



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 #20-02

**206 West Main Street – Finding/Special Permit
& Water Resource– After SPA Planning
Owner/Applicant Jeffrey M. Snyder
September 10, 2019**

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- Voting

Owner/Applicant Jeffrey M. Snyder, 22 Parish Rd, Georgetown, MA
Applicant (s) present: Attorney Christopher J. Alphen & Paul Haverty of, Blatman, Bobrowski,
& Haverty, LLC, 9 Damonmill Square, Ste. 4A4, Concord, MA 01742
Richard Williams, Williams & Sparages, LLC
Zoning Administrative Assistant: Patty Pitari

NOTE: Video recordings of all Georgetown Zoning Board meetings may be found at www.georgetownma.gov
and by choosing the Community TV option.

**Note Board Member are referenced by their initials & Attorney C. Alphen (CA), OR Attorney Paul Haverty, (PH),
Owner Jeffrey Synder (JS), Richard Williams (RW)*

PS read legal ad;

A Public hearing will be held on **September 10, 2019 at 7:30pm** at the Georgetown Town Hall 3rd Fl. Meeting Room for an application filed by Owner/Applicant Jeffrey M. Snyder of 22 Parish Road, Georgetown for property located at 206 West Main Street, Georgetown MA 01833, in the RA district and identified on Assessor's Map 6B Lot 53. The current use at the property as a restaurant is a legal pre-existing nonconforming use. The Applicant is requesting a change of use for the redevelopment of an existing restaurant type use to any one or a combination of Retail Store and Services, Business Offices, and Workout Gym. The uses proposed are prohibited in the RA District, with the exception of Workout Gym, which is not a listed use. The Owner/Applicant requires a Finding/Special Permit from the Zoning Board, pursuant to M.G.L. 40A, Sections 6 & 9, and Georgetown Zoning Bylaw Chapter 165, Sections, 8, 9, 74-79 and 94, Also the property requires a Water Resource Special Permit, pursuant to Bylaw Chapter 165-29-38 (Article V), specifically Section 165-32 (B) & (D). Also found on the website for: Massachusetts Newspaper Publishers Association's (MNPA) masspublicnotices.org. ZBA File #20-02

Chairman Jeff Moore opened the hearing at 8:08pm and introduced the board members.

Applicants Presentation:

Attorney Chris Alphen introduced Owner Jeffrey Snyder and Attorney Paul Haverty - We represent Jeffrey Snyder of 22 Parish Road, Georgetown the applicant is requesting to redevelop the use of the existing building at 206 West Main Street Map. The property is located in the Residential A District and the Water Resource District. Currently the property is improved by a commercial structure which has been used for decades as a restaurant. Public records indicate the restaurant use commence prior to the adoption of zoning in Georgetown and thus constitutes a legal pre-existing nonconforming use. The existing structure on the property, most

recently known as Tin Lizzy's is 12,131sq. Ft. The proposed renovations will not expand or change the footprint.

Because of the restriction of the uses permitted on the property the applicant is having a difficult time attracting quality tenants who wish to operate commercial businesses that do not fit within the restaurants use category. The applicant is proposing uses of "Retail store and service and Business Office" and workout gym, because of potential tenants for those uses, he is proposing trading a legal nonconforming use a restaurant, to a less detrimental uses that he can find tenants for. J. Snyder (owner) - I have 3 different companies interested in the property but it is difficult to get them to sign a letter of intent until we get some answers from you/the town.

J. Snyder – We have here one tenant looking serious at moving is Crossfit Gym from Carleton drive in town, Dennis the owner is here tonight with many of his staff and managers, they are looking for a new space, they are worried their lease may run out at the current location, they want to stay in the community. The back half of the building is 5,000 ft. it has not been occupied for many years, it used to be some kind of theatre 20 years ago, it's more like a warehouse, it is perfect for Crossfit133, it's a good fit. The front half is a little over 7,000 sq. ft., has been multiple restaurants, so we are thinking of other retail spaces and we do have restaurant interested in 5,000 of the 7,000 ft., which would leave 2,000 for another tenant. We also have a 3rd person interested in all 7,000 ft., which is it a pre-school/daycare. Hours would be more daytime hours.

CA – These other uses don't emit as much odor, noise and lights as previous uses.

JM asks to go thru any changes to the property, or uses. PS – Yes and any structural changes.

CA - The property is approximately 1.8 acres, the existing structure on the property contains approximately 12,131sq. Ft. It is split up between 2 spaces, one has a 36 inch regular door for Crossfit they would like to put in an overhead door in the back side so their clients can go out that door, structurally none. If it went to a pre-school/daycare, it would all be inside, the kitchen would come out and can be converted. The outside we would clean up landscaping/ parking lot etc. No additions or structural at all.

