



Georgetown Zoning Board of Appeals

Memorial Town Hall ♦ One Library Street ♦ Georgetown, MA 01833

June 5, 2012

MINUTES OF A PUBLIC HEARING

ZBA FILE #12-06

**Black Swan Country Club, 258/258R Andover St., LLC – Owner Jack Swansburg
Modification of Previous ZBA Decision #11-01**

Board Members Present:

Jeff Moor, Chairman
Paul Shilhan, regular member
Dave Kapnis, regular member
Gina Thibeault, regular member
Sharon Freeman, regular member
Absent: Evan O'Reilly, associate member

Zoning Clerk: Patty Pitari

Alan Boisvert – Keons at the Black Swan Country Club

J. Moore opens the Hearing at 7:30pm, by reading the legal ad;

A hearing will be held on June 5, 2012, at the Georgetown Town Hall 3rd floor meeting room, an application has been made by 258 Andover Street, LLC (Owner), John R. Swansburg and applicant: (Alan Boisvert, Lessee), Property Address: 258 & 258R Andover Street, Georgetown MA, 01833, Map 5, Lot 3 & 3E, to modify an existing Zoning Decision, ZBA file# 11-01, under M.G.L. Chapter 40A, § 9, and the Georgetown Zoning Bylaws Chapter 165 § 9, 78 and 79.

J. Moore reads authorization letter for Mr. Swansburg allowing for Alan Boisvert to represent the property. The board has concerns about the banner that is there that was approved in the previous decision and the board and Mr. Boisvert agreed it needed to be revisited.

Alan Boisvert – What I wanted to do from the beginning is have a permanent sign out front, I am hoping to at least get a t sign out front for my business, and you were gracious enough to give me the temporary signs in the previous decision, I am hoping to modify that to have a permanent sign, “ Keon’s Grille” have it state that we are open to the public. It is still confusing I still have customers from my Haverhill location ask about Georgetown, if it’s open to the public because it is part of the golf course. I want to thank you for the banner, and I know many people are not happy with it, as well as the board and myself.

Alan presented a picture with measurements of the proposed sign - Exhibit A dated 4/18/12, (drawing by Village Sign Works of Ipswich), the sign is double sided dimensional sign the panels /PT Wood post/wood sleeves/ with 3 additional message panels below the Large Keon’s Grill lettering that would have changeable letters. The dimensions show 77.5 inches wide (sign only, not including posts), from the ground it shows 87.69 inches, and the sign section only length is 59.54.

G. Thibeault – I feel like you are not following the conditions, the conditions we set are not being met, I know that you don’t like the banner. The signs we allowed have been up longer than the 28 days as the special permit stated, they have been there for more than a couple of months, I also thought they was more for advertising

instead of special functions, like PTA functions. I haven't seen anything other than the ad for beer on the banner, it just looks larger.

J. Moore – The banner is hideous and not what we intended, it doesn't at all meet what our perception was, and I think the conditions could have been written better and we take responsibility for that. Other than that it was too tall, and just didn't look right.

D. Kapnis – It's not conducive to the property, when you have such beautiful property and a 10 cent banner doesn't look right, and in condition #4, the beer ad looks larger than the 25%, it looks larger because there is an area where it goes up and down and it also runs across the bottom of the banner so it is actually more than 25%.

Alan – It's a free sign, so I tell them what it should say and they make it; I can't even proof it. I just let them know the beer ad can't be more than 25%.

G. Thibeault – It was never intended to be a beer sign. I have said that from the start, it shouldn't be more than 25% of any product as written in the decision.

P. Shilhan – The entrance signs on the stone wall, they don't look like the same signs that were granted, they were going to be interchangeable letters that are not there now, as it is today those letters to advertise for Keon's are not there as originally shown in the previous hearing, are those going to be changed?

Alan – The Club went without that lettering part, they decided it would look better without those letters, and it is smaller also. That's not my call.

P. Shilhan – So at this point addressing removing the temporary banner and replacing it with this new permanent sign you have presented in your application.

Alan – Yes.

