



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, September 14, 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 7:00pm

2. 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. Miller stated the applicant submitted a request to continue the hearing to 10/12/2021 because they are currently getting updated estimates for the construction cost.

There were no comments from the Zoning Board of Appeals (ZBA) or the public.

MOTION: Mr. Tyler mentioned to continue the public hearing until 10/12/2021

SECOND: Ms. Beford

DISCUSSION: None

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

3. 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.

Victor Apostolou, 203 Paxton Road, mentioned he has not heard for the Jose Vasquez or the pool company regarding this hearing and any updates. Mr. Apostolou said Mr. Vasquez was supposed to be responsible for all the permits but has not heard from him. Mr. Apostolou stated he did some measurements himself and came up with a 3 ½ foot deficit. Duane Amos, Building Inspector, said he came up with the same number, Mr. Collette said they received a surveyed plan that showed the 3 ½ foot deficit too. Mr. Collette asked what was on the shortage side of the pool and Mr. Apostolou said there is a row of Maple Trees, a stone wall, and some bushes.

Mr. Tyler noted there was a space between the pool and Mr. Apostolou answered it was a deck. Mr. Tyler recommended flipping the deck because the deck is not compliant not the pool. Ms. Beford agreed with Mr. Tyler. Mr. Apostolou preferred to have the deck stay where it is but ask the pool company if it is possible.

The Chair opened the hearing to the public:

Batra Narendra K Sunita Gulati, neighbor to 205 Paxton Road, stated he was ok with the location of the pool and the man who installed the pool was sloppy and did it all by line of site.

MOTION: Mr. Tyler motioned to continue the hearing until 10/12/2021

SECOND: Ms. Beford

DISCUSSION: None

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

4. Special Permit – Applicant/ Owner: Scott & Grace Conner; Location: 7 Brewer Lane/Wilson Ave, Spencer Assessor’s Map U29-107. The applicant is looking for a special permit under Section 5.2.6 (Detached Accessory Structure) of the Spencer Zoning Bylaw to erect a 600 sqft accessory structure. The property is located in the Lake Residential zoning district.

Scott Conner, 7 Meadowbrook Road, was present for the meeting.

Duane Amos, Building Inspector, did not visit the site but it is a non-conforming structure on a lot across from the property, which is legal non-conforming.

There was a brief interruption to locate the plan for the property.

Mr. Conner explained the design and mentioned he owns 5 parcels that are bundled.

The Chair opened the hearing up to the public and there were no comments.

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 grant the special permit for a 600 sqft accessory structure on Brewer Lane/Wilson Ave

SECOND: Ms. Beford

DISCUSSION: None

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

5. Special Permit – Applicant/ Owner: Town of Spencer; Location: 69 West Main Street, Spencer Assessor’s Map R29-01. The applicant is looking for a special permit under Section 3.4.1 (Aquifer Protection) and 4.2 (Major Utility in Commercial Zone) of the Spencer Zoning Bylaw to upgrade and improve the Wastewater Treatment Plant. The property is located in the Commercial zoning district.

Mr. Miller stated the applicant has requested to withdraw and reapply later in the year. Mr. Collette asked if there was a date set and Mr. Miller said possibly October 12. Frank White, Sewer Commissioner, asked why the application was not being heard and Mr. Miller said they requested to withdraw, Mr. White asked why they didn’t know about it. Additionally, Mr. White asked about what board was going this was going before and would like to know.

Mr. Tyler explained it should go before Water Commission before the ZBA.

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 request to withdraw from Tighe and Bond regarding 69 West Main Street.

SECOND: Ms. Beford

DISCUSSION: None

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

6. Discussion: Rapsallions retail activity and compliance of conditions

Mr. Miller read aloud updates provided by Jones Noble that included paving of the driveway, stop signs ready to install, line stripping scheduled for September 18th in the morning, spoke to Building Inspector with updates, spoke with Highway regarding the parking area, and ready to install bike rack.

Cedric Daniel, 6 W. Main Brimfield, said they finished all the parking and pavement.

Duane Amos, Building Inspector, stated they passed their inspections, electrical and plumbing have been signed off, and just waiting on William Cunduff sign off and it is scheduled.

Frank White, hired McClure Engineer and picked a meter, supposed to be in in August or September. Mr. White said the applicant is still paying for flow going in, asked to take pH readings but haven’t, want to see flow meter running, and Jim LaPlante said there was no ball valve. Mr. Daniels said he didn’t stop by. Mr. Daniels and Mr. White had a discussion regarding sewer and water concerns.

Mr. Tyler said the Certificate of Decision is contingent upon written approval from the Sewer Department and still don't have that. Mr. Tyler pointed out that the applicant opened the commercial phase of project without the Sewer Departments approval and Mr. Daniels said they opened briefly but they have been closed for a month. Mr. Tyler expressed he felt there was some cooperation lacking from the applicant's side and Mr. Daniels said he had a different impression. Additionally, Mr. Tyler discussed the letter that was delivered by the Water Department. Mr. Daniels feels the town has lacked cooperation and communication but could be due to Covid and employee transitions and trying to be patient. Mr. Tyler said the bike rack is not required for the certificate at this time.

Jonas Noble, 6 Wales Road Brimfield, was not aware of an end date to the agreement with the Sewer Department and Mr. Collette said it would be under that board. Mr. Noble said the retail and commercial are separate with two connections and Mr. Collette said they voted on two phases but the condition to meet approval with all town boards is a boilerplate. Mr. Daniels said the sewer requirement should not be on production and Mr. Collette said they allowed the brewing aspect of it but still need sewer sign off. Mr. Daniels wanted the ZBA to modify the decision at this meeting and Mr. Tyler said it would need to reapply, readvertise, and notify abutters. Ms. Beford asked if there was a date, they need to complete everything by, and Mr. Noble said not that he was aware of.

Tom Lowkes, 175 Harrington St E. Brookfield, owns the building at 8 Meadow Road, he filed the decision with the registry of deeds, and after reading the cover letter they have one year to complete these items. Mr. Lowkes asked how Rapsallion can open quickly and need an occupancy permit. Mr. Miller said the occupancy permit goes through the Building Inspector. Additionally, Mr. Miller discussed a duration condition for operation but was mistaken and apologized because it was not in the decision. Mr. Tyler said they need to be signed off by the Sewer Department to get Occupancy Permit. Mr. White said Rapsallion has not received final approval from the Sewer Department and talked about allowing them to hook up but now they are going directly in and need to meet requirements.

7. Approval of Minutes 8/10/2021

MOTION: Mr. Tyler motioned to approve the minutes for 8/10/2021

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-Todd Miller

Mr. Miller said there was nothing new to report.

9. New Business/ Citizens Input/ Adjournment

Mr. Tyler stated that Public Cable Access/ IT needs to be contacted regarding the sound issues that happened tonight. Mr. Miller said he will reach out to them.

Mr. Tyler motioned to adjourn the meeting at 8:30 pm

Ms. Beford 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: 10/12/2021

List of Documents used on September 14, 2021:

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

- Agenda
- Minutes from 8/10/2021
- Request to continue, 195 Charlton Road, James and Rachel LaLiberte
- Surveyed plan dated 8/26/2021, 203 Paxton Road
- Special Permit application and plans for 7 Brewer Lane/Wilson Ave
- Special Permit application, plans, and request to withdraw for 69 West Main Street, WWTP

Items submitted to ZBA members at the meeting:

- None