



Zoning Board of Appeals – Town of Spencer

Minutes of Thursday, April 21, 2022, at 7:00pm

IN-PERSON & REMOTE MEETING

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

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

Zoning Board Member Absent: None

Staff Present in person: Interim Town Planner, Lauren Trifone, (in-person) and

Staff Absent: Monica Santerre-Gervais, Senior Clerk

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

2. Special Permit – Applicant/ Owner: Adel Abdelmasih/ Adel Realty, LLC; Location: 11 Highland Street, Spencer Assessor’s Map U14-70. The applicant is looking for a special permit under Section 4.3.3 (Conversion of single-family to two-family dwelling) of the Spencer Zoning Bylaw to convert a single-family home into a two-family. The property is located in the Village Residential zoning district.

Adel Abdelmasih, Adel Realty, LLC, was on the call remotely. Mr. Abdelmasih bought the property in 2020 as a two-family and would like to make it legal. Attorney Nelson Ezen was on remotely to represent Mr. Abdelmasih. Mr. Ezen stated Mr. Abdelmasih purchased the property in 2020 in a private sale and was not aware it was an illegal two-family, there are two separate dwelling units already at the property, he put a second means of egress and was notified from the Building Inspector that it was not a legal two-family. Mr. Ezen mentioned the Building Inspector issued a cease-and-desist order and applied for the special permit. Mr. Ezen mentioned the sections of The Spencer Zoning Bylaw 4.2.A.4, 4.3.3, and 7.2.1B that the Zoning Board of Appeals (ZBA) members could grant the special permit under.

Mr. Collette asked how many meters were on the house and Mr. Ezen said there is only landlord metered utilities, and the landlord pays the utilities. Mr. Tyler asked if the property was in a zone that will allow the conversion and Mr. Ezen said yes. Duane Amos, Building Inspector, was on remotely to answer questions about the property. Mr. Collette asked how Mr. Amos found out about the property and Mr. Amos stated he received complaints from the neighbors. Mr. Amos stated the first letter he mailed was in July 2020. Mr. Collette asked for verification of the square footage and Mr. Amos stated he did not have anything submitted to verify and can only go by the Assessors data. Mr. Tyler asked if they had a site plan to verify parking and Ms. Trifone said no. Mr. Tyler stated he would like to see a parking plan.

The Chair opened the hearing for public comment:

Sue Small, 7 Highland Street, asked why this is just coming before the ZBA since this has been used as a two-family for over two and a half years, people are living there, and the driveway is dirt. Mr. Collette stated there was a cease and desist and Ms. Small stated the work was done and people are living there. Mr. Amos stated the applicant received an order to file with the ZBA to convert the single-family into a two-family in 2020. Also, Mr. Amos stated he heard nothing back for over a year. Ms. Small mentioned the original owner passed away and the home was inherited by her son, but it was always a single family. Ms. Small believed the new owner is the one who changed it to a two-family without getting the proper permits. Mr. Ezen said no work was done by the current owner besides the outside deck. Also, Mr. Ezen said his office was busy in 2021 and the reason there was a delay in the application was because there was a delay in his office for the drawings and research. Ms. Small stated she lives in the neighborhood and Mr. Abdelmasih gutted the rooms and made it a two-family and wants to see recourse.

Ms. Trifone asked if there were fire alarms or sprinkler systems in both dwellings and nothing was verified. Mr. Collette asked about the square footage verification and Mr. Amos stated he has never been in the building and does not know the definite square footage or layout. Mr. Collette would like Mr. Amos to visit the site to verify the plans. Mr. Tyler asked what the recourse for this since the property is a single-family and being used as a two-family and Mr. Collette stated they would need to reach out to Town Counsel. Mr. Tyler clarified that the ZBA members need the applicant to provide thorough site plan with setback, square footage dwelling, and detailed parking plan.

MOTION: Mr. Tyler motioned to continue 11 Highland Street to May 16, 2022

SECOND: Ms. Beford

DISCUSSION: None

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

3. Variance & Special Permit – Applicant: Serrato Signs LLC, Owner: CEP Realty LLC. Location: 130 West Main Street, Spencer Assessor’s Map R29-18. The applicant is looking for a Variance under section 7.3 and Section 6.5.3.E-4 (Prohibited Signs) and a Special Permit under section 6.5.3.E-8 (Landmark Signs) of the Spencer Zoning Bylaw to install an LED Message Center sign and a second double faced free-standing sign. The property is located in the commercial zoning district.

Andrew Serrato, Serrato Signs LLC, was on the call remotely. Mr. Serrato stated the owner has a pylon sign for her tenants and would like to have a second sign for herself and work with the Town of Spencer to use the message board for emergency notifications. Mr. Serrato explained the digital sign fits into the square footage and allowed by right. Mr. Collette asked what would be advertised on the digital sign and Mr. Serrato homes Exit Realty has for sale. Mr. Collette asked what would be on the stationary sign and Mr. Serrato answered advertisement for her tenants. Mr. Tyler stated he was not inclined to approve a second sign because that is why the bylaws state one-free standing sign per property. Mr. Tyler suggested modifying or moving the current free-standing sign. Mr. Serrato mentioned there were other businesses in town, such as FLEXcon and Big Y, that have multiple signs and requested the applicant be able to have a second free-standing sign. Mr. Serrato stated the applicant is seeking the relief of the variance

and if the members are swaying towards denying then he would like to request a continuance and have the applicant come to the next meeting.

Gary Woodbury, 219 Charlton Road, Southbridge Savings bank had a separate sign and was bought out by Cornerstone Bank they changed into a banner and should research if its existing.

The Chair opened the hearing for public comment.
No comments or concerns.

