



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

Business Minutes

September 2, 2014

7PM - Town Hall, 3rd Floor Meeting Room

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

Patty Pitari – Administrative Assistant

Affordable Housing Task Force

Frank Puopolo
Shawn MaGee
Paul Nelson
Matthew Martin

Chairman Gina Thibeault called the business meeting to order at 7:00pm, 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.

Finance Report

A. Monthly Finance Update - Patty updated the board on expense and revolving spreadsheets, for FY14 ending and FY15 that started on July 1, 2014.

New Business

Approve Minutes of August 5, 2014

Motion – P. Shilhan/S. Freeman to approve the Business minutes and 118 Jewett St. Minutes of 8/5/14; all in favor, no discussion; Motion Carried.

Motion – P. Shilhan/J. Moore to approve the minutes of 64-74 E. Main Street of 8/5/14; all in favor, no discussion; Motion Carried 4-0. Sharon recused.

Motion – J. Moore/P. Shilhan to approve invoice from WB Mason for office supplies; all in favor Motion carried.

Motion – J. Moore/D. Kapnis to approve the FY14 Town Report as presented, all in favor, motion carried.

Other - Public Comment – Alan Aulson re: 34 E. Main Street

Mr. Aulson – I have been going to other boards, and it involves 34 E. Main Street, many people in town are asking about. I have pictures of what it used to look like. It used to be the Dunbar tavern and Hotel, it's been sitting for 15 years, now overgrown, so I purchased it and at some point we may be before this board, we are not sure yet what we want to do with it yet. We've had it for 2 weeks, and cut trees because the trees were killing it. We set a date of 9/19, 2pm – 4pm, and 9/20, 1 – 1:30pm, to have an open house if anyone wants to look at the inside. There will also be someone from the historical society on hand for questions. Right now we are cleaning it up, the sills were rotted, and the chimneys. At some point we will develop a plan.

Correspondence

Building Inspector Correspondence

1. Denial 4 Carlton Drive – Patty – This will be for October 7th hearing.

General Correspondence - Site Plan Approval – 105 E. Main – Patty stated it is a store going in the existing building, for gift and food items. No Comments from the Board.

Old Business - Affordable Housing Task Force

Affordable Housing Task Force to discuss a bylaw for accessory apartment that includes affordable housing. The task force sent Patty a new potential bylaw change to accessory apartments.

Correspondence from Town Planner not present – sent email; D. Kapnis read into record;

“At the last Planning Board meeting there was discussion by board members of reviewing and making changes to the Housing Balance section of the Zoning Bylaw. I anticipate the board will take up consideration of 165-71 over the winter months with proposed changes ready Annual Town meeting next spring.”

Frank – Just to address that, the bylaw we are proposing is separate from 165-71, we just used that as a template, so any changes to that bylaw will not affect this.

Shawn McGee, 124 North St., Chairman of Affordable Housing Task Force – This is a follow up from a previous meeting we had with you last February, we want to see how you feel about adding units to the SHI (Subsidized Housing Inventory) list to the town's affordable housing percentage. The documents we gave you explain it. We are proposing taking an in-law/accessory apartment and having that unit added to the affordable housing list, for example if you have an apartment that you are renting now or would like to rent as an affordable unit, we are proposing a mechanism where you can take an in law and turn it into an affordable unit, if someone moves out, and have it added to the affordable housing quota, and have someone (not related to the owner) rent it.

Frank Puopolo – I put together this packet proposal, the DHCD has opened it up to have accessory apartments included on the SHI list which would help, as it would go towards preventing another 40B barrage as there was back in 2001. We want to either change the existing bylaw for accessory apt, and opening that up to two options as oppose to just one, where you get a special permit for a family member or a special permit if you agree to certain requirements for an affordable unit to get on the SHI list. If you read though the bylaw we are proposing, you either get one or the other, basically if I had an apartment and wanted to rent it out, I would come to you for a special permit, and there is a regulatory agreement where I put comments in that I think answered questions you had, as you can see very little falls on the Zoning Board,

it would also fall under the building inspector and Board of Selectmen to make sure everything is being complied with.

Frank Puopolo - Monitoring is part of the process, anyone who gets a permit under the affordable units, there would be a monitoring agent hired by town, to make sure the person meets the requirements and the rent meets the requirements, so really it makes it easier for you, that would fall on the Selectmen, it would have to be certified by the Selectmen. The regulatory agreement puts a lot of restrictions on the owner, so please read that. This has not met with great success in other towns and may not here, but we would like to open up that option.

There are 2 options one is amending the current bylaw, the second option is where in the information we gave you, where it says "Purpose" to take the current 165-71, the inclusionary housing bylaw and used some of the verbiage in there, this would be a whole new bylaw, a separate bylaw. Which as you are saying would look better to you.

