



## 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 #22-01

#### Special Permit / Variance

206 West Main Street, Georgetown MA

Owner/Applicants: Rock Pond Development LLC

March 1, 2022 (continued from 2-1-2022)

Via Zoom Webinar - Audience only Link and Phone number:

[https://us02web.zoom.us/webinar/register/WN\\_7g3lZwqIRZmPgXXAJaasow](https://us02web.zoom.us/webinar/register/WN_7g3lZwqIRZmPgXXAJaasow)

Or By Phone: Dial: US: 312 626-6799 or 646-558-8656 or 346 248-7799

Webinar ID: 886 0391 1383 Passcode: 165783

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Board Members Remotely Present: Jeff Moore, Chairman, regular member  
Shawn Deane, regular member  
Paul Shilhan, regular member  
Dave Kapnis, regular member  
New member J. Ogden abstained

#### Others Present:

Patty Pitari –Administrative Assistant

Attorney Nancy A.S McCann of McCann & McCann, for the applicant

Applicants: Ed Landiere, Gary Van Geyte,, Members of Rock Pond Development LLC (in audience)

Richard Williams of Williams & Sparages, Engineer

Dean Temple of Dario Designs, Project architects

#### ***Note\* Board members are represented at times with their initials***

Chairman JM - This Public Meeting/Hearing is being conducted in a way that is an attempt to satisfy the Open Meeting Law, and other State Laws pertaining to the Public Hearings of the Town's Public Bodies. It is a good faith, best effort to comply with the Executive Order waiving certain provisions of G. L. c. 30A, sec. 20 during the COVID 19 pandemic, and Chapter 20 of the Acts of 2021, i.e., the pandemic extensions signed into law on June 16, 2021. Internet based technologies will be used by the Zoning Board to conduct Public Meetings and Hearings until the Executive Order and its extension provisions are rescinded or terminated. JM - The Board of Appeals will conduct this meeting according to rules laid out in Chapter 40A of the General Laws of the Commonwealth of Massachusetts, Roberts Rules of Order and its own particular set of rules, entitled Rules of Procedure, a copy of which is on file with the town clerk.

J. Moore introduced the board, 4 members and turned over to Attorney McCann for presentation.

#### **Applicants Presentation:**

N. McCann – This project we began in January 4, 2022. The applicant took listened intently and took to heart the comments received and revised its proposal to provide for the Apartment House redevelopment project consisting of nine (9) units, rather than the previously proposed 22 units originally. We resubmitted plans that addressed the comments and present a revised and attractive proposal, the difference is the new proposal addresses the density under the bylaw and we now have 9 units on property is permitted under the Intensity of Use Schedule Footnote #1 of the Zoning Bylaw; therefore, the applicant withdraws its request for the Density Variance. The proposed 9 units while an apartment house (4 units or more of a residence) under the definition of same under bylaw, is of a townhouse style in the approximate location of the existing building footprint; the existing building will be removed. The Apartment house as proposed continues to meet all of the criteria therefore under Section 165-68 of the Zoning Bylaw. Its in the same location, not using the existing building, so will no longer require special permit for alteration of nonconforming structure. So, we believe all we need is the

special permit for 165-68 “Apartment House” we satisfy the density requirement, our height and setback requirements are met. This proposal meets all under 165-79.

Richard Williams of Williams & Sparages, Engineer – Mr. Williams takes the board through the site, puts site plan on the screen, he reviews like cutting down entrances from 3 to 1 entrance, the parking lot is an oval shaped lot, allows for vehicles to go around and exit. The units are lined up 9 units in a row from West Main to the Pond, and angles so that each building has some view of the pond, they each have a patio, no decks proposed, in center of parking lot is a proposed gazebo and lawn area, and still allows for a view corridor from West Main to the pond. The dumpster location remains the same on south side, and storm water connects to existing storm water management system, the new design impervious area is reduced by 17,000 sq. ft. Rich Williams puts up a color rendering of same site plan, and explains layout/landscaping.

JM asks about the 17,000 reduction of impervious, it is half.

R. Williams – Not quite half, in the existing conditions its 50,000 sq. ft. in the proposed its 33,000 so a 40% reduction.

Dean Temple, Dario Designs Architect – Shares screen of color rendering of site plan. We replaced as states a lot of impervious spaces, he shows in green is pervious area, we pulled it back out of the 50 ft. and 75 ft. buffer zone to the pond. He explains the units are up near the existing building, the units are stepped back to give all a view of pond, it also improves the appearance of building and the building will step down to reduce the overall look and size of the building, and we use universal design to avoid ramps and handrails, we explained in our first hearing in January, there are 2 parking spaces per unit in front of the unit, and provided for addition family/visitor parking. I believe its going from 105 parking spots to about 36 spots, and plenty of snow storage so it doesn't get pushed near the pond. Its 2 ½ stories and 3-4 bedrooms, and about 2100 sq. ft overall, own entrances.

