



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

MINUTES OF A PUBLIC HEARING
201 Central Street, LLC – ZBA FILE #11-05
Request to Modify/Amend Previous Decision
August 2, 2011, Continued to September 6, 2011

Board Members Present: Jeff Moore, Chairman
All Voting Paul Shilhan, regular member, sitting in for D. Kapnis
Gina Thibeault, regular member
Sharon Freeman, regular member
Evan O'Reilly, associate member

Absent: Dave Kapnis regular member
Zoning Clerk: Patty Pitari

J. Moore opened the continued hearing from 8/2/11 at 8:40.

P. Shilhan read the legal ad; a petition has been made by 201 Central Street Condominium Trust for a Request to modify a previous Decision (Variance) under M.G. L. Chapter 40A, Section 10, and the Georgetown Zoning bylaws, Chapter 165, Section 84. The applicant is requesting to modify/amend condition (#4) of a previous decision, File # 00-16 in regard to a 6 ft. high fence. The premises affected is 201 Central Street, in the RB district and identified on the Assessor's Map 9A Lots 1-14.

In a decision filed with the Town Clerk on September 5, 2000, ZBA File #00-16, (see attached), the board granted the construction of 14 two bedroom town house condominiums at 201 Central Street, Georgetown, MA, one condition of the decision was listed as #4, Construction and Maintenance of a 6-foot high, solid panel, cedar fence across the rear property boundary, to be maintained by the condo association.

J. Moore stated P. Shilhan is sitting in for Mr. Kapnis, and since he missed the first hearing, we are using the Mullen Rule, in which one member can miss one meeting only, and P. Shilhan signed a certification form that he has reviewed all the evidence in the case and will vote on this hearing.

Applicants Presentation:

Paul Davis stated Atty John Anderson, 19 North Street, Georgetown Ma, Attorney for the Condo Association could not be present I have submitted a letter for the Condo Association to continue as they are listed owners.

Mr. Paul Davis, Trustee, presented a marked copy of the original site plan, which shows the area to be removed. He stated the condo board voted and we would like to just remove approx. 160 ft. of the fence without the gate as discussed at the last hearing.

The fence is 476.98 ft.; we want to remove approx. 160 ft. Scale on original plan is 1" = 30 ft. The scale has been corrected on the plan to 1" = 75 ft.

Condition #4 reads Construction and Maintenance of a 6-foot high, solid panel, cedar fence across rear property boundary, to be maintained by the condo association.

New Correspondence

Mr. Paul Davis, a Condo Trustee submitted language and authorization letter to the Zoning office on 9/1/11.

J. Moore reads the letter of authorization for Paul Davis to represent him as he was on the application (see attached).

Audience

None.

Board Questions/Discussion

J. Moore - I think in regard to the wording, I would suggest it read for the decision purpose, to remove up to 160 ft. instead of approximately 160ft.

P. Shilhan – Are there concrete footing on these posts?

P. Davis – I suspect there are, but they are below grade. We spoke to conservation they stated just take it off at ground level and leave it as undisturbed as possible.

J. Moore – If you were to do anything else you would need to see Conservation.

P. Shilhan – I am just thinking down the line, a good length will remain, I can't see any other pitfalls.

J. Moore – My concern was when the rail trail goes in, you may have wanted to add something.

P. Davis – There are 6 units that back up to the fence and 4 of the people were concerned with the idea of the gate, but we decided against the gate.

S. Freeman – I think Dave at the last meeting was asking about the construction of the last post.

P. Davis – We will see Steve from Conservation, we will make sure that last section is secure. One of the reasons we wanted it down, was the water pulling it down.

P. Shilhan – Have you ever had to replace it.

Davis – No, it's only been there since 2001.

Modification of Variance – Previous Decision ZBA file #00-16

Motion – P. Shilhan/G. Thibeault to amend the ZBA Decision #00-16 for 201 Central Street to allow Condition #4 to now read; By adding to the end of Condition #4, the Petitioner may permanently remove up to 160 feet of the most southerly portion of the existing 6 ft. cedar fence and not replace it, due to rotting of the fence caused by seasonal flooding.

J. Moore - **Condition #4 will now read**; Construction and Maintenance of a 6-foot high, solid panel, cedar fence across rear property boundary, to be maintained by the condo association. The petitioner may permanently remove up to 160 ft. of the most southerly portion of the existing 6 ft. cedar fence, due to rotting of the fence caused by seasonal flooding.

Further the Board finds under M.G. L. 40A Section 10, that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

Roll Call Vote for Variance Modification with friendly amendment;

P. Shilhan – Yes Evan O'Reilly – Yes Gina Thibeault – Yes
S. Freeman – Yes J. Moore - Yes

Friendly amendment to add an exhibit.

P. Shilhan – I would like to make a friendly amendment to add the plan Marked as Exhibit A, site plan of Apple Associates dated 8/17/2000, that has been revised to show the portion of the fence to be removed and the correction of the scale measurement on the plan. Seconded by E. O'Reilly. All in favor of the **Main Motion and amendment passed unanimously.**

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.

