



Zoning Board of Appeals – Town of Spencer

*Minutes*

Zoning Board of Appeals Meeting  
**Tuesday, November 10, 2015 at 7:15 PM**  
McCourt Social Hall  
Memorial Town Hall

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Zoning Board Members Present: Dee Kresco, Allan Collette (late) and Robert Emerson  
Zoning Board Member Absent:  
Staff present: Monica Santerre-Gervais, Clerk & Larry Smith, Town Planner

1. Mr. Emerson opens the meeting at 7:31 pm

**2. Special Permit:**

Ms. Kresco read the special permit request: Applicant/Owner: Josh and Eric Buzzell. Location: 131 West Main Street, Spencer Assessor's Map R29-13. The applicant is requesting Special Permit under Sections 4.2F of the Spencer Zoning Bylaw applying for a dealer's license to sell used cars and trucks. The property is located within the Commercial zoning district.

Josh Buzzell, 75 New Braintree Road North Brookfield, MA, was present for the meeting. Mr. Buzzell explained he is looking to get his dealers license in order to sell classic cars. Currently at the proposed location is a restoration shop that he and his brother, Eric Buzzell, own and operate. Mr. Buzzell explained that they are also a performance shop with parts and accessories. Mr. Smith asked about the types of cars they worked on. Mr. Buzzell answered classic cars and their intent was to restore/repair classic cars and then resell them. Mr. Smith asked about the type of clientele they intended to have. Mr. Buzzell answered that only from people looking to find classic cars and they would find them through the internet. Mr. Collette asked about the on-going business. Mr. Buzzell said that the current shop is a co-owner ship. Mr. Smith talked about where the cars would be parked in order for police to check cars if needed. Mr. Emerson asked how many cars they would be selling at one time. Mr. Buzzell said they would sell 10-20 cars at one time.

Mr. Collette asked if they would still continue to be a repair shop and Mr. Buzzell said yes. Mr. Collette asked how many cars they have now with the current business and Mr. Buzzell answered 10. Mr. Emerson pointed out that they are near the river and said there needs to be a 100ft buffer zone. Mr. Buzzell answered he understood and Margaret Washburn came out and inspected and found no issues. Mr. Emerson asked which building it was on the map. Mr. Buzzell came up to show the Zoning Board of Appeals members which building he works from. Mr. Smith mentioned that the house in front is what you see from the street. Mr. Emerson asked

if Mr. Buzzell has ever sold cars before and Mr. Buzzell said no. Mr. Emerson asked if there are any setback issues. Mr. Smith said no just the explanation of parking and how many cars would be onsite. Ms. Kresco asked if they were near Crop & Carrot and Design My Threads and Mr. Buzzell said yes. Mr. Smith mentioned that it's a skinny driveway, set in the back, so it would be out of sight out of mind. Mr. Emerson explained he doesn't want to see the cars pile up, doesn't want abandoned cars, and possibly have conditions in the decision. Mr. Collette wants to have car limit on the lot. There was much discussion between Mr. Collette and Mr. Smith in regards to how many vehicles should be allowed on site including the cars being sold and the employee cars. In addition, there was much discussion about how to enforce the car limit and how to avoid them turning into a junkyard.

Mr. Smith said there needs to be a number of how many can fit. Also, Mr. Smith discussed the aerial photo submitted by Mr. Buzzell to discuss parking issues. Mr. Smith handed the applicant the draft decision to review. Mr. Emerson suggested they add a 12<sup>th</sup> condition requiring that inoperable "junk" vehicles be removed from the site within so many numbers of days so the site doesn't turn into a junk yard. Mr. Collette asked what would be considered junk. Mr. Buzzell explained they buy cars with missing parts and motors and then restore them. Mr. Collette felt having a minimum of cars was better and did not add that as a condition. Mr. Smith explained that what the applicant is trying to do is restore/repair old cars and may have cars on the lot they may use for just parts. Mr. Collette wanted to revisit the number of cars that would be allowed on the lot. Mr. Buzzell mentioned that Brenda Savoie in the Towns Clerk office mentioned to get a 20 car license. Mr. Emerson felt that was a comfortable number. Mr. Buzzell said 30 cars would be more realistic. Mr. Smith how many used cars would they would be selling at one time. Mr. Collette answered 20 cars for sale, 10 cars for employees and customers, 30 cars in total.

