



Zoning Board of Appeals – Town of Spencer

Minutes

Zoning Board of Appeals Meeting
Tuesday, August 9, 2022, at 7:00pm

In-Person & Remote

McCourt Social Hall, 157 Main Street Spencer, MA 01562
Memorial Town Hall

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

Zoning Board Members Absent: None

Staff Present: Lauren Trifone, Town Planner/Conservation Agent (in-person), Dawn Foster, ODIS Minutes Clerk (in-person)

Staff Absent: None

1. The Chair opened the meeting at 7:03pm.

2. Continued 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.

Mr. Collette asked if there was any new information to discuss pertaining to this item. Ms. Trifone stated there was no new information and no request received for further continuation had been filed.

Discussion ensued between the board members regarding work that had been completed on the property without permits or inspections, such as outside stairs leading to a new door on the second floor and changes to the driveway. Mr. Collette noted that a "Stop Work Order" had been issued on July 20, 2020, and the current permit application was on February 16, 2022. Mr. Collette noted that the applicant continued to request continuations, has not submitted required information, and is not present or represented at this meeting.

Mr. Mike Pare (representing Ms. Stephanie Ford, 11 Highland Street, who, while present at the meeting is self-described as hard of hearing and requested that Mr. Pare speak on her behalf), inquired as to whether these proceedings would adversely affect Ms. Ford's current tenancy on the first floor of the property. Mr. Collette verified with Town of Spencer staff that the decision on the item presented before the town would not have an adverse effect on her tenancy.

Discussion ensued as to the work identified by the Building Inspector, Duane Amos, to return the property to single-family condition, however, it was determined that this aspect was beyond the purview of this board.

Mr. Tyler stated the current or previous owners apparently did work without the appropriate permits and inspections required by the town, that the current or previous owners apparently did driveway work without the appropriate permits and inspections required by the town, and that the current owner did in the past willfully, illegally use the building as a two-family residence. Mr. Tyler then stated that the Zoning Board of Appeals has made numerous requests to the applicant to come forward and that this is a matter of information that is required for the Board to act. Mr. Tyler made the motion to close the hearing.

MOTION: Mr. Tyler motioned to close the public hearing for 11 Highland Street.

SECOND: Ms. Beford

DISCUSSION: None

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

MOTION: Mr. Collette motioned to deny the petition for 11 Highland Street

SECOND: Ms. Beford

DISCUSSION: None

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

3. Special Permit - Applicant/Owner: Ciarah Ross/ Connect Restaurant; Location: 13 Mechanic Street, Spencer Assessor's Map U07-48. The applicant is looking for a Special Permit under Section 4.2.E.11 (Eating establishment, specializing in serving alcoholic beverages) of the Spencer Zoning Bylaw to open a new restaurant and serve liquor. The property is located in the Town Center (TC) zoning district.

Applicant, Ciarah Ross, was present and accompanied by Jeff Santos, 117 Howe St, Marlboro. General discussion ensued as to the hours of operation for the proposed restaurant (Sunday - Thursday, 11:30am to 9:00pm and Friday & Saturday, 11:30am to 10:00pm), parking (street and municipal lot parking located across the street from the restaurant and next to the Post Office), and general layout of the interior of the restaurant including the restroom.

There was discussion regarding 'Curbside Pick-Up' options/ideas occurred. Ms. Trifone advised the applicant of the necessity of a permit should the Applicant want to place signage in the municipal parking lot for 'Curbside Pick-Up.' Applicant indicated understanding and stated she would file for a permit if needed.

The applicant was cautioned by Ms. Trifone that the current grease trap just meets the needs of the restaurant however, it does not include any effluent from the preparation sink. This caution was reiterated by Jim LaPlante, Sewer Department Superintendent. Furthermore, the board members determined that signage at the preparation sink would be a requirement as a condition of approval. The condition for signage shall be as follows: signage shall be located above the preparation sink at a height not-to-exceed five feet above finished floor height and shall state in letters 1.5" in height, "Hand Wash or Rinse Only - No Grease or Oil of Any Kind." Lettering height shall be 1.5."

MOTION: Mr. Tyler motioned to close hearing and grant permit with condition of signage
SECOND: Ms. Beford
DISCUSSION: None
ROLL CALL VOTE: G. Beford-Aye, A. Collette-Aye, and S. Tyler-Aye (Vote 3-0 motion carried)

4. Discussion: Leon Drive As-Built Review

Ms. Trifone stated that the applicant requested that the discussion be continued to the September meeting due to schedule conflicts.

In summary of a memo to the Zoning Board of Appeals members, Ms. Trifone pointed out that the original plans for Leon Drive were approved by the Zoning Board of Appeals (ZBA) in 2003. However, the As-Built were never submitted for final close-out.

Ms. Trifone mentioned that what the ZBA approved was not what was built. Furthermore, Ms. Trifone explained that the applicant should go through the Planning Board for final close-out of As-Built to 2003 standards. Once that is complete, then the applicant should petition the ZBA to do what he currently proposes. She also advised allowing the applicant to come to ZBA meeting in September to discuss why the buildings were not built as proposed. It should be noted that the applicant did receive a Certificate of Occupancy but will still need a Special Permit to do what he wants to do.

5. Approval of Minutes - 06/14/2022

MOTION: Ms. Beford motioned to accept the minutes as written for 06/14/2022.
SECOND: Mr. Collette
DISCUSSION: None
ROLL CALL VOTE: G. Beford-Aye, A. Collette-Aye, and S. Tyler-Aye (Vote 3-0 motion carried)

6. Town Planner Report

Ms. Trifone stated there was no new business to report however, she did want to advise the board that work continues with the Solar Bylaw Amendments and that the ZBA will review variances to accessory use items such as ground-mounted solar, setbacks, etc.

7. New Business/Adjournment

None

MOTION: Ms. Beford motioned to adjourn the meeting at 8:02 pm:
SECOND: Mr. Tyler

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

Submitted by Dawn Foster, Minutes Clerk

Reviewed by Monica Santerre-Gervais, ODIS Senior Clerk

Approved by the Zoning Board of Appeals on: 9/13/2022

List of Documents used on August 9, 2022:

Items sent to Zoning Board Members prior to meeting by email:

- Agenda
- Town Planner memos dated 7/27/2022 and 8/8/2022
- Drafted Minutes 06/14/2022
- 11 Highland Street Special Permit application and plans
- 13 Mechanic Street application and plan

Items submitted/ brought to the Meeting:

- 11 Highland Street-pictures submitted by Steven Tyler.