



**Georgetown Zoning Board of Appeals**  
*Memorial Town Hall ♦ One Library Street ♦ Georgetown, MA 01833*

**MINUTES OF A PUBLIC HEARING**  
**119 Elm Street, Georgetown MA, ZBA FILE #11-06**  
**August 2, 2011**

**Board Members Present:**  
**(All Voting)**

Jeff Moore, Chairman  
Dave Kapnis, regular member  
Gina Thibeault, regular member  
Sharon Freeman, regular member  
Evan O'Reilly, associate member

Absent: Paul Shilhan, regular member  
Zoning Clerk: Patty Pitari

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J. Moore opened the Hearing at 7:30.

S. Freeman read the legal ad; An application has been made by Brian & Sabrina Gosse (Owners), 119 Elm Street, Georgetown MA, 01833, Map 10A Lot 13, for a Finding, Special Permit or Variance under; M.G. L. Chapter 40A, Section 9 and 10, and the Georgetown Zoning bylaws, Chapter 165 Sections 9, 10, 78, 79, 84 and 94. The applicant is requesting build an addition (front porch) to a pre-existing non-conforming dwelling, closer to the front setback than allowed being 9ft where 20ft is required. The premises affected is 119 Elm Street, in the RA district and identified on Assessor's Map 10A, Lot 13. *ZBA File #11-06*

**Applicants Presentation:**

Brian Gosse 119 Elm St. – We have kind of an odd structure built in 1951, both in footprint and location, it states front porch but we are on a corner, so it's actually a back porch, it's on the Brook St. side, we have an existing 3 season that's there, its 2 ½ ft. wide at its narrowest and x 4 ½ ft. at its widest and it's really not a useable space, we would like to expand it to be able to use it, we have an existing access to it, and working with the building inspector, he suggested this footprint. I think I can get a Finding.

J. Moore –As far as a finding, that will be up to the board to determine, the bylaw is very ambiguous.

**Board Questions/discussion**

J. Moore reads part of the denial of the building inspector that's it's a legal non-conforming structure. Not all non-conforming structures are legal non-conforming, under Section E of our Rules of Procedure, you have several issues, your side setback is Brook Street, they are nonconforming as to

front and side setback, and to modify one of those non conformities, in this case you are non-conforming on 3 sides. J. Moore reads section E of the Rules of procedure.

J. Moore – I kind of disagree with the building inspector, in the area of the front lot, your address is Elm St., the front setback is actually Elm St., so the side setback is actually Brook St., but your nonconforming in either direction, you have a conforming lot, but you are non-conforming as to the front and side setback, and what you are asking to do is to modify one of those existing non conformity's without creating any new non conformities that doesn't already exist. If you were to ask to go all the way back to the rear lot line, it would be an entirely new non conformity it would go directly to a variance requirement. In this case it's the side, and other's the garage is non-conforming, the front and side is nonconforming, this board has to make a few findings, if we come to a conclusion and if you read our Rules of Procedure, Section E.

J. Moore – It's really Section C and D of the section of our Rules of Procedure. We have to determine if it's a Finding or Special Permit.

J. Moore – The first thing is does it increases the non-conforming aspect, I disagree with the building inspector, I think it should be a special permit not a finding. Because you are ending up with more structure.

D. Kapnis – I agree that it should be a special permit. Dave examines the plan.

J. Moore – If we go to a special permit we have to find the change is not substantially more detrimental to the neighborhood.

G. Thibeault– I think that because of the way you designed the porch, it looks like you didn't want to go passed the 9ft, because you thought that was your limit, because you have that step on the plan, if we are going with a special permit if you wanted to get rid of that step. I just worry that you designed it because of the requirements.

Gosse – We did originally, but we actually like the plan now.

J. Moore – You have land on the Brook St. side, and there are no abutters here, I think if we find it's not more detrimental, I think we may want to look at a condition for the screening, you are really close to the lot line, it's an odd spot, odd shape, there is a bend on Brook St.

Discussion follows on screening on both sides.

D. Kapnis – We could add a condition that the natural barrier is to remain.

Brief discussion on the 10ft, being the town's property.

