



Georgetown Zoning Board of Appeals

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

Phone (978) 352-5742 ♦ Fax (978) 352-5725

MINUTES OF A PUBLIC HEARING ZBA FILE #14-11 17-19 West Main Street, Georgetown, MA Finding/Special Permit/Variance

Board Members Present: Paul Shilhan, Chairman
Dave Kapnis, regular member
Gina Thibeault, regular member
Sharon Freeman, regular member
Jeff Moore, regular member - Absent

Zoning Clerk: Patty Pitari
Representative for Applicant, Architect Richard Griffin Architects
& Mark McDonough, North Shore Restaurant Group

P. Shilhan opens the Hearing at 7:40pm, and introduced the board members.

D. Kapnis reads legal ad; A Public hearing will be held on June 3, 2014 at 7:30pm in the Georgetown Town Hall 3rd Floor, for a Petition/Application that has been filed by Owner, Thomas Walsh, Georgetown Grille Inc., LLC, 18A Bartley St. Wakefield, MA 01880 and Applicant/Petitioner Serenitee Restaurant Group, 185 Main St., Gloucester, MA 01930, for the property located at 17-19 West Main Street located on the Georgetown, Assessors Map 11A Lot 28. The property will require a Finding by the ZBA as the property is in the CA zone and is required to be 15,000 sq. ft. of area and have a minimum of 50 ft. of frontage; the property is nonconforming in both area and frontage. Further the Applicant/Petitioner would require a Variance or Special Permit for 3 signs on the new front façade of the building where one is allowed, per Georgetown Zoning Bylaw, Chapter 165- 9, 65, 78,79 and 84, and M.G. L. 40A § 9 and 10.

Letters of Authorization were submitted for Mr. Richard Griffin Architect to represent the owner and applicant dated 4/23/14 and read into the record by G. Thibeault. Sharon Freeman read letter owner Mr. Thomas Walsh to allow Mr. Richard Griffin Architect to represent him as owner.

P. Shilhan stated to the applicant we are missing a board member, so you would need a unanimous vote for a variance or special permit, or if this is continued we can do a missed meeting form for the other board member.

Applicant/Petitioner's Presentation

Mr. Richard Griffin, Architect for the proposed project – Mr. Mark McDonough is CEO of Serenitee Restaurant Group and is here with us.

Griffin – Two reasons we are here is a Special Permit to alter the front façade of the building, and the lot is smaller than required and had somewhat less frontage as required. It's a clapboarded building it's a 2 story affect, it currently says, restaurant/bar as it is now, so we feel it is in the context of Georgetown architecture. It's a clapboarded building and the proposal has close to a two story effect as many in Georgetown do, at the same time it says tavern/bar/restaurant fairly clearly by its architecture which stays with downtown Georgetown,

on that basis we feel it's in the context of the surrounding architecture, and we don't feel it's a greater detriment to the neighborhood, in fact it's just the reverse. The second part is for a signage variance/special permit, our main sign is "The Spot", the others on the side is Bar and Restaurant, our contention is the bar and restaurant sign are not advertising so much as they are part of the architecture. All the lettering is going to be done in brushed aluminum, simple lettering, not lit from within, with gooseneck lights above it, which gives a softer light, and so we feel the signage is integral to the look of the building and it is not overly heavy advertising in that respect.

Shilhan – The easement discussion, have you spoken to anyone else so far with the overhang?

Griffin – Yes we presented to the Board of Selectmen and they stated an easement would need a Town meeting vote. Presently there is a 2ft. 6 overhang on the building now; we have a much lighter smaller overhang.

Thibeault – It's not on the existing plans. We are reducing the size, now it's existing at 4 ft. 3.5.

Gina – We were trying to figure out it was not on this plan, ok so it is 2 ft. 6", and the height of the existing awning is 4' 31/2, and your new awning is 1ft. 10" is that correct?

Griffin – Yes that is correct. Gina – Is that a permanent awning? Griffin – Yes.

