



Georgetown Zoning Board of Appeals

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

Phone: 978-352-5742 ♦ Fax: 978-352-5725

MINUTES OF A PUBLIC HEARING

ZBA File #19-08

Black Swan Country Club – Appeal/Special Permit

258 & 258R Map 5 Lots 3 & 3E, Georgetown MA

JUNE 4, 2019

Board Members Present:

Shawn Deane, Chairman, regular member
Jeff Moore, regular member
Paul Shilhan, regular member – left at 7:50pm
Dave Kapnis, regular member
Gina Thibeault, regular member
Sharon Freeman, associate member

Zoning Clerk: Patty Pitari

Applicant (s) present: Director of Operations, Mr. Peter Brown

Attorney Nancy McCann, of McCann & McCann of Danvers MA

***Note Board Member are referenced by their initials & Attorney Nancy McCann (NM), Peter Brown**

Chairman Shawn Deane opened the hearing at 7:38pm, and introduced the board members. Sharon is a voting member tonight.

SD read legal ad;

A Public hearing will be held on **June 4, 2019 at 7:38pm** at the Georgetown Town Hall 3rd Fl. Meeting Room for an application filed by 258 Andover Street LLC Owner and Applicant, & Georgetown Flatbread, LLC, Applicant, for property located at 258 - 258R Andover Street, Georgetown MA 01833, in the RC district and identified on Assessor's Map 5 Lots 3 & 3E.

The Applicant is requesting to construct 4 bowling lanes accessory to the existing restaurant within the existing building (Accessory Indoor Amusement) which is not permitted in the RC zone. The Applicant requires a Special Permit under M.G. L. Chapter 40A, Section 9, and the Georgetown Zoning Bylaws, Chapter 165, Article II, Sections 8-11 (Use and Intensity Schedules), for a use not specifically listed in the Schedule of Uses, and Chapter 165 Sections 74-79.

In the alternative, the Applicants appeal the decision of the Georgetown Building Inspector pursuant to MGL. 40A, Sections 8, 15-17, and Georgetown Bylaw Chapter 165-98 on the basis that a Special Permit is not required for the proposed accessory 4 bowling lanes. Also found on the website for: Massachusetts Newspaper Publishers Association's (MNPA) masspublicnotices.org. ZBA File #19-08

Applicants Presentation:

Attorney Nancy McCann (NM) – The applicant, Georgetown Flatbread, LLC, is requesting a Special Permit (165-9) of bylaw to allow the operation of 4 bowling alley lanes (candlepin) for use by its restaurant patrons as an accessory use to the existing full-service restaurant use. The proposed 4 lanes will be constructed entirely within the existing clubhouse building and will be incorporated into the restaurant floor plan as shown on the floor plans submitted, access to the bowling lanes will be from within the restaurant; no separate access will be provided.

Georgetown Flatbread, LLC and its employees will operated the four bowling lanes. There are similar bowling facilities are offered at other restaurant locations and have proven to be very well received like the one in Salem

This is not a standalone business but is an amenity to the dining experience for the restaurant customers. The lanes will be open for operation only during the hours of operation of the restaurant. The existing restaurant operates by virtue of a special permit granted by the Board of Appeals in 1989 (89-15), which permits the operation of a golf club with related activities, facilities and accessory uses". The golf club operation includes the golf course, associated outdoor recreational facilities, a pro shop, clubhouse, restaurant and function rooms. The lanes will be an accessory use to the existing restaurant.

We are requesting a special permit under 165-9 per the Building Inspector's decision owing to the fact that an "accessory use" is not a use specifically listed in the schedule of uses. The proposed accessory use is an added amenity to the existing restaurant use on the property. Interior alterations to the building are proposed to accommodate the 4 lanes; no increase or alteration of the building footprint is proposed. With just four lanes, this is again not a "stand alone" bowling alley business, but rather an amenity to the dining experience for the restaurant customers. It will have an impact on general site operations or utility services.

New Correspondence - None

SD asks if it's on the first floor. I am having trouble with the space for the lanes. I am trying to figure out where those lanes would go.

