



Zoning Board of Appeals – Town of Spencer

***Minutes of Tuesday, June 29, 2020 at 7:00pm***

***REMOTE MEETING***

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

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Zoning Board Members Present: Allan Collette, Alyce Johns, and Steven Tyler

Zoning Board Member Absent: None

Staff Present: Paul Dell'Aquila, Town Planner and Monica Santerre-Gervais, Clerk

Staff Absent: None

**1. Open Meeting** – Mr. Collette was acting chair and opened the meeting at 7:06pm and read aloud Covid-19 statement. *“This Meeting of the Zoning Board of Appeals is being conducted remotely consistent with Governor Baker’s Executive Order of March 12, 2020, pursuant to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have suspended public gatherings, and as such, the Governor’s Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. We are meeting remotely and broadcasting live on Spencer Cable Access to ensure public viewing access.”*

**2. Continued Public Hearing/ Special Permit – Applicant/Owner: Francis & Barbara White. Location: 35 R. Jones Road, Spencer Assessor’s Map R24/10. The applicant is requesting a Special Permit under Section 4.8.1 of the Spencer Zoning Bylaw to construct an accessory apartment in a garage. The property is located within the Rural Residential zoning district.**

Mr. Dell'Aquila stated that at the original hearing the Zoning Board of Appeals members asked the applicant to provide additional information regarding parking and the connection from the residence to the accessory apartment. The applicant provided the additional material and the Zoning Board of Appeals members discussed the updated narrative and plans and possible conditions.

Frank White, 35 R. Jones Road, was on the remote meeting to answer any questions.

There was no public comments or questions.

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

**SECOND: Ms. Johns**

**DISCUSSION: Conditions: Subject to any other Town board approvals or conditions, if any and Plans for the Accessory Apartment must be submitted to the Building Department and approved by the Building Inspector prior to receiving a building permit and Certificate of Occupancy.**

**VOTE: 3-0**

**MOTION: Mr. Tyler motioned to approve the special permit with the discussed conditions**  
**SECOND: Ms. Johns**  
**DISCUSSION: None**  
**ROLL CALL VOTE: Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)**

**\*\*\* Before going on the Chair expressed his concern for a remote meeting discussing CVS and needing more time to review the documentation therefore the hearing will not be heard at this meeting\*\*\***

**3. Continued Public Hearing/ Variance – Applicant/Owner: David & Jean Flint. Location: 77 Cherry Street, Spencer Assessor’s Map U06-144. The applicant is seeking a variance under Section 7.3 (Variances) of the Spencer Zoning Bylaw to install a driveway within the side boundary setback. The property is located within the Village Residential zoning district.**

Mr. Dell’Aquila reviewed the applicants request for a variance to reconfigure a driveway. At the meeting the Zoning Board of Appeals members asked the applicant to remove the current driveway and 3 feet offset to the property line with some screening for the abutter who came in at the last meeting. Mr. Tyler asked about clarification about the applicant removing the driveway before installing the new driveway.

David Flint, 77 Cherry Street, stated that he will be removing the current driveway before or at the same time when the new driveway is installed because he does not intend to have two driveways. Mr. Collette asked about a curb cut and Mr. Flint said there will be an apron.

There was no public comment or questions.

**MOTION: Ms. Johns motioned to close the public hearing**  
**SECOND: Mr. Tyler**  
**DISCUSSION: Zoning Board members discussed conditions 1. The driveway for 77 Cherry Street shall be no closer than 3 feet to the property, 2. The applicant must obtain a driveway permit for 77 Cherry Street from the Highway Department before beginning any work under this Variance, 3. The existing driveway on 75 Cherry Street must be removed under a driveway removal permit from the Highway Department, and 4. Survey pins must be maintained throughout construction.**

**ROLL CALL VOTE: Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)**

**MOTION: Mr. Tyler motioned to approve the variance with the discussed conditions**  
**SECOND: Ms. Johns**  
**DISCUSSION: None**  
**ROLL CALL VOTE: Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)**

**4. 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.**

Audrezej Sobiech, 73 Wilson Street, discussed he had to remove an old deck on his property because he had to do a retaining wall on his property. Now the applicant is installing the deck in the same footprint but a little larger. Mr. Sobiech explained that without the deck the property would not be useable, and his only intent is to replace the deck that was already there., Mr. Dell’Aquila stated that it is a pre-existing non-conforming use and the new deck layout does not greatly exceed the previous deck, and the deck makes the property useable.

