

Zoning Board of Appeals – Town of Spencer

Minutes



Regular Zoning Board Meeting
Tuesday, June 14, 2011 7:15 PM
McCourt Social Hall
Memorial Town Hall

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

Zoning Board Members Present: Chairwoman Pamela Crawford, Clerk Joanne Backus, and Delores Kresco, alternate.

Zoning Board Member Absent: Allan Collette

Staff present: Michelle Buck, Town Planner, Bea Meechan, Senior Clerk, ODIS.

New Business:

A. Public Hearing – Variance, Richard and Penny Barrell, 26 Laurel Lane, Spencer (Assessor’s Map U31/32). Ms. Crawford opened the hearing at 7:25 p.m. The Clerk read the brief. The applicants are requesting a variance in accordance with Section 5.1 of the Spencer Zoning Bylaw. The applicants seek relief from the minimum front setback requirement to construct a garage attached to an existing single family-home. The property is located within the Lake Residential Zoning District.

The applicant, Mr. Barrell, had met with the Board previously for an informal discussion of the proposed plan. Mr. Barrell explained the topography of the property and the location of the house as follows: 1) the septic system is located at the rear of the house, 2) there is a steep slope on the left side, and 3) if the proposed garage were to be constructed attached to the right side of home, this will create a conflict with the abutting neighbor – would obstruct the view of the lake. Therefore the best suitable area is the front yard; however this has created a front setback issue. Mr. Barrell has since submitted an application for a variance seeking relief from the front setback requirement.

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

Mr. Barrell presented the revised proposed plan to the Board at this time. He explained that there was a discrepancy on the distance of the front setback. The plan submitted tonight has 3.7 feet for the front lot line at the closest point, and another portion of the garage is 6.1 feet from the front lot line as specified by the professional surveyor. [The original plan submitted had 3 feet front setback].

Ms. Buck asked as to where the entrance point of the garage is - on the left side or on the front facing the right-of-way?

Mr. Barrell said the garage will have a front entrance; the vehicle pulls into the garage from the right-of-way.

If the proposed garage were to be constructed as planned, the farthest point from the garage to the front lot line is approximately 18 feet. Mr. Barrell indicated the truck has 26 feet in length, and will be kept in the garage. Ms. Buck commented while the truck is being backed out, the front of the truck would still be in the garage when the end of the truck is already on the pavement of the right-of-way. It is not possible for the driver to see the full view of truck's end portion while in the reversing process. There is a safety concern for other pedestrians and vehicles who are passing through this particular area - the truck's operator will not be able to see the approaching vehicle while the truck is being backed out from the garage.

Ms. Buck referred to the photographs from the previous informal discussion that show large size vehicles parked on the left side of the front lawn. Since there is an existing driveway on the left side, Ms. Buck asked for any possibility of having the entrance be on the left side of the proposed garage. [The vehicle could then pull right out from the garage onto the existing driveway].

Mr. Barrell described that the vehicles in the pictures were a 4-wheeler and a utility vehicle. Mr. Barrell said the road is a dead-end road. He will use the rear view mirror to check the back view during backing out of the garage. There is a significant drop from the right-of-way to the left side of the property. If constructing a garage on the left side, Mr. Barrell has a concern that the water runoff will travel down and get into the garage. In addition, it is very difficult to maneuver the truck with the small limited space on the left side of the property.

The Board members asked for the location of the road on the plan presented, and whether there is another property beyond 26 Laurel Lane heading south.

Mr. Barrell pointed out the location of the road (Laurel Lane) on the plan. His house, 26 Laurel Lane, is the last one on the road. There is a house on the opposite direction to his property.

Ms. Backus asked for the number of the garage doors? If the variance were to be granted, the dimension will be as what they are as specified on the plan.

Mr. Barrell said there could be 2 – 3 doors, but it is not yet determined. He understood that the dimension must remain the same as the plan submitted.

