



Planning Board – Town of Spencer
Minutes
Planning Board Meeting
Tuesday September 17, 2013 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

Planning Board Members Present: Chair James Whalen, Shirley Shiver, Ralph DiChiara, Mary Stolarczyk, Robert Ceppi and Associate Member Jonathan Viner.

Planning Board Members Absent: None

Staff Present: Michelle Buck, Town Planner and Brynn Johnson, ODIS Clerk

Mr. Whalen opens the meeting at 7:00pm.

1. **ANR** – 97 North Spencer Road. Owner: Estate of Susan Geldart. Applicant: Young A. Farwell, Personal Representative of the estate of Susan Geldart.

No one is present to represent this ANR plan. Ms. Buck explains the plan cuts two parcels out of an existing lot, each to be transferred to abutting property owners.

Motion: Ms. Shiver makes a motion to endorse the plan. Mr. DiChiara seconds.

Vote: 5-0 in favor.

2. **ANR** – 35-39 Chickering Road. Owner/Applicant: John and Suzanne Krol.

Attorney Donald O’Neil explains this plan is to transfer a small parcel to allow the owner to apply for a rear lot subdivision special permit at a later date.

Motion: Ms. Shiver makes a motion to endorse the plan. Ms. Stolarczyk seconds the motion.

Vote: 5-0 in favor

3. **Continued Public Hearing-** Common Driveway Special Permit, Applicant/Owner: Clifford Leinonen. Project Location: 9 R Jones Road.

Ms. Buck gives an update. At the last meeting Mr. Leinonen was asked to submit an easier to read revised plan; new plans have not yet been submitted.

Although there isn’t a new plan to review at this time Mr. Leinonen still wanted to meet with the Board tonight to further discuss Zoning Bylaw Section 5.3.11

At the last meeting Mr. Leinonen disagreed with Ms. Bucks interpretation of the bylaw 5.3.11 (that a variance would be required to build on one of the 2 lots because it didn’t have 25 feet of frontage before the minimum required lot size changed in 2006) As the Board requested, Ms. Buck reviewed minutes and spoke to Karen Cullen (former Spencer Town Planner and author of this section of the Zoning Bylaw). She also spoke to attorney Phil Stoddard who was on the

Zoning Bylaw writing committee. Ms. Cullen and Mr. Stoddard agreed with Ms. Buck's opinion of the bylaw. That the plan language of that section applies to existing lots not lots that have been changed after 2006. This section of the bylaw does not have the provision to allow the adding of frontage. The second lot will need a variance to build on.

Mr. Leinonen says he agrees the lot has to be pre-existing which his was but he still hasn't found anything in this bylaw that says you can't add to a lot to make it more conforming. When this bylaw was drafted he was at the public hearing and at that time it was his understanding that he could add to a pre-existing lot.

Ms. Buck tells him the lot would have to meet all 3 criteria at the time the bylaw was adopted and this lot did not meet the criteria. Therefore it does not qualify. The criteria of Section 5.3.11 are:

- The parcel was in existence as of November 16, 2006.
- The parcel is a minimum of seven acres in size; and
- The parcel has at least 25 feet of frontage.

Mr. Leinonen says he and his lawyer disagree.

Ms. Shiver adds the Board has to look at what the intent of the bylaw was at that time and be careful not to set precedent for what it is not.

There is much discussion of this bylaw.

Mr. Leinonen shows the Board the updated plan. He wanted the Board to take a look at it before he prints the final copies. Not much has changed he just broke it down into a easier to read plan.

He will submit the revised plans after the Conservation Commission meeting.

Motion: Ms Shiver makes a motion to continue the hearing to 10/15/2013. Mr. DiChiara seconds the motion. **Vote:** 5-0 in favor.

The hearing is continued to 10/15/2013

4. Public Hearing – Major Site Plan Review, Applicant: Christopher Gagne. Owner: Steven Turner. Project Location: Charlie's Diner 5 Meadow Road. Applicant is proposing a 3,150 sq ft addition and associated parking.