New Correspondence

1. D. Kapnis read and email from Peter & Susan Wotjkun of 300 Andover St, in opposition of the sign and any further changes that increase the commercial use or advertising for this venue (*see attached*).
2. J. Moore read email from Jon Metivier dated May 14, 2012, addressed to the Board;
On Tuesday April 24, 2012 I met with Mr. Boisvert of Keon's Restaurant. At the meeting we reviewed the current location of the temporary banner and the proposed location of a new sign. The existing banner is within the town right of way. I located the property line with respect to the RT. 133 roadway paving. This was done with a scaled certified plot plan. Signed Jon Metivier, Building Inspector, Town of Georgetown.

Audience

Richard Soloski, lots 3 & 4 Crescent Meadow Lane – I agree with the board about the banner, but I thought there was to be no beer advertising. I do think a permanent sign would be more pleasing than what is out there, as long as it is done correctly.

Christopher Rich, Trustee for Cryan Realty Trust which owns, 292 Andover Street.

J. Moore – Mr. Rich, if I could just interrupt briefly, there is a letter here addressed to you from the building inspector in response to a complaint you filed, I don't know if you would like me to read this into the record, but I would be more than happy to read it into the record if you like.

C. Rich – Sure, if you wish.

J. Moore – I think I will leave it aside, in my view this was a separate complaint and he has chosen no action on that, and if you want to appeal his inaction that's fine, but it's not part of this hearing.

C. Rich – Some of it applies to this hearing. You may read it.

J. Moore asked P. Shilhan to read the complaint it into the record;

P. Shilhan reads into the record a letter dated May 29, 2012 from Building inspector to Mr. Chris Rich responding to complaint from Mr. Rich of 292 Andover St;

Christopher Rich, 292 Andover Street
RE: Black Swan Sign/ ZONING COMPLAINT
Dear Mr. Rich,

The Building Department received your complaint on April 30, 2012 and the follow-up plot plan in support of your complaint on May 15, 2012. The plot plan prepared by Robert M. Grasso Professional Land Surveyor Dated May 5, 2012 shows a 1.5 foot encroachment of the Black Swan Golf Course wall for the last 5.34 feet on to 292 Andover Street.

Your complaint states that the structure and sign must be located on the property of the sign owner. This statement is true but the landscape wall is exempt from the requirement of a building permit "analogous to a fence" and therefore not enforceable by the zoning enforcement officer. The wall encroachment is a civil matter that needs to be worked out by the parties evolved or a court of competent jurisdiction. The sign does require a permit but I measured the sign to be located 9 feet 8 ¾ inches from the end of the wall. When compared to the certified plot plan the sign does not encroach onto 292 Andover Street.

Your complaint stated that the sign is subject to all town setbacks. Section 165-4 Compliance required says "**No building shall hereafter be erected or altered to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards, inner courts than is specified herein for the district in which such building is located.**" The setback requirements and the entire intensity of use schedule apply to Buildings. Building is defined by the bylaw in section 165-7 as "**A structure forming a shelter for persons, animals, property or activity and having a roof.**" A sign does not meet the bylaws definition of a building.

Setbacks for signs are specifically addressed in Article X of the zoning bylaw. Section 165-5 applies setbacks to signs located in business districts. Section 165-6 applies setbacks to signs located in industrial districts. The section that applies to residential districts does not set any setback requirements and the special permit does not set any additional setback requirements for signage. In short it is the interpretation of the zoning enforcement officer that the sign in question is on the correct property and is not in violation of the zoning bylaw or the special permit. Anyone aggrieved by the building inspectors zoning interpretation has the right to appeal to the zoning board of appeals within 30 days of receipt of any zoning determination. Respectfully, N. Jon Metivier

J. Moore – I am not going to address any issues from this letter, unless it relevant to what Alan Boisvert is asking for tonight.

C. Rich – Your notice went out that you are modifying a decision?

J. Moore – That's correct.

C. Rich – A special permit, I don't know if the board is in possession of it, but there is a town counsel opinion that says special permits cannot be modified.

