



Zoning Board of Appeals – Town of Spencer

Minutes of Tuesday, April 10, 2018 at 7:15pm

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

Zoning Board Members Present: Allan Collette, Mary Stolarczyk and Alan Stolarczyk

Zoning Board Member Absent: None

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

1. Open Meeting – Mr. Collette was acting chair and opened the meeting at 7:18 pm

2. Special Permit – Applicant: Marcus H. Shagogue III. Location: 17 Debbie Drive, Spencer Assessor's Map R55/23. The applicant is requesting Special Permit under Sections 4.4.1. D (Accessory Uses) of the Spencer Zoning Bylaw for renting of rooms in a single-family dwelling. The property is located within the Rural Residential zoning district.

Ms. Stolarczyk read aloud the special permit description.

Marcus Shagogue, 17 Debbie Drive, was present for the meeting.

Mr. Collette said the property density meets the requirements and read aloud sections 4.4.1.D *"Renting of rooms in a single-family dwelling to no more than three persons is permitted subject to the granting of a special permit from the Zoning Board of Appeals."*

Mr. Dell'Aquila said the applicant must meet three criteria's for this Special Permit M.G.L. Chapter 40 A., Sec. 9 and Section 7.2 of the Spencer, MA., Zoning By-laws: 1) That the proposed use is in harmony with the general purpose and intent of this Bylaw and any applicable subsections herein; 2.) that, the proposed use will not create undue traffic congestion nor unduly impair pedestrian safety; 3.) that, the proposed use will not impair the integrity or character of the district or adjoining zones nor will it be detrimental to the health, safety or welfare of the neighborhood or the Town. Also, Mr. Dell'Aquila added that after deliberation with the Building Inspector/ Zoning Enforcement Officer, William Klansek, rooming house is categorized as lodging houses and according to state building code will need to meet certain fire and sprinkler conditions. Mr. Dell'Aquila brought to the meeting a copy of 2015 International Residential Building Code 2015, sections on water supply and distribution.

Mr. Collette opened to meeting to the public at 7:26pm

Todd and Christine LaPorte, 19 Debbie Drive, were present for the meeting. Mr. LaPorte explained that he is present to challenge the point of the integrity and character of the neighborhood. The subdivision was built 20 years ago as a single family development and he bought his home with that understanding of being a single family home not sublet or supplement income to rent out rooms. Mr. LaPorte, who works within the town, and said that Spencer operates with 30% of rental properties in the community and there are plenty of apartments and renting rooms in the designated areas. Mr. LaPorte stated that the renting of rooms at 17 Debbie Drive has been ongoing for four years with many different tenants and children, which, most likely exceeded the bedrooms. The tenants are not guests or family members. Furthermore, Mr. LaPorte expresses that there is extreme concern for no oversight, no stopping who can rent from this house, and there may be potential for tenants to have criminal records and that would be a safety concern. Additionally, Mr. LaPorte added that the property value could go down in the neighborhood if the buyer does his due diligence and that could affect the homeowners which are the tax payers of Spencer. Mr. LaPorte ended that he opposed this application and asked the Zoning Board of Appeals to take his word into consideration when deliberating because they are the homeowners and taxpayers.

Ali Khorasani, 211 Paxton Road, explained he was one of the first to move into the subdivision and it was intended for it to be a residential area. He explained that the rooming house is happening now and this has been ongoing, which, is not in harmony with the character of the neighborhood. Mr. Khorasani is a traffic engineer, and this rooming house and land use may cause undue traffic, which, is out of character of the neighborhood being a subdivision. The applicant does not have the adequate fire suppression system and the property has been rented out and in violation of the Spencer Zoning Bylaws for many years and should disqualify this permit.

Mr. Dell'Aquila added that before this hearing there were no formal complaints of renting rooms or 17 Debbie Drive.

Julie and John Parenteau, 223 Paxton Road, agree with their neighbors and attests that the applicant has been renting rooms for many years. Ms. Parenteau requests that the Zoning Board of Appeals at least delay the request for the same number of years the applicant has run an illegal rooming house out of his home. Mr. Parenteau said that they work really hard to live in this quality of life and grew up in a rough neighborhood. Work 2-3 jobs to live in the subdivision with his family and allowing the rental rooms would affect the character of the neighborhood and strangers would be coming and going out of the neighborhood.

Jack Mortimer, 213 Paxton Road, said he moved to the subdivision 20 years ago and raised four children in this rural setting. Mr. Mortimer explained that if the Zoning Board of Appeals allows one rooming house than others can pop up and will reduce the character and the property values for the subdivision.

Adel Abdelmasih, 4 Debbie Drive, also explained that he agrees with his neighbors and added that he came to this country 19 years ago from Egypt, it was dangerous for them just to be Christian, and in order to keep his kids safe he stays instead of going back to Egypt. By allowing the rental rooms in the neighborhood it would ruin his feeling of safety for him and his family.

