



## Georgetown Zoning Board of Appeals

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

**MINUTES OF A PUBLIC HEARING  
Youssef Ben Bessaoud & Lisa Bessaoud  
144 E. Main Street, Georgetown MA,  
ZBA File - #14-02  
Special Permit – Multifamily (2 family)  
August 6, 2013**

Immediately following the first scheduled hearing at 7:30pm

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Board Members Present: P. Shilhan, Chairman  
Gina Thibeault, regular member  
Sharon Freeman, regular member  
Jeff Moore, regular member  
Dave Kapnis, regular member

Zoning Clerk: Patty Pitari  
Owner: Lisa Bessaoud

P. Shilhan opened the hearing at 8PM 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.

J. Moore read legal ad; Hearing Date: August 6, 2013, Hearing Time: Immediately following the 1<sup>st</sup> hearing at 7:30pm, Location: Georgetown Town Hall 3<sup>rd</sup> Floor Meeting Room. An Application has been made by Youssef Ben & Lisa Bessaoud of 144 East Main Street, Georgetown MA, for a Special Permit under M.G. L. Chapter 40A, Section 9 and the Georgetown Zoning bylaws, Chapter 165 Sections 9, 78 and 79, the owners/applicants are requesting to convert a single family dwelling & carriage house (*that has a previous Zoning Decision ZBA File #01-01 that allowed an accessory apartment*), to a Multifamily (2 family) dwelling. The premises affected is 144 East Main Street, Georgetown, MA, in the RA district and identified on the Assessor's Map 10, Lot 1.

Paul Shilhan recused himself stating he is on the abutters list.

J. Moore takes over the meeting as acting Chairman and introduced the members of the board, and was told she would need a unanimous vote for the permit to be granted. Patty stated she let them know ahead of time.

### **Applicants Presentation:**

Lisa Bessaoud – We have our main house and a carriage house that we had applied for an in-law back in 2001 that was granted, and then we were told we could not rent it out, so we want to convert it to a two family. We have no parents living to use it, and there are no changes to be made.

Patty – This application has a previous decision file 01-01 for an accessory apartment.

## New Correspondence

### **1. Building Inspector dated 4/29/13 – Violation Notice (see attached)**

**1. Read into the Record by S. Freeman; Dear Mr. Bessaoud,** *“This office was recently informed that you are renting the “Carriage House” to a non-family member as a residential dwelling unit. The Accessory Apartment approved under a Special Permit from the ZBA restricts occupancy of the apartment to family only. You are hereby ordered to stop renting and vacate the carriage house as a separate dwelling unit. You must respond to this violation notice within 15 days of receipt. Failure to comply with this notice shall result in fines of up to \$300.00 per day and court action.*

**2. Read into Record by S. Freeman email from the Board of Health dated 5/2/13** *stating they inspected the dwelling on 4/29/13 there were no Board of Health violations with MA housing code, and that the applicants replaced their septic system to accommodate the additional flow to the septic system back in 2001. In 2005 they inspected the apartment prior to rental, they probably should of applied for a two family rather than an accessory apartment. Signed Deborah Rogers, Health Agent.*

**3. Read into the record by D. Kapnis - Previous Correspondence on this property Letter from previous Chairman of ZBA, dated July 31, 2002.** *It has come to our attention the contrary to the condition imposed by this board when granting you the special permit for an in-law apartment you are offering the property for rent. While we do not know the circumstances that have prevented your relatives from occupying the in law we suggest you review the zoning bylaw and if necessary consult legal counsel concerning what permits or variances you will need if your in law or other family relation are unable to occupy same, I am copying the building inspector Mr. Brett with the letter and request that he enforce our decision. Signed Steve Epstein, ZBA (see attached).*

## Audience - None

### Questions from the Board

D. Kapnis – Is the carriage house currently occupied?

L. Bessaoud – Not now.

D. Kapnis – When did the occupancy stop?

L. Bessaoud – When we got the notice.

D. Kapnis – When you were granted a special permit for the accessory apartment who was occupying it then?

L. Bessaoud - No one. My mother was to come from Sweden, and ended up not coming, so we rented it out.

D. Kapnis – So a relative never occupied it.

L. Bessaoud – Not at that time. D. Kepis - Any time. L. Bessaoud – Not at anytime

J. Moore – So it’s never been rented out?

L. Bessaoud – It was for a short period of time.

J. Moore – When was that?

L. Bessaoud – It was rented out a couple of years ago. I didn’t realize.....stops speaking.

D. Kapnis – How did this first come to light that it was being rented.

L. Bessaoud – The person living there called the health dept. regarding some conditions that made him have breathing problems.

G. Thibeault – Was the carriage house built in 2001.

L. Bessaoud – I believe it was a 3 story mansion, and it burnt down, I don't know I think it was rebuilt.

D. Kapnis – Review a document from the assessor's office, the out building was built in 1930 before zoning.

J. Moore – So before that it was basically a barn.

G. Thibeault – It was rehabbed when you got the special permit. L. Bessaoud – Yes.

J. Moore – So you had an occupant up until the Cease and Desist order. Do you have someone in mind to rent it to?

L. Bessaoud – No.

J. Moore – Is there an issue with the Board of Health, or has that been resolved.

L. Bessaoud – There was nothing found but one mouse dropping.

Discussion on the previous decision and that it was never recorded, with an email from Town Counsel.