GT – Sprinkler system, there is none. JS – We would need to add sprinklers in the Crossfit section, everything would be brought up to code.

The applicant is proposing to make upgrades to the existing structure, they will be designed to cater to the proposed uses as well as make the property more aesthetically appealing.

The existing structure has not been renovated in a number of years, as part of the applicants renovation plan, the applicant proposes making upgrades to the existing structure designed to cater to other proposed uses which not expand or change the footprint.

New Correspondence - None

Richard Williams, Williams & Sparages, LLC - The current septic system is good for an 80 or 88 seat restaurant, there is a scenario where there could be more seats or more flow than that if we go above the amount of flow allotted for that restaurant use, there would be a new septic design, but it depends on what the final uses end up being. The system is under the parking lot. Brief discussion on septic.

Audience

Mr. Mark Casper, 207 W. Main St. – I am directly across, I have concerns, 2 issues depending on what time of a potential daycare, drop offs in the morning for daycare time is, the traffic can be backed up on W. Main, a huge concern.

Dennis Floyd (owner of Crossfit 133) I am excited to work with the owner, we have a number of people here tonight from gym in support, we are a good neighbor, it's a neighborhood gym, we are excited about it.

Katy Riley, 20 Taylor St. – I am a member of gym, we are community members and support this.

Lisa Pert, 201 W. Main St. – I have lived across from many bars on the property, and would love to see a gym and a day care, compared to people out in parking lot drinking till 1am in morning.

JM – Asks how she would feel about retail space. Katy it would depend if it was a 24 hour retail or not.

GT to owner, are you anticipating retail? JS – We don't have anyone right now lined up, he begins speaking about the gym with hours till 8:30 at night, maybe 30 people at once, small classes.

GT – But nothing for retail – JS – No.

JM – So we have Retail stores and services, business offices, workout gym and daycare to consider.

SF – I should disclose I am a member of Crossfit, but no financial interest. GT – I am as well.

JM – I had a question and spoke to inspector briefly, as far as gym, it's not a use in the bylaw, but there are other gyms in town in retail locations down town, I couldn't quite understand from him why a workout facility is not retail.

CA - Under 165-94, it is not important how the use is categorized because your permitted the use, it can be useful to prove something is more detrimental, but if the use is in the bylaw or not, it doesn't need to be a listed use in the bylaw.

JM – The issue is retail uses are prohibited in the district, so the only reason you're here, is because you have a pre-existing non-conforming restaurant, under any other circumstances everything they are asking for except maybe a gym if it can be identified somewhere else, would require a Use Variance at this location, this is a residential district, I am just saying these are the facts. So you have a nonconforming use, so the board may under 165-94, change or alter a pre-existing nonconforming use provided we make the finding that is less nonconforming to the neighborhood.

JM – These are specific uses being asked for, if we are going to consider a special permit that captures what you're looking for or part of what you're looking for perhaps, how is that authorized use going to be maintained going forward without saying, well general retail use can be anything. I think some of what your requested may be an excellent fit there, some of them potentially down the road may not. I just want to be careful how we look at this and craft a decision, it's not a plaza, that is kind of what this is looking like.

JM talks about changing tenants down the road, tenants turn over.

JS – The 2 tenants I have interested now are the gym and daycare want to sign 10 year leases with 2- 5 year commitments after that, it won't change every 2 years.

GT has concerns of retail and specific hours.

James Odgen, 196 W. Main, the owner of Crossfit got a permit from you under private educational.

CA – As far as the retail use the board could put conditions that retail that is limited under certain amount of hours. I would add the daycare is exempt from zoning in the residential district that would not need a use variance.

JM – The 2 tenants you are serious with, one may be allowed by right.

Discussion on Daycare and Nursery School in bylaw.

Attorney P. Harvery stated pursuant to general laws Chapter 40A, Section 3, municipalities are not allowed to require special permits for daycare's and they have to be allowed in any zoning district in the town and they can be subject to reasonable regulations /restrictions with regard to bulk, setbacks and parking and things of that nature.

JM – Is there a difference between daycare and nursery school.

Attorney PH – The statute actually references child care facility, I don't think so. Not sure of difference except there may be a learning component to nursery school.

PS – Asks about outdoor area for daycare. JS – On back side of building we would consider putting some type fenced in grass etc.

Tom LaValley, 202 W. Main, if outdoor play area, they would need to see conservation, and concerned about traffic.

CA – Those would be issues taken up at Site Plan Approval. Patty stated they would need sign off from conservation. CA - The area is really not within the pond area

More discussion on daycare continued with outdoor area.

