



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, August 10, 2021, at 7:00pm

REMOTE MEETING

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

Zoning Board Members Present in person: Allan Collette, Gina Beford, and Steven Tyler

Zoning Board Member Absent: None

Staff Present in person: Town Planner and Monica Santerre-Gervais, Clerk

Staff Absent: None

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:05pm

2. Appeal of Decision – Applicant/ Owner: Spencer Solar Farm, LLC; Location: North Brookfield Road, Spencer Assessor’s Map R39-14. The applicant is requesting an Appeal under section 7.1.2.A (Appeals) of the Spencer Zoning Bylaw Zoning to appeal the denial of the building permit by the Building Inspector. The property is located within rural residential zoning district. (DISCUSSION AND VOTE ON WRITTEN DECISION ONLY)

Mr. Miller said this item was on the agenda just to clean up procedural items.

MOTION: Mr. Tyler motioned to accept the decision from Town Counsel

SECOND: Ms. Beford

DISCUSSION: Mr. Tyler said on page 2 of 6, 3rd paragraph, it just says Planning and should add the word “Board” after; top of 3rd page should say “Zoning Board of Appeals.”

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

3. Continued Appeal of Building Fee – Applicant/ Owner: James and Rachel LaLiberte; Location: 195 Charlton Road, Spencer Assessor’s Map R13-16. The applicant is requesting relief from a building permit fee calculated by the Building Inspector for an indoor arena/barn. The property is located within the rural residential zoning district.

Mr. Collette reviewed what was discussed at the last meeting. Mr. Miller and the Building Inspector, Duane Amos, reviewed previous pole barn Building Permits and there weren’t any comparable to what the LaLiberte’s were planning on building. Mr. Amos mentioned he still did not have a site plan but will charge the applicant the commercial fee of \$7.00 per \$1,000 and not based on square footage. Mr. Collette stated that the survey will need to be where the portion of the pole barn will be placed and verify the setbacks and Mr. LaLiberte stated they had the land surveyed in 2012. Mr. LaLiberte will work on getting revised quotes for the pole barn.

The Chair opened the hearing up to the public for comment; and there were no comments or questions.

Mr. Collette wants the applicant to return with plans and revised quotes.

MOTION: Mr. Tyler motioned to continue the hearing until 9/14/2021

SECOND: Ms. Beford

DISCUSSION: None

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

4. Continued Variance – Applicant/ Owner: Kristopher Lauzon; Location: 13 Jolicoeur Road, Spencer Assessor’s Map R10-07. The applicant is looking for a variance under Section 7.3 (Variances) of the Spencer Zoning Bylaw to erect an above ground pool. The property is in the Rural Residential zoning district.

Kristopher Lauzon was on the call remotely.

Mr. Collette reviewed what was discussed at the last meeting and the Zoning Board of Appeals members asked for pictures to show the drop off in the back yard, pictures were provided, and feels the location of the pool would merit a variance due to the drop off in the back of the yard.

The Chair opened the hearing up to the public for comment; and there were no comments or questions.

MOTION: Mr. Tyler motioned to close the public hearing

SECOND: Ms. Beford

DISCUSSION: None

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

MOTION: Mr. Tyler motioned to approve the pool location

SECOND: Ms. Beford

DISCUSSION: Mr. Collette said no abutters spoke against the petition

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

5. Appeal of Building Decision regarding Accessory Structure – Applicant: Jose Vasquez/ Ambassador Pools; Owner: Victor Apostolou; Location: 203 Paxton Road, Spencer Assessor’s Map R46-14. The applicant is requesting relief from a building permit denial by the Building Inspector for a pool installed that violates the setbacks. The property is located within the rural residential zoning district.

Applicant Jose Vasquez, was on the call remotely. Mr. Vasquez explained to the Zoning Board of Appeals that in the rear of the property there is the septic and the leach field, so they decided to move the location of the pool, the building inspector denied the building permit application,

but there was some miscommunication between Ambassador Pools and the homeowner, and the pool is in the setbacks. Mr. Vasquez explained they proposed different areas but there were trees, and the homeowner is asking to keep the pool location even though it's in an unapproved spot. Mr. Amos stated that the building permit application was denied, the pool was installed anyway, the pool needs to be relocated, and there is room in the back yard to relocate the pool. Mr. Tyler clarified that the pool is in a non-conforming area, but the applicant is requesting to keep the pool in the location.

Victor Apostolou, 203 Paxton Road, explained he would like to keep the pool in its current location and has gotten quotes to put up a fence to block the pool and Mr. Collette said the setbacks are the issue. There was much discussion regarding the 55-foot requirement, and they may be within 50 feet. Mr. Tyler explained the homeowner needs to get clarity on the property line and the front setbacks. Mr. Vasquez said they were not aware of the corner lot requirements so there are two front setbacks, they could move the pool, but the owner paid a lot of money and wants to keep it where it is and offered to send a surveyor out to the location for setback clarity.

The Chair opened the hearing up to the public for comment.

Batra Narendra K Sunita Gulati, neighbor to 205 Paxton Road, discussed an electrical easement, walking area, and the Tree Warden cutting down trees and discussed his property.

MOTION: Mr. Tyler motioned to continue the hearing until 9/14/2021

SECOND: Ms. Beford

DISCUSSION: None

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

6. Variance – Applicant/ Owner: Scott & Grace Conner; Location: 7 Brewer Lane, Spencer Assessor's Map U29-107. The applicant is looking for a variance under Section 5.2.6 (Detached Accessory Structure) of the Spencer Zoning Bylaw to erect a 600 sqft accessory structure on a pre-existing non-conforming vacant lot and reduce roadway setback on south boundary line. The property is located in the Rural Residential zoning district.

The applicant is requesting to withdraw their application without prejudice and will return at the next meeting for a Special Permit.

MOTION: Mr. Tyler motioned to close the public hearing

SECOND: Ms. Beford

DISCUSSION: None

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

MOTION: Mr. Tyler motioned to accept the withdraw without prejudice

SECOND: Ms. Beford

DISCUSSION:

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

7. Approval of Minutes

- **6/29/2021**

MOTION: Mr. Tyler motioned to approve the minutes for 6/29/2021 as submitted

SECOND: Ms. Beford

DISCUSSION: None

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

- **7/21/2021**

MOTION: Mr. Tyler motioned to approve the minutes for 7/21/2021 as submitted

SECOND: Ms. Beford

DISCUSSION: None

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

8. Town Planner Report-

Mr. Miller discussed a new application for the Town of Spencer's Wastewater Treatment Plant (WWTP), received the plans from Tighe & Bond, they are looking to update and modernize, and mentioned The Town of Spencer does not have a utility municipal exemption.

9. New Business/ Adjournment-

Ms. Beford motioned to adjourn the meeting at 8:01 pm

Mr. Tyler seconded

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

Submitted By: Monica Santerre-Gervais, ODIS Clerk

Approved by the Zoning Board of Appeals: 9/14/2021

List of Documents used on August 10, 2021:

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

- Agenda
- Minutes from 6/29/2021 and 7/21/2021

- Revised Certificate of Decision for North Brookfield Solar Farm appeal
- Pictures of rear property for 13 Jolicoeur Road
- Application, plans, and denial letter for 203 Paxton Road appeal
- Variance application, plan, and request to withdraw without prejudice for 7 Brewer Lane

Items submitted to ZBA members at the meeting:

- None