



Georgetown Zoning Board of Appeals

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

MINUTES OF A PUBLIC HEARING

ZBA FILE File #13-10

Steven Flynn Sr.

Nunan's Florist & Greenhouses

Special Permit – Outdoor Amusement Use

April 9, 2013

Board Members Present:

Paul Shilhan, Chairman
Gina Thibeault, regular member
Sharon Freeman, regular member
Dave Kapnis, regular member
Jeff Moore, associate member

Zoning Clerk: Patty Pitari

Applicant; Steven Flynn Sr. & Steven Flynn Jr.

Attorney – Frank DiLuna, Murtha Cullina LLP

600 Unicorn Park Drive, Woburn, Ma 01801

P. Shilhan opened the Hearing at 7:30pm.

D. Kapnis read legal ad; An Application has been made by Steven Flynn Sr. of 177 Millvale Rd, Haverhill, Ma, Owner and Applicant of 269 Central Street, Nunan's Florist & Greenhouses in Georgetown, MA Assessor's Map 9, Lot 1, in the RB district, for a Special Permit to operate an Outdoor Amusement (mini golf) use, under M.G.L. 40A §9, and the Georgetown Zoning Bylaws Chapter 165 § 2, 9, 78 & 79. A hearing will be held at the Georgetown Town Hall 3rd Floor meeting room Tuesday, April 9, 2013 at 7:30pm. *ZBA file #13-10.*

Chairman Paul Shilhan introduced the board members.

Applicants Presentation:

P. Shilhan – Please tell us what you have currently and what you want to change.

Steven Flynn Sr. (Owner) - We are currently running a greenhouse, garden center, florist shop and wholesale operation we have been there since 1985 and we have been struggling with the economy like everyone, in our industry gardening centers have also been struggling with doing something different to keep our business going like café's which we would like to include with the minigolf, I think it would be a great assets to the town, my son is also part owner, he can answer some questions.

Steve Jr. – We want to make something that people would come in during the off season, our season is so short, it's 4 months, April, May, June and December are our busiest months, August, Sept, October, mini golfs are busy so to keep the business going, as far as aesthetics, we are trying to stay more Zen more landscaping, not clowns and things like that, while the family is out there playing golf, we want to do something on the golf card that show the plants that you will see located throughout the mini golf area (layout) every hole will have plants that may interest the parents, and the parents can then go over to garden part if they saw something that interested them, and mark it on the back of their golf card.

Questions from Board.

P. Shilhan – The board will ask questions and then we will let the audience speak.

J. Moore – Is this the level you are at now as far as the layout?

Steve Jr. – As far as mini golf, yes, we want to make sure we can have the use permit before we contact the company for full plans because of the money. We laid it out to stay away from setbacks, wetlands etc.

Steve Sr. – It will be done by a company out of Pennsylvania, it's a 200,000 mini golf course this is top of the line and nice, it will be an asset to the town.

J. Moore – How large is it?

Steve Jr. – The mini golf is 39,000 sq. ft. and the building with ice cream is 3,500 sq. ft.

P. Shilhan – Do you have the web site and can you give us that at some point. Steve Jr. – yes.

Steve Jr. – I sent the company a packet of what they are trying to do and I have those here. The company sent me more elaborate drawings and I just got today.

<http://www.harrisminigolf.com/>

Steve Jr. passed a drawing on a board, around to the board members.

S. Freeman – It looks like you are eliminating 3 greenhouses that will be used for parking. If they are buying new would it be ok....Patty – it's an existing use.

Steve Sr. – Yes those 3 glass greenhouses, we have land out back and they are so old, we only run them part of the year, in March, April and May.

D. Kapnis – It say's game house here what is that?

Steve Sr. – We were thinking of maybe putting a couple arcades to keep the kids busy while the parents shop for plants.

Patty – If you did do that I would speak to the building inspector I believe that's an indoor amusement and that is another separate application as it's not included in this.

J. Moore – Do know what type of usage rate, number of vehicles.

Steve Sr. – Our next step is after this if we get this, is to hire a company to do a business plan, the bank would need something like that to loan us the money, when we take down the glass houses, it will add parking and we will have 115 total parking spaces.

J. Moore – It's a pretty big use, and I am thinking about the traffic, vehicle flow.

Steve Jr. – When mini golf hits its peak, by that point our lot is ¼ full, and then in May and June, you can't get a parking spot, that's why we are adding so much.

