



Zoning Board of Appeals – Town of Spencer

Minutes

Zoning Board of Appeals Meeting
Tuesday, December 10, 2013 at 7:15 PM
McCourt Social Hall
Memorial Town Hall

Zoning Board Members Present: Dee Kresco, Albert Drexler and Allan Collette
Zoning Board Member Absent: None
Staff present: Michelle Buck, Town Planner

Ms. Kresco opens the meeting at 7:15pm

1. 7:15 Open Meeting

Call to Order
Open Meeting Law Compliance
Roll Call

2. 7:15pm –Special Permit - Applicant: Jillian Gartner. Owner: Francis Gaudette. Location: 60 Chestnut Street, Spencer Assessor's Map U8-49. The property is located within the Village Residential Zoning District. The ZBA approved a special permit on 6/11/2013 to allow a dog training facility (kennel) for training service dogs at this location, subject to a 6 month review period. This hearing is to consider extending the approval for the project.

Mr. Drexler reads a summary of the application.

The ZBA approved a Special Permit for A.P.A.W on June 11, 2013 to allow a dog training facility (kennel) at 60 Chestnut Street as a change to the pre-existing non-conforming use. One of the conditions of the approval at that time was the Boards approval was for 6 months only and would be subject to a review by the ZBA after 6 month period. Tonight's hearing is to consider extending the approval.

Ms. Gartner gives the Board letters of support from two abutters that could not make it tonight because of the weather. Both abutters support the program as well as volunteer their time. She also has updated photos of dogs in training and the inside of 60 Chestnut Street. She gives the Board an update on how well the program is doing in Spencer.

Ms Buck adds the Town has not received any complaints about A.P.A.W.

Mr. Collette asks Ms. Gartner if she has made any changes to the building and if she wants to make any changes from the original application. Ms. Gartner says she hasn't made any changes to the building she was waiting until after this hearing before she invested any money in this location. She

wants to add a door to allow the dog's access to the alleyway. At some point she would like to install a shower if possible. Also in the original decision it says someone has to be onsite 24 hours a day when dogs are present. She would like clarification on that because at the last meeting she thought a person would only have to be present at night.

Condition # 1 "There shall be a person in charge (staff or volunteer) providing twenty-four (24) hour coverage whenever any dogs are present in the facility."

Ms. Gartner would like to be able to leave the dogs alone inside for short periods of time during the day. For example when she goes to the store or runs an errand.

Mr. Collette asks Ms. Gartner if the dogs ever bark. She says they bark when someone comes into the building then settle down within a minute.

The Board agrees the dogs can be left alone during the day for short periods of time. The Board does still want a person on site at all times at night to stop any barking. They will reword condition #1 in the decision as an amendment to the original decision.

Mr. Drexler makes a motion to close the hearing. Mr. Collette seconds. Vote 3-0 in favor.

MOTION: Mr. Drexler makes a motion to approve the continuation of the use authorized by the Special Permit for the dog training facility as approved on June 1, 2013 without further ZBA review and to amend condition #1 as follows.

Condition # 1. There shall be a person in charge (staff or volunteer) providing twenty-four (24) hour coverage whenever any dogs are present in the facility, except that the facility may be left unattended during daytime hours for brief periods not to exceed four (4) hours.

All other conditions of the original special permit remain in effect.

Mr. Collette seconds the motion

VOTE: 3-0 in favor

3. 7:30pm –Variance- Owner/Applicant: Joyce A. Andrews. Location: Lot 18, 100 McCormick Road. The applicant is requesting a Variance from Section 5.1 of the Spencer Zoning Bylaw (lot area requirements) this lot is under the minimum 60,000 sq ft lot size requirement for the Rural Residential Zoning District. Lot is 45,062 sq ft. Continued from September 11, 2013.

Attorney Phil Stoddard is here to represent the applicants. Mr. Stoddard reminds the Board the Andrews recently sold their house which is on a 3.92 acre lot. They retained the abutting 45,000 sq ft lot thinking they could build on the smaller lot. They entered into a sale agreement before finding out the smaller lot was unbuildable. They were unable to back out of the sale. The buyers did sign an agreement with the Andrews agreeing to convey 15,000 sq ft of their land if the variance is not granted by the ZBA. Mr. Stoddard states this is only half of the agreement they would also need approval for the mortgage lender. The homeowner did request a partial release

of the 15,000 sq ft of land and was denied by the mortgage company. Therefore tonight Mr. Stoddard is asking the Board to grant the variance keeping in mind the only abutter Lynda Haffner has given her full support in writing.

The Board wants to be very careful not to set precedence with this variance. There is a discussion of other lots in town that may want to apply for a variance and how those lots differ from this lot. The area in question combined is over 4 acres that is more than enough land to accommodate two houses; the Andrews have been paying taxes for a buildable lot. Also they tried to get the needed square footage but were denied by the new owner's mortgage company.

Mr. Stoddard notes he would like to talk to the Planning Board about making an amendment to the Zoning Bylaws to extend the grandfathering for some of these lots.

Mr. Drexler asks if the Andrews have approached the abutters on the other side to see if they would sell them the needed square footage. Mr. Stoddard explains they cannot get the land from the other side because it's the 4H Camp and owned by the State.

Mr. Drexler recommends continuing this hearing to give them time to draft a decision that explains the uniqueness of this situation. Mr. Collette wants to make a motion.

MOTION: Mr. Collette makes a motion to grant Joyce Andrews a variance for 100 McCormick Road stressing that the circumstances and relationship of the two lots in question. The two lots were in common ownership and subdivided prior to the change in the Spencer Zoning-bylaw. A literal enforcement of the bylaw would cause financial hardship and change very little in the relationship of the two lots. The relief is granted without detriment to the public good and without nullifying the intent of the bylaw.

DISCUSSION: Mr. Stoddard adds the lots were in common ownership prior to the zoning change and the area is substantially larger than what is required.

Mr. Drexler asks if they should add that there was a written agreement between the Andrews and the Haffners to convey the 15,000 sq ft and were unable to secure the partial release from the mortgage company. Mr. Collette and Stoddard feel this takes away from the argument and does not need to be included. Mr. Drexler asks what the reasoning for the variance is. Mr. Collette says the lots were in common ownership prior to the zoning change and after the freeze with enough area to subdivide.

Mr. Drexler states he is not ready to make a decision tonight. He feels they need time to draft a decision that will show the intent of this variance and not set precedence. Ms. Kresco agrees.

MOTION: Mr. Drexler makes a motion to continue this hearing to the next meeting January 14, 2014. Mr. Collette seconds the motion.

VOTE: 3-0 in favor

4. 7:45pm- Approval of Minutes- September 11, 2013

MOTION: Mr. Drexler makes a motion to approve the minutes from September 11, 2013. Mr. Collette seconds. Vote 3-0 in favor.

5. 8:00 pm -Adjournment - With no further discussion the meeting is adjourned.

Submitted By: Brynn Johnson, ODIS Junior Clerk

Approved by the Zoning Board of Appeals on _____

List of Documents used on December 10, 2013:

Items mailed to ZBA members prior to meeting:

- Agenda
- Memo from Michelle Buck, Town Planner dated 12/08/2013
- Application and Plan for 100 McCormick Road
- Copy of original certificate of decision on Special Permit for APAW dated 6-11-13

Items submitted to ZBA members at the meeting:

- Abutters letters of support for A.P.A.W
- Photos of the updates made by A.P.A.W inside 60 Chestnut Street