NM – Yes its 1st floor, so she shows on plans, it replaces the current locker rooms, as shown on plans.

NM – Lanes are open to restaurant, she continues to explain floor plans exhibits b-d.

SD – Is it Candlepin. NM – Yes.

SD – Can people eat in there? Or a Bar?

NM- There is a bowling area seating where you would normally sit when you are bowling.

P. Brown – People will be served from restaurant as they are bowling.

SF – Bar is still there. PB – Yes.

DK- Are men's lockers eliminated, not on plans

PB – They are being shrunk.

JM to DK to look at plan notes.

NM – so it is an amenity, no separate access, no change to exterior.

There are 2 ways for approval the appeal that we don't need special permit or special permit.

NM – We also in same application are appealing Building Inspector decision that we need a special permit, so in application, the applicants is appealing the decision of the Georgetown Building Inspector dated 3/18/19, on the basis that given the terms of the special permit granted by the Board of Appeals for the operation of the golf course facility on the property (89-15), a special permit for the 4 proposed bowling lanes as an amenity to the full-service restaurant, located entirely within the previously approved clubhouse building, is not required. The 1989 ZBA decision granted a special permit to allow the operation of a golf club with related activities, facilities and their assessor uses; so the special permit expressly allows accessory uses. The 4 bowling lanes is just such an accessory use. Given that the 4 lanes will be operated by the restaurant operator, for restaurant patrons, and only during the hours of the restaurant is open; and given the small number of the lanes is an accessory use subordinate to the golf club facility and restaurant use. A special permit has not been required for other property amenities that did not alter the original plan submitted with the 1989 Special permit.

Therefore, the addition of 4 bowling lanes within the existing clubhouse building without any alteration to the original development plan, as an accessory amenity to and operating within the restaurant is a use encompassed within the original special permit.

So tonight we ask that you overturn the decision of the Building Inspector and find that the proposed 4 bowling lanes is an accessory use permitted under the previously granted Special Permit 89-15 requiring no further zoning relief.

NM it stays within bylaw of 169-79 of bylaw. She read that section.

SD asks Jeff in regard to another decision for Keon's sign. Jeff explains it was for the Keon's restaurant sign.

JM – was there another? NM – There was a barn that was a change to the site plan.

Patty – There was also an addition when the pro shop was added.

PS stated he was not feeling well and needs to excuse himself from hearing. He leaves at 7:50pm

SD asked NM if she is comfortable with 4 members, she replied yes.

SD Read into the Record

Exhibit A – Site Plan of Land dated 3/27/96 by S & W Landtech, of Groveland, MA

Exhibit B – Sheet EX1.0 Black Swan Country Club renovations, existing conditions dated 2/19/19

Exhibit C – Sheet D1.1, Demolition floor Plan dated 2/18/19

Exhibit C – Sheet A1.1 Bowling Floor Plan dated 2/18/19

Audience

Mr. James Maguire, 340 Andover Street, asked about septic system being ok or changing, and the old decision from 1989 condition number 8 in regard to reports to Water Department, he doesn't believe that is being done. He also had concerns about chemical they use on the grass.

PB – This don't expect it to we are not adding table or seats. There is no problem with the system, maybe because it in front and you can see when pumped from road.

NM – We will look into the Water Department, and we will make sure what needs to be done is done.

DK – it doesn't state who is responsible.

Board suggested the talk to Les about Water department condition as he is zoning enforcement officer.

JM asked Mr. Brown if he knew about the quarterly check with Water Dept. Mr. Brown did not, he would have to check.

J. Maguire, 340 Andover – I checked with water manager, he said they don't know any ting about it.

JM – I would check with Building Inspector. SF agreed I think that is first course of action.

JM to SF everything hinges on the old decision from 1989.

Discussion followed on Water condition.

JM – Is it required to dine to bowl? PB- you will be able to rent a lane, if they don't want to eat we can't force them.

SD asked about reserving a lane and noise barrier.

Applicant stated they had put sound proofing up and will do again, and yes you can rent a lane.