JM – In the site plan we talked about not disturbing the shore of the pond or new access to the pond, could you discuss what is disturbance at the pond's edge, how do you get to the pond from the site.

R. Williams – We have not gone to Conservation yet, there are invasive species out there, we would like to clean that up, the stormwater management area is a pond in itself needs to be cleaned up and the vegetation there removed or cut down, there is some pretty sizable trees in there, as far as disturbance in 50 ft. buffer to the pond, we don't expect to do anything but the maintenance items. We don't plan on landscaping near the waterfront, we don't think we can get that permit, not at this point. Signs for parking residents only.

N. McCann – So this will adhere to the “Inclusionary Housing Bylaw” 165-71, so one unit will be designated as affordable, and the applicant has met with the affordable housing board, and we have 9 units and 10% required for one unit.

DK asks about trash disposal management, are there any provisions that trash/dumpster maintenance, it doesn't look that there is much space.

NM – We do have ample space for enclosed dumpsters whether it turns out to be apartments or for sale units, trash will be part of the process. We get into dumpsters/trash will be address in Site Plan Approval with the Planning Board.

Rich Williams – Typically once a week, it's a double gated dumpster, room for a full size for household trash and a full-size dumpster for recycling.

DK – there is nothing describing the size of the container, I don't know what size you're having, I just don't want to see debris around.

R. Williams – If required we can increase the emptying of the dumpsters. Planning board will review.

Revised plans for March 1, 2022 Hearing

Site Plan dated 2-22-2022, Williams & Sparages Engineers

Elevation Plans dated 2-16-22 drawn by Dario Designs Village at Rock Pond proposed 9 units

Jay Ogden (new member) – Not voting, but had ask a couple of questions, one question was the depiction of the floodplain on the site plan, is that drawn off Georgetown's floodplain map or Fema's map?

Rich Williams – Are you speaking of the district or the floodplain itself?

J. Ogden – I see a floodplain elevation line that is on the plan marked labeled approximate floodplain district.

R. Williams – The district line if from the Georgetown map. JO – Does that floodplain map follow contours?

R. William – The map doesn't but there is a floodplain that is associated with the property that is on the site plan and the existing conditions plan.

JO – Over years I have seen a couple different plans on this property, it sticks in my memory the floodplain district in that area the elevation is at 85, the one shown seems to transcend a variety of different elevation marks, it just seems odd that it would be that shape based on the way the water flows.

R. Williams – The actual floodplain line doesn't follow that line, that is the district line, but the floodplain line it your concerned about work in the floodplain.

JO wanted to make sure no work in the floodplain. JM – Asked Rich Williams it that may be conservation.

R. Williams – Any work in floodplain is subject to Wetlands Protection Act, and we would have to file for that work.

JO – The existing septic system is to be used, if 27-36 bedrooms, Georgetown requires septic flow of 165 gallons per day per bedroom, and having lived in town for some time, that use on that site last I knew was establish for 84-85 seat capacity, I don't see how that translates.

R. Williams – Would you have the data on that, that is not what we have. We are not going to be able to increase the flow, and we don't anticipate increasing and we have the data from the Board of Health about the number of seats, and we don't plan to increase it.

SD – Do we have assurances that there will be no hardscaping, no construction on the shore/wetlands/access impeded to the pond by members that have permissible use to it.

NM – We would not impede on any one that has permissible rights to the pond, Rich Williams said earlier, we are not proposing anything near the pond other than clean up of the mess that is there now, and management or removal of invasive species, that all will be under jurisdiction of conservation commission.

JM – It actually is in the water resource district, so the applicant would have to come back after site plan approval.

NM – The prior proposal had some work in water resource which would need a special permit from this board, but as the bylaw is worded, we need to go through the Site Plan Approval process with the Planning Board first, and we were instructed not to file that now and come back if needed. We will have to look again with this new plan and see how it affects the water resource and if it will be necessary if so, we will be back.

## Audience

Chris Crosby, 77 Lakeshore – I can see boat ramp from my house, I am on the Rock Pond Committee, he voiced concerns on dumpster and elevation goes down, and it looks long way for tenants to carry trash, can it be moved away from this location.

NM – The dumpster location is an item under the Planning Board Site plan review, and we will certainly consider that.