D. Kapnis – So you're reducing the size of it. In reducing nonconformity does it need a variance?

Gina – The awning is an easement, but we can approve the engineering and the design with a condition that it has to go to town meeting.

S. Freeman – If it pre-existed why would it have to go to the town?

D. Kapnis – That's my question.

Audience

Stu Egenberg, Chairman of Board of Selectmen – We had discussed at a Selectmen's meeting, a variance would run with the property forever, we all discussed it and the 3 Selectmen were there, and we didn't feel it needed a variance, because it is existing, its previously nonconforming and this awning actually is higher and reduces the footprint it's not permanent like it is now, asked the highway surveyor if he had an issue with the site work or equipment clearing it and items like that, this awning is bolted in so it could be removed, so we thought number one it would be better, because it could be removed if there were any issues with it, we didn't like the fact that a variance would go with the property as it would be forever, we also had the Building Inspector at the meeting, and the awnings on the buildings surrounding it don't have variances on them. I am just here to say we are fully in support of it from the Board of Selectman.

G. Thibeault – But does it need an easement? D. Kapnis – Right do we need an easement for something that's reducing the nonconformity that's grandfathered?

Egenberg – From what I understood in our discussions it doesn't need an easement, but I am not a lawyer. The Building Inspector brought it because it was silent in the bylaw apparently on that topic, so it already exists now, and the existing is actually lower, so we felt we may not have to go with an easement, this one is not permanent and it is higher and it's in compliance with existing usage. So we felt you would have the power to do it, and make a decision on it.

G. Thibeault – So we wouldn't need to condition an easement. Egenberg – no.

Egenberg – The Selectmen were not in support of an easement and partially because none of the other buildings that have awnings have any easements from what the Building Inspector could come up with.

Shilhan – I don't think we can make a finding, can we just give an opinion, I think.

G. Thibeault – I think we can approve the design as part of a special permit because we are approving a design of an existing nonconforming structure; we can exclude the easement part.

D. Kapnis – The fact that its preexisting for over 10 years the easement would be grandfathered and they are reducing the nonconformity.

G. Thibeault – It's higher as well. D. Kapnis – The height isn't the issue, it's the projection over the sidewalk and I am not sure why you would need an easement.

Shilhan – If this was new construction you would need it, but it's not.

Brief discussion on Site plan review on the building inspector's letter. The applicant will need to check with the building inspector if they need to.

New Correspondence – Memo dated 5/2/14 from Fire Dept., Fire Chief Albert Beardsley; P/ Shilhan read into the record - "With regard to the plans and drawings presented to the Fire Department for review, after careful review of the proposed Plans for this location we find the parapet wall and a steel truss frame metal awning to be of concern. The Fire Department will need a better understanding of how both of these areas will be secured. This is due to parapet wall and the awning being directly in the path of fire crews that could be entering and exiting the structure. In time of fire involvement these areas can become very unstable and collapse without warning. I'd appreciate any additional details that could be provided to the fire department. Otherwise there does not appear to be any new changes to existing floor plan and structure.

New Correspondence – Email dated 5/6/14 from Police Dept., Chief Cudmore. P. Shilhan read into the record "I have reviewed the attached plan and have no concerns from the police department's or a public safety perspective. Signed Donald C. Cudmore, Chief of Police.

Sharon read Site plan review.

S. Freeman – In my reading of 165-83, it states exterior alterations.

P. Shilhan – So they may need to see them for that.

Patty – They will need to check with Building Inspector.

Griffin – Speaks to the Fire Chief concerns stating what we have done is designed a system for the parapet so that its integral with the roof and we have hired a Truss engineer to essentially wed the two structures together with a sloped supporting roof that is supported by trusses so essentially that parapet will be securely locked into the roof and it will be more secure than what's there now, and will fully conform with the Mass. State Building Code in terms of wind resistance and so forth, also we will have a certified engineer drawing we will submit to the Building Department. The awning will be fastened into the studs at every truss point and lag bolted in; it's a light awning, very much to that what's there now.