CA we have an outstanding order of conditions with conservation from previous owners.

Tom LaValley stated he is on Rock Pond association, some of that area is owned by the state near the pond, and conservation is concerned with the 100 ft.

PS – So the daycare or CrossFit is no considered retail.

JM – I understood there was a restaurant interested? J Snyder – There is a 3rd party, they own a restaurant in North Reading, may be interested in opening another here, that would be another 2,000 I would have to lease, I thought the day care would be better for the community.

GT – Poll audience who would prefer daycare and gym hours vs. restaurant? Many raised their hands.

Mark Casper, abutter – I am still concerned about traffic in am. We don't want a bar/restaurant.

Discussion with abutter's board and owner on uses, and continued uses, café retail etc. & Site plan will address those issues.

CA – I asked my client if he was ok to move forward with Crossfit and daycare, but as you know there are current protections with regard to the restaurant use, it doesn't need a special permit, once there are leases executed to take up the entire building and it doesn't include a restaurant use that is an abandonment of the pre-existing non-conforming use, and we are stuck then with the uses you give us. Some gym also do sell some products at their gym as related services.

CA – Abandonment can happen instantaneously, if you lease out for 5 year and doesn't include restaurant use, but we want to leave that open at this point, in case one of the others falls through

JM – So it restaurant if not included in the permit, then he gets what he gets.

PH – We are asking for the right to change it, and intent is to move forward with other lease agreements, when we give up the preexisting restaurant.

Discussion follows on alternatives. Discussion briefly on classes and hours on gym.

Discussion on having hours determined at Site Plan approval.

GT – I had reservations about retail, SF agrees, and JM agrees.

PS – I don't see restaurant/bar and daycare doesn't mix.

JS – No it would be one or the other. Daycare wants all 7,000 ft. Brief on sign, up to Building Inspector.

Exhibits with application – may change with Planning Board for Site Plan Approval

Cover Sheet for Plan shows date for All Dario Designs Inc. plans as 4/18/19 --- Exhibit 1 – Plot Plan of Existing Building & Parking Area, dated 6/6/19, stamped by engineer Richard L. Williams of Williams & Sparages, Middleton Ma, & Land surveyor John J.O'Rourke --- Exhibit 2 – Drawing Index, A00.0, by Dario Designs Inc. of 318 Main St., Northborough, MA, stamped by Architect Dario DiMare ----Exhibit 3 – Demo plan for Upper & Lower Levels D1.0 - Dario Designs Inc. - -Exhibit 4 – Proposed upper and lower levels A1.1 – Dario Designs Inc. -- Exhibit 5 – Elevations, A3.0, showing East, North & South by Dario Designs Inc.

JM & SD work out potential wording. JM asks about wording of allowed uses shall be limited to any one or a combination of the granted uses.

PH – We understand if we wanted to change a use we would have to come back to you.

Decided to let Planning do hours of operations because they will be looking at traffic.

5 Minute Recess

Back from recess

JM asks Rich Williams so there is no exterior construction from zoning. RW – NO.

JM so when it gets to water resource, we are not there yet.

No other board discussion, SD is about to make a motion. No discussion. Planning will handle traffic etc.

FINDING/MOTIONS

S. Deane made a motion that Georgetown Zoning Board of Appeals finds that the proposed extension or alteration at 206 W. Main Street, is not substantially more detrimental than the existing non-conforming use to that neighborhood.

I further move the Board find that the requested change in uses in meets the requirements 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.

The Board grant a Special Permit to Owner/Applicant Jeffrey M. Snyder of 22 Parish Road, Georgetown MA, for property located at 206 West Main Street, Georgetown MA 01833, in the RA district and identified on Assessor's Map 6B Lot 53, the special permit for a change in the pre-existing and non-conforming use with the following Conditions:

1. That the allowed uses shall be limited to any one or a combination of the following:
 - A. Exercise Facility
 - B. Daycare Facility
 - C. Restaurant

2. That Site Plan Approval is required by the Planning Board including a restriction of applicable hours of operation.

Second by Paul Shilhan, discussion – JM – I was thinking of adding that the change of use requires a modification/special permit but I think it's self-evident. JM any new uses you would need to come back.

Roll call – SD – yes, PS – yes, GT- yes, SF- yes and JM – yes.

Attorney CA offered to craft decision, Patty will send him template with dates etc. already done.

Motion - SD/GT to close the special permit application hearing for 206 W. Main, all in favor – yes, no discussion. Motion carried.

Patty Pitari
Zoning Administrative Assistant

Approved at 10-8-19 Business Meeting