D. Kapnis – Reads the email from Town Counsel, the special permit decision was not recorded is ok as long as the use has commenced. Discussion followed on the issue.

Discussion on more than on building on a lot 165-81.

J. Moore – Explains more than one building on a lot, so you completed the construction and at some point used it as rental property, then were notified in 2002 you were not allowed to rent it, and then rented it again, and were notified by the Building Inspector that you were in violation, we have to consider you were not following the rules.

G. Thibeault asks about more than one building on a lot.

J. Moore - We need to consider that it's a separate dwelling. Jeff asked Patty if this came up with Jon in the office.

Patty – Jon just said it's been there since 1930 and pre-existing.

J. Moore – We should put this in the decision and or any conditions.

S. Freeman – I am confused as to what happened in 2002 from the ZBA chairman, stating you were in violation in renting it. I am trying to understand the timeline, what happened between 2002 and now.

L. Bessaoud – My mother didn't pass away until 2007 and my father didn't pass until 2010, so we just kept it in case we needed it.

S. Freeman – So in 2002 whoever was there left, and then it was vacant.

L. Bessaoud – For the most part, and then sometimes the kids would sleep there, and then my mother passed And then my father and my husband’s father and mother passed away, and then I forgot about letter from 2002, then my husband developed an aggressive form of prostate cancer for which he is undergoing long term treatment, this has caused him to significantly cut his working hours and thus his income, the income from renting the carriage will offset enough this loss to allow us to stay in our house.

J. Moore – Did Charlie Brett ever contact you about the ad in the paper?

L. Bessaoud – No, I know he said we couldn’t put out a rental sign.

J. Moore – I have a couple of concerns, it is two buildings on a lot, I would want to see it owner occupied, if we were to grant something, it should be owner occupied (main dwelling), and also this permit will lapse with change of ownership. Specify a limited occupancy of the people in the unit, one married couple or something; the space can’t handle that many people.

J. Moore – How is the parking.

L. Bessaoud – It’s a 250 ft. driveway.

J. Moore – It exits on to Pillsbury? L. Bessaoud – Yes.

D. Kapnis – If we limit the occupancy to the carriage house, do we day it’s for two adults? I think it should be owner occupied and the permit should lapse.

L. Bessaoud – I don’t think you can rent a one bedroom to two adults and a child.

J. Moore – I think it should lapse, as they ignored the use they were using it for and they did it anyway, so my concern is if we grant it again, and this owner perhaps has a track record of not doing what they are supposed to do. The same thing happens to the in law apartments. I would like to see a condition were this lapses.

G. Thibeault – Isn’t that the way the accessory apartments are anyway. Originally it was granted as an in-law it should maintain that in-law history.

S. Freeman – We spoke previously about putting it on the deed. J. Moore – But we never ended up doing that.

J. Moore – We should add a condition not to be used for more than one bedroom.

P. Shilhan, 126 E. Main - I am speaking as a citizen and not as a member as the ZBA, I think the worst thing that could happen is they don’t get a permit and the dwelling goes unused and the appearance changes, if this application is granted, I think the two buildings go well together, I think it would be a detriment if it were not granted.

J. Moore – I would add to the conditions no structural changed to the carriage house without coming back to the ZBA.

**Motion** – G. Thibeault/D. Kapnis to Grant a Special Permit to Youssef Ben & Lisa Bessaoud of 144 East Main Street, Map 10, Lot 1, Georgetown MA, to convert a single family dwelling and carriage house (*that has a previous Zoning Decision ZBA File #01-01, that allowed an accessory apartment*), to a Multifamily (2 family) dwelling, under M.G. L. Chapter 40A, Section 9 and the Georgetown Zoning bylaws, Chapter 165 Sections 9, 74 -79.

I further move that the Board the board grant the special permit application in accordance with 165-81 allowing more than one building on a lot. I further move that the Board find that the special permit meets Zoning Bylaw

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.

**The Special Permit is granted with the following conditions**

1. The Owner shall be required to occupy the main 4 bedroom home.
2. This special permit shall be null and void with any transfer or sale of ownership.
- 3 The carriage house shall be used as a one bedroom dwelling only.
4. No further modifications/structural changes shall be allowed to the carriage house without further review by the Zoning Board of Appeals.

**Roll call vote;**

Dave – Yes, Gina – Yes, Sharon – Yes, Jeff – Yes. All in favor. Requires a unanimous vote.

**Motion carried unanimously 4-0.**

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. An applicant may file this decision before the 20 days but does so at their own risk.

**Plans submitted with application**

Sanitary Disposal Plan that shows lot dated May 7, 2001 by Professional Land Services, 61 Garrison St., Groveland Ma 01834, stamped by William Holt.

Sheet 1 – First floor plan – Main House by Sharkey Design Co. Boston, MA.

Sheet 2 – 2<sup>nd</sup> Floor plan – Main House by Sharkey Design

Sheet 3 – Basement plan – Main House by Sharkey Design

Sheet 4 - First Floor plan – Carriage House detached dwelling by Sharkey Design Co, Boston MA

Sheet 5 - 2nd floor plan – Carriage house

**Close Hearing**

**Motion** – D. Kapnis/S. Freeman/ to close the hearing at 8:49pm for 144 E. Main St. all in favor. Motion carried 4-0.

*Patty Pitari*

*Zoning Administrative Assistant*

*Approved October 1, 2013*