne -Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**Conditions discussed:**

1. All work authorized under this Special Permit shall be in accordance with the Application, supportive materials and testimony submitted by the Applicant and its representative to the Zoning Board of Appeals.
2. Prior to the commencement of the use permitted by this Special Permit, all necessary and required permits must be obtained from any and all other municipal, state and or federal departments, boards, commission or agencies, and all work shall be done in accordance with said permits.

**MOTION: Ms. Parker motioned to grant a Special Permit under 4.8.1 (Accessory Apartments) of the Spencer Zoning Bylaw to add an accessory apartment in new addition. The Special Permit is granted with the conditions discussed.**

**SECOND: Ms. Dufresne**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne -Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**6. Discussion: CVS As-builts**

Ms. Vivier stated the project site plan review was the Zoning Board Appeals and the Planning Board was the Stormwater authority. Ms. Vivier stated LEI who was bought by Haley Ward was the initial reviewer, and now Haley Ward is doing the peer review.

Ms. Vivier stated there is a sign on the side of the building that was not approved on the site plan and needs to be taken down sooner rather than later. Ms. Vivier stated the truck path needs to be reviewed as 50-foot trucks are not supposed to be used, the max height is 40 feet.

Ms. Vivier stated the snow removal needs to be addressed, the plan calls for a certain spot for snow removal or for it to be carried off site. The store manager is responsible for snow removal going forward and hopefully next season CVS will have it figured out.

Ms. Vivier stated the discussion of changing the exit path needs to be addressed. Shaving down the slope for the site of line coming out onto Pleasant Street will also need to be discussed. The

option to have a right turn only arrow coming out onto route 9 may be an option, with having a flashing sidewalk signal for pedestrians crossing the road.

Ms. Parker confirmed with Ms. Vivier the Zoning Board of Appeals is responsible for everything besides Stormwater Authority. Ms. Parker asked if the approved site plan could be available at the next meeting.

## **7. Approval of Minutes: 12/12/2023**

Ms. Vivier recommended tabling the minutes as there would be no quorum.

**MOTION: Mr. Collette motioned to table minutes to next meeting**

**SECOND: None**

**DISCUSSION: None**

**ROLL CALL VOTE: no vote.**

## **8. Town Planner Report**

Ms. Vivier mentioned the following items:

The GH Wilson shed the board had approved for a second time because of the foundation issues, one of the conditions was to have a surveyor replace or to locate the pins. Ms. Vivier stated the applicant is having a hard time finding a surveyor but found the pins in the ground and took pictures of proof. The applicant is asking if the Board is satisfied with the pictures of the pins or if a surveyor would still be needed. The building inspector would like the Boards approval on their end before he signs off. Ms. Vivier stated the applicant would sign the plan presented stating the pins are located according to plan.

Mr. Collette stated he would approve the pictures and statement from the applicant. Mr. Collette stated the main concern was the gutters from the abutters and questioned if that was done along with the gravel.

Ms. Vivier stated the applicant stated the pins were never moved in the first place and stated the applicant did install the gutters and gravel.

Ms. Vivier welcomed Jennifer Dufresne and Jeff Butensky as alternates.

Ms. Vivier mentioned the CPTC Annual Conference is March 16, 2024, at Holy Cross, if anyone would like to attend to fill out a invoice and please give it to Monica or Sarah.

## **9. Citizens Input**

Matt Defosse, 7 Paul's Drive, asked a couple questions regarding the proposed CVS crosswalk that was discussed tonight. Through discussion the Board discussed the sidewalk length and being able to fit a stroller or wheelchair by on Pleasant Street.

## **10. New Business/Adjournment**

**MOTION: Mr. Collette motioned to close the meeting at 8:14pm**

**SECOND: Ms. Parker**

**DISCUSSION: None**

**ROLL CALL VOTE: J. Dufresne-Aye, D. Parker-Aye and A. Collette-Aye (Vote 3-0 motion carried)**

**Submitted by Sarah Campbell, Planner Assistant**

**Approved by the Zoning Board of Appeals on: March 12, 2024**

### **List of Documents used on 2/13/2024:**

#### **Items sent to Zoning Board Members prior to Meeting by email:**

- **Agenda 2/13/2024**
- **Memo from Town Planner**
- **Special Permit Application and plans for 64 Chickering Road, Angela & Francis DeFalco for a detached accessory structure.**
- **Special Permit Application and plans for 152 Main Street (1 Mechanic Street), Amanda Case, to have a custom print shop business.**
- **Special Permit Application and plans for 23 Condon Drive, Michael Fish/ Freedom Forever, for a 5kw ground mounted solar panels.**
- **Special Permit Application and plans for 89 Hastings Road, Sheena & Anthony Toscano, to have an accessory apartment in a new addition.**
- **Drafted minutes for 12/12/2023**
- **CVS As-builts for discussion.**
- **Solar Bylaw Amendment Draft**

#### **Items submitted/ brought to the Meeting:**

- **None**