MOTION- E. O'Reilly/S. Freeman to close the hearing at 8:05pm, no discussion, all in favor, Motion carried.

Patty Pitari
Zoning Administrative Assistant

Approved 10-4-11

TOWN OF GEORGETOWN
Zoning Board of Appeals

**MEMORIAL TOWN HALL
1 LIBRARY STREET
GEORGETOWN, MASS.
01833**

**DECISION ON THE SPECIAL PERMIT / VARIANCE APPLICATION OF CRANE NECK
INVESTMENTS 201 CENTRAL ST. ASSESSORS MAP 9A, LOT 1 FILE # 00-16**

The Georgetown Zoning Board of Appeals held a public hearing after suitable public notice at the Georgetown Memorial Town Hall Meeting Room on June 28, July 19, and August 22, 2000, to hear the application of Crane Neck Investments Inc. to allow the construction of 14 two bedroom town house condominiums at 201 central Street in the RB district, identified on assessors map 9A, lot1.

The applicant requested a variance under Massachusetts General Laws Chapter 40A Section 10 and the Georgetown Zoning by-laws Chapter 165 Section 9, 11, and 71, to allow the construction of 14 two bedroom townhouse condominiums. The premises affected are 201 Central St. in the RB district and identified on assessors map 9A, Lot 1.

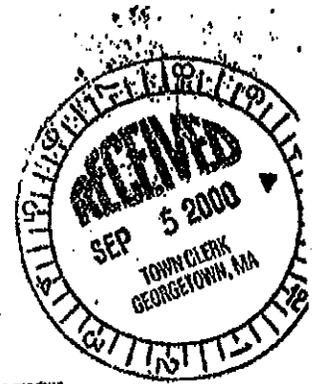
- The zoning board of appeals voted 5-0 to GRANT the VARIANCE with conditions as follows.
1. The developer will install a defined sidewalk with a curb for the length of property.
 2. Maintain a 30-foot no cut buffer on the north side of property as per plan.
 3. Maintain a 20-foot no cut buffer on the south side of property as per plan.
 4. Construction and maintenance of a 6-foot high, solid panel, cedar fence across rear property boundary, to be maintained by the condo association.
 5. At least one unit will be made available as low to moderate-income housing as per Georgetown by-laws 165-71.

In granting this variance under Georgetown by-laws 165 Section 9,11 the board allows for more than one building on the lot in the RB district, also with a greater density of units than is allowed in this district.

The board weighed substantial information introduced in the presentation by the applicant's attorney, along with correspondence from the Georgetown Highway Department, the Georgetown Fire Department, the Georgetown Building Inspector, Henneman Victor Real Estate (Bonnie Demars), Phoenix Environmental Services Inc. (Donald Corey), Transportation Engineering, Planning and Policy (traffic study), and including testimony from a number of abutters.

The Zoning Board of Appeals deems this project not detrimental or offensive, nor will it reduce property values in the area by reason of dirt, glare, odor, dust, fumes, smoke, gas, sewage, refuse, noise, vibration, steam pollution, danger of explosion nor fire, traffic congestion or other cause. The board may authorize any other use not specifically listed in the schedule of uses if in harmony with the general purpose and intent of this chapter. The board was able to establish a hardship owing to soil condition, shape, and topography of this site. The cost to remove the existing buildings and potential additional environmental clean up costs lend to the proof. For instance, substantial asbestos in the existing building is costly to remove and to properly dispose of. The existing zoning would permit the construction of two single-family homes, which would not make it economically feasible to clean this site. This variance would also change the use of this lot from industrial to residential, and would be more beneficial to both the town and the surrounding neighborhood.

The Zoning Board of Appeals has also GRANTED a Special Permit for more than one building on a lot in this case has added conditions that provide certain open space, housing for persons of low or moderate income, traffic and pedestrian improvements as provided for in Massachusetts General Laws Chapter 40A Section 9, Special Permit.



CRANE NECK 2.

BOARD

NAME	VOTE	DATE
Michael Sweat	yes	9/5/00
Cynthia Bateman	yes	8/31/00
John Bonazoli	yes	
Douglas Gisonno	YES	8/29/00
Steven Epstein	Yes	8/29/00

This decision is on file with the Planning Board and the Town Clerk. An appeal of this decision shall be made pursuant to section 17 of Chapter 40A of the Massachusetts General Laws and shall be filed within 20 days after the date the notice of decision was filed with the Town Clerk.