G. Thibeault – Can we condition something that's on town property.

D. Kapnis – We can address what's on the property.

J. Moore – I think the way you did the plan looks good, especially with the trees there, I don't think it's substantially more detrimental. We have to find that the change doesn't create a new non conformity,

and the change would not be more substantially more detrimental than the existing non-conforming use to the neighborhood, with any conditions, maybe the screening barrier.

**Audience - None**

J. Moore – This is actually a side setback for the porch.

**Special Permit**

**MOTION - S. Freeman/E. O'Reilly** – I move to grant a Special Permit to Brian & Sabrina Gosse of 119 Elm St, Georgetown, MA, Map 10A lot 13, to allow the applicants to build a side porch addition to a pre-existing nonconforming dwelling closer to the side setback than allowed, being 9 ft. where 15 ft. is allowed. The changes presented would not create a new nonconformity and the change would not be more substantially more detrimental than the existing non-conforming use to the neighborhood.

With the following Condition:

1. The natural screening barrier along Brook Street on the property remain in place.

The board further found that the requested use (addition) 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.

**Vote:**

Evan O' Reilly - Yes  
D. Kapnis – Yes

S. Freeman – Yes  
J. Moore – Yes

G. Thibeault - Yes

**Special Permit is unanimously granted 5-0.**

J. Moore – 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

**Motion** –D. Kapnis/ E. O"Reilly to close the hearing for 119 Elm Street, no discussion, all in favor, Motion carried.

Patty Pitari  
Zoning Administrative Assistant



Approved \_\_\_\_\_

9/7/11

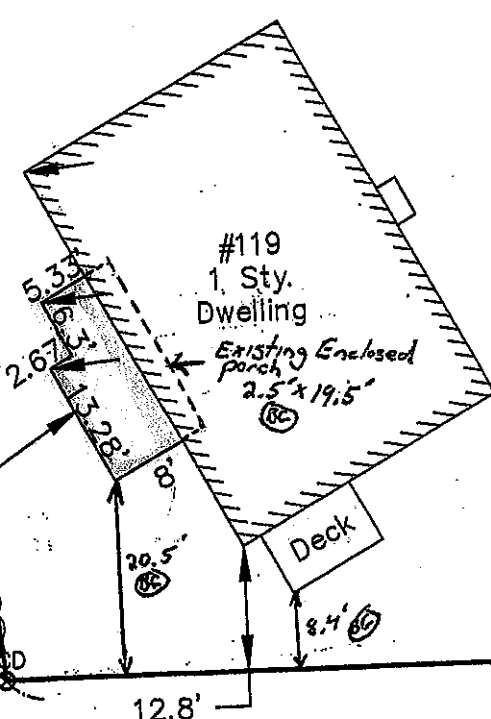
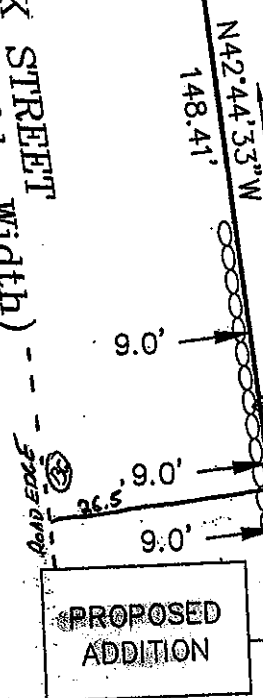
Map 10A Lot 14  
N/F  
Carol Bain & Leonard Mosher  
5 Brook Street