Graham Noll, 4 Rock Pond Ave. - I am President of the Rock Pond Association, we are concerned with all aspects of the pond, where is the septic system, the units it seems it would increase septic use 10-20%? The septic hasn't been used in a long time, is it still viable has it been inspected. We would not like to see it be rental properties. Additional comments on dumpster. Would like to see a buffer so people don't flood near ramp and number of parking spaces, why need 36? More pond concerns and on design.

Rich Williams stated the septic system is underneath the parking lot. When septic was built it was not in the buffer zone, but because the storm water management system built, the outlet to that storm water management system, grew up into a wetland, so we have a setback from that, it's a bit of an unusual situation, that improving the environment also increased the buffer zone, but because we are not increasing the flow from the septic system, it is allowed to remain that location. Shown on screen, explains area. Also, the system was inspected a couple of years ago and it passed Title V. We could move dumpster but it's under Planning Board. As far as parking, there is a zoning requirement, and we provided spaces guest spaces.

Dan Cameron, 15 Gloria Rd. – Concerns about buffer zone, the word mess was used it that litter or vegetation. Would you replace vegetation? Question on trees and landscaping. Septic.

R. Williams – There is a fair amount of trash out there, and vegetation that shouldn't be there, we would like to do removal of invasive species. That is part of Conservation filing and planning board (trees). Explains septic function we expect to be better than a restaurant flow, we still have to get a sign off from the Board of Health.

JM stated a lot of these issues are going toward other board's jurisdiction (conservation and planning).

## 9:06 pm – Chairman goes to the Board Discussion

PS – I think the project is as good as you can get for the situation, they will have opportunity to address the wetland issues very nicely as a transitional zone with the residential and the pond with conservation and planning. It's a benefit to the town, compared to the way it is now.

SD – I agree with Paul, I appreciate that they went back to the drawing board and crafted updated plans, I drive by there all the time, and I believe it will be a great improvement to the town, and listening to the dialog from the residents a lot the other aspects will be addressed with Planning and Conservation, and we are here specifically for the overall use.

JM – I agree as well, this is a good compromise from the first proposal, I heard good points from audience members, I pulled up the satellite view of pond, maybe some fencing along pond when you go to planning maybe good, it is close. As discussed, SPA will be required, and 165-71 Housing bylaw, I would ask Nancy McCann, will it be one affordable unit or can in be in lieu of payment?

N. McCann – I will be one unit 10% of 9 units is .9, that requires a unit, not a payment in lieu. In this case a valuable family unit, which is needed by the town.

SD – I have also some conditions if you want to go over those first.

SD – Should we condition the one unit.

JM – I would put it in, 165-71 shall apply. JM asked NM – NM either way.

SD - Site plan approval required and construction hardscaping, and construction shall not impede access to Rock Pond. SD – Nancy how do you feel.

NM – Conservation will handle construction hardscaping to pond.

### **Motion by Shawn Deane**

Shawn Deane (SD) made a motion to Grant a special permit for “Apartment House” to Owner/Applicant Rock Pond Development LLC, 499 East Broadway, Haverhill MA 01830 for property located at 206 West Main Street, in the RA District and identified on Assessor’s Map 6B Lot 53 in Georgetown MA 01833, under M.G.L. c. 40A, s. 9 and Georgetown Zoning Bylaw 165-68.

I further move the Board find that the application meets the requirements/criteria of 165-79 (a-d); being the application is desirable to the public convenience or welfare; 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; will not impair the integrity or character of the district or adjoining districts; and, will not cause an excess of that particular use which could be detrimental to the character of the neighborhood.

### **With the following conditions:**

1. Site Plan Approval/Review is required.
2. The construction shall not impede access to Rock Pond.
3. The requirement of the Inclusionary Housing Bylaw Chapter 165-71 shall apply.

Seconded by Dave Kapnis (DK). Discussion: None.

J. Moore – Roll call vote;

SD, PS, DK, JM – All voted – I/Yes. Motion carried 4-0.

Jeff Moore read 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 has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun during that time period. And also stated we will get decision within 14 days.

N. McCann - Do you want to have a motion and a vote on the withdrawal of the Density Variance.

JM – Yes do I hear a motion.

### **Motion/Density Variance**

PS moves to allow the applicant to withdraw the density variance, seconded by DK, no discussion, roll call vote, PS, SD, DK, JM all vote yes. Motion carried 4-0

**Motion** - PS/DK to Close the hearing for 206 West Main Street, all in favor – yes, no discussion. Motion carried.

Roll call – SD, PS, DK & JM – all yes. Motion carried 4-0.

The Zoning Board has 14 days to file a decision 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.

*Patty Pitari*  
*Zoning Administrative Assistant*

*Approved*    3-29-22