



## Georgetown Zoning Board of Appeals

Memorial Town Hall ♦ One Library Street ♦ Georgetown, MA 01833

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### MINUTES OF A PUBLIC HEARING

#### ZBA File #20-04

Benjamin & Erin Pollock of 5 Davis Lane  
**Accessory Apartment Special Permit**  
**Map 5 & Lot 48M, Georgetown MA**  
**October 8, 2019**

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Board Members Present:

Jeff Moore, Chairman, regular member  
Shawn Deane, regular member  
Paul Shilhan, regular member  
*Dave Kapnis, regular member - Absent*  
Gina Thibeault, regular member  
Sharon Freeman, associate member

Applicant (s) /Owners present: Erin & Ben Pollack  
Plan Drawer; Martha Macinnis of Bradford MA  
Zoning Administrative Assistant: Patty Pitari

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**\*Note Board Member are referenced by their initials and Martha Macinnis (MM)**

Chairman Jeff Moore opened the hearing at 7:33pm, and introduced the board members.

SD read legal ad. JM stated we hold this hearing using Robert's Rules of Order.

#### **Applicants Presentation:**

Erin Pollock introduced herself and husband Ben, the owner's and the accessory apartment is for Erin Pollock's mother Karen McManus.

Martha Macinnis (MM) introduced herself and she presented plans to the board, showing the proposed accessory apartment in the basement level of the primary dwelling, she stated the sewing room would be a common area, and showed bedroom net sq. ft. is 141 sq. ft. and the living area is 429 sq. ft., the sewing room is a common area at 197 net sq. ft. she submitted a calculation sheet with the application showing, the total existing primary residence as 4,266.7 gross sq. ft., with dimensions for each room in the home and listed the exclusions, as closets, bathrooms, corridors, stair and fireplace, as wording in the bylaw definition of livable floor area exclusions. Also listed total livable area for the 3 floors as 2,947 sq. ft., with  $2,947 \times 33\% =$  actual allowed would be 972 sq. ft. for the apartment, the apartment will be 767 sq. ft. which is lower than the 972 of 33% of the livable floor area of the existing primary dwelling. The exclusions of basement apartment are; Stairs, bathroom, mechanical space, fireplace area, corridor

After further review Chairman Moore said there is a Definitive Subdivision Plan (P.U.D) Planned unit Development from 1995 from Planning Board when this street was created they set different (lower setback) and they match what is on your plans. Normally the setbacks in the RC zone the setbacks are more substantial, it is conforming. Chairman Moore entered the Plan, and marked as Exhibit 10 for the record.

Chairman Moore also stated since the sewing room is a common area, you would not count that in the total livable floor area, so that would make the accessory apartment **570 sq. ft.** of livable floor area instead what you have in application of 767 sq. ft.

They will be constructing a second egress in the back of the house, shown on the plans rear elevation as “new bulkhead” showing at 10 ft. 8”.

**Audience** – Maria Merena/representing Mr. J. Brien Merena of 7 Davis Lane, Ms. Merena read a letter dated 10/8/19 Mr. Merena wanted submitted, stated he liked his new neighbors, has no issue with their request. However he has concern if they will be the need for expansion and/or relocation of the septic system that could create an impact or issues for abutters. He also had concerns about grading, and his property will not be with any runoff, seepage issues. He mentioned concern due to the amount of surface water flow during heavy rains. (Letter attached).

Erin Pollack owner/applicant stated they submitted there septic plans/papers with the Board of Health in regard to the Septic but I don’t know the status, they do have to upgrade the system, with a new tank to accommodate 5 bedrooms.

Ms. Merena asked where septic going is. Erin stated right side of house so opposite side of Mr. Merena’s home.

The applicant communicated with the Board of Health, and they will be upgrading their septic system to accommodate 5 bedrooms, which is more than sufficient for the additional construction, Sewing room is a bedroom

P.S – I am not guaranteeing it but, they would never design a septic system to change the way drainage occurs on the property, and when you look at your grading plan, talk to your engineer, you can certainly make it from getting worse, extending leach fields slows water everywhere.

JM to Ms. Merena– We are charged with deciding the request before us on the accessory apartment, if it and if it meets the bylaw, the code allows this request with certain conditions, it has to keep single family characteristics of the neighborhood. I look at this application/request as frankly pretty good application of that, just my opinion. You should contact the Board of Health about any concerns related to septic system Feel free to contact the Board of Health.

GT – We always say to the abutters, if it ever appears that it looks like it’s now a rental property, to call the Building inspector, he is the enforcement officer.

Ms. Merena asked if it becomes a 2 family.

JM – No it does not, it will be limited to occupancy, they have to live there, there are intended to be temporary.

