



## 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 11 Long Hill Road, Georgetown MA Town of Georgetown Water Department ZBA File #16-11 May 2, 2017

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Board Members Present: Jeff Moore Chairman, regular member  
Paul Shilhan, regular member  
Gina Thibeault, regular member  
Sharon Freeman, associate member  
David Twiss, associate member  
*Dave Kapnis, regular member - Absent*  
*Shawn Deane, regular member - Absent*

Petitioner/Applicant present: Lou Mammolette, General Manger, Water Dept.  
Representative Deidre Lawrence of Duncan & Allen NE LLC, Braintree, MA  
Les Godin – Building Inspector  
Jeff McClure – Water Commissioner

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\*Note Board Members are referred to by their Initials

Chairman JM opened the Hearing at 7:33pm. JM introduced the Board members, stating we have 5 members tonight.

GT read legal ad; A Public Hearing will be held on May 2, 2017, at 7:30 pm at the Georgetown Town Hall 3rd Fl. Meeting Room, for a Petition/Application filed by the Town of Georgetown Water Department, General Manger Louis V. Mammolette, 1 Moulton St., Georgetown, MA 01833 for an elevated Water Tank which requires a Finding, Special Permit, or Variance. The preexisting, nonconforming lot lacks dimensional requirements for lot area of 60,450 sf. where 80,000 sf. is required, frontage of 110.39 ft. where 200 ft. is required and lot width of 50 ft. where 150 ft. is required; pursuant to M.G. L. Chapter 40A, § 6, 9,10, and the Georgetown Zoning Bylaws Chapter 165, Sections, A.3, 8-11, 74-79, 84 and 94. The premises affected is 11 Long Hill Road, in the IB District, Assessor's Map 15, Lot 49A. *ZBA file # 16-11*- Also found on the website for: Massachusetts Newspaper Publishers Association's (MNPA) [masspublicnotices.org](http://masspublicnotices.org)

#### Applicants Presentation:

Attorney Lawrence stated the Water Department is looking to construct a new water tank on their property at 11 Long Hill Road, the reasons for the zoning relief is the lot does not comply with lot width and lot requirements, the lot was acquired pursuant to approval received from town meeting in 1977, via Article 26, which stated, in relevant part, that the parcel was to be managed and controlled by the Board of Water Commissioners for a future water tank site. It was been continuously used by the water department since then. In 1979 the lot was created pursuant to an ANR (approval not required) subdivision plan. More recently on March 28, 2017 received a denial to the building application on of non-conformity of lot requirements, the use for the water tank on the site is permitted as of right as a municipal use under the bylaw and that was also made by the Building Inspector. The Building inspector gave us three avenues of relief we could file for; the Special Permit 165-94 pre-existing nonconforming structures or uses, she read bylaw 165-94, the second Section 165-10 (b) of the bylaw on waiver requirements. I submitted a letter or summary with the application that explains.

#### Lou Summarizes with plans

LM – We engaged the services of an engineer to help us through this process of determining measures we could take to make improvements to the system especially because we have an existing water tank which was built in 1960, this tank has

needed repairs to make it structurally sound, he explained the new tanks necessary because of severe structural deficiencies in the tank located on Baldpate road. There is a second tank on Baldpate that was built in 1977, but it's the tank built in 1960 that does not have much time left on it. This option of the new tank on Long Hill was the best choice. Our proposal is a benefit to the town to construct on this site and the engineering shows that this is the optimum site. The system, all the wells, the treatment center, storage is all really on the western side of town and a lot of the town is grown on the East, North and in every other direction from where the facilities are now so it will promote a more balanced distribution of pressures throughout the system, and the delivery of newer water to the opposite end of town where the supplies and treatment plant are located.

J. McClure – The existing tank is at the end of its useful life, we did a couple band aids to it, maybe a couple of years, so while we get the most we can out of that tank, we have been actively designing with the engineer to swap the new tank with the other.

Lou Mammolette and Jeff McClure explained the new tank is necessary because of severe structural deficiencies in the tank located on Baldpate Road. In their summary in the application they explained the issues that stated "in 2015 the Water Dept. had to install cable bands around the dome ring of the Baldpate Rd. tank to prevent its roof from settling/collapsing. If this were to occur before the proposed new tank is constructed, then the town would lose 50% of its water storage capacity. This would have a significant impact on fire flow capabilities". LM - The new tank is also needed for water storage on the eastern side of town.

JM asks Lou to go ahead and explain the plans first.

