



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

MINUTES OF A PUBLIC HEARING
201 Central Street, LLC – ZBA FILE #11-05
Request to Modify/Amend Previous Decision
August 2, 2011

Board Members Present: Jeff Moore, Chairman
(All Voting) 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

Also Present: John S. Anderson, Attorney at Law, 19 North Street, Georgetown, MA

J. Moore opened the Hearing at 7:31. S. Freeman read the legal ad; a petition has been made by 201 Central Street Condominium Trust for a Request to modify a previous Decision (Variance) under M.G. L. Chapter 40A, Section 10, and the Georgetown Zoning bylaws, Chapter 165, Section 84. The applicant is requesting to modify/amend condition (#4) of a previous decision, File # 00-16 in regard to a 6 ft. high fence. The premises affected is 201 Central Street, in the RB district and identified on the Assessor's Map 9A Lots 1-14.

In a decision filed with the Town Clerk on September 5, 2000, ZBA File #00-16, (see attached), the board granted the construction of 14 two bedroom town house condominiums at 201 Central Street, Georgetown, MA, one condition of the decision was listed as #4, Construction and Maintenance of a 6-foot high, solid panel, cedar fence across the rear property boundary, to be maintained by the condo association.

Applicants Presentation:

J. Anderson, 19 North Street, Georgetown MA, - Attorney for the Condo Association – I am representing the trustees of the Condo Association, the petition is in regard to a fence in front of the old railroad bed, the southerly corner. Approximately 160ft is rotting and lies in a low area, one year the water was so high that there were actually ducks swimming, the scalloped line on the plan is the underbrush location which covers some of the fence. The posts were reinforced and that has not worked.

J. Anderson presented photographs marked as Exhibit A (shows a close up at bottom the fence where it is leaning); Exhibit B, (shows a shot of fence and brush about 50 ft. away) and Exhibit C (shows the fence about 25 ft. away). These pictures show the portion of the fence that's falling down. They seek to remove this portion of the fence not replace it, it doesn't serve to separate one area from another (screening).

August 2, 2011, Hearing Minutes, 201 Central St., ZBA File #11-05

Description of proposed work/use: We are looking to amend/revise the #00-16 ZBA decision that requires that there be a cedar fence at the back of the property, to allow them to remove and not replace the eleven sections of the fence which are rotting; or in the alternative, if not replacing the removed portion of the fence is unacceptable, for an amendment allowing replacement of the rotted portion of the fence with a resin fence because parts of the fence sit in water. The fence mainly benefits the owners, it serves primarily for cosmetic purpose, it appears to offer very little screening benefit to abutters.

J. Anderson - Condition #4 reads Construction and Maintenance of a 6-foot high, solid panel, cedar fence across rear property boundary, to be maintained by the condo association.

J. Anderson – I spoke to Conservation Agent and they prefer it be removed.

New Correspondence

Read into the record by D. Kapnis.

Email from Conservation Agent: stating the Commission discussed the fence issue at 201 Central St. at their July 21st meeting, a significant portion of the fence is within a resource protected by the Wetland regulations. Ideally the Con Com would prefer the fence not be replaced in the same location. If the ZBA decides to have the fence replaced in the same location, we would ask that the applicant work with the agent on what type of material would be used.

J. Moore – It sounded to me in regard to conservation it didn't matter if it was removed or not, but if the board decides it stays, you will need work with them on the material.

J. Anderson – They association does want to keep the remainder of the fence that is not falling down, and that serves as screen for rail road bed and some other minor things.

Board Questions/discussion

J. Moore – Conservation didn't have a strong opinion, just that if it's replaced or replace with a different material that you work with them.

D. Kapnis – Does the existing fence come around the corner and down where that buffer is or does it go straight and dead ends at the corner? Also, and are the posts set in concrete, and if so are you removing the concrete as well?

Paul Davis, *(no address, unit # didn't come to microphone, Inaudible to answer Dave's first question.*

P. Davis - Yes it's concrete. Our hope is that it can just be cut at grade.

D. Kapnis – The last post that's going to be remaining, is not a structural post per say, they one that is kind of in the middle, have you looked at that being reinforced better, because once these sections removed, parts of the fence will get wobbly at the back.

P. Davis – We will do something with that.

J. Moore – I tried to find out why the condition was in there, but it seems it was part of the original application.

Patty read a portion of the minutes from 2000, but the minutes just state the petitioner stated there would be a 6 ft. cedar fence, but it doesn't go into why.

J. Moore – This may be a good time to modify it for privacy for the rail trail, and screening for the neighbors.

Audience

Elisabeth Lebrun, Trustee of Condo Association, Unit 11, 201 Central St. – We (condo association) voted on this and we had a majority vote that we wanted to remove the fence, knowing that it may be more difficult to put back.