Ronald Cohen, 17 Debbie Drive, understands people's concerns but feels that he has changed his situation and the neighbor's minds are running wild, he is changing his life, cars won't be a problem, anyone can move into the renting room including the elderly. Mr. Cohen explained that no one knows him and they just label him and he is being misjudged. He has spent many years trying to change including years of therapy. Mr. Cohen explained he understood why the neighborhood feels like they do but said there is always more to the story and he can't change their minds.

Mr. LaPorte wanted to address the comments from Mr. Cohen and comment on his character and Mr. Dell'Aquila pointed out that the legal status of the tenant cannot be the topic for issuing or denying the Special Permit. Mr. LaPorte said Mr. Cohen is not a taxpayer, homeowner, or parent and judgment will continue if this rooming house goes through. Additionally, Mr. LaPorte expressed it threatens the character of the neighborhood and the homeowners/taxpayers deserve better and the Mr. Cohen can find another place to live and if he wants to live there he should buy a house there.

Mr. Collette said he would like to continue the meeting in order to seek legal concern from Town Council.

An abutter asked about the fire suppression criteria. Mr. Dell'Aquila said in order to receive certificate of occupancy for the rooming house the applicant would need to comply with building code for a fire suppression system. Mr. Khorasani said the applicant is already in violation and Mr. Dell'Aquila referred Mr. Khorasani to speak with the Zoning Enforcement office, William Klansek.

Anthony Dzindolet, 11 Debbie Drive, asked if the applicant would be taxed differently and the answer was taxes are based on the assessment of the single family home and would still pay the same amount of real estate tax.

MOTION: Mr. Stolarczyk motioned to continue the Special Permit hearing until 5/1/18

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

3. Special Permit – Applicant: Steven Tyler. Location: 59 R. Jones Road, Spencer Assessor’s Map R25/28. The applicant is requesting Special Permit under Sections 4.4.1. D (Accessory Uses) of the Spencer Zoning Bylaw for renting of rooms in a single-family dwelling. The property is located within the Rural Residential zoning district.

Ms. Stolarczyk read aloud the description of the Special Permit application.

Mr. Dell’Aquila explained to the board that the applicant has withdrawn his application without prejudice.

MOTION: Mr. Stolarczyk motioned to accept the applicant withdrawal without prejudice

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

4. Special Permit (Renewal) – Applicant/ Owner: Royal Crest Farm/ Robert Moschini Location: 30 Howe Road, Spencer Assessor’s Map R23-25. The applicant is looking to renew their Special Permit under Sections 4.2 (H.1) and 4.8.6 of the Spencer Zoning Bylaw to continue a gravel removal operation. The property is located in the Rural Residential zoning district.

Anthony Moschini, 16 Howe Road, was present for the meeting to represent Royal Crest Farm.

Mr. Collette stated there has been some reclamation and Mr. Moschini said yes.

Mr. & Ms. Stolarczyk had no questions or comments. Mr. Dell’Aquila said Margaret Washburn with the Conservation Commission inspected in October of 2017 and the applicant submitted their annual report, which, was a criteria from there last renewal.

Mr. Collette opened the meeting up to the public.

No public comments.

MOTION: Mr. Collette motioned to close the hearing

SECOND: Mr. Stolarczyk

DISCUSSION: None

VOTE: 3-0

MOTION: Mr. Stolarczyk motioned to accept the Special Permit for the Gravel Permit Renewal

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

5. Approval of Minutes

- February 13, 2018

MOTION: Mr. Stolarczyk motioned to approve the minutes for February 13, 2018

SECOND: Ms. Stolarczyk

DISCUSSION: None

VOTE: 3-0

4. Town Planner Report

- Mr. Dell'Aquila passed out auto dealers on Main Street & West Main Street with the amount of cars they could sell under their license versus how many can be on the lot. It was discovered that older permits were not clear on how many cars could be parked on the lot. Mr. Collette requested the Certificate of Decision for 16 Main Street.

Mr. Stolarczyk motioned to adjourn the meeting at 8:15 pm

Ms. Stolarczyk seconded

VOTE 3-0

Submitted By: Monica Santerre-Gervais, ODIS Clerk

Approved by the Zoning Board of Appeals: 5/01/2018

List of Documents used on April 10, 2018:

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

- Agenda
- Memo from Town Planner
- Minutes from 2/13/2018
- Special Permit application, 17 Debbie Drive, Marcus Shagogue III, parking view, deed, Google map, appraisal report, plot plan, tax and hazard insurance record, schedule A property description, and abutter list.
- Special Permit application, 59 R Jones Road, Steven Tyler, GIS map of property, GIS property card, deed, and abutters list.
- Special Permit Gravel Pit Renewal, 30 Howe Road, Robert Moschini/ Royal Crest Farm, gravel pit update, gravel removal description layout, gravel pit inspection report by Margaret Washburn, and abutters list.
- Letter from Attorney Stanley Weinberg in regards to Sex Offender Registry Bylaw

Items submitted to ZBA members at the meeting:

- 2015 International Residential Building Code 2015, sections on water supply and distribution
- Site photographs for 17 Debbie Drive submitted by Paul Dell'Aquila.
- Agreement to withdrawal petition for 59 R Jones Road/Steven Tyler.