J. Moore - It was confusing to me, and a challenge because we have to be clear about the purpose and intent of the section of the bylaw, in what they are applying for, for an accessory apt. The way 165-69 is now it's very clear, when someone comes in its easy to explain, we have our conditions, I like it that way myself, I am glad that you gave the second option, I think it should be separate, our conditions for an acc. apt are very different and it's very clear and the conditions that are existing are very clear and the permit/decision they get is very clear, especially issues like ownership.

J. Moore - Is there any reason why you can't add a 165-71.1, and just add two pages in, instead of monkeying with the existing accessory apt. bylaw, can you just add a separate bylaw. Why mix it. Keep it separate, why intertwine it; if someone has an accessory apartment, then they can go to the new section.

P. Nelson – If they have someone in the apartment, and they pass away then they can convert it, then they have to reapply.

Matthew Martin – So part A would be the regular accessory apt, and part B would be the affordable.

J. Moore – I think our existing accessory bylaw works well the way it is, it's very straight forward. Also if the home sells they have to come in to re-apply.

Frank Puopolo – So you prefer a separate bylaw.

Jeff – I would, I just don't see why the blend. Why do you want to make it one?

Frank Puopolo – We think it falls better under that. It's secondary to the main house.

G. Thibeault – With an accessory apt. it doesn't have to meet some of the codes that a separate apartment would meet, for example a fire wall, or a separate entrance/egress, so to say it's an affordable housing unit as an accessory apt. would be different, because one would need a room and a separate egress.

Frank Puopolo – The codes are the same.

G. Thibeault – But the code for a regular accessory apartment that was built for a family member doesn't have to meet those codes that an affordable housing unit would have to meet; I think they are very different.

Frank Puopolo – The building codes are a totally separate issue.

J. Moore – I don't know that the Building Inspector (Jon) agreed, I think he felt (from his email), that certain building codes would apply and some would not.

G. Thibeault – I feel the codes would be different. Gina reads the building inspector's email from when we asked in February it states” *All affordable units must comply with the building code for a separate dwelling unit (this includes egress and fire separation) an accessory apartment can egress through the primary residence and does not require fire separation. An apartment cannot egress through another unit and must have a 1 hour fire separation between dwelling units*”.

Frank Puopolo – I don't know why he is saying that because the accessory apartment is the use and that means it's secondary. I think that's a personal choice of the owner.

G. Thibeault - I don't think you're going to have a lot of owners not wanting to do that I think Jon's right, so you have someone living in the house that can light a fire and burn your house down, that doesn't make any sense to me at all.

Frank Puopolo – I will follow up with Jon on that.

G. Thibeault - It's the egress. You're not going to have an affordable tenant egressing through your primary house.

Frank – I think that's a personal choice.

G. Thibeault – Let's be honest, who is going to want a stranger egressing through your house. Let's be realistic, no person with common sense is going to want to do that.

Frank Puopolo – I don't think that has anything to do with what we are doing here.

G. Thibeault - I also think it should be a separate bylaw as well.

Discussion follows on Building Code.

S. Freeman – I agree with Gina, I think it should be a separate bylaw, to me they are very different.

J. Moore – I think it may trigger different building code requirements.

S. Freeman – I agree with Gina it should be a separate bylaw, it would make it very clear to the applicant, where it's imbedded I think it's more confusing.

Frank Puopolo – The second option is a separate bylaw. We could add a condition that it meets building code.

G. Thibeault – I think it can be deceiving if someone has already done their plans for their application, and get their permit then they find out when they go back to Jon, that now they need certain kind of walls etc.. It's an issue.

G. Thibeault – I noticed you added a 900 sq. ft., instead of 700 sq. ft.

Frank Puopolo – That's in a deed restriction.

G. Thibeault - They need to understand the requirements are different.

Frank Puopolo – That's from DHCD.

MaGee – If you're thinking about a separate bylaw, we can meet with the building inspector. We can add what the building inspector will require.

D. Kapnis – At some point someone for inspections, they're going to have to know if there is a 5/8th's fire wall in there or not, you can't tell by knocking on it. Someone may think they are qualified for this when they are not. Some of the preexisting apartments that have been out there for say 50 years will be a problem. It depends. We should head off any confusion to what it can cost someone; we need to be as transparent as possible.

J. Moore – Restrictions on the special permit, if we do something separate, we need to know what our limits are as far as how we can apply conditions to a particular applicant legally, and what conditions, like over 55, and conditions like ownership, I don't want to give them a permit that turns out to be illegal.

Frank Puopolo – If you read through the deed rider, it pretty much tells you what's required to get it on the SHI list, Age restrictions DHCD would not allow that on a deed rider, they feels it's discriminatory.

J. Moore – These are small units, and they are intended for one or a older couple, who don't grow up and have kids and cars in the neighborhood, to maintain the original intent and purpose of these, a restriction may go a long way for that type of physical use, a lot of these are one bedroom.

J. Moore – I am thinking about neighborhood impact, people would wonder what's going to happen to my neighborhood. That's another conversation. Are there legal restrictions on occupancy, say one bedroom, are you allowed to rent a one bedroom to more than 2 people?