J. Moore - You probably will not be able to put it back in the same place as it's in the wetland.

D. Kapnis – Did the person who owns the corner unit that's affected the most at the meeting and how did they vote.

E. Lebrun – Yes they were present and they voted to remove it.

J. Moore – Any thought to bring the fence in at an angle, staying out of the low section? I am concerned everyone thought thru the ramifications when the rail trail is active. I don't see this as a big zoning issue, I think whatever the association wants is probably going to be reasonable. You may want to put in some kind of access gate.

Rick Hayes, Unit 4, 201 Central Street – Perhaps where the reinforcement of the post is, maybe that could be where the gate could be. We are blocked on side of rail trail, there is dense brush (*REST OF STATEMENT IS INAUDIBLE did not come up to speak. Spoke from middle of room, didn't pick up on Microphone*).

J. Anderson – They are 20 - 8 ft. sections. We could draft language, or make a drawing, I am not positive, and the gate is a good idea.

D. Kapnis – The gate can work two ways, one of which you may not want.

J. Moore – We have options, we can continue to next month and let you have time to put something together.

D. Kapnis - If you can resolve this now, why wait another month.

J. Anderson asked to speak with the trustees present for a couple of minutes.

The applicant took a 5 minute recess to discuss the options.

Back from Recess;

J. Anderson – After speaking with the 5 trustees who are here tonight, I think the idea of the gate is intriguing, it's not something that we can be aware of what the position of the other 14 unit owners might be, so because of that and that may be a possibility and it might be expensive and difficult to get a gate in there at a later time I think we would like to continue the hearing to next month, and we could present something spelled out.

D. Kapnis asked the chair if they would have to come back before us to put a gate in at a later time.

J. Moore – I think so because the condition states exactly what they have to have there and it was a variance, it would have to be modified. If you can mark up a drawing that would help.

J. Anderson – We will come up with language that has a gate in it if they decided that.

J. Anderson – I may not be back myself, I may have someone else come in next time. I may have one of the trustees to come.

Patty noted John's name is on the application as representing the trustees, or he may submit an authorization letter for someone to represent on September 6, 2011.

Motion - S. Freeman/E. O'Reilly to allow 201 Central St. to continue to 9/6/11 immediately following the first hearing that begins at 7:30pm, discussion; D. Kapnis noted he may not be here on the 6th.

J. Moore – Asked if P. Shilhan can sit in, with that rule we have.

Patty noted - We can use the Mullen Rule, one member can miss one hearing only, and if Dave can't make it, then Paul Shilhan can review the tape/minutes and all evidence, sign a certification and submit to Town Clerk. If not, it would have to be the 4 members with a unanimous vote. Patty also noted we don't need an extension of time at this point (as it is a variance) but will if continued again.

J. Anderson – I believe the same board members need to be here to vote.

J. Moore – If we do end up with 4 members, I just wanted to say, I don't have any issues with this fence at all, if someone has any issues it should probably be brought up now, I have not heard any real concerns so far.

D. Kapnis- I don't have any issues if you put a gate in, but some people may not want a gate near their unit.

J. Moore – Any other discussion?

S. Freeman – Asked if Steve (conservation) had any concerns about materials.

J. Moore – The Conservation Agent stated in the email, if they were going to keep the fence in that same area then they should meet with him to discuss that option.

Discussion ended;

J. Moore, asked all in favor of Sharon's motion to allow the application to continue to September 6, 2011, immediately following the first hearing that begins at 7:30pm. **Motion carried.**

Hearing Continued to September 6, 2011.

Applicant or Representative to return with language for the modification and some type of drawing, if J. Anderson can't attend the board would need an authorization letter.

Patty Pitari 
Zoning Administrative Assistant

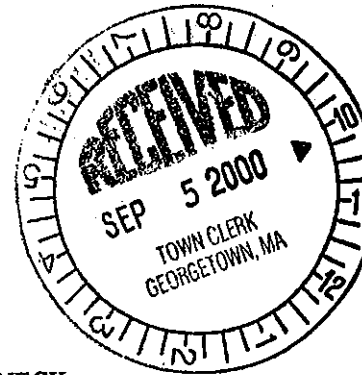
Approved 9/7/11

TOWN OF GEORGETOWN
Zoning Board of Appeals

**MEMORIAL TOWN HALL
1 LIBRARY STREET
GEORGETOWN, MASS.**

01833

**DECISION ON THE SPECIAL PERMIT / VARIANCE APPLICATION OF CRANE NECK
INVESTMENTS 201 CENTRAL ST. ASSESSORS MAP 9A, LOT 1 FILE # 00-16**



The Georgetown Zoning Board of Appeals held a public hearing after suitable public notice at the Georgetown Memorial Town Hall Meeting Room on June 28, July 19, and August 22, 2000, to hear the application of Crane Neck Investments Inc. to allow the construction of 14 two bedroom town house condominiums at 201 central Street in the RB district, identified on assessors map 9A, lot1.

