



Zoning Board of Appeals – Town of Spencer

***Minutes of Tuesday, July 09, 2019 at 7:00pm***

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

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Zoning Board Members Present: Allan Collette/ Chair, Steven Tyler, Alyce Johns/ Clerk, and Robert Emerson

Zoning Board Member Absent: None

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

Staff Members Absent: None

**1. Open Meeting** – Mr. Collette was acting chair and opened the meeting at 7:07 pm

**2. Continued Variance – Applicant: Jalbert Engineering; Owner: Ricci & Bree Hall.**  
**Location: 101 Clark Road, Spencer Assessor's Map U27/16. The applicant is looking for a variance under Sections 4.9.2 A-3 of the Spencer Zoning Bylaw as the lot does not meet the current zoning standards for minimum side setbacks to allow enlargement of a deck, garage addition, third floor addition, and extension to the front entrance. The property is located in the Lake Residential zoning district.**

Mr. Collette introduced the voting parties being himself, Ms. Johns, and Mr. Tyler. Ricci Hall, 101 Clark Road, and Leonard Jalbert, Jalbert Engineering, were present for the meeting.

Mr. Hall stated that after the last meeting they went back and revised the plans based on the boards feedback and the new changes included removal of the shed, removal of the existing deck, which, will be turned into a patio, reduced the proposed deck size to 10' x 26', reducing the lot coverage from 35% to 29.4%, leaving the total impervious surface to be under 40%. Mr. Jalbert handed out full size plans to keep on file. Mr. Jalbert discussed the proposed deck and there would only be a triangular piece that would need a variance but that piece can be removed. Mr. Collette asked how much they would need to take away from the deck for it to be compliant and Mr. Jalbert said three square feet. Mr. Collette said he would prefer the applicant take that piece of the deck so there aren't two variances. Mr. Tyler said the applicant can make a case for geometrical shape for the deck and Mr. Collette agrees but the Zoning Board of Appeals has to be consistent and not issue two variances. Mr. Hall offered to reduce the deck to 9' x 26'.

Mr. Tyler asked the shape of the patio and Mr. Hall responded it will be the area of the current deck now towards the property line like a rectangle. Mr. Dell'Aquila said he spoke to the Alternate Building Inspector, William Cassanelli, and he was ok with the patio location because it falls under landscaping and there are no permits or setback requirements. Mr. Tyler wanted clarity on the patio and asked about the gravel driveway and Mr. Hall said it will remain the same and he may take the fence out or continue it down.

Mr. Collette opened the meeting to the public and there were no comments.

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

**SECOND: Ms. Johns**

**DISCUSSION: Mr. Dell'Aquila mentioned that he handed out draft conditions. Mr. Collette commented that the applicant made a good effort to reduce the work for the variance. Mr. Collette would like to remove the comment in the decision for the setback variance to take out the shoreline. Ms. Johns state that according to Mass General Law a shoreline can be used as a setback. There was much discussion in regards findings. Due to the deck being reduced and the small triangular piece will be removed from the setback the language for the variance for setback will be removed from the Certificate of Decision.**

**VOTE: 3-0**

**MOTION: Mr. Tyler motioned to approve the variance for lot coverage with the following conditions:**

- 1. The proposed deck shall be redesigned and built to eliminate encroachment into rear setback**
- 2. The applicant must coordinate with the Highway Department for any proposed work or stockpiling of material on the site, especially in the main driveway area**
- 3. Earth or debris tracked onto the public way shall be removed daily**
- 4. The applicant must receive all required approvals for any proposed work from the Building Department, Conservation Commission, and Utilities and Facilities prior to commencing work under this variance**
- 5. The removal of the portion of the existing stone wall that encroaches into the public way and the road repairs must be completed prior to the project's completion (the road repairs require a road opening permit from Utilities and Facilities)**
- 6. The existing shed and deck must be removed prior to project completion**

**SECOND: Ms. Johns**

**DISCUSSION: There was some discussion on clarity of conditions that were issued.**

**VOTE: 3-0**

**3. Special Permit Amendment- Applicant/ Owner: Barakah Holding, LLC; Location: 48 Pleasant Street; Spencer Assessor's Map U20-60. The applicant is requesting a Special Permit to amend their special permit that was granted in 1984 under Section 4.2.D-2 (Office or clinic for medical, psychiatric, or other health services for the examination or treatment of persons as outpatients) of the Spencer Zoning Bylaw. The property is located within the Village Residential zoning district.**

Mr. Dell'Aquila explained that the applicant has requested to withdrawal without prejudice because the sale between the two dentists fell through.

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

**SECOND: Mr. Emerson**

**DISCUSSION: None**

**VOTE: 3-0**

**MOTION: Ms. Johns motioned to accept the withdrawal without prejudice for 48 Pleasant Street/ Barakah Holding, LLC**

**SECOND: Mr. Collette**

**DISCUSSION: None**

**VOTE: 3-0**

#### **4. Approval of Minutes**

- June 11, 2019- Ms. Johns made a comment that on page 4 in the discussion there is a typo that says “id” and should be “is”.

**MOTION: Mr. Emerson motioned to accept the edit and the minutes for 6/11/2019**

**SECOND: Ms. Johns**

**DISCUSSION: None**

**VOTE: 3-0**

#### **5) Town Planner Report:**

- **Rules and Procedures-**Mr. Dell’Aquila handed out the draft rules and procedures recently drafted for the Planning Board. Mr. Collette said he would like to push it off until the fall because there is a lot to read through. Mr. Dell’Aquila asked about certain items he highlighted and the Zoning Board of Appeals members tabled the discussion.
- **40 B Redevelopment of Lake Street School-** in the pipeline for the future and would need a comprehension permit through the Zoning Board of Appeals.
- **New Legal Representation-** As of July 1 new legal counsel was hired for the town
- **No Meeting in August-** No meeting agenda for the August meeting, therefore, it will be cancelled.

#### **6) New Business:**

- **Board Reorganization-** the Zoning Board of Appeals needs 3 full members, Mr. Emerson cannot be chair because he is the newest member and Mr. Tyler cannot serve as chair because he is an alternate. Ms. Johns stated she is not ready to be chair.
- **Public Comment-** Matt Defosse commented on Boards having something for the general public to view at public meetings so people know how the meetings are conducted.

**MOTION: Mr. Tyler motioned that Mr. Collette remains the Chair and Ms. Johns to be the clerk.**

**SECOND: Mr. Emerson**

**DISCUSSION: None**

**VOTE: 4-0**

**Mr. Tyler motioned to adjourn the meeting at 8:34pm**

**Mr. Collette seconded**

**VOTE 4-0**

**Submitted By: Monica Santerre-Gervais, ODIS Clerk**  
**Approved by the Zoning Board of Appeals: 10/08/2019**

**List of Documents used on July 09, 2019:**

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

- Agenda
- Memo from Town Planner
- Minutes from 6/11/2019
- Variance hardship and pictures for 101 Clark Road
- ZBA Rules and Procedures Draft

Items submitted to ZBA members at the meeting:

- Draft conditions for the variance at 101 Clark Road
- Larger revised plans for the Variance