**MOTION:** Mr. Collette motioned to grant the Special Permit to sell used cars to Josh and Eric Buzzell at 131 West Main Street. The applicant must adhere to the following conditions:

1. *This Special Permit is issued for the use of used automobile sales. At no time shall there be more than 20 used automobiles for sale on site at any one time with a total number of cars on the property not to exceed 30.*
2. *At least 30 days prior to the sale and or transfer of ownership of the property, the current owner of the property (or his/her/their successor or assigns) shall notify the Zoning Board, in writing, as to the identification of the prospective purchaser and proposed use of the property, to enable the Zoning Board to determine compliance with the terms of the Special Permit, or whether such use requires a change, extension or alteration of the Special Permit.*
3. *All work authorized under this Special Permit shall be in accordance with:*
  - a. *the Application, supportive materials and testimony submitted by the Applicant and its representative to the Zoning Board*
4. *Prior to the commencement of construction, all necessary and required permits must be obtained from any and all other municipal, state and or federal departments, boards, commission or agencies, and all work shall be done in accordance with said permits*
5. *No outdoor storage of materials, other than that shown on this or previously approved Special Permit or Site Plan Approvals, is permitted.*

**SECOND:** Ms. Kresco

**DISCUSSION:** Mr. Smith mentioned that if Mr. Collette doesn't read the conditions or findings there won't be any. There was much discussion between Mr. Collette and Mr. Smith in regards to draft conditions number 7 & 8 zoning violation and appeals and who enforces these. Mr. Collette expressed that the previous Town Planner, Michelle Buck, had a boiler plate statement that they read from and that the applicant should abide by the Zoning Bylaws. There was discussion in regards what needs to be on the boiler plate statement because Mr. Smith has not seen one. Mr. Collette mentioned he felt that some conditions should not have to be read aloud at each meeting.

**VOTE:** 3-0

➤ Items suggested to be on the boiler plate statement:

- 1. This Special Permit shall not take effect, and the use and/or construction authorized under it shall not legally commence, until such time as the applicant has recorded in the Worcester County Registry of Deeds (indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title) a copy of said Special Permit bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied. The fee for recording or registering shall be paid by the owner or applicant. Within 7 days of said recording, the applicant shall provide the Town Clerk, in writing, with the book and page numbers in which said Special Permit is recorded at the Registry of Deeds for inclusion in the record file.*
- 2. This Special Permit shall lapse if a substantial use thereof has not commenced (or in the case of a permit for construction, if construction has not begun) within two years of the expiration date of the appeal period with no appeals being filed (or if an appeal in accordance with Chapter 40A, Section 17 M.G.L. has been filed, excluding such time as is required to pursue or await its determination).*

### **3. Draft Zoning Bylaw Revision-Section 4.3.20 Tattoo Parlors or Body Piercing Studios:**

Mr. Smith explained that they needed to change the wording for Section 4.3.20 Tattoo Parlors or Body Piercing Studios to get the Board of Health certificate, but not before the Special Permit. Also, Mr. Smith mentioned that this change will need to go to Town Meeting. All Zoning Board members agreed to the new wording.

*Tattoo parlors and body piercing studios must also obtain a Board of Health Review and certification that the facility complies with all Board of Health regulations. Failure to receive, or revocation of, Board of Health approval shall be deemed grounds for the revocation of an approved Special Permit.*

**MOTION:** Mr. Collette motioned to approve the language change in the Zoning Bylaw for Section 4.3.20 Tattoo Parlors or Body Piercing Studios

**SECOND:** Ms. Kresco

**DISCUSSION:** None

**VOTE:** 3-0

#### 4. Approval of Minutes:

**-September 8, 2015**

**-October 13, 2015**

Some discussion on wording Mr. Collette felt should be changed. The sentence was found and no changes need to be made.

**MOTION:** Ms. Kresco mentioned to approve the minutes for September 8, 2015 and October 13, 2015 as submitted.

**SECOND:** Mr. Collette

**DISCUSSION:** None

**VOTE:** 3-0

#### 5. Discussion and Adjournment:

There was discussion about how the December meetings applications will have to be continued to the January 12<sup>th</sup>, 2016 meeting because Mr. Emerson cannot attend the December meeting. Mr. Collette and Ms. Kresco will need to be present to open and continue the hearings. The meeting on January 12, 2016 will need to take place at 6:00 pm.

**MOTION:** Ms. Kresco motioned to adjourn the meeting

**SECOND:** Mr. Collette

**VOTE:** 3-0

Submitted By: Monica Santerre-Gervais, ODIS Clerk **MSG**

Approved by the Zoning Board of Appeals on **1/12/2016**

#### **List of Documents used on November 10, 2015:**

11/27/15 ZBA mailing

#### Items mailed to ZBA members prior to meeting:

- Agenda
- Memo from Larry Smith, Town Planner dated 11/3/2015
- Special Permit Application, plans, and documents for 131 West Main Street Buzzell/ dealer license
- Minutes from 9/8/2015 and 10/13/2015

#### Items submitted to ZBA members at the meeting:

- Draft decision for Special Permit Buzzell/ dealer license
- Inspection form from Margaret Washburn in regards to Special Permit Buzzell/ dealer license