The applicant requested a variance under Massachusetts General Laws Chapter 40A Section 10 and the Georgetown Zoning by-laws Chapter 165 Section 9,11, and 71, to allow the construction of 14 two bedroom townhouse condominiums. The premises affected are 201 Central St. in the RB district and identified on assessors map 9A, Lot 1.

The zoning board of appeals voted 5-0 to **GRANT** the **VARIANCE** with conditions as follows.

1. The developer will install a defined sidewalk with a curb for the length of property.
2. Maintain a 30-foot no cut buffer on the north side of property as per plan.
3. Maintain a 20-foot no cut buffer on the south side of property as per plan.
4. Construction and maintenance of a 6-foot high, solid panel, cedar fence across rear property boundary, to be maintained by the condo association.
5. At least one unit will be made available as low to moderate-income housing as per Georgetown by-laws 165-71.

In granting this valiance under Georgetown by-laws 165 Section 9,11 the board allows for more then one building on the lot in the RB district, also with a greater density of units then is allowed in this district.

The board weighed substantial information introduced in the presentation by the applicant's attorney, along with correspondence from the Georgetown Highway Department, the Georgetown Fire Department, the Georgetown Building Inspector, Henneman Victor Real Estate (Bonnie Demars), Phoenix Environmental Services Inc. (Donald Corey), Transportation Engineering, Planning and Policy (traffic study), and including testimony from a number of abutters.

The Zoning Board of Appeals deems this project not detrimental or offensive, nor will it reduce property values in the area by reason of dirt, glare, odor, dust, fumes, smoke, gas, sewage, refuse, noise, vibration, steam pollution, danger of explosion nor fire, traffic congestion or other cause. The board may authorize any other use not specifically listed in the schedule of uses if in harmony with the general purpose and intent of this chapter. The board was able to establish a hardship owing to soil condition, shape, and topography of this site. The cost to remove the existing buildings and potential additional environmental clean up costs lend to the proof. For instance, substantial asbestos in the existing building is costly to remove and to properly dispose of. The existing zoning would permit the construction of two single-family homes, which would not make it economically feasible to clean this site. This variance would also change the use of this lot from industrial to residential, and would be more beneficial to both the town and the surrounding neighborhood.

The Zoning Board of Appeals has also **GRANTED** a Special Permit for more than one building on a lot in this case has added conditions that provide certain open space, housing for persons of low or moderate income, traffic and pedestrian improvements as provided for in Massachusetts General Laws Chapter 40A Section 9, Special Permit.

CRANE NECK 2.

BOARD

NAME	VOTE	DATE
Michael Sweat	yes	9/5/00
Cynthia Bateman	yes	8/31/00
John Bonazoli	yes	
Douglas Gisonno	YES	8/29/00
Steven Epstein	yes	8/29/00

This decision is on file with the Planning Board and the Town Clerk. An appeal of this decision shall be made pursuant to section 17 of Chapter 40A of the Massachusetts General Laws and shall be filed within 20 days after the date the notice of decision was filed with the Town Clerk.



Patty Pitari

From: Steven Przyjemski
Sent: Tuesday, July 26, 2011 12:31 PM
To: Patty Pitari
Subject: RE: Scanned from MFP-07079764 07/18/2011 22:01

Hello Patty,

The Conservation Commission (ConCom) discussed the fence issue that is before the ZBA at the meeting on July 21st. A significant portion of the fence is within a resource protected by the Wetland Regulations. Ideally the ConCom would prefer the fence not be replaced in the same location. If the ZBA decides to have the fence replaced in the same location we would ask that you work with me on what type of material would be used.

If you have any additional questions feel free to contact me.

Thank you

Steve

-----Original Message-----

From: Patty Pitari
Sent: Tuesday, July 19, 2011 10:07 AM
To: Steven Przyjemski
Subject: FW: Scanned from MFP-07079764 07/18/2011 22:01

HI Steve,

Can you give me feedback on the attached hearing for 8/2. This is the fence at the condo's we have been dealing with over the last year..thanks...Patty

Patty Pitari, Administrative Assistant
Georgetown Zoning Board of Appeals
1 Library Street
Georgetown, MA 01833
(978) 352-5742
ppitari@georgetownma.gov

-----Original Message-----

From: copier [<mailto:toshiba@georgetown.gov>]
Sent: Monday, July 18, 2011 10:01 PM
To: Patty Pitari
Subject: Scanned from MFP-07079764 07/18/2011 22:01

Scanned from MFP-07079764.

Date: 07/18/2011 22:01

Pages:1

Resolution:200x200 DPI
