



## Georgetown Zoning Board of Appeals

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

### MINUTES OF A PUBLIC HEARING

#### ZBA FILE File #13-08

Michael & Tracy Zimirowski (Owners)

#### Special Permit – Accessory Apartment

February 5, 2013

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#### Board Members Present:

Gina Thibeault, regular member  
Sharon Freeman, regular member  
Jeff Moore, associate member  
Absent: Paul Shilhan & Dave Kapnis

Zoning Clerk: Patty Pitari

Applicant; Michael & Tracy Zimirowski  
& Linda Zimirowski

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J. Moore opened the hearing at 7:30pm and stated 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.

G. Thibeault read legal ad; An Application has been made by Michael & Tracy Zimirowski (Owners) of 357 Central Street, Georgetown, MA. Assessor's Map 9, Lot 4B, in the RB district, in the RB district, for a Special Permit for an accessory apartment. The owner originally applied for and received a building permit for a 3<sup>rd</sup> garage and bedroom addition in 2005 which is now being used as an accessory apartment which requires a Special Permit from the Zoning Board of Appeals space under M.G.L. 40A §9, and the Georgetown Zoning Bylaws Ch. 165-9, 69, 78 & 79. ZBA file #13-08

J. Moore, Acting Chairman introduced the board members. Jeff let the applicant know that with 3 board members they require a unanimous vote and if they at any time request to continue they may.

#### Applicants Presentation:

Mike Zimirowski (Owner) - We moved here in May of 2005 my wife and I purchased the house at 357 Central St, our plan was to add a garage with a bedroom over it, with the intention of her living with us, once it was completed we were under the impression that we had an in-law apartment, and when we went to refinance they wanted the permit, and there was no final sign off, so we found out we needed to come the ZBA.

Mike Z. – About 3 months ago I called the Building Inspector he asked if I had a stove, and I told him we did and he said it's an apartment and we did not originally apply for an apartment. We recently tried to refinance the house and the appraiser was asking for an occupancy permit for the apartment, we thought the old building permit would suffice, but was told it did not, the building inspector said we needed a special permit from the Zoning Board per the bylaw.

## **New Correspondence**

G. Thibeault read into the record from the Building Inspector;

*Patty,*

*Thank you for my copy of the special permit application for 357 Central Street. I did notice the application is missing the front page of the original building permit. This is important because it shows that the approved building permit was to construct a garage addition with a bedroom above. The approved permit application and associated plans did not show an accessory apartment.*

*Jon Metivier*

*Inspector of Buildings / Zoning Enforcement Officer, Town of Georgetown MA*

## **Audience - None**

### **Questions from the Board**

G. Thibeault – Was this plan the one you submitted with the original permit from 2005, it shows a bar, sink dishwasher, card table and a refrigerator.

Mike Z. – Yes it is, this is a copy of the architect drawing.

J. Moore – So when you applied, you only applied for a garage with a bedroom above?

Mike Z. – Yes, with the intention of it being an apartment, we didn't intend to deceive anyone, we put a kitchen to one side of the house to make an in-law apartment for my mother.

J. Moore – But you didn't apply for an accessory apartment, you left the stove out in the original plan.

Mike Z. – I didn't know we would need it, having tried to use the one stove and oven in the house, my mother thought it would be easier to have a stove in her own house. We put the stove in the kitchen area of my mother's section of the house, it was more convenient. We did not realize we were doing anything wrong.

G. Thibeault – So when the inspectors did the original walk thru's the stove was not installed?

Mike Z. – Yes the stove was there.

J. Moore – There was an electrical inspection and the stove was there?

Mike Z. – Yes it was, the Building Inspector was Mr. Brett.

G. Thibeault – I am confused why the inspectors came through; they didn't question the stove there.

J. Moore – When you are building you have to call for a final inspection, whether it's you or the contractor. Did you have a contractor?

Mike – We had a contractor, a friend of ours, who gave us a good price, as it went along the price went much higher. I didn't know who's responsibility it was. I pulled the permit.

J. Moore – Did you sign an affidavit or contract with the contractor, Ouellette?

Mike - We had Bob Oulette was the original contractor and then we switched to Frank Correnti, and then I decided to act as the General contractor and we subbed out the electrical, plumbing etc..