James Donahue, 71 Wilson Ave, asked how far away the deck would be from his property line. Mr. Dell’Aquila said 5.31 feet according to the plan. Mr. Dell’Aquila asked if he was moving the deck closer to the abutter and Mr. Sobiech said no just putting the deck back where it was. Mr. Collette expressed that the applicant should have been allowed to put the deck back without coming to the Zoning Board. Mr. Collette asked if the applicant was seeking one or two variances and Mr. Dell’Aquila said one. There was discussion regarding the setback regulations. Mr. Collette mentioned that they will need more information and detail for the next meeting. Mr. Dell’Aquila explained to the applicant that for the next meeting label the existing square footage, show limited expansions, site photos of topography, and cleaner dimensions.

**MOTION: Mr. Collette motioned to continue the hearing until July 14, 2020**

**SECOND: Ms. Johns**

**DISCUSSION: Applicant stated they updated there septic and Mr. Collette said the septic or well redesign can be part of the hardship.**

**ROLL CALL VOTE: Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)**

**5. Public Hearing/ Special Permit – Applicant/Owner: Keith Gauvin. Location: 47 Chickering Road, Spencer Assessor’s Map R15-4-6. The applicant is seeking a variance under Section 5.2.6 (Detached Structures) of the Spencer Zoning Bylaw to place a gazebo within the front setback area. The property is in the Rural Residential zoning district.**

Keith Gauvin, 47 Chickering Road was on the call to discuss his application. Mr. Dell’Aquila explained that the applicant is looking for a special permit to build a 12 x 24 gazebo. Mr. Collette said that it seems like the applicant needs a variance and Mr. Dell’Aquila said there is a special provision for detached structures. Mr. Tyler asked about the setbacks and where the gazebo is going.

There was no public comments or questions.

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

**SECOND: Ms. Johns**

**DISCUSSION: None**

**ROLL CALL VOTE: Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)**

**MOTION:** Mr. Tyler motioned to approve the special permit with the condition that the gazebo must be located no closer than twelve (12) feet from the front property line.

**SECOND:** Ms. Johns

**DISCUSSION:** None

**ROLL CALL VOTE:** Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)

**6. 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 properties are located within the Town Center and Village Residential zoning districts.**

Public hearing was tabled to the July 14, 2020 meeting.

## **7. Approval of Minutes**

- **March 10, 2020**

**MOTION:** Mr. Tyler motioned to approve the minutes for 3/10/2020 as submitted.

**SECOND:** Ms. Johns

**DISCUSSION:** None

**ROLL CALL VOTE:** Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)

- **March 10, 2020 Executive Meeting**

**MOTION:** Mr. Tyler motioned to approve the minutes for 3/10/2020 as submitted.

**SECOND:** Ms. Johns

**DISCUSSION:** None

**ROLL CALL VOTE:** Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)

## **8. Town Planner Report**

- **Town Hall will most likely full staffed mid-July, however, there is no guidance on public meetings greater than 10 people. Mr. Collette expressed that he does not what to do a remote meeting for CVS and Borkum Road and would like Mr. Dell’Aquila to investigate other methods.**

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

**MOTION:** Mr. Tyler motioned to adjourn the meeting at 8:38 pm

**SECOND:** Ms. Johns

**DISCUSSION:** None

**ROLL CALL VOTE:** Mr. Tyler-yes, Ms. Johns-yes, and Mr. Collette-yes (vote 3-0)

**Submitted By: Monica Santerre-Gervais, ODIS Clerk**  
**Approved by the Zoning Board of Appeals: 7/14/2020**

**List of Documents used on June 29, 2020:**

Items emailed out to ZBA members prior to meeting:

- Agenda
- Memo from Town Planner
- Minutes from 3/10/2020 and 3/10/202 executive meeting
- Updated plan and narrative for 35 R Jones Special Permit
- Updated plan and narrative for 77 Cherry Street Variance
- Variance application with narrative and plan for 73 Wilson Street
- Special Permit application with narrative and plan for 47 Chickering Road
- Major Site Plan/ Special Permit application, plans, narrative for CVS

Items submitted to ZBA members at the meeting:

- None