Christopher Gagne explains the plan for the addition at Charlie's Diner. The addition would expand the restaurant seating area and bar by 3,150 feet, and expand the parking lot. He explains the stormwater and drainage plan.

On September 11, 2013, the Zoning Board of Appeals granted special permits for the enlargement of existing non-conforming structure in an Aquifer Protection District and to allow a reduction in the required number of parking spaces from 54 to 53 spaces. A Stormwater Permit is required and they are working with the Conservation Commission for that permit.

Mr. Whalen opens the public hearing at 7:41pm.

Mr. DiChiara asks about some recent grading done on the highway barn side of the lot. Mr. Turner says that was done by the Highway Department on the Highway Department side of the lot after a big rainstorm.

Ms. Buck notes that staff comments and comments from Graves Engineering have been addressed. Ms. Buck notes in the old approve from 2007 there is a condition to grant a drainage easement to the Town for maintenance. Mr. Turner says he doesn't know how the easement was missed but his lawyer is working on that now. Since the easement hasn't yet been granted to the Town, Ms. Buck recommends the Board keep this as a condition in the new site plan approval. (That a drainage easement be granted to the Town in accordance with the Planning Board's approval of October 16, 2007.) The Board and Mr. Turner agree to this as a condition.

Mr. Whalen asks where the dumpster will be. Mr. Turner says it will be down behind the building and isn't visible from the road.

Ms. Shiver asks where the snow storage will be. Mr. Gagne says it's limited to the front of the lot near the road and the sides of the paved lot. Any snow blocking sight lines or parking areas will be moved off site. This will be a condition.

Board members reviewed the draft decision prepared by Ms. Buck. Mr. Whalen closes the public hearing at 8:06pm.

Motion: Mr. Ceppi makes a motion to approve this plan based on the conditions they have discussed. Ms. Shiver seconds the motion. **Vote:** 5-0 in favor

5. Town Planner Report

A. Medical Marijuana Bylaw- Ms. Buck discusses draft Bylaw for Medical Marijuana. She asks the Board if they would like a 300ft or 500ft setback from places children congregate such as schools, child care centers and playgrounds. They Board would like to see both 300 and 500ft setbacks mapped out. Ms. Buck will have maps of this for public hearing.

Mr. DiChiara would like to see the specs of what a dispensary would look like (size, signage, ect...) Ms. Buck says she doesn't know about size, but there are very detailed regulations on signage and security. Signs and advertisements can't have any images of marijuana.

Ms. Buck says the AG's office has determined that marijuana will be agricultural and so can be grown by right on land of over 5 acres. There will be strict rules to follow for growers.

The Board will hold a public hearing on 10/15/2013 to get public input before the Fall Town Meeting.

B. Miscellaneous Project Updates:

1. Ms. Buck distributed the CPTC course schedule.
2. The Tech review Committee had some input and comments on the driveway bylaw. Changes to this bylaw will be planned for the Spring Town Meeting

3. Attorney Phil Stoddard asked Ms. Buck if he could talk to the Board about possibly extending the five and eight year zoning freezes. Ms. Shiver says this is not going to happen. The Board agrees they will not change the zoning bylaw.

6. Approval of Minutes – June 18, 2013

Motion: Mr. DiChiara makes a motion to approve minutes. Ms. Shiver seconds the motion.

Vote: 6-0 in favor.

7. Adjournment: With no further discussion the meeting is adjourned

Submitted by: Brynn Johnson, Jr. Clerk

Approved by the Planning Board on: ____ 11/19/2013 ____

List of Documents used on September 17th 2013

Items sent to Planning Board prior to Meeting:

- Agenda
- ANR Application and Plan 97 North Spencer Road
- ANR Application and Plan 35 Chickering Road
- Charlie's Diner site plan
- Draft Medical Marijuana bylaw from Kopelman and Page dated 7/31/2013
- Memo from Michelle Buck dated 9/10/2013
- Minutes June 18, 2013
- Peer review letter from Graves Engineering for Charlie's Diner

Items submitted at meeting

- CPTC course schedule