TOWN OF GEORGETOWN
Memorial Town Hall, 1 Library St.,
Georgetown, MA 01833
ZONING BOARD OF APPEALS
Office (978) 352-5742***Fax (978 352-5725)

Town/City of Georgetown
Zoning Board

CERTIFICATION PURSUANT TO M.G. L. c. 39, SECTION 23D OF PARTICIPATION IN A SESSION OF AN ADJUDICATORY HEARING WHERE THE UNDERSIGNED MEMBER MISSED A SINGLE HEARING SESSION

[Note: Can only be used for missing one single hearing session; can not be used for missing more than one hearing session. Inquiries concerning this form and your ability to participate in a matter where you missed a single hearing session should be addressed to

_____, Town Counsel/City Solicitor]

X I, Paul Shilkin (name), hereby certify under the pains and penalties of perjury as follows:

1. I am a member of said board.
2. I missed a hearing session on the matter of 201 Central St., Georgetown Ma-
which was held on 8-2-11.

3. I reviewed all the evidence introduced at the hearing session I missed, which included a review of (initial which one(s) applicable):

- a. _____ audio recording of the missed hearing session; or
- b. _____ video recording of the missed hearing session; or
- c. a transcript of the missed hearing session...

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this 6 day of September, 2011.

Paul Shilkin
Name

Received as part of the record of the above matter:

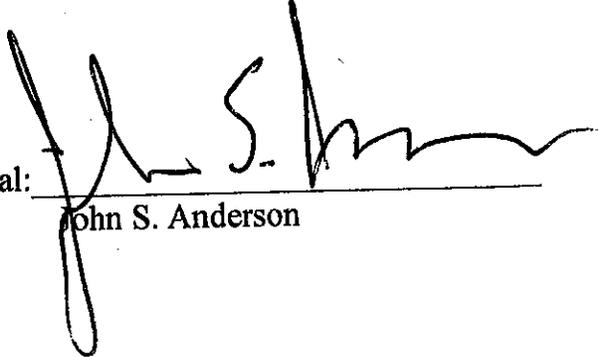
Date: 9/6/11
By: Paul Shilkin
Position: ZBA Clerk

AUTHORIZATION

I, John S. Anderson, Esq., the duly authorized representative of the Trustees of the 201 Central Street Condominium Trust, 201 Central Street, Georgetown, MA 01833, do hereby authorize Paul Davis, of 201 Central Street, Georgetown, MA 01833, to represent me in the matter of the Application for Amendment of variance before the Georgetown Zoning Board of Appeals. I hereby authorize him to act in my place and stead before the Board as fully as I could do if personally present.

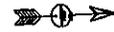
Signed and sealed this 24 day of August, 2011.

Seal:



John S. Anderson

EXHIBIT 17



PROPOSED FENCE TO BE REMOVED

← ~160' →

PROPOSED 6 FT. HIGH SOLID PANEL CEDAR FENCE

N/F MERRIMACK-ESSEX ELECTRIC CO.

N00°23'50"W 476.98'

30 FOOT SETBACK

EXISTING ANNEX (STEEL)

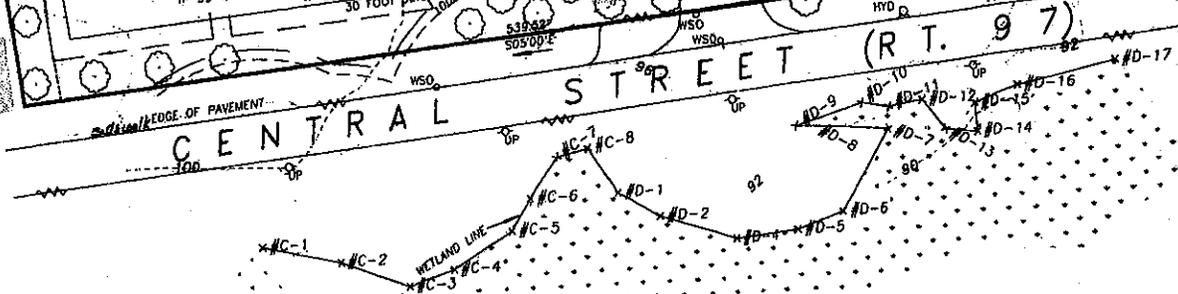
EXISTING FACTORY (WOOD)

N/F TOLMAN

20 FT. VEGETATED BUFFER ZONE

N/F MARSHALL

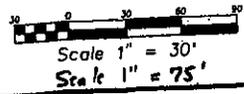
EX. HOUSE



ZONING DISTRICT: RC
 LOT AREA: 115,410 S.F.±
 BUILDING COVERAGE: 14,616 s.f.± (12.6%) PROPOSED
 17,853 s.f.± (15.4%) EXISTING
 GREEN SPACE: 77,500 s.f.± (67.1%) PROPOSED
 90,925 s.f.± (78.7%) EXISTING

PLAN REFERENCE: PLAN #492 OF 1960

NOTE:
 1. PROPERTY LINES SHOWN ARE TAKEN FROM THE PLAN REFERENCE. ACCURACY OF SAID PLAN AND/OR LOCATION OF STRUCTURES, ETC WITH RESPECT TO PROPERTY LINES NEEDS TO BE VERIFIED.
 2. WETLAND LINE BY OTHERS



PRC 21

DATE/ REVIS API 19-01 7 CR