D. Kapnis – It think if it satisfies Building it should satisfy Fire.

P. Shilhan – Let's talk about the signs. Do we believe that any of these alterations are detrimental, do we really need a variance.

Gina – What color will the clapboard, lettering etc... be?

Griffin passed out color copy of colors, light beige and rust colored red, also a picture of the lettering which are ½ inch brushed aluminum letters.

P. Shilhan –What is the big picture here as far as signage.

D. Kapnis – The Rory’s sign is 3 ft. 0” x 3 ft. 6” existing.

Gina – Are you counting both sides?

Griffin – It’s existing .40 total sq. feet of signage. We have the barn board frame and I guess that would be considered all sign, so 65 sq. ft. on the Spot, and 26 sq. ft. for the bar sign and restaurant signage each, so it is increasing.

G. Thibeault - So it’s 133 sq. ft. So it is increasing.

G. Thibeault – I think for the restaurant the bar is 8 sq. ft. and 13 sq. ft. for the restaurant the way I measured it you measured it differently. So it’s smaller.

Griffin – It’s roughly 24 sq. ft. that would cover it.

G. Thibeault – So 45 sq. ft. kind of.

S. Freeman – All that assumes that we don’t consider the bar and restaurant signage is part of the architecture.

G. Thibeault – This is assuming its signage, but your right is it more architectural.

P. Shilhan – I would like the board’s opinion on that, we can decide whatever we want our job is to defend it. If they increase the nonconformity are they extending the type of nonconformity, but they are not.

Gina – Is it more detrimental than the existing signage. I don’t think it’s a Variance. The colors blend so the Spot sign will be different. A color rendering would have been nice. If the back of the sign is blending in that part of the architecture, so it blends. What color is the back of “The Spot” sign?

Griffin – We have not decided on which. The red is the trim color, the other color may be that beige color, the red color is baked clay is the trim, and behind the Spot wording, the beige is coastal fog Benjamin Moore

Mark McDonough – We may go a shade darker.

G. Thibeault - We need to know the colors now. This is why this is critical if you put bar and restaurant and the spot sign on certain colors, and it doesn’t blend we need to know now.

The applicants are advised to pick the definite colors now. Discussion of taking a recess.

Mark M. – I suggest the tan color Brandon Beige for the vertical tough and grove cedar recessed panel, trim is the baked clay (red color) and behind the Spot sign. The exterior siding is color “Coastal Fog”, all by Benjamin Moore.

P. Shilhan – Maybe we should continue for the colors.

G. Thibeault – How would the board feel if they could pick this now?

P. Shilhan – Yes, depending on the color it could be more architectural that sign.

The Board takes a 5 minute recess for the applicant to decide on their colors.

P. Shilhan – Can someone tell me we are not considering the Restaurant and Bar to be signage, then I would imagine your significantly less in sq. footage than the existing.

G. Thibeault – Well if you call it 65 sq., ft. it's more, because you're considering the background. It's a bit larger. I think it's an existing nonconforming, I think we are splitting hairs.

P. Shilhan – We are not increasing the nonconformity, there's more nonconformity, but it's of the same nature and is it more detrimental and that is clearly not the case.

D. Kapnis – In the Existing, the chalk board signs that should be included as existing signage.

G. Thibeault – I feel the chalk board signed, are a similar type of use as Bar and Restaurant. The new signage is less than 15% of the front of building.

S. Freeman – As far as the color, I have a little trouble with them picking colors now, but if the background is true blending a shade different I am ok with that, I understand they are making use of that space it looks better, and I don't see it as signage, as long as it's not a real stark contrast, I am ok with that.

Paul – The overall project is better than anything that was there, we are dealing with a pre-existing non-conforming structure.

