



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 #15-11
Special Permit – Accessory Apartment
13 Wells Avenue, Georgetown MA,
July 7, 2015 at 7:35pm

Board Members Present:

Gina Thibeault, Chairman, regular member
Jeff Moore, regular member
Dave Kapnis, regular member
Paul Shilhan, regular member
Sharon Freeman, regular member
Shawn Deane, associate member – Not voting

Zoning Clerk: Patty Pitari

Applicant present: Elisabeth Clark, Andrew Clark

G. Thibeault read the rules of procedure paragraph stating, 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, another copy is available from the clerk at this meeting. This meeting is being taped recorded for the purpose of taking minutes, once the minutes are complete the recording may be taped over. Opening the hearing at 7:36pm, and introduced the board members, and stated Shawn Deane; associate member will not be voting this hearing.

J. Moore read legal ad; A Public hearing will be held on July 7, 2015 at 7:35pm at the Georgetown Town Hall 3rd Fl. Meeting for an application filed by Elisabeth J. and Andrew Clark of 13 Wells Avenue, Georgetown MA, for a Special Permit to convert a single car garage in an existing single family dwelling into an Accessory Apartment, with no exterior alterations; pursuant to; M.G. L. Chapter 40A, Section 9, and the Georgetown Zoning Bylaws, Chapter 165 Sections 9, 69, 78 & 79. The premises affected is 13 Wells Avenue, Georgetown, MA, in the RB district and identified on Assessor's Map 18, Lot 97. *ZBA File #15-11*

D. Kapnis address the Chair, stating his has an issue as he reads the bylaw, and the calculations of this application and the size of the apartment, and discussed briefly how he is interpreting the 33% of livable floor area and concerned with the issue of them having to wait 2 years to come back.

J. Moore – We can assign voting members, I you have a problem with this hearing.
Sharon asked what this issue is and Dave stated, the 33% as he reads it is over the allowed space for the apartment.

J. Moore reads accessory apartment bylaw and stated he disagree with Dave's interpretation.

G. Thibeault – I read it as 33% is the minimum. Paul I agree it's either or.

After brief discussion on the bylaw and calculations.

Attorney Winner – If I may make a suggestion I am not sure the applicants understand the dynamic of this discussion, and what impact it may have when the board if it takes up your application, what impact that could have on the outcome of that process, so to briefly summarize if you choose to go forward a panel will be assigned, and the board will make a decision or if you choose to withdraw and consider what you just heard and then and present again or at another time, or present the same application, now that you have time to digest what you just heard, which is I presume the first time you heard it, but you have that option as well but if you choose to go forward and there is an unfavorable outcome (denied), there is a law that provides you can't bring it back before this board, unless there is an approval from another board (planning) to allow you to do that within a two year period, so there is a prejudicial effect, if the board happens to go in that direction, I just want to make sure you understand the impact.

S. Freeman – Is it allowed to assemble a panel based on whom you believe on who you believes a certain interpretation.

Winner – No, you should assign the panel independently after the hearing is opened.

S. Freeman – So we already crossed that. Andrew Clark inquired an interpretation

Winner – It's really up to the board in the first instance, to decide how it want to interpret its own bylaw, The question that would come to me is whether that is defensible if there was an appeals, obviously there is a disagreement. You would always have a right to appeal.

Discussion followed on interpretation.

Andrew Clark – I just ran the calculation 33% of the existing livable floor area is 724.68 sq. ft. and we are only proposing 642, the current livable floor area, is 2,196.

G. Thibeault – I see, so your proposal livable floor area is the 1,769 and once you take the 642 out of it ...

Andrew Clark - Yes, 1,769 plus 642 is 1796.

G. Thibeault – Ok so on page 3 of the application on line B should have said 2,196, the number is written in the wrong spot.

D. Kapnis – So I was using the wrong number.

S. Freeman – But so there was an error in the application, but I do think we have an issue with the bylaw, and it needs to be resolved quite quickly, how to we make a bylaw less vague.

J. Moore – Let's put in on for the next business meeting.

Winner – If you have an ambiguity, you're always going to have board members that interpret differently until a bylaw is clarified, now there may not be a consensus so it would have to be amended at town meeting, there is a process.

Patty – I can speak to Howard, as amendments go through planning.

Applicants Presentation:

Elisabeth Clark – We would like to convert our single car garage into living space, so a first floor, kitchen living area and a bedroom so the existing bedroom will be converting into a kitchen living area , and garage into a

bedroom for my mother. It will not increase the number of bedrooms or bathrooms we have now, and we are not adding anything on, it will be in the existing house. And there will be no steps, my mother lives 1.5 hours away in Halifax MA, the travel is an issue and she lives in a mutli- level space.