Frank Puopolo – Well if you have a 3,000 sq. ft. house, you can use 1,000 of it for the apartment, the size restriction; I don't see that would have an impact on a neighborhood.

Patty, if I may, it would have to be checked with the Board of Health would have a say in that because of the septic system, I had a recent inquiry, where they want to build an attached addition, but, and I always check first, so they don't pay thousands for plans first, I checked with Board of Health and they have a 1500 gallon take which is 4 bedrooms and a maximum of 8 rooms allowed, so to add another bedroom and room, they would need an upgraded septic system and file with Board of Health and perhaps Conservation, this has impacted historically with whether they decide to file an application or not.

P. Shilhan – Almost by definition, all these apartments are limited by the size, it almost can only be for a couple.

P. Nelson – We have a need for young single people, married couple just starting out. At the housing authority there is a list of people looking for a single unit.

J. Moore – I am looking again at the impact of the neighborhood, and now rented to someone other than a relative, can a family of 3 or 4 go in there.

G. Thibeault – And the number of bedrooms, must be checked with the Board of Health. Also does the owner get to choose their tenant?

Frank Puopolo – No, the units goes through a lottery. There are very strict requirements.

G. Thibeault – So they can't pick their own tenants. Are people going to even go for that, to me it's scary if you don't know who is going to be living in your house.

Frank Puopolo – Some owners may want that extra income and won't mind.

D. Kapnis – Are you tied into the state as far as where the list comes from for the lottery.

P. Nelson – It would be local not DHCD, the monitoring agent that has to be looking at these properties on a regular basis and that person would handle it.

S. Freeman – Are there other towns that have taken their accessory apt. bylaw and done this, if so how did that work out, and any lessons learned?

P. Nelson – They have done it, but there is not one on the SHI yet. So there's been none yet.

J. Moore – When they do the lottery, is there a suitability comparison, say a one bedroom won't work for you and so on, and to say this will not work for you, these are very small, is there any kind of mechanism by which these are not going to get overcrowded.

P. Nelson – They would have to be qualified.

Gina- If a couple has a couple of baby's, now there are more people in there, how do you enforce that.

Paul – Some do.

G. Thibeault – So if more come?

Frank Puopolo – The Landlord has a lease, they landlord can terminate the 1 year lease.

G. Thibeault – So it's owner occupied and if it's sold is it null and void, just like our accessory apt. would?

Frank – No, it can't, I think it has to remain; I believe it remains in perpetuity, but I believe the owner can end it.

Magee – We will meet with building inspector, sounds like what you want is a separate bylaw.

J. Moore – I would prefer it, because it comes with different restrictions.

P. Shilhan – The amount of people per sq. ft. can you restrict that?

Gina – I think that's the Board of Health.

Patty – if I may to the chair, who is chief executive officer, monitoring agent and who takes care of this deed rider and checks with the state when they file this application. I take the applications in, so who takes care of this procedurally. What do I have to do differently than I do now?

Frank Puopolo – Nothing. G. Thibeault – Will town counsel look at this.

Frank Puopolo – The Planning board will hear it. The monitoring agent who's that, it's in the deed rider. The chief executive officer is the Board of Selectmen.

Gina – I want your bylaw to be clear, I just don't want something to say it's in the deed rider. It should say in the deed rider, that it's the Board of Selectmen (Chief Executive officer), it should say it there, and not have to go looking for it.

Discussion on Deed Rider also called Regulatory agreement.

Gina – People don't even read the bylaw. I want it to be clear, you can't just say it's in the deed rider, they won't read that.

Frank Puopolo – They can come to us if they have questions.

G. Thibeault – I think that they should talk to someone about it before they come to us.

P. Shilhan – They should go to the agent first.

Frank Puopolo – You can send them to us first.

Dave Kapnis left at 8:20 due to illness

J. Moore – I want to make sure we know what types of restrictions we can impose again as I said legally.

Frank explains 40B. Discussion on SHI being 11.94%, the town has to be over 10% for no more 40 B's to come forward.

Frank – I like the wording of the current bylaw.

G. Thibeault – Use it just keep it separate, with the other restrictions.

Frank Puopolo – If we moved it into separate bylaw, and we can keep the structure.

J. Moore – I would keep the single family characteristics, but there are certain restriction on the accessory with the ownership being sold it would be null and void that would have to come out. It needs to be clear.

McGee – We do have time.

J. Moore – If you draft something and send it us through Patty, we can send our comments back through her.

S. MaGee – We can get comments in email and not come to a meeting. We will send you a new bylaw when done.

Frank Puopolo – We have to go to Planning next for recommendations. We will stay in touch.

Motion – J. Moore/S. Freeman to close the business meeting at 8:50 all in favor, motion carried.

Respectfully Submitted
Patty Pitari
ZBA Administrative Assistant

Date Approved 10-7-14