LM shows the location, and explains it in the neighborhood that has the two cell towers, on Long Hill, the towns 3 wells and treatment plant are off of West St. (next to West St. soccer fields) there is a 3<sup>rd</sup> well that exists off of lower Bailey Lane off Rt. 97 and ties into others thru the plant and gets pumped out through the rest of the system. The storage tanks for the town the original tank that you see when you're coming in from Boxford (says Georgetown on it) was built in 1934, its part of the original system and then there are 2 concrete storage tanks that were built behind Baldpate Hospital the one we are having issues with now built in 1960 and other next to it was built in 1977, so the capacity from the new tank is basically replacing the old tank,

It will promote a more balanced distribution of pressures throughout the system, and the delivery of newer water to the opposite end of town where the supplies and treatment plant are located.

DT – Is the tank from 1934 still working, and is there water in it now?

LM – That tank has been out of service for 2 years, he explains about the old tank, could be used in an emergency, and hydraulically everything existed in one part of the town, and that tank was used to control the levels or the level in that tank controlled the pumps turning off, that tank is now empty. He explained water quality.

DT – The tank that is going, what about the same location, is that not a good spot for the new tank.

LM – Hydraulically across town engineering shows this will work better.

J. McClure – When that tank from 1934 went off line, the water quality in town got better, and over the last 2 years the water quality has gotten better.

Discussion followed on water quality.

SF – Will there still be a tank on Baldpate.

LM – Yes, the other was built in 1977.

DT – The water tank on Long Hill where will that be treated?

LM – All the water starts in sources that are on one side of the town (parker river aquifer), so all water comes from west side of town, it all gets tied together and goes through water treatment plant off West St and all the water gets pumped out the distribution system, that goes everywhere.

DT asks about general running of how water runs through to homes.

LM explained how the system works to get to the homes.

SF – Asked about tank built in 1977, will that need to be replaced?

LM – It was built of different material, it's in much better shape.

J. McClure – We hope to get 50 more years out of it. Its concrete the other is steel they are made better and last longer now.

GT – Most of the trees are taller, I read in the summary, you will see site plan approval for those items.

LM – From a site line perspective or the viewing angle you will see some of it, the cell tower are much higher. This is 120 feet. In many instances you won't see any of it.

JM – What sets the height in regard to the water tank, it needs to be a certain height, I am assuming if it was another location it may have to be much taller, please talk about that.

J. McClure – The pressure that you get out of your faucet in town comes from the water level elevation that is in the Baldpate tanks, so as you put multiple tanks in a system, they all have to have the exact same, what is called an overflow elevation, so it's all going to have the same level, so we have to match that same elevation, at Baldpate the tank is at one level at Long Hill a different level and that's what dictates what the size of your tank is, and meeting that is important.

JM- Is it the highest on that end of town.

J. McClure – It's the second highest point in town.

LM – I think it is the second highest point in town. The tank is 120 feet.

J. McClure – It is the highest on that end of town and because it is higher that means the tank can be shorter. Discussion followed on water levels.

LM showed the C2 and C3 is the access plan – C2 shows where the tank will be located. He explains the engineer looked at where the site can bear the load of the tower, that has been done, and situation to ensure you can meet the setback distances. On plan C2 it shows a row of arborvitaes (on sheet D2) the screening is designed to be in the backyard toward the base of the tank. The tank will be cast-in-place concrete foundation, the new elevated water tank, will have a single motion activated light above the entry door, eight foot chain link barbed wire top security fence around the tank. Its 40 ft. in diameter and the top is roughly 60 ft. in diameter.

DT – What color will it be?

LM – Concrete is the base. We didn't pick a color for the top.

Attorney Lawrence - I guess Planning will tell us anything about the look.

JM asked if there was any new correspondence. There was none.

PS read into the record - Plans – marked as Exhibits A-I  
**EXHIBITS MARK INTO RECORD – 11 Long Hill Road**

**Plans to Sheet 9, all dated 1/6/17 – Drawings by Peter Calderazzo, Engineer, Dewberry  
280 Summer St. Boston, MA 02210**

Sheet 1 -Drawing G-1, Mark as Exhibit A – Title Sheet & Index of Drawings

Sheet 2 -Drawing C-1, Existing Site Plan notes and legend Mark as Exhibit B

Sheet 3- Drawing C-2- New/proposed Water storage tank site plan & notes Exhibit C

Sheet 4 –Drawing C-3 – **Access Plan/New** Water tank site plan – Mark as Exhibit D

Sheet 5 –Drawing C-4 – Composite Elevated tank and section and elevation Exhibit E

NO SHEET 6

Sheet 7 –Drawing D-1 – Site Details Sheet 1 of 2, mark as Exhibit F

Sheet 8 – Drawing D-2 – Site Details Sheet 2 of 2 mark as Exhibit G

Sheet 9 –Drawing M-1 – New Tank Floor Plan and Details mark as Exhibit H

PLAN OF LAND, signed by Planning Board 2/26/79, Recorded 4/4/79, plan book 152, plan 72, drawn by Louis Holt, surveyor, mark as Exhibit I

Tank

Base of Water tower is 40 feet in Diameter

Setbacks are;

Southern Side setback is 38.77 feet

North - Side setback is 80.5 feet – looking towards driveway

West Side setback is 46.27 Ft.