MOTION: Mr. Tyler motioned to continue the Special Permit and Variance for 130 West Main Street to May 16, 2022

SECOND: Ms. Beford

DISCUSSION: None

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

*****Brief Recess*****

4. Variance – Applicant/ Owner: William Keyes Jr; Location: 42 Bacon Hill Road, Spencer Assessor's Map R08-33. 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 build an addition that encroaches on the front setback. The property is located in the Rural Residential zoning district.

Richard Chaffee, site contractor hired by William Keyes Jr. was present. Mr. Chaffee explained Mr. Keyes bought the property December of 2021 and went through perc testing and the house needs repair. Mr. Chaffee stated Mr. Keyes would like to build a garage to fit two vehicles, can't step the garage back to meet the zoning requirements and the topography of the lot is slopped. Mr. Chaffee mentioned in the back of the property there is a 1 to 1 slope. and in some areas a 2 to 1 slope. Mr. Keyes said the home came with 47 acres and just wants to add the garage. Mr. Collette asked if the front of the house was already at 40 feet and Mr. Chaffee said yes. Mr. Collette asked about putting the garage on the other side of the house to reduce setback and Mr. Chaffee said it would be too close to the boundary and in the side setbacks. Mr. Tyler asked if the plan has errors because it looks like its over 100 feet. Mr. Tyler asked what the closest part of the home to the front setback was and Mr. Chaffee answered thirty-three feet. Mr. Tyler asked if they could try and make the garage no worse than existing and kick the garage back a little. Mr. Chaffee said that would change the aesthetics of the home, it would be down a hill, and would need a larger foundation. There was much discussion regarding the property and topography. Mr. Tyler would like clearer information for the hardship and the aesthetics and appearance is not considered a hardship. Mr. Chaffee said they can come back with more topography lines.

Pamela Keyes, 3 R. Jones Road, stated they have a letter of support from their neighbor, and they have spent a lot of money and time getting to this point.

The Chair opened the hearing for public comment.
No comments or concerns.

MOTION: Ms. Beford motioned to continue the Variance for 42 Bacon Hill Road to May 16, 2022

SECOND: Mr. Tyler

DISCUSSION: None

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

5. Variance – Applicant/ Owner: Denise Lacroix; Location: 188 Charlton Road, Spencer Assessor’s Map R13-24. The applicant is looking for a variance under section 7.3 and Section 5.2.4 (Setbacks) of the Spencer Zoning Bylaw to rebuild a single-family home that falls out of the original foundation footprint and encroaches on the front setback. The property is located in the Rural Residential zoning district.

Denise Lacroix, 182 Charlton Road, explained they had a house fire, and they were trying to save half of the house but because of the age of the home the builders said it was not safe and they demolished the home. Ms. Lacroix said the new home will be a little out of the footprint and her son will be owning the property. Daniel Lacroix, 188 Charlton Road, stated they have a 55-foot setback moved the house back eight feet because it stuck out closer to the road. Mr. Lacroix said one corner of the house is 33 feet and the other is 35 feet, and if they had to meet the 55-foot setback they would be encroaching on the septic system, and the cost to replace the septic system would be \$50,000.00 or more. Mr. Collette stated the old footprint followed the road and Mr. Lacroix stated the home had been there from the 1700’s. There was much discussion about the new house plans submitted. Mr. Tyler asked if they would be excavating the old foundation and putting in a new foundation and Mr. Lacroix said yes. Mr. Tyler asked if there was information on where the septic was, and Mr. Lacroix came up and showed the location of the septic tank on the plan.

Billy Lacroix, 182 Charlton Road mentioned the distance between the tank and the d-box was very close and Mr. Lacroix retrieved his laptop to show the title 5 document showing the distance to the d-box. Ms. Lacroix said originally there was a mudroom that stuck out further than the house and now it is squared off now. Mr. Tyler stated the location of the septic system, and the leach field demonstrates the hardship.

The Chair opened the hearing for public comment.

Gary Woodbury, 219 Charlton Road, in 1931 discussed the old road and may contribute to the old footprint.

MOTION: Mr. Tyler motioned to approve the Variance for 188 Charlton Road

SECOND: Ms. Beford

DISCUSSION: Mr. Collette added because of a house fire and need to rebuild.

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

6. Approval of Minutes- 3/8/2022, 3/24/2022, and 4/12/2022

There was discussion about the landscape approval and the pole colors for the CVS petition on the minutes. Mr. Tyler commented on the motion he made and for the finish to match the current streetlights. Mr. Collette would like the date of the revised plan listed in the minutes. The minutes for 3/8/2022 and 3/24/2022 will be tabled to the next meeting to review the minutes.

Mr. Tyler will not vote on the minutes for 4/12/2022 due to his absence.

MOTION: Ms. Beford motioned to continue the minutes for March 24, 2022, until May 16, 2022

SECOND: Mr. Collette

DISCUSSION: None

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

7. Town Planner Report

Ms. Trifone, Interim Town Planner, mentioned the town clean up on Saturday.

8. New Business/ Citizens Input/ Adjournment

Mr. Tyler motioned to adjourn the meeting at 8:50 pm

Ms. Beford seconded

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

Submitted By: Monica Santerre-Gervais, ODIS Clerk

Approved by the Zoning Board of Appeals: 5/16/2022

List of Documents used on April 12, 2022:

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

- Agenda
- Drafted Minutes 3/8/2022 & 3/24/2022
- 11 Highland Street Application & Plans
- 11 Highland Street continuance request form
- 130 West Main Street SP & Variance applications and plans
- Fire Department letter in support of 130 West Main Street signage
- 42 Bacon Hill Road- Variance application and plans
- 188 Charlton Road- Variance application and plans

Items submitted to ZBA members at the meeting:

- Title 5 for 188 Charlton Road