J. Moore – That's fine, but I don't want to sit here tonight and get a bunch of legalese from you.

C. Rich – You're board is going to either to something legal or illegal.

J. Moore – This Special Permit has been modified 3 times already.

C. Rich – So.

J. Moore – Now at the 11th hour you're now saying that his board's practice over the last 15 years has been illegal.

C. Rich – In 2009 town counsel sent a letter saying you can't amend or modify a special permit unless it is a Scribner's error. You're supposed to know that.

J. Moore – A decision by this board, as felt to be an error by this board can be reviewed and we called this hearing along with the applicant filing to review that decision and revise it.

C. Rich – You might want to read that letter.

J. Moore – Yes I will. Do you have anything else?

C. Rich – The sign that is on the entrance wall is inconsistent with your previous decision, smaller or not it is inconsistent, that was supposed to satisfy the Keon's restaurant sign.

J. Moore – Yes, anything else?

C. Rich - You can take my presence here as being in opposition of the signage.

Questions from the Board

G. Thibeault – In regard to one of Mr. Rich's comment about the sign at the entrance, it does say, brunch on here for the entrance signs in the old decision. It's pertinent to this hearing and that part is for Keon's.

Alan – Unfortunately I don't own the club and that's what we decided at the time, but after the fact Mr. Swans burg's decided not put those letters on the bottom part of the sign, he wanted to keep it clean, I know that's what we presented and I did not mean to do anything purposely against the board's decision, and I know the banners didn't come out right, and I apologize for that.

G. Thibeault – We did agree the sign would say brunch and that was for Keon's.

J. Moore - I think the issue is you have something in the decision that was presented last time and something different went up and the interpretation of what the banner was supposed to be. Granted, the conditions were not as flushed out as they could have been, and that's why we thought you should come back, and you agreed by filing a new application.

G. Thibeault – Also the 28 days the signs time limit and the signs.

Alan – I agree with you, but the 25% advertising of the banner was done.

G. Thibeault – I did not personally, but I believe people have told you that you had not held up your part of this and have had the sign up longer than 28 days, and you still did nothing to remedy that, and that's what bothers me.

Alan – I did change it a few times but yes I did leave it for a couple of months, I thought I was told not to do anything as we were having the hearing.

J. Moore - By whom? Alan – I don't recall who.

J. Moore – In the previous hearing the board made a couple of findings that were relevant to that collectively everyone is trying to achieve, the owner, the town, we representing the town, we found that signage appropriate for the operation of the club including related activities, facilities and accessory uses is considered an accessory use, is itself an accessory use, as allowed by special permit back in June of 1989, the board found there was substantial and credible evidence that there was some existing signage that was out there for 10 years or more, and what you did is present a comprehensive signage plan to the board and included the sign mounted on the building, two signs mounted on the stone entrance, two temporary A Frames signs and the banner, we are talking about changing the comprehensive signage plan, and I think what this new signage plan should be. It seems we all, including you (Alan) want to get rid of that banner.

J. Moore - You have a plan for the location of the banner, can you show us where the sign is?

Alan – It's about the center of the property, almost on the turn, the Building Inspector, met me out there and measured and he told me where it would have to go. I also sent pictures of myself standing in the location, there are two large trees, it's right after those, the Building Inspector wrote on the plan its marked 15 ft. from the edge of payment, and I will have Jon come out to inspect it before it's installed.

G. Thibeault – Perpendicular to the road? Alan – Correct.

J. Moore – One of the issues with the banner is it was too high. Alan – I did cut it down by two feet.

G. Thibeault – This new sign will be 6 x7 ft. and 90" off the ground, that's big.

Alan – It's smaller than the banner and half as wide.

D. Kapnis – It's a little plus 7 ft.

J. Moore to Alan, I believe before you were talking about a wall similar to the entrance wall.

P. Shilhan – I would say about 6 ft.

J. Moore – The entrance signs are sitting on top of the wall, it doesn't stand out so much, did you consider that?

Alan – I did, but the cost was too high. This alone is \$6,000 that would be \$10,000.

P. Shilhan – I don't think it's going to be unreasonable considering the scale/area around it, it's appropriate for the setting, if you want a more subdued sign, then make it closer to the ground, given the scale of the building, I have installed them that big, if you're going 35 miles an hour past, it's not crazy. I think it's reasonable.