#### Clarification on submitted Calculations for apartment

JM – I just want to clarify in basement there is a sewing room, I think there is an error in the calculated living space for the apartment, if you take the sewing room out its really, 663 sq. ft. not 767, if sewing room is a common room, and I would suggest to note it on the drawing on Sheet 8, and move that door to the other side if necessary, the reason is your limited to 700sq. ft. and the existing basement square footage is not allowed in the calculation because the existing window area doesn’t exceed 10% of the Floor Area. In this case you can’t include the basement existing sq. footage, in the total livable floor space times 33% to come up with the size of your accessory apartment, you only need to count the first and second floor in this case because you don’t have a walkout basement. The sewing room is really a common room. By my calculation you have the living area which is a combination of several small pieces plus the 429.

Macinnis the 429 is part of that whole area. Then you have a bedroom 141. So 429 plus 141 sq. ft.

JM – **So total of 570 sq. ft.** She will move the door so there is a privacy door for your mother, your accessory should really have a privacy door do what you like.

Sheet 8/Exhibit 8 was marked as Amended with sq. footage and the door and sewing room marked as common area.

JM asked for other questions. I think it's a good design, you would never know it's there, and end up with one more car outside.

**Other New Correspondence – None**

**S. Deane read the Exhibits into the record**

Exhibit 1 – Sheet 1 Front elevation –Exhibits 1-8 all dated 7/20/10 drawn by Martha Macinnis of Bradford

Exhibit 2 – Sheet 2 Right elevation

Exhibit 3 – Sheet 3 Rear elevation

Exhibit 4 – Sheet 4 Left Elevation

Exhibit 5 – Sheet 5, Existing Basement plan

Exhibit 6 – Sheet 6 Existing 1<sup>st</sup> floor

Exhibit 7 – Sheet 7 Existing 2<sup>nd</sup> floor

Exhibit 8 – Sheet 8 - **Proposed New Basement layout (Amended at 10/8/19 hearing) attached**

Exhibit 9 – Plot Plan Certified by John B. Paulson, PLS of Atlantic Engineering of Georgetown, MA - dated 7/31/19

Exhibit 10 – 1995 Planned Unit Develop Plan (Planning) for Davis Lane “Fairview Estates” dated 7/31/95

Exhibit 11 – Letter from J. Brian Merena of 7 Davis Lane, dated 10-8-19

**Shawn Deane made a Motion** to find the application met the prerequisites of the Georgetown Zoning Bylaw Chapter 165-79 (a-d) being;

- a. The application is desirable to the public convenience or welfare;
- b. Will not overload any public water or other municipal services so as to unduly subject any area to hazards affecting health, safety or the general welfare;
- c. Will not impair the integrity or character of the district or adjoining districts;
- d. Will not cause an excess of that particular use which could be detrimental to the character of the neighborhood.

**I Further move to** grant a Special Permit to Benjamin & Erin Pollock of 5 Davis Lane, Georgetown MA, located in the RC district and identified on Assessor's Map 5 Lot 48M, for an Accessory Apartment in the basement of the existing dwelling, as the accessory apartment meets the requirements of the Georgetown Zoning Bylaw, Chapter 165 § 69 (a-g), as the apartment size of 570 sq. ft. of livable floor area, does not exceed the greater of either 700 sf or 33% of the livable floor area of the primary dwelling, and the design as presented, was in keeping with the single-family characteristics of the neighborhood, and pursuant to; M.G. L. Chapter 40A, Section 9, and the Georgetown Zoning bylaws, Chapter 165 Sections 8, 9, 69 and 74 -79.

**With the Following Conditions:**

1. The Accessory Apartment be occupied by relatives of the owner only, not to be used as a rental property and the dwelling must be owner occupied per bylaw Chapter 165 §69 (b).
2. If the house is sold, transferred or if there is any change in residence of the owner, the special permit lapses and the new owner must apply to the board for a new special permit.

3. The apartment shall be inspected by the Building Inspector before Occupancy; per Chapter 165-69 (d), per plans submitted marked **as Exhibits 1- 11.**
4. Be built per plans submitted at the hearing, marked as Exhibits 1- 11, unless there are minor changes for purposes of construction for the Building Inspector, there can be no substantial or material changes per plans submitted.

**Seconded by S. Freeman, No discussion; Vote – All in favor – all 5 voted Yes. Granted unanimously 5-0.**

JM read The Zoning Board has 14 days to file a decision and any appeal of this decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, within 20 days after the date the notice of decision was filed with the Town Clerk. An applicant may file this decision before the 20 days but does so at their own risk.

JM reads: Lapse of Special Permit - Per M.G.L. 40A §9, Special Permits granted shall lapse within a specified period of time, not more than 3 years, which shall not include such time required to pursue or await the determination of an appeal referred to in Section 17, if a substantial use thereof or construction has not commenced, unless upon timely application this Board finds good cause to extend such period.

Motion to close hearing moved by PS/GT, all in favor. Motion carried.

*Patty Pitari*  
*Zoning Administrative Assistant*

*Approved 11-5-19*