Mr. Barrell came to the Board in previous (2 – 3 years ago) with a similar issue. For a clarification, Ms. Backus asked whether this property, 26 Laurel Lane, was the same property when he came to the Board at that time.

Mr. Barrell said it was not the same property.

Ms. Backus said it does not appear to be a significant danger in the proposed location.

Ms. Kresco said if the variance were granted, the truck is most likely being kept in the right side of the garage - where it contains the longest length. There shall not be any space as a means for a driveway. Ms. Crawford said the vehicles shall be parked inside the garage at all time.

Mr. Barrell said he plans to construct a retaining wall onto the left side of the proposed garage so there is space for parking there. Currently, he has to park the vehicles along the side of the road. Due to the fact that Laurel Lane is a private road, the right of the property's ownership is extended to the middle of the road. However, when the survey was done it said otherwise.

The Board reviewed the plan in order to determine the actual distance from the edge of the pavement to the property's front lot line. The Board commented it is very common that there is a 10-foot of space between the edge of the pavement and the front lot line.

Ms. Buck said Mr. Barrell may have an ownership right to the middle line of the road, but it is not part of this particular lot. Frequently, abutters to the private ways own the land up to the centerline of the road. However, ownership of rights-of-way of private ways varies. The legal finding on the subject matter could be done through a title search, or consultation with the attorney if Mr. Barrell wishes.

There is an existing driveway to the lake – boat ramp, on the left side of the property. Ms. Buck asked whether the vehicle, which will park at the space next to the retaining wall, would be entering/exiting out from the left side of the property by using that existing driveway.

Mr. Barrell said the vehicle will be backing out off the existing boat ramp and on to the right of way.

Ms. Crawford opened the hearing for any comments from public at this time.

Ms. Jody Bolafka and Mr. Nick Kohlstorm of 24 Laurel Lane said they opposed the proposed construction. Ms. Bolafka presented several photographs of the immediate surrounding area to the Board.

In reference to the pictures, Ms. Bolafka explained the property across from 26 Laurel Lane is at a higher elevation to both properties (24 and 26 Laurel Lane). Thus, the water runoff travels down from its driveway and goes across the road then onto to 26 Laurel Lane, and continues to 24 Laurel Lane. [There is approximately a 2-foot drop from the road to the walkway of 26 Laurel Lane]. Ms. Bolafka continued explained the following:

- Mold problem. In general, there is good amount of water runoff onto these two properties. Ms. Bolafka said her lot elevation is lower than Mr. Barrell's lot. Ever since the house at 26 Laurel Lane was built, it has obstructed the sunlight from Ms. Bolafka's property; her house has been in the shade from 12:00 o'clock on. She has been living at the location for the past 20 years, and last year the trees were cut down due to mold. The proposed garage will block the sunlight on the left side of her lot entirely, and with the runoff and damp conditions, it will promote mold cultivation.

- Potential cul-de-sac. A portion of the land in the front of Mr. Barrell's lot is owned by the Town, and there is a plan of constructing a cul-de-sac at the end of the right-of-way. Part of the proposed garage has appeared to go over this specific area, thus it would diminish the cul-de-sac's plan.
- The garage's size. Ms. Bolafka's bedroom is located on the left side of the house, and due to the "monstrous" dimension of the proposed garage (1,007 sq ft), the only thing she would be seeing through the window is that structure, which she is concerned about.

Mr. Barrell submitted a Request for Determination of Applicability (RDA) to the Conservation Commission (ConCom) previously; he proposed to install two catch basins along the front area of the lot, and a retaining wall, he pointed out the locations to the Board. He thought this would help improve runoff conditions for the abutting property [Ms. Bolafka].