JM stated he liked concept , but as an accessory to a golf course is strange and voiced his concerns about it turning into something else down the road, the scope of what was in original decision, pool and tennis is shut down, restaurant that was a pub, part of original golf club (a country club). Ownership changed, things changes and the sign issue, but this mix is very odd to me. You can argue almost anything, for example an arcade is an accessory to this. Indoor Amusement is excluded in this zone, but for the fact it's part of the club. I need to be comfortable in how this is written, so it doesn't keep going to something else.

JM – We can craft a decision for Special Permit to be very clear that this a specific accessory to an existing use that ties the lanes to the restaurant that ties the restaurant to the original permit.

SD – There are two sort of proposed arguments being made. I am in favor of a special permit for the lanes. I am with Jeff. But just a special permit just for the lanes.

JM – You have to tie it to original decision, this original permit was done, and I don't think this type of restaurant with proposal was envisioned at the time.

DK – I lean toward support of special permit with conditions.

Much discussion continued on conditioning a decision. JM asked Attorney McCann get to a yes on this.

NM – I think there is more of a connection than you might think, what was permitted in 1989, was outdoor amusement special permit in form of golf club, course with related activities, and the restaurant has been part of that, be it a pub or whatever, now the club and restaurant are operated by the same principals. The idea of amusement and recreation has been the foundation of this from the beginning now we are adding an accessory use, that is an amusement, an indoor amusement not outdoor and it fits very well with the golf course use and family activities of the course. It's just an added amenity to the restaurant. It's not a separate business. You can condition the candlepin lanes to be operated only by restaurant.

SD can we condition additional potential additions of amusement.

SF – You can argue that an arcade is an accessory, almost every bowling alley has an arcade.

Discussion on the Condition #8 on old 1989 decision about quarterly water testing with water department. NM stated again they will look into and report back to ZBA. Discussion on no site plan changes, and conditioning of old

Many questions and discussions went back and forth on multiple items including there are not out door changes, how to tie in to original decision and conditions for some time.

The Board took a Recess at 8:50pm.

Back from Recess at 9pm.

JM we need to make Findings first.

Findings

J. Moore I would like to make a Motion that regarding the application to 258/258R Andover Street for an accessory use to the existing club and restaurant, that the Board find that the request is desirable to the public convenience and welfare, an amenity for restaurant patrons and their families, 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; there will be no visible changes to the exterior of the clubhouse building or the property, and, will not cause an excess of that particular use which could be detrimental to the character of the neighborhood, and will provide an appropriate amenity to the restaurant dining patrons,

Special Permit

I further move that having made those findings that the Board grant a Special Permit under 165-9, to allow Indoor Amusement Accessory Use to the restaurant consisting of 4 candlepin bowling lanes constructed entirely within the existing Clubhouse building as shown on the floor plans submitted with the application Exhibits B-D, subject to the following condition:

1. The Four (4) candlepin bowling Lanes shall be available only during operation of restaurant hours;
2. Access to the lanes shall be through the restaurant and no separate access shall be allowed;
3. Bowling lanes shall be operated by the restaurant;
4. The application shall address condition number 8 of the 1989, ZBA File #89-15 Decision, and will advise the ZBA of the outcome;
5. No site plan changes are proposed or allowed;
6. There shall be no changes to the signage;
7. No other indoor amusements shall be allowed;

Seconded by DK. SD - Board Discussion? SF – asks about seating, NM – no additional seating is contained there.

SF do we need to state that? JM I think saying per plans covers that.

All in favor – JM – Yes, SF – Yes, DK- Yes and SD – Yes. Motion carried unanimously 4-0.

Finding and Special Permit with Conditions was Granted.

SD stated 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.

SD 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 two 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.

Motion by JM/DK to close the hearing for 258/258R Andover Street, Black Swan Country Club, all in favor, yes, no discussion. Motion carried 4-0

Motion to adjourn DK/SF, all in favor, yes. Meeting adjourned.

Patty Pitari
Zoning Administrative Assistant

Approved 7-9-19