

Zoning Board of Appeals– Town of Spencer



Minutes

Zoning Board of Appeals
Tuesday, October 27, 2009
McCourt Social Hall
Memorial Town Hall

The Meeting was called to order at 7:15 p.m.

Zoning Board of Appeals Members Present: Albert Drexler, Joanne Backus, and Dee Kresco, alternate.

Zoning Board Members Absent: Chairman Allan Collette and Clerk Pamela Crawford.

Staff present: Adam Gaudette, ODIS Director.

In the absent of Chairman Allan Collette and Clerk Pamela Crawford, Joanne Backus is acting as the Chair, and Albert Drexler was appointed as acting Clerk.

New Business:

A. Special Permit – St. Joseph’s Abbey, c/o Father Robert Morhous, 167 North Spencer Road, Spencer (Assessor’s Maps R59/1, R53/2, and R53/3). Ms. Backus opened the public hearing at 7:20 p.m. The Clerk then read the brief. The applicant is requesting a special permit in accordance with Section 6.5.3.A.3 of the Spencer Zoning Bylaws to install 3 off premise signs to be located along North Spencer Road within the public right of way. Signs are for the purpose of directing delivery trucks into the applicant’s property. The property is located in the Rural Residential and Residential Business Overlay Zoning District.

Ms. Backus asked the applicant for a presentation on the application.

Father Morhous explained that the property is very large, the Abbey’s jelly operation is situated quite a distance from the main road, and also the existing sign at the entrance is very small. Therefore the delivery trucks have had problems locating the site, and if they found the site, they are still having trouble finding the jelly warehouse facility. This happens often, thus he believes the directional signs are necessary. The 3 off premise signs will be along North Spencer Road within the public right of way and will be paid by St. Joseph’s. In addition, there will be 3 more signs within the property to identify locations of facilities. *He pointed out all the locations of the signs on photos submitted by St. Joseph’s Abbey.*

After the Board reviewed the plan signs, the Board then asked the following questions of the applicant and Mr. Gaudette:

Mr. Drexler asked which sign will be double sided. In addition, he asked whether Mass Highway has to be involved.

Mr. Gaudette said the entrance sign to the Church will be double sided; one side will face a north direction and another will face a south direction. The location of the proposed signs will be within the right of way which is under the Town's jurisdiction, thus Mass Highway doesn't get involved.

Mr. Gaudette made a clarification that the three proposed interior directional signs are not subject to review by the Board. Any off premise sign for a business, in any district, can be allowed by a special permit from the ZBA, providing that it meets the requirements in the Spencer Zoning Bylaw. The Town Administrator had signed off on special permit's application as the owner because the Town owns the right of way.

Mr. Gaudette said Father Morhous has had discussions with Mr. Robert McNeil (U&F) in regards to the location of the signs. He then referred to a letter from Mr. McNeil, dated October 14, 2009, that stated that the proposed signs along Route 31 North "will be very helpful in directing truck traffic to the site, and it will help eliminate unnecessary and unsafe u-turns by delivery trucks in the future."

At this time Ms. Backus opened the hearing to the public for any comments and questions.

Mr. Kurt Nordquist of 8 Gale Street said he is in support of St. Joseph's Abbey. Many town residents are employed by the Abbey. In addition, it has created a tourist attraction to the Town.

St. Joseph's Abbey is well known for its jelly food products. Mr. Drexler made a comment that the Abbey has put the Town of Spencer on the map nationally. The request of off premise signs for direction to its site is appropriate.

With no further comments and questions from the Board and the public, Ms. Kresco then made a motion to close the public hearing at 7:40 p.m. Mr. Drexler seconded the motion and the vote was 3-0 in favor.

Members sitting in the voting are Ms. Backus, Mr. Drexler, and Ms. Kresco.

Mr. Drexler made a motion to grant a special permit to St. Joseph's Abbey to install three off premise signs within the public right of way of North Spencer Road. The signs will be 16 sq ft (4' x 4') in size will state the name of the business and the relevant direction. The proposed signs met the requirement in accordance to Section 6.5.3.A.3 of the Spencer Zoning Bylaw. Ms. Kresco seconded the motion and **the vote was 3-0 in favor.**

Findings: The Board determined that the findings had met the requirement in M.G.L., Chapter 40A., Sec. 9 and Section 7.2 of the Spencer Zoning Bylaws:

1. That the proposed use is in harmony with the general purpose and intent of the zoning bylaw, given that signs are an allowed use and the proposed size and height dimensions conform to the regulations of signs in the Commercial District.
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.

This approval is granted with the following *conditions*:

1. The applicant will coordinate the location for installation with the utilities & Facilities Department.
2. That construction activities shall not commence until all required approvals and permits are obtained.

Mr. Gaudette explained that once the decision has been filed with the Town Clerk, staff from ODIS will mail the copy of the decision along with the instructions to the applicant, and to all abutters.

Old Business:

A. Continued Public Hearing – Owner: Elaine Green, Applicants: Charles and Joanne Bromage, for property on 9 Park Street, Spencer. The applicants propose an alteration of the pre-existing nonconforming building on a nonconforming lot by converting it to a single-family home and constructing an addition (two bedrooms, a patio, and a hallway) to the rear of the building. The property is located in the Village Residential Zoning District.

