



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

**Business Minutes**

**January 6, 2015**

7PM - Town Hall, 3rd Floor Meeting Room

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

Patty Pitari – Administrative Assistant

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Chairman Gina Thibeault called the business meeting to order at 7:06pm, 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, once the minutes are complete the recording may be taped over.

**New Business**

Monthly Finance Update - Patty updated the board on expense and revolving spreadsheets.

**Warrant**

**Motion** – J. Moore/D.Kapnis to pay Schwaab Inc. \$16.75 for a name plate for new member Shawn Deane. All in favor. Motion carried.

**Approve Minutes of December 2, 2014**

**Motion** – P. Shilhan/J. Moore to approve the minutes of 12/2/14; Business and 56 Andover St., all in favor, no discussion; Motion Carried. Dave was absent- abstained. Shawn abstained as he was not yet on the board.

**Building Correspondence**

Building Inspector Correspondence – Denial Letter for 34 E. Main Street, Hearing is next month February 3<sup>rd</sup>. 3 Farm Lane (with violations letters issued by the Building Inspector). Patty – The violation letter regarding noise goes back to June. The applicant is appealing the Building Inspector, regarding the special permit, and a 1999 site plan approval issued by the Planning Board. I just received this application today, so we have 65 days to open so it will be on for March 3<sup>rd</sup>. I have provided a draft legal ad for approval.

J. Moore - And for 3 Farm Lane is Howard planning on being here. Patty – I will check with him. I did send Jon and email for it also.

### **Conflict of Interest**

Patty – An email was sent out 12/24/14 by the Town Administrator with the updated Summary of Conflict of interest Law, the board needs to sign that they have received and return to me, it is time to take the online conflict of interest test the website is in the documents. It has to be done every other year it was last done December of 2012, so the board has to do it this year. Paul Shilhan passed his in to Patty. The Board signed the acknowledgement of receiving the conflict law. Patty will pass into the Town Clerk.

### **General Correspondence**

**Case Law new information** – The board received via email a case that changes the Gale V. Gloucester is being used, stating that the Mass Appeals Court has held that there are some circumstances where municipalities may require a variance in order to alter a single or two family residence, the court has drawn a line between work that intensifies and existing nonconformity on the one hand and Changes that Create new nonconformities (see attached correspondence).

**J. Moore** – Basically there has been another decision that we were not made aware of by our Town Counsel, but Tillie forward it to Patty. So it is a more recent decision that clarifies what can be done under a special permit, basically you can't create any new nonconformities with a special permit that would require a variance, which really makes sense when the Gale vs. Gloucester came out it basically, if you had an existing nonconforming structure or lot you could do anything with a special permit, including creating new nonconformities, as long as the zba said it was not more detrimental, so this more recent decision clarifies you can't create new nonconformities under a special permit it requires a variance, and it relates to single and two families.

**Use Variance Information** – Patty stated this is from the Inspector's Mass Land Use book just informational on Use Variances, (case law).

### **Planning Board Zoning Amendments, for Spring Town Meeting (see attached).**

J. Moore didn't see the Affordable Accessory Apartment in the list. Patty will check with Howard.

### **Old Business**

Zoning Applications Revisions to vote on.

**Motion** - D. Kapnis/P. Shilhan to approve the revised/amended zoning applications as amended this date 1/6/15. All in favor. No further discussion. Motion carried. Patty will add adopted date and post on website.

Distribute New Application for 34 East Main Street for Feb. 3<sup>rd</sup> hearing 34 E. Main St. – Apartment house, Use variance, variance for lot frontage, and special permit for apartments in use schedule.

**Motion** – P. Shilhan/ D. Kapnis to close the business meeting at 7:38 all in favor, motion carried.

*Respectfully Submitted*  
Patty Pitari  
ZBA Administrative Assistant

*Date Approved 2/3/15*