P. Shilhan – What are you putting on the message slots.

Alan – They will be 4 inch black letters that say "Open to the public" as well as events. It's 27sq. ft., it will be lit, not internally.

P. Shilhan – I don't like sliding letters, I would suggest permanent letters would be better, how much is function and how much is restaurant.

Alan – It's 50/50. I lease the building and all food and beverage in the building is mine. I am trying to get the word out to the public.

P. Shilhan – The function hall is getting away from the restaurant, usually the club deals with the functions.

G. Thibeault – I don't think that's the issue.

D. Kapnis – You are trying to attract that you are open to the public, can it be permanent?

Alan – Yes that can be permanent, I can't put Sunday brunch because it's only sometimes, and trivia night on Wed., and Calypso night on Thursday's.

D. Kapnis – I think Paul's concern, is we are looking at the nice wooden sign then these \$2 letters or the \$20 nice classy looking letters, if letters are there.

Alan – It would be clear plastic with black letters.

J. Moore – The removable piece, I agree with Paul it doesn't look so nice, and if we keep those A frames, those don't bother me so much because they are low to the ground and they are temporary.

G. Thibeault – You can't really see the A frames from the street very well.

D. Kapnis – How far out do you plan your marketing? Alan – When the office comes up with something, not that far out, functions are 6 months ahead.

S. Freeman – The entrance sign, Black Swan County Club, at the entrance, that lettering is not there, can we expect what we do tonight is not changed by the country club again. Alan – The club paid for those signs.

G. Thibeault – Can we say, put a Keon's sign where the entrance signs already are? I believe we let the neighborhood down by allowing that banner.

Alan – The owner won't let me that was my original plan.

P. Shilhan – A banner is a canvas flexible structure.

Alan – I asked Dave at that meeting, how should I put it up, and he said it could be PCV pipe to keep it in place.

P. Shilhan – I know you are capable of making nice signs, the owner didn't want temporary letters on his entrance signs, do we compromise?

G. Thibeault – I don't think we need to compromise, I am assuming the owner wants you to succeed, I don't know why the sign can't go on his wall, I wish he was here, and he could tell us why, and that's what we originally approved.

D. Kapnis – I am having a problem with the lettering, if you are spending \$6,000 on the sign, I can't image the temp letters cost that much, I wish you had a marketing plan. I think you should keep "Open to the public" as permanent letters, I don't think we would be asking you to spend an unreasonable amount of money, and get rid of letters, I think this is a nice solution, I think we have more ground to cover on this.

J. Moore – I don't want temp letters at all.

Alan – How about this Keon’s sign with no letters, and keep the A frames, and add “Open to the Public” as part of the permanent sign – What color should it be.

P. Shilhan – It should be with keeping with the other sign on the building, white background, blue lettering. J. Moore – These are white painted posts.

Mr. Soloski, Crescent Meadow Lane – I would be ok with different panels. My personal feeling is if it has changeable panels, I think the sandwich board signs should go.

J. Moore – I agree, down the road, once it’s there, and 5 years later it may be you or not, it can be a mess, with 5 interchangeable lines. That would be opening a can of worms. The A frames at least are limited and they don’t last out there that long.

Alan – Would the board be open to the top part and open to the public, and no interchangeable letters/sign.

Shilhan – I do, but can it be shorter.

Alan – It’s in a dip in the land it’s already at a low point. I have been open 2 years and I still don’t have a proper sign, tell me what you want and I will do it. No matter what I do, Mr. Wojtkun is going to complain and Mr. Rich is going to complain.

G. Thibeault – We are going to have people complaining, I don’t want to hear that we did something wrong, I have to be 100% tight on my decision, if I can’t be 100% I can’t do this now.

J. Moore – I like the location and the sign, just not the panels.

P. Shilhan – When you remove the panels, the Keon’s sign it too high off the ground, the space underneath is large, you can put plants underneath, we are talking a foot at the most. I just want the sign to look nice.

Alan – It looks like each panel is about 10”.