P. Shilhan Marks the Colors of paint for Exhibits as follows:

Exhibit K - Sign Rendering with brushed aluminum lettering

Exhibit L – Color of “The Spot” signage, color - Baked Clay (a reddish tone) (Benjamin Moore Paint Brand) #035

Exhibit M - Color Coastal Fog (Benjamin Moore Paint Brand) #976

Exhibit N - Color Brandon Beige “Bar and “Restaurant” - (Benjamin Moore Paint Brand) #977

Discussion on Motions follows

G. Thibeault – We need to make a finding that a variance is not required for the signage.

P. Shilhan – Yes we can make a finding that the alterations are not more detrimental than the existing conditions, it's including all the design aspects, that's number one. Number two will be the signage.

G. Thibeault – Yes that a variance is not required, and that the design elements are not more detrimental than the existing. It's less than 15% of the front wall area, then it's conforming.

Griffin - It's less than 10%.

D. Kapnis – Say the “Bar and Restaurant” is an integral part of the architecture.

P. Shilhan – We should say including the awning, its part of the design. The point is some people are saying they need an easement.

D. Kapnis – It's grandfathered in.

Discussion on just needing a Finding instead of Special Permit.

Patty – You may want to address the undersized lot in the frontage.

P. Shilhan – I think the Building Inspector already determined that.

It was decided to do a Finding and Special Permit.

MOTIONS

Finding 1

G. Thibeault – I move that the Board find that the proposed alterations including the awning at 17-19 W. Main Street are not more detrimental than the existing conditions. Seconded by D. Kapnis. Shilhan – All in favor, yes 4-0. Motion carried.

Finding 2

S. Freeman– I move that the Board Find that a variance is not required for the signage. Seconded by D. Kapnis. P. Shilhan - All in favor – 4-0. Motion carried.

Motion Special Permit - G. Thibeault I would like to make a motion to grant a Special Permit to modify the existing nonconforming signage, we have determined the proposed signage is conforming. The architecturally features “Bar and Restaurant” are not considered signage by the Board and therefore the square footages are not included in the signage area calculation...Also I further move the Board find that per Chapter 165 §79 (a-d) of the Georgetown Zoning Bylaws, this special permit application 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.

Seconded by D. Kapnis. Vote all in favor. Motion carries unanimously.

Motion to close hearing – S. Freeman/G. Thibeault to close the hearing for 17-19 W. Main St. at 9:15, all in favor – yes, no discussion. Motion carried.

Plans submitted with application:

Exhibit A - Plot Plan certified by James W. Barry R. L. S., - Registry of Deeds Bk. 1099-143, prepared for Joseph & Dorothy Maglio, November 11, 1985.

Exhibit B - Sheet G1, dated 4/28/14, stamped by architect, Richard W. Griffin, Salem MA, marked 19 W. Main St.

Exhibit – C - Sheet G2, dated 4/28/14, Site Plan, stamped architect, Richard W. Griffin, Salem MA,

Exhibit D -Sheet EX1, dated 4/28/14, Current Pictures of existing building side elevation & front elevation

Exhibit E - Sheet A1, dated 4/28/14, Front Elevation

Exhibit F -Sheet A2, dated 4/28/14, North Elevation

Exhibit G - Sheet A3, dated 4/28/14, Sign A, B, C Elevations with dimensions

Exhibit H - Sheet A4, dated 4/28/14, Main floor Plan Front Wall

Supplemental plans filed 5/22/14

Exhibit I - Sheet EX2 dated 5/16/14 – Existing floor Plans

Exhibit J - Sheet EX3 dated 5/16/14 – Existing front Elevations

Exhibit K - Sign Rendering with brushed aluminum lettering

Exhibit L – Color of “The Spot” signage, color - Baked Clay (a reddish tone) (Benjamin Moore Paint Brand) #035

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P. Shilhan - 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.

Lapse of Special Permit - Per M.G.L. 40A §9, Special Permits granted shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in Section 17. If a substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun by such date except for good cause.

Patty Pitari
Zoning Administrative Assistant

Approved