G. Thibeault – So you and Frank of Inline Construction.

Mike Z. – Yes.

J. Moore – Whoever was in charge, one of you was supposed to call when it was complete.

G. Thibeault – You really are not supposed to live there without an occupancy permit, you will need to get the electrical inspector out there. What bothers me is the application shows you applied for a garage and bedroom, and the plan shows a kitchen but drawn marked bar area. I believe you would need a new certificate of occupancy.

J. Moore – You should have applied for the other kitchen, where it says on the plan bar and card table area. I think this was always supposed to be an in-law and I don't know when the Building Inspector at the time didn't catch this. Also the Board of Health sign off on the application from 2005, states you can only have 9 rooms, 4 bedroom max. It looks like more than 9 rooms.

G. Thibeault – What seems strange to me is it says garage and bedroom, and the plans clearly show a sink and refrigerator, I feel like it should have been flagged right away, I was looking at this and **if** I was the inspector at the time, it's obvious it's a kitchen.

J. Moore – I think it was an accessory in the beginning, and it's clear it was there from the plans, and they signed off on the plans, and you intended to have a kitchen, you should have applied for the kitchen, I don't know how it went from this to an apartment. Why the previous building inspector didn't send you to the ZBA I just don't know.

J. Moore - The reason you had to come here, is you have to meet conditions per the bylaw; it has to be a relative, and keep the single family characteristics and so on, it has to meet the dimensional requirements and the egress etc...this is an apartment and always was. We are required to look at parts of the bylaw that the board needs to look at that the building inspector can't. We sometimes add other restrictions, it can't be rental property. If you sell the home they would have to come back to the board for a new special permit, it's restricted to ownership.

S. Freeman – You said you refinanced before, and nothing was said.

Mike Z. – Yes.

J. Moore – You filled out a new building application for this application, Mike handed to Jeff.

J. Moore – So you have to take this application with your existing plans with the stove in there and go back to the other departments to have them sign off this again. I want to make sure this is done right and everyone else has the chance to look at this again.

J. Moore – Marked the Plan - Sheet #3 was marked as Exhibit A, drawn by David F. Jaquith, 8 Enon St., Beverly, MA 01915 and dated June 6, 2005.

The Board briefly discussed adding a condition for signoffs/ inspections.

**Motion** –G. Thibeault - I would like to make a motion that the board vote to grant a special permit to Michael & Tracy Zimirowski of 357 Central Street, Georgetown, MA under MGL Chapter 165 Sections 9, 69 & 79 for an accessory apartment in an existing dwelling for Mr. Zimirowski's mother, Linda Zimirowski who shall occupy the accessory apartment. I also move the board finds the application meets the requirements of Chapter 165-69 (a-g), and the addition does not exceed the greater of either 700 sq. feet or 33% of the livable floor area of the primary building. The addition has a total of 670 sq. ft.

I further move the board find the application meets 165-79 (a-d); being the requested use and alteration is essential or desirable to the public convenience and welfare; will not overload any public water or other municipal system so as to unduly subject any area to hazards affecting health, safety or 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.

This Special Permit shall have the following Conditions:

1. The Accessory Apartment be occupied by relatives 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 or transferred the special permit lapses and the new owner must apply to the board for a new special permit.
3. Accessory apartment requires a new building permit including all department approvals required by the Building Inspector.
4. The apartment shall be inspected by the Building Inspector before Occupancy; per Chapter 165-69 (d).
5. Floor Plan Layout marked as Exhibit A marked as Sheet #3, drawn by David F. Jaquith, 8 Enon St., Beverly, MA 01915 and dated June 6, 2005.

Seconded by S. Freeman, Jeff took a roll call vote.

**Vote:** J. Moore – Yes, G. Thibeault – Yes, S. Freeman – Yes. All in favor, all voted yes. Motion carried unanimously 3-0. The Special Permit was granted.

J. Moore stated 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** –S. Freeman/G. Thibeault to close the hearing for 357 Central Street, all in favor. Motion carried.

*Patty Pitari*  
*Zoning Administrative Assistant*

*Approved at March 5, 2013 Business Meeting*