New Correspondence – Gina read into the record

1. Board of Health, re: 13 Wells Ave, dated 4/27/15 stating the home should have a max of 3 bedrooms, and 7 total rooms for the size of the septic.

Audience - Russel & Karen Rowe, 11 Wells Ave. asked what happens when this property is sold in the future, and also had issues with the driveway and he stated he believed there was a variance, in which years ago they were told, would not be a driveway. He also stated an old selectmen told us this would not be a driveway, a driveway was installed along a shared property line, within a couple of feet of the property line, the selectmen at the time said it would not be a driveway, he said it would only be to service the barn, this selectmen convinced me to drop my complaint and now the property is sold and there has been 3 owners and it's a driveway. Karen Rowe stated it was about 40 years ago. Mr. Rowe stated it was Paul Thompson who told us this, it was just verbal.

G. Thibeault explained that if the property is sold the special permit is null and void and the new owner would need to come back to the board.

Karen Rowe – its ok, it doesn't bother us; we just wanted to let you know it is what we were told years ago.

Patty stated there are no previous variances on this property.

G. Thibeault - We don't have anything to do with the driveway and we don't have any old variance in writing or anything else in writing in regard to the driveway and let them know they should call the building inspector.

J. Moore to the applicants – No exterior alterations correct? Are you doing anything outside?

Elisabeth - We are removing the garage door and replacing with a bay window and adding two windows on the side of the garage. There are no changes to the existing footprint of the house.

J. Moore asked so you're accessing the accessory apt from the laundry room.

J. Moore – So the apartment is 642 sq. ft., just to let you know the apartment must be occupied by a blood relative and you can rent it out and if she moves out, you can't use it.

Elisabeth – Yes we are aware.

The board reviewed the plans and was ok with the layout and the application met the requirements.

Motion – J. Moore/D. Kapnis I move to grant to Elisabeth & Andrew Clark of 13 Wells Ave, Assessor's Map 18, Lot 97, Georgetown MA for an accessory apartment in the existing single family dwelling, with minor exterior alterations, as the application meets the requirements of the Georgetown Zoning Bylaw, Chapter 165 § 69 (a-g) and the apartment will be 642 sq. ft. and does not exceed the greater of either 700 square feet or 33% of the livable floor area of the primary dwelling, and design presented kept the single-family characteristics of the neighborhood, pursuant to M.G. L. Chapter 40A, Section 9, and the Georgetown Zoning bylaws, Chapter 165 Sections 9, 69, 78 & 79.

I Further move the application meets the Zoning Bylaw Chapter 165-79 (a-d);

- 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.

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 primary 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 the primary dwelling occupancy, 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).
4. The entire home (*including accessory apt*) be no more than 3 bedrooms, 7 room maximum, per the Board of Health correspondence dated April 27, 2015.
5. The apartment shall be built per plans submitted and amended at the hearing as follows; J. Moore reads the exhibits into the record, (Exhibits B-F).

Plans – Marked Jeff read the exhibits into the record

Exhibit A - Correspondence from Board of Health, dated 4/27/15 stating the home should have a max of 3 bedrooms, and 7 total rooms for the size of the septic.

Exhibit B - Plot Plan dated 11/5/85 by John A. Goodwin, Surveyor, Middleton MA and recorded with registry of deeds on 12/26/85, Book 205, Plan 32.

Exhibit C – Proposed first floor layout with Accessory Apartment drawn by D.L. Kerr, Architectural Design Services and also stamped by Thomas Galligan, professional engineer on 5/1/15.

Exhibit D –Existing First Floor layout drawn by D.L. Kerr, Architectural Design Services and also stamped by Thomas Galligan, professional engineer on 5/1/15.

Exhibit E - Second floor layout drawn by D.L. Kerr, Architectural Design Services and also stamped by Thomas Galligan, professional engineer on 5/1/15.

Exhibit F - Elevation drawing drawn by D.L. Kerr, Architectural Design Services and also stamped by Thomas Galligan, professional engineer on 5/1/15.

Vote: Gina asked all in favor, all 5 members voted yes. Motion carried unanimously

Motion –S. Freeman /D. Kapnis to close the hearing for 13 Wells Ave, all in favor – yes, no discussion. Motion carried.

G. Thibeault - The Zoning clerk 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
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was filed with the Town Clerk. An applicant may file this decision before the 20 days but does so at their own risk.

Gina 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 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.

Patty Pitari
Zoning Administrative Assistant

Approved 9/1/15