JM – Back to questions from the Board.

**Audience – one member but had no question at this time 8:05pm**

SF asks about the access road. LM explained the existing access road, it is not ours the road would be contained within the lot.

LM - The driveway entrance from Long Hill Road will be widened and stabilized for construction vehicle access, and then narrowed and paved at the completion of the project. Beyond the driveway entrance, the remainder of the access road and tank apron will be constructed with gravel. Significant natural screening will be saved where ever possible to minimize views, the height of most trees on site exceeds that of the tank itself. The above-grade completed height of the tower will be 120 feet.

JM asked about the maintenance after it is built.

LM – The tank itself is a passive object, you don't have to go up and turn it and operate it on or anything, we do a once a month check on it, there may be some storage there, there is no office, or anything like that, no pumps.

Discussion followed on construction hours, construction timeline, color etc. Item that Planning will review.

GT – When in 1977 was it a conforming lot then.

Attorney Lawrence- There were zoning changes thru the years, for it to be an ANR lot, presumable it was conforming at that time to the dimensional requirement, originally it was a CC district, that was 1969, the IB district was created in 1968, in 1984 it was changed from CC to IB. District was created in 1958, and was changed from CC to IB in 1984. We are not sure how to find out what the dimensional requirements where for those particular points in time when there changes. Presumably the lot was in compliance in 1979, and some subsequent change must have thrown it out.

Les Godin, Building Inspector – I think it was a nonconforming lot back then, with 200 ft. of frontage and 80,000 sq. ft. of lot requirement, I think when planning signed in 1979, usually an ANR plan says if it's a buildable lot or a parcel, I think they approved it as a parcel and I think the understanding is that you didn't really need a buildable lot for a utility, you just need a buildable lot for a house or structure, in zoning in general a lot of towns and cities, that's the case, it turns out in Georgetown our zoning does say a use needs a buildable lot, I don't think that was recognized, it's just a guess, but back then I don't think the town though they needed a buildable lot for a water facility.

JM asked if they could talk about what is there now.

LM – We have a booster pump station that was constructed as part of the mitigation for ZBA approval the Mirra 40b apartment's project, and it's built on a piping loop that was specifically meant to meet up with a future water tank, the piping that would go to the tank, was built as part of that project.

JM – So the municipal use is already in place. Discussion on booster station.

GT asked the gentlemen in the audience if he would like to speak, he replied no thank you he was all set.

SF asked his name. Mr. Ogren stated he lives at 5 Long View Way, he is fine with it.

DT asks Building Inspector, if the lot was still CC they would not need to be there.

Les – Right it would probably be grandfathered.

GT – Is there something with an ANR that carries?

Attorney Lawrence – No, you have to build within 5 years, and it's only residential.

DT – In 1979 this for all intense and purposes this was allowed and then with zoning changes it became a maybe with zoning approval, and with the fact you are already using it with for water department, the lots no buildable, there are 2 cell towers up there that are taller, this information helps me make a decision for my vote.

JM asks LM to talk about the benefits of a balanced system in regard to the storage of the water.

LM – I think you mean water age.

J. McClure stated the primary benefit is really the stabilization of the pressures and your flows, your fire flows in particular, it's a huge benefit for fire flow on that side of town, so you have the water that is closer to you that's, or as the water moves along the pipe there is something called a head loss, that takes away some pressure, it gets less and less pressurized as it goes, to have that pressure close to your home it makes it much more stable; the water quality component comes in that the water is arriving at that tank with a higher chlorine residual, which means that its being treated/held better, and you can have a shorter stretch from that tank to the homes and will improve quality.

LM – The entrance to the site states “the future site” of water tank, it was there in 1991, so the intent was always to build something there, I think we waited too long to build it.

PS – The water quality has been an issues for quite a while and we knew for some time the water was still not the best.

LM – We have made some short term fixes, we need to make the next steps, and this tank is that next steps.  
I spoke to 4 of the 5 residents closest to the lot, and spent 15 minutes or so with each

GT – Mr. Ogren is the only one here,

LM – I took a proactive step and contacted the 5 closest people to the site, I spoke to 4 of the 5, who understood what was going to be there, I answered their questions.

GT - Did you contact the direct abutter? LM – That is the one that I made 2 attempts to contact them and they did not call back. Patty stated the abutter notices went out to all on the list.

