

# TOWN OF GEORGETOWN ZONING BOARD OF APPEALS

## MINUTES OF A PUBLIC HEARING 150 ELM STREET – ZBA FILE #09-01 - VARIANCE Peter J. Coccoluto & Kristen V. Lund March 3, 2009

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**Board Members Present:** Paul Taraszuk, Chairman, - Voting  
Matt Lewis, regular member - Voting  
Jon Pingree, regular member – Not voting  
Paul Shilhan, associate - Voting  
Jeff Moore, associate member - Voting  
Scott MacDonald, associate member - Voting

Helen F. Sides – Architect for Applicant

Absent – Joe Young, regular member and Mike Muller, regular member

Zoning Clerk: Patty Pitari

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P. Taraszuk: The Board of Appeals will conduct this hearing 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. These proceedings are being tape recorded, for the purpose of preparing minutes, once the minutes have been approved, the tape recording may be taped over.

Taraszuk - Chairman – A petition has been made by Peter Coccoluto & Kristen V. Lund for a Variance/Special Permit under M.G. L. Chapter 40A, Section 6, 9 & 10, and the Georgetown Zoning Bylaw, Chapter 165 Sections 8-11, 78, 79 & 84 for side setback, in the RB Zone. The premises affected is 150 Elm Street, and identified on the Assessor's Map 9A, Lot 26.

Helen F. Sides, Architect for the applicants

H. Sides worked with the applicant and presented the plot plan and explained they were hoping to keep some of the existing foundation and keeping the same width and push the garage back 10 ft. and lengthen it and trying to alleviate the garage that is attached but not accessible unless you go outside. The backside of the garage is much lower, as the backyard slopes up in the rear that is the concern with moving it further back behind the house.

Ms. Sides presents the plans and pictures that came with the application (existing and proposed drawings). The new garage allows access to the house. Right now you have to around one side of the house.

P. Taraszuk stated, so you're taking down a 20 ft. long pre-existing non-conforming and proposing a 25 ft long new garage.

Hearing Minutes, 150 Elm St, ZBA File #09-01

Handwritten signatures of Matt Lewis, Jon Pingree, and Paul Shilhan. The signature of Paul Shilhan includes the initials 'PFT' and the name 'son' written below it.

Sides states yes along with a second floor.

M. Lewis stated the side setback is only 5.5. Whose property are the trees on?

Carolle Miller (abutter) stated the trees are on her property.

Jeff asked if they are demolishing the exiting garage.

Lund stated they were hoping to save some of it.

Sides stated this is the best way to do it, and stay within the character of neighborhood

J. Moore asked if there was ledge or anything and noted the elevation of the grade of the lot is not include and the southern side is off limits because you're septic is there.

Ms. Lund stated there is not ledge and the grade of the garage floor will remain.

H. Sides stated they would like to keep that old barn there and not dig out the yard.

P. Taraszuk asked if the well will be moved. Lund stated they are keeping it.

M. Lewis asked on the side where it is 5.5 and 5.9 ft. it will not encroach any closer. Sides – No.

J. Pingree stated since you're encroaching on that side and you're removing it, it's a variance, because You're increasing the size of the non-conformity but you have not made a case for your variance. If there was ledge there, or an irregular shaped lot, or a topography issue, you have a case for a variance, the hardship needs to lend to the circumstances of the lot.

P. Shilhan inquired about the building inspector's denial, he wrote May need a Variance.

J. Pingree stated you have to tie it to the lot or land, maybe if you moved it 5 ft., but even that would be a stretch.

Lund stated we have looked at all other options, which includes digging out the yard.

J. Pingree stated that would be a case, if you have evidence that the topography makes it a hardship. We have to make sure the decision is defensible; it has to relate directly to the lot.

J. Pingree states another option is work around where you're not changing the non conformity, if you can keep it in the same spot.

Discussion on the bylaw and state act on what is needed for a Variance.

Lund stated her husband has a wide van and they can't make it fit.

J. Moore stated under section 6, it shall not be not more detrimental, under the town bylaw it's essentially the same thing. Jeff reads 165-94. It doesn't define what the increasing the non conforming nature means.

Brief discussion on the state vs. the town bylaw.

Handwritten signatures and initials in black ink, including names like 'Mott', 'P', and 'SSM'.

J. Pingree explains that it's all about the bylaw for the board.

Discussion on if they should go with variance or Special Permit. J. Pingree reads 165-78 and 79.

Ms. Lund asks if they can go with a special permit.

J. Pingree it comes down to what the board agrees to.

J. Moore stated under 165-94, I think we can interpret it as a special permit.

P. Shilhan, J. Moore and S. Macdonald have brief discussion on if this can be interpreted to a special permit, in regard to the bylaw. S. Macdonald asked does it make it more detrimental.

J. Pingree stated they have to meet the requirements of the findings, but you have to be able to defend it, if someone appeals it.

J. Pingree we could make a finding whether it needs a Variance or Special Permit, but that could set a precedent to an extent.

J. Moore stated in his opinion is they have looked at all other options, I believe they meet the special permit under 165-94, because the extension is not more substantially more detrimental, and they are not going any closer.

After much discussion it was decided to go with the Variance first and then if they can't prove that they can always go back to argue a special permit.

J. Pingree suggested that member go out and look at the property.

P. Shilhan asked if the applicant could provide a drawing showing the new structure would be instead, roughly where the driveway would be and back out space would be, in relation to the windows.

P. Taraszuk stated if you can come back with topographical evidence. Do 3 or 4 points between the garage and the barn.

J. Pingree suggests continuing the hearing to get topographical information on the lot.

**MOTION; J. Moore to continue to April 7, 2009 at 7:30. Second S. MacDonald. All in favor Yes. Motion carried.**

**The applicant will come back with:**

1. Topographical evidence
2. A drawing showing the new structure would be instead, roughly where the driveway would be and back out space would be, in relation to the windows

Patty Pitari   
Zoning Administrative Assistant

Approved \_\_\_\_\_