Audience

Matt Wheeler, 264 Central Street – We live across the street, we enjoy everything that goes on there, but the travel to and from it, with kids pedestrians, going down central street, the sidewalk ends near Elm Street. Is it possible to extend the sidewalk, otherwise we don't have a problem. We are not against it.

J. Moore – That road is a horrible place to walk with the turn.

S. Freeman – I also agree about the sidewalks, I think it's a town responsibility you can't put it on the business; I think the highway surveyor should address this.

G. Thibeault – They will need to do Site Plan Approval, this will be covered with Planning.

Matt Wheeler – I just want to say, we just thought about it and we see the kids walking we just wanted to bring it up not burden Steve with it, we are not in opposition.

S. Freeman – We tried to get this done with the traffic committee, and got nowhere. We couldn't get the town to do anything.

J. Moore – This is a use that is not allowed by right so we can mitigate concerns that we believe are legitimate, this area is not necessary setup for a lot of traffic and this and it can be conditioned and this is a use that is not allowed and if that is a problem, the planning board would have to deal with it.

D. Kapnis – I don't see a lot of pedestrian traffic there because there is no sidewalk.

P. Shilhan – Is there anyone else in the audience who would like to speak.

There were none. P. Shilhan – This is a bit complicated, and then you need planning board.

J. Moore – They would also need major development review because it's over 30,000 sq. ft., that would be up to the planning board. D. Kapnis – It may need Board of health for septic also.

J. Moore – do have any lighting now in the parking lot? Would lighting change?

Steve Sr. – Yes, we have lighting now that we pay for.

D. Kapnis – You may have to add some lighting.

P. Shilhan – Will your hours increase?

Steve Sr. - Ice cream is open until 9pm that would be the latest.

Gina – Would you want to do later than 9pm?

Steve Jr. – No I would like to stick to 9pm.

J. Moore – What is the existing ice cream building size now?

Steve Sr. - It's 30 x 25

G. Thibeault – And the new one?

Steve Sr. – It's 3,500 sq. ft.

J. Moore – There were no previous hearings for this. Henborg's so it's a legal preexisting use.

Frank DiLuna, Attorney for Steve Flynn – They are allowed under 40A Section 3 exemption, under agricultural product. As long as they meet their quota, as long as they are selling an agricultural product it's exempt.

Patty – I brought him to the Assessor's and it is a 61A agricultural.

Frank DiLuna - You can look up the "Lookout farm" case.

Frank DiLuna – It is set up where they are selling the decorations they have for sale, the plants, it's a marketing technique under section 128 and it's still considered agricultural, one of the fastest growing culture is bringing people on to the farms, wedding events, etc....if you go to Kimball's ice cream up in Westford, they have almost an identical setup, it's an acceptable but unique setup.

J. Moore – You are substantially increasing the size of the restaurant. I would like to know more.

Steve Sr. – We are trying to get people to sit inside, especially with the EEE that happened in town. There will be soup and sandwiches, but nothing fried.

Gina - Will you be waiting tables and then the stand? Steve – yes.

P. Shilhan to the attorney – Are there any sort of sq. ft. relationships between the agricultural use and the amusement or marketing?

Frank DiLuna – The only ratio in 61A there is a ratio, they have to grow 25% in their major harvest season, which is April, May and June that's the only ratio in the statutes.

P. Shilhan – You could have a huge restaurant and a small garden patch as long as your selling 25 % of what your growing, could the building become quite large and become just a restaurant at some point.

Frank – There are several areas on apr farms that have full scale restaurant, but if they go into that scale the farm stand has to support the restaurant.

P. Shilhan – I thought it had to be a farm product. Ice cream is a dairy product.

Frank – The ice cream can be the other 75%. A case “Paris vs. Sharon” set the foundation for that principal now it failed in Concord “Concord Cones” what happened is the farm bought the ice cream place and put flowers in the ice cream place and said we are operating this under the exemption and the court said wait this is not connected to the farm, that didn’t fly. So in this case the ice cream is incorporated into the farm, so it’s completely different.

Gina – What happening to the existing ice cream shop?

Steve Sr. – It will be storage. G. Thibeault - And the outdoor café will there be tables?

Steve Jr. – There is a shade house over there and we will be putting the picnic tables for shade.

P. Shilhan – Where are the shades perennials go...Steve Sr. – In the back

Steve shows a rendering of what they want it to look like, it’s more upscale like the mini golf. There will be an entrance or exit area, for the back it will be a nice flow.

J. Moore - If the board allowed this use, based on a rendering, I am not quite there yet. I am stuck between what you want to do and not having enough information.