Note: Two members, who attended this hearing at a previous meeting (9/22/2009), are not present tonight. In addition, Ms. Kresco recused herself from this discussion. This left the Board with only two sitting members.

In order to have a quorum, three members are required. Thus, the Board did not open this hearing. The Board decided to postpone the hearing to November 10, 2009.

Mr. Gaudette said he will send letters to notify all abutters in regards to the postponement and informing them the hearing will continue to November 10, 2009.

C. Continue Public Hearing – Owner: Ronald Brown, Applicant: Kim Warren, for property on 19 North Spencer Road, Spencer. The applicant seeks to extend a pre-existing, non-conforming use (auto sales and repair) to allow for manufacturing and sale of concrete products. The property is located in the Rural Residential Zoning District.

Note: Only one member attending tonight's hearing was at the previous meeting (10/13/2009). Mr. Drexler and Ms. Backus did not attend that meeting. Thus, they are required to sign the Adjudicatory Hearings Form at the Town Clerk in order to be able to participate in the voting for this continued public hearing.

For the record, Ms. Backus and Mr. Drexler had read the minutes of 10/13/2009 and had signed the Adjudicatory Hearings Form at the Town Clerk prior to the public hearing.

Ms. Backus opened the hearing at 7:45 p.m. Mr. Drexler asked for a brief review of an application and a plan.

Mr. Warren said that the proposed business is a small manufacturer of concrete products. One of the existing bay garages will be used to operate his business production.

Mr. Gaudette explained that Mr. Brown, the owner, has a pre-existing non-conforming use for auto sales and repair. His Auto Dealership License consists of 35 parking spaces. There are three existing bay garages. Two garages are still being used in the existing business (auto sales and repair), and one garage will be changed to a different non-conforming use.

At the previous meeting, the Board had a concern on the aesthetics and impacts on the abutters due to the property being in the Rural Residential zoning district and the proposed use. In addition, aerial photos of the existing conditions that were submitted did not specify the location of the existing garage, storage area, distance from the garage to the lot's line, and also the distance from the storage to the lot's line. The Board had requested the submittal of a site plan demonstrating those locations at the next meeting, which is being held tonight.

At this point the Board was reviewing the plan. The Board then asked the following questions of Mr. Warren and Mr. Gaudette:

Mr. Drexler asked about the volume of the noise in regards to the operation.

Mr. Warren said there is very little to none. As stated in the previous meeting, the manufacturing will take place inside a garage with a door closed.

Mr. Drexler asked if the location of the property is in the Business Overlay District.

Mr. Gaudette said "yes" because the property is on North Spencer Road and situated within 200 of the right of way. The overlay is only for Retail Uses homeowner.

The distance from the storage locations to the lot's lines is 10 feet as shown on the plan submitted. Mr. Drexler asked if the setbacks are adequate.

Mr. Gaudette explained the distance of the setbacks to the property lines is required when involving a structure in accordance to the Spencer Zoning Bylaw. In this case the finished products will be placed on pallets (on open space), not stored in a structure, thus there is no specific requirement in regards to setbacks.

In reference to the plan, one of the storage area is located behind the tree line buffer along northeasterly side of the property on Smithville Road. Therefore this particular storage area will not be clearly visible from the road. (*It was one of the Board's concerns at the previous meeting*).

The plan submitted tonight does not have a Certified Engineer's stamp on it; Mr. Drexler instructed the applicant to sign and date the plan.

Note: There were no abutters present for this hearing tonight.

With no further questions and comments from the Board, Ms. Kresco then made a motion to close the hearing at 8:05 p.m. Ms. Backus seconded the motion and the vote was 3-0 in favor.

Members sitting in the voting are Ms. Backus, Mr. Drexler, and Ms. Kresco.

Mr. Drexler made a motion to grant a special permit to Mr. Kim Warren to change a portion of the structure that contains the current pre-existing non-conforming automotive use on 19 North Spencer Road, by allow the manufacturing and sales of concrete products out of one of the stalls of the automotive garage. Ms. Kresco seconded the motion and **the vote was 3-0 in favor.**

Findings: The Board determined that the findings had met the requirements in M.G.L., Chapter 40A., Sec. 9 and Section 7.2 of the Spencer Zoning Bylaws:

1. That the proposed use is in harmony with the general purpose and intent of the zoning bylaw.
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.

In addition, the Zoning Board made the following finding in accordance with Section 4.9.3.C of the Spencer Zoning Bylaws:

1. That the proposed extension or change is not substantially more detrimental to the neighborhood than the existing nonconforming use.

This approval is granted with the following *conditions*:

1. Construction activities and the concrete manufacturing and sales associated with the use of this Special Permit shall not commence until required approvals and permits (local, state, and/or federal) are obtained.

Mr. Gaudette explained that once the decision has been filed with the Town Clerk, staff from ODIS will mail the copy of the decision along with the instructions to the applicant, and to all abutters.

Approval of Minutes: None

Other Business: None

Mr. Drexler made a motion to adjourn the meeting at 8:10 p.m. Ms. Kresco seconded the motion and the vote was 3-0 in favor.

Submitted By:

Bea Meechan, Senior Clerk, ODIS