SF asked if they are you removing the tank on Baldpate. LM – Yes.

JM to Attorney and application and bylaw options for what this would require and the 3 avenues the board could take.

Attorney Lawrence – The Inspectors letter of March 28, 2017, we looked at the 3 potential avenues of relief the board could make; the dimensional requirements for this lot the first we looked at is  
The Special Permit 165-94 pre-existing nonconforming structures or uses, she reads bylaw 165-94, so the board would have to find that the tank is an alteration or extension of the booster that exists.

JM – It's not the use that's in question it's the total size and width of the lot.

Attorney Lawrence – Yes it's the lot being nonconforming.

JM – Specifically the lot width overall size and frontage.

SF stated to me the tank would be more detrimental than the booster.

Attorney Lawrence – Still in regard to the special permit if you find the tank is essential or desirable to the public convenience or welfare; it won't; 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; it will not impair the integrity or character of the district or adjoining districts, it will not cause an excess of that particular use which could be detrimental to the character of the neighborhood. She argued these points.

PS and JM discuss special permit options, and mentions 165-10.

The second avenue you could take is Section 165-10 (b) of the bylaw on special permit or waiver requirements that states the board of appeals may by special permit waive min lot or yard requirements where appropriate to the use sought on lots

which were in existence when the commercial or industrial district was created in which such lot is situated in connection with new construction or change of use and may impose conditions.

Attorney Lawrence – I am not sure if frontage is included. The site has always been used for water department purposes, and was acquired solely for the purpose of constructing a water tower, while the use of the site by the water department is a conforming use, the lot itself in non-conforming, due to no fault of the applicant. Meets all yard setbacks, and then the zoning changes etc.

JM – The section of the bylaw specifically gives the board authority to waive min yard requirements, which is the whole point of the section so if a lot had to have proper requirements we would need this section of the bylaw. I think this is exactly why this is in the bylaw.

Attorney Lawrence – The third being a variance in regard to the frontage, lot width and minimum lot requirements of the intensity of use schedule. She stated the proposed project “a municipal utility infrastructure improvement is essential for the public convenience and necessity.

JM – A variance has some extra hurdles and discussion follows on that avenue.

DT – I am comfortable without the variance option. DT – I am comfortable with option 2.

PS discusses the delineation of the lines. Mr. Mammolette showed on plan, where IB and residential is.

Les enters a sheet from MIMAP that show the Line, he drew a line center line of route 95.

JM that’s why a lot of lots are split in 2 zones.

JM asked audience – Mr. Ogren in audience did not wish to speak.

#### Continued Board Discussion

JM – My opinion I spent time with Les on this on what avenues I think this can easily be a special permit that is my opinion.

DT and SF agree.

JM – We would need to make a couple findings first and based on those findings do a special permit.

PS – I don’t have anything else.

GT states it is going to site plan approval, I worry about construction hours, JM we can note it.

JM - Do you foresee any major changes, not the screening but major like the tank will not be higher or anything?

J. McClure – No changes to tank these plans have been stamped and accepted the DEP.

Audience – One abutter did not wished to speak.

#### Motions/Findings

**Motion** - GT – I move that the Board find that Assessors lot 40A, Map 15, in the IB district, known as 11 Long Hill Road was in existence and used for Water Department facilities when the Industrial District B was created.

Seconded by DT, JM asked all in favor, all replied yes. Motion carried unanimously.

**Motion** - GT -I move the Board further find that the proposed new construction and expansion of the Water Department facilities use is per Zoning Bylaw Chapter 165-79; A. Essential or 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. Seconded by DT, JM asked all in favor, all replied yes. Motion carried unanimously.

GT – Motion – Based on the evidence presented at this hearing and the findings made by the Board

Per 165-10 of the Zoning Bylaw, I move that the board grant a Special Permit to the Town of Georgetown Water Department for the construction of a municipal Water Storage tank and waive the minimum lot size and minimum frontage requirements specifically for the lot area of 60,450 sf. where 80,000 sf. is required, frontage of 110.39 ft. where 200 ft. is required and lot width of 50 ft. where 150 ft. is required pursuant to M.G. L. Chapter 40A, § 6, 9, and the Georgetown Zoning Bylaws Chapter 165, Sections, A.3, 8-11, 74-79, 94 Specifically 165-10 (b).

With the following conditions;

1. All Construction be per Plans submitted with the application.
2. The Applicant applies for Site Plan Approval

Seconded by SF, JM asked all in favor, all replied yes. Motion carried unanimously 5-0.

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 has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun by such date except for good cause.

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

DT/GT to close the hearing on 11 Long Hill Road, all in favor, motion carried 5-0.

*Patty Pitari*  
*Zoning Administrative Assistant*

*Approved at 7-11-17*