J. Moore – Planting would look nice under it. Alan – How about some small plantings with mulch.

D. Kapnis – Yes something inexpensive. P. Shilhan – 6 inches would be fine.

S. Freeman – What about hours?

Alan – It may change, I am closed on Monday in the winter. P. Shilhan - The hours on the sign won’t work.

The board took a recess at 8:32. Reconvened at 8:37 pm.

The board marked the presented sign as Exhibit A, after changes made on it. The plan with sign location Marked as Exhibit B. It was decided to remark the signs to 1 and 2, so as to not confuse them with the previous decision exhibits.

Exhibits re marked as Exhibit 1 (sign) and Exhibit 2 (plot plan).

P. Shilhan – I think we should cut 6 inches off the height you are proposing. The board agreed.

S. Freeman – On the entrance signs on the wall, the lettering can’t come back.

J. Moore – We can put a condition in for that.

P. Shilhan – So we are down 7.69 inches and removing 3 lower panels and make it one main permanent panel, and No temp banner at all. So now it's down 80" high.

J. Moore – We need to be clear that no further changes are to be made as stated in the previous decision, any modification to signage on the property must come back to the board.

Alan – So the sign is white with Blue letters that match the sign on the building (patriot blue), the sign shall be 80 inches high, removing 2 panels from original

Alan stated when the building inspector was out there with me marking the location of the sign, he mentioned those two trees are diseased and will probably having to come down.

G. Thibeault – You are kidding me, they don't look diseased, now it will be wide open.

P. Shilhan - I thought this would look ok; it was nestled in after the trees. I don't like it without the trees.

G. Thibeault, to Alan, I am glad you told us, because if I went out there and those trees where gone, I would not be happy.

S. Freeman – If the trees are important to the board, we should make it part of the decision, if they are diseased they have to come down. I am ok trees or no trees.

P. Shilhan – I think this is part of why they chose this location, because they trees are coming down.

J. Moore – I don't want to condition trees.

P. Shilhan it's an old plan, the trees are different. Alan – that's why I had the building inspector come out and mark it.

Brief discussion on conditions follows.

J. Moore – We need to modify in accordance with condition to previous, one sign mounted on the side of the building (Exhibit F), two signs mounted on the stone entrance (Exhibit A), two temporary "A Frame" signs not to exceed 12 square feet each (Exhibits J&K), and one additional sign per Exhibit 1 and in the location per Exhibit 2.

Discussion on potential motion.

MOTION

S. Freeman – I make a motion to modify the comprehensive signage plan of previous Decision ZBA file #11-01 for Black Swan Country Club/Keon's 258 /258r Andover by allowing and limiting the use of specific signage at the property at 258/258r Andover Street, the Board finds the established criteria for a special permit have been met, the board shall impose the following conditions:

- 1) Signage be limited to and consistent with the revised signage plans submitted to the board including; one sign mounted on the side of the building (Exhibit F), two signs mounted on the stone entrance (Exhibit A), two temporary "A Frame" signs not to exceed 12 square feet each (Exhibits J&K), and one additional sign per Exhibit 1 in the location per Exhibit 2.

- 2) Any further changes or modification to the comprehensive signage plan must be approved by the Board of Appeals.
- 3) No temporary banner shall be allowed.
- 4) The building inspector shall be present at installation of sign (Exhibit 1).

I further move that the requested use complies with Georgetown Zoning by-law 165-79 A-D.

Seconded by D. Kapnis.

Discussion – G. Thibeault – I don't feel ok if the trees go.

J. Moore – I really want to see that this looks nice when it's done. I wanted something that better suits the town. It serves the purpose you're looking for, and this exhibit is marked up, the height has changes, the color is going to match the building same as sign on the building, one continuous panel at top, no internal lighting, total signage not to exceed 27 sq. ft.

Vote on Motion;

S. Freeman – Yes

G. Thibeault – No

J. Moore - Yes

P. Shilhan – Yes

D. Kapnis

Motion passes 4-1. Motion carried

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 to close the hearing by S. Freeman /D. Kapnis at 9:27 pm, all in favor. Motion carried.

Patty Pitari
Zoning Administrative Assistant

Approved 7/10/12