Tie Line  
147.93'  
N48°49'57"E

By The Brook

Map 10A Lot 13  
23,050 sq.ft.  
0.53 acres

(Public - Variable Width)  
BROOK STREET



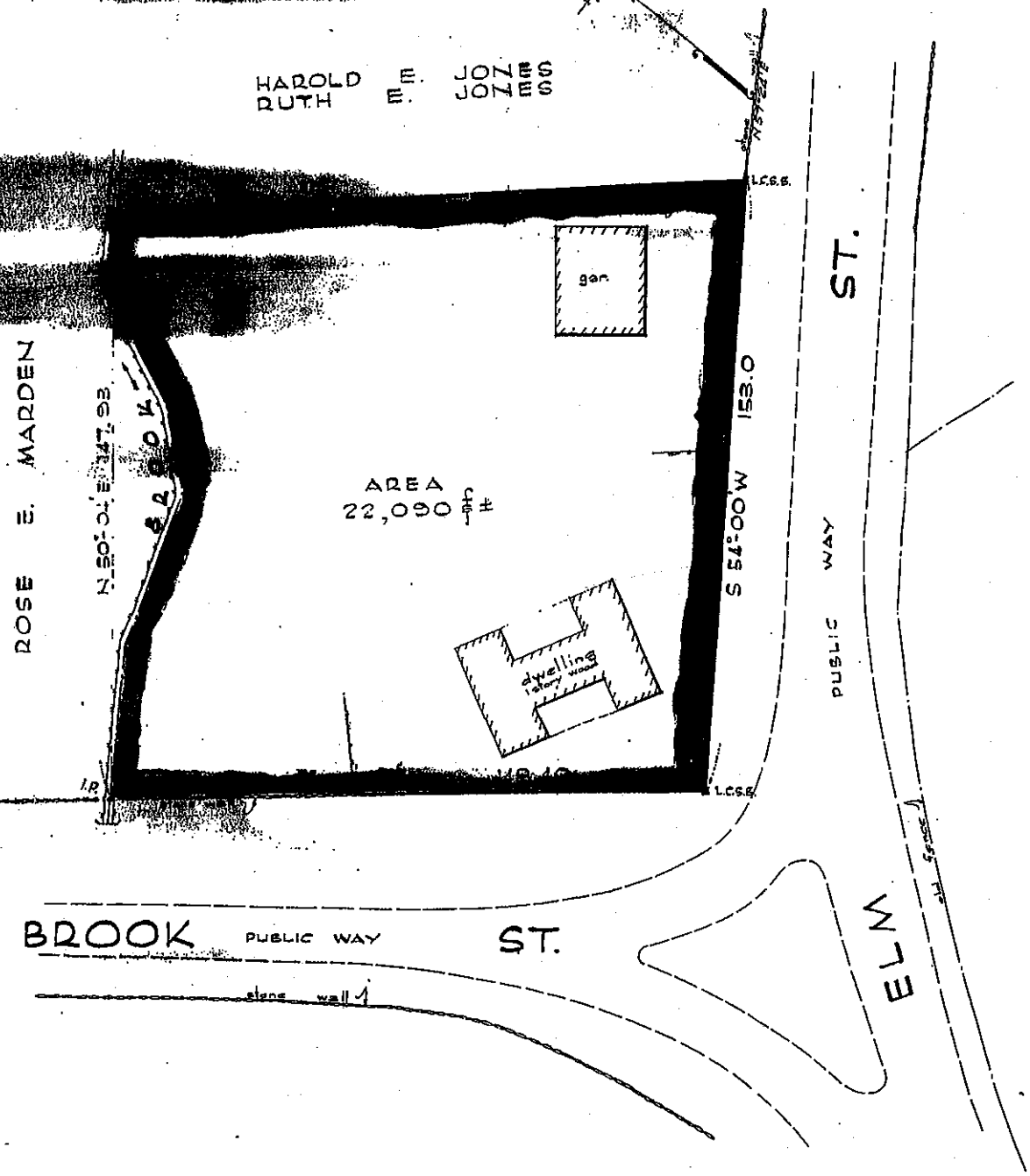
S52°45'57"W  
153.00'

ELM STREET  
(Public - Variable Width)



Shrunk from Master  
Not to Scale (36)

HAROLD RUTH E.E. JOZIMS  
E.E. JOZIMS



# PLAN OF LAND IN GEORGETOWN, MASSACHUSETTS

SCALE 1" = 20'      OCT. 8, 1951

RALPH S. BRASSEUR C.E.  
31 HAMILTON AVE. HAVERHILL, MASS.  
REVISED MAR. 1955

This plan does not require the approval of  
the Planning Board of the Town of  
Georgetown.

PLANNING BOARD OF TOWN OF GEORGETOWN

*Mary W. Nichols*  
*William J. Sullivan*  
*Sidney M. Rogers*  
*Thomas H. Bridge*

I certify that this actual survey was made  
on the ground in accordance with the  
Land Court instructions of 1950.  
Oct. 8, 1951 *Ralph S. Brasseur* Surveyor.