Ms. Bolafka explained that according to the RDA plan, the runoff from catch basins will travel along the right side of the lot (26 Laurel Lane) and onto the back of the lot. She is concerned that the water will flood her septic system and the leach field. She identified the locations of her septic system and the leach field on the plan to the Board. Furthermore, the plan shows there is a well that lies underneath the proposed garage; Ms. Bolafka questioned on its legality whether it is permissible under the Bylaw. The plan does not have an engineer's stamp on it (to certify that the boundary lines were staked properly by a professional surveyor).

The Board inquired if the professional engineer has seen the plan yet. Regarding the well being under the proposed garage, it is pertinent to building codes and regulations which are under the jurisdiction of the Building Inspector (BI). Ms. Bolafka shall contact the BI.

Mr. Barrell replied that the plan was done by a professional surveyor, and the engineer has not reviewed/seen the plan yet.

Mr. Kohlstorm said the purpose of the "massive size proposed garage" is to run a personal business out of the garage, which has already occurred. Under the current Zoning Bylaw, business uses are not permitted in the Lake Residential Zoning district. The common characteristic of the neighborhood (on Laurel Lane) is small cottages, small lot area, and most houses have no garage (if there is, it is small size garage). Mr. Kohlstorm asked if the proposed structure with its large dimension could be considered to impair the integrity or character of the neighborhood.

Ms. Backus explained that under Section Section 7.2.3.D - before granting a special permit, the Special Permit Granting Authority shall find that the proposed use will not impair the integrity or character of the district of the neighborhood or the Town. However, this application being discussed tonight is for a variance, thus it has different finding; *it must present a hardship* (as defined in the Bylaw) in order for the Board to grant the approval.

Ms. Crawford inquired as to the reason(s) of not having the proposed garage be constructed on the left side of the property, or on the rear where the existing septic system is located.

Mr. Barrell gave the reasons as follows:

- 1) The area on the left side has limited space and has steep slope – not practical to maneuver the vehicle. The proposed garage would block the existing boat ramp if it is constructed on the left side of the property.
- 2) The proposed garage will block the lake's view from the abutting property if it were to be built where the existing septic system is located (at the rear of the property). It is very costly to re-locate the septic system from the rear to elsewhere on the property.
- 3) ConCom recommended not to move the septic system close to the water, they had suggested to construct the proposed garage on the front area as shown on the plan and request for a variance from the ZBA.

The Board members reviewed all pictures and the proposed garage plan at this time. To construct a structure (e.g. pool, shed, house, or garage) such structure must be within the setback (front, side and rear) requirement as specified in the Zoning Bylaw. The Board commented that the public hearing tonight is solely for the variance's application, the applicant requested relief from the **front setback** requirement. The members then addressed the following:

1. Ms. Bolafka stated that the left side of her lot would be blocked entirely from the sunlight due to the proposed garage. However, the proposed garage is within the **side setback** requirement. [Therefore Mr. Barrell can build the structure (garage) up to where the requirement for the side setback is permitted].
2. In regards to the cul-de-sac plan, whether it may or may not occur, the Board has no bearing on the subject matter.
3. The proposed plan of catch basins and the pathway of the runoff shall be discussed with the ConCom.

Ms. Buckus thought a site visit is necessary, and all members agreed. Each member will do a site visit individually. Ms. Backus made a motion to continue the hearing to July 19, 2011. Ms. Kresco seconded the motion and the vote is 3-0 in favor.

Approval of Minutes: For May 12, 2011

Ms. Kresco made a motion to accept the minutes for May 12, 2011. Ms. Backus seconded the motion and the vote was 3-0 in favor.

With no further discussion, Ms. Backus made a motion to adjourn the meeting at 8:00 p.m. Ms. Kresco seconded the motion and the vote was 3-0 in favor.

Submitted By:

Bea Meechan, Senior Clerk ODIS

List of documents used on June 14, 2011

- Variance application submitted by Richard and Penny Barrell for property located at 26 Laurel Lane.
- Plan for the proposed garage submitted by Richard Barrell on 6.14.11.
- Several photograph pictures submitted by Jody Bolafka on 6.14.11.