P. Shilhan – Lighting is an issue, and vehicular access at the entrance.

Frank DiLuna – Would the board be comfortable issuing the special permit it for the use as it is not detrimental to the neighborhood subject to Site Plan Approval?

J. Moore – I am personally not convinced that it’s not detrimental to the neighborhood, there is a big difference something cheesy and something upscale, and this is the first time I am seeing this, I am think I want a little more time to think it through. If we allowed this use on a couple of square blocks and a rendering, we won’t’ design it for you, I think a special permit would have to be submitted with the plans provided. I am not ready to vote on this yet.

G. Thibeault – This is not the exact plan.

S. Flynn Jr. – The new plan I just got today, it does have the lighting on it., but when they get here to look at it that may change, but the sq. footage is the same.

P. Shilhan – What’s your timeline.

Steve Flynn Sr. – We wanted to get started in the fall.

Patty – With the going to planning you won’t have this done by fall unless you have every single item they need at the first 2 meetings.

P. Shilhan – My list is the safety at that corner, lighting, signage, hours of operation/activity, vehicular access, and as old as those greenhouses are, I would like to see a buffer there softening that stretch of

area. I would like those addressed at next meeting. It's a little bit of what I do for a living. I would address the hill there at the entrance. Right now you can address how many children walk there.

Gina – Can we give them some level of comfort so they don't spend all this money?

P. Shilhan – We are protecting the integrity of the town then we can grant the use, assuming these items will be addressed. We can continue and you can address these questions.

Patty – It will go to Planning for most of these issues, 165-83. Patty read the SPA checklist that lists parking, traffic, lighting etc....

P. Shilhan – Can the Planning reject it outright, or do they just make changes under their side of it?

Frank – The planning board can't deny SPA only condition it.

J. Moore – You will need to get a special permit from them for major development.

P. Shilhan – If they can get this use from us, then they will have to invest the money for planning. The only challenge is if you give someone a list to address, it doesn't mean it's approved.

The applicant presented a rendering dated 4/3/13.

D. Kapnis – I think what Patty just read for planning has all the concerns we have.

Steve Sr. – You can look at the Harris mini golf Inc. website.

J. Moore – The broad conditions that we as a board before planning that may be detrimental.

Steve Sr. – Please come down and we can give you a tour.

Discussion on the list.

Steve Sr. – The speed limit could maybe go down to 25mph.

S. Freeman – I would ask officer Defeo about the speed limit. I am in favor of the sidewalks, we as a town have to make it a priority, until the town steps up to the plate, we can't put this on the businesses. I feel like the sidewalks is a separate issue.

Gina – Isn't that Planning, exit and entrance, we are not safety experts.

P. Shilhan - I think we should still go over this.

Gina – I think we had this discussion on another hearing like the hazardous waste; we had the fire chief in, and planning and going to do this.

P. Shilhan – Will planning do the aesthetics. Patty – Planning does do plantings etc.....

Additional Audience

Ruth Morley, 274 Central St. – I don't have any problem with this, I have been there since 1966, but traffic is an issue or a concern, but as far as the mini golf, but what if two years down the road it changes the time to 10pm? I do see kids going down from Elm.

Gina – They would have to come back for a change to the permit for the hours.

Ruth Morley – Who would be running the stands?

Steve Sr. – With family and extended family.

List:

Lighting, signage, Hours, vehicular access (exit/entry/sidewalks), buffer area to plant some trees...

Sharon – We have a problem with the traffic in this town. It's everywhere in town and I can't figure out how to get anyone to care about it from being on the traffic committee.

D. Kapnis – Paul you mentioned they can re-design the entrance/exit way, is that is our realm, with the radius/curve/ curb cut etc....that is planning.

P. Shilhan – I know you can do something more with the parking, now when cars are closer to the road with the greenhouses gone.

Steve Sr. – I am looking to speak to Peter Durkee about the guard rail.

P. Shilhan – We can have Patty email you a list. I am not looking for final plans let's just go over these concerns. We will send through Patty.

Parking – Steve Sr. - We will have 65 parking spots. Currently the proposed plan adds 50 more parking spots.

Proposed plan – dated July 2, 2003 by Joseph D. Simon PLS, Clipper City Surveying Engineering, Newburyport MA. Plan with mini golf draft layout dated 3/13/13.

After brief discussion the chairman asked for a motion.

Motion - J. Moore/D. Kapnis to continue to May 7th, 2013, after the first scheduled public hearing that begins at 7:30, all in favor – yes, no discussion. Motion carried.

Patty Pitari
Zoning Administrative Assistant

Approved 5/7/13