

Town of Franklin



Zoning Board of Appeals

**Thursday, January 19, 2023
Meeting Minutes**

Chair Bruce Hunchard called the above-captioned Remote Access Zoom Virtual Meeting to order this date at 7:30 PM. Members in attendance: Bruce Hunchard, Philip Brunelli, Robert Acevedo, Christopher Stickney, Meghan Whitmore. Members absent: None. Also in attendance: Casey Thayer, Administrative Assistant.

This meeting is being conducted as a Remote Access Zoom Virtual Meeting as allowed by Governor Baker's signing into law An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency. The Zoom meeting link and the Zoom meeting call-in number are provided on the agenda. The meeting is being televised and recorded for the public's information.

237 Pleasant Street - St. John's Episcopal Church of Franklin and The Community Builders Inc.

Abutters: Christine and Jonathan Apicella, 27 Padden Road; Colleen Bond, 23 Philomena Way; Julie Shea, 27 Monterey Drive; Brandi and Brendan Yeager, 26 Padden Road.

7:30 p.m. Applicant is seeking a building permit to construct a 64-unit multi-family development. The building permit is denied without a comprehensive permit from the ZBA. Applicants present: Attorney Richard Cornetta on behalf of the applicant; Project Manager John Harding of The Community Builders Inc.; Mr. Frank Holmes, civil engineer of Langan Engineering & Environmental Services; Mr. Maximo Polanco of Langan Engineering & Environmental Services.

Mr. Cornetta stated that this is a continued public hearing and their third appearance before the ZBA. Mr. Harding provided an update since the last presentation before the ZBA. He stated that for the last hearing they had submitted responses to the peer review comments; however, they were not received in time. Since then, the peer review consultant has had time to respond and issued a letter. He stated that the applicant has also updated the drawings in response to the review comments. He stated that additionally, the applicant was asked to update the traffic study which they have done and provided it to the ZBA and the DPW; they have not received comments from the DPW. He stated that they also received a sewer letter and sent it to the ZBA today; however, he is aware the ZBA has not had time to review. Chair Hunchard stated that the letter said they have capacity. Mr. Harding stated that the engineers would go into a little more depth as to the updates and the traffic study.

Chair Hunchard noted that neither of the Town's consultants, the engineer and the attorney, are available to attend tonight's meeting.

Mr. Polanco shared his screen and reviewed a presentation. He stated that his company conducted a traffic assessment for the proposed development following MassDOT guidelines. He provided a summary and the results. He discussed locations of turning movement counts and continuous bi-directional counts and where speed data was gathered. He reviewed the existing conditions for the study. He reviewed the anticipated trip generation as provided on his traffic impact assessment chart. He stated that the project is

expected to generated 486 trips on a daily basis. He discussed that based on this additional trip generation the development impacts were estimated, and the increase in traffic would not be more than three percent at the three intersections noted on his chart. He stated that there would not be a noticeable change at each of these intersections. He stated that based on the speed data collected, they evaluated the sight distances at the driveways for both the church and the residential development and they both meet the sight distance requirements.

Mr. Holmes reviewed the rendering of the site plan as shown on the screen. He stated that they have responded to the peer review comments and made minor updates to the site plan as there were very few plan changes needed. He reviewed some of the changes which included a guardrail added to the driveway, clarification of the grading to get to the dumpster areas, and lighting added to the church parking lot. He stated that they received an updated peer review letter yesterday. He stated that most of the comments have been addressed and there are a few areas to which they need to provide clarification. He stated that he thinks that the site plans submitted on January 11, 2023, will not need to change any more. He reviewed that it was recognized that there are 53 church parking spaces existing and that they should be able to show the number of spaces actually required by zoning. He stated that they provided a sketch drawing showing that the total number of parking spaces needed could be built on the church property if it was required at some point in the future. He stated that the sketch was acceptable to the peer review consultant.

Ms. Christine Apicella, 27 Padden Road, asked if the traffic impact assessment was reviewed and if there were any errors or mistakes. She stated that she reviewed it and noted some errors such as a Franklin Street listed which does not exist. She stated that raises some questions of the overall accuracy. She asked did anyone go through it to make sure it was complete and accurate. Chair Hunchard stated that the Town's peer reviewer, Hancock Associates, did not have any comments or issues on the traffic report except to say that it was complete. Ms. Apicella stated that she sent a letter to the ZBA with a list of questions, and she was concerned about specifics regarding the intersections. Chair Hunchard explained that Padden Road is a road whereas the residential driveway and church driveway are driveways, so they are a little different. He noted that there is a sight distance problem with Padden Road, and it is an existing condition. Ms. Apicella explained that she is concerned with left hand turn conflicts coming out of the residential driveway and Padden Road. Mr. Polanco reviewed how the traffic assessment was conducted, and he noted that there was no need for a signal at Padden Road. He discussed the number of vehicles existing Padden Road and turning left. Ms. Apicella asked the ZBA for additional mitigation that would help make the residential area safer. She stated that the comprehensive permit does not have to be granted without conditions. She stated that we as a community have an opportunity to shape the development and not make an unsafe situation even worse.

Mr. Harding stated that he appreciates that Ms. Apicella suggested mitigations. He stated that based on the traffic study, he thinks the only mitigation necessary is signage. He stated that he wants to be clear that they will not present any additional mitigation because they would not want to present anything without talking to the DPW first. He stated that he cannot promise that they will propose anything additional, but they will look into it. Chair Hunchard stated that the town administrator is aware of the concerns. He stated that Ms. Apicella's concerns were noted.

Ms. Julie Shea, 27 Monterey Drive, asked if there was anything mentioned about the speed limit and the observations about people travelling faster than the speed limit. Chair Hunchard explained that was in the report. Mr. Polanco stated that the speed is posted at 35 mph. He stated that in the 85th percentile the traffic was at 40 mph which is within MassDOT standards.

Mr. Stickney asked about parking and access to the DelCarte area. Mr. Harding confirmed there is parking on the proposed development site for DelCarte access. Mr. Holmes noted that there are a few

parking spaces designated near the generator. Mr. Acevedo requested the comments from the fire department. Chair Hunchard noted that a letter was written on January 4, 2023, from the fire department, but he has not seen it. Mr. Cornetta stated that they need to follow up with the fire department regarding the letter as it appears it has not been submitted. Mr. Brunelli asked about the sewer connections. Chair Hunchard stated that he spoke with the consulting engineer and he explained the proposed details of the sewer. He proposed continuing the public hearing to February 2, 2023. Mr. Harding stated agreement with the date.

Ms. Julie Shea, 27 Monterey Drive, asked about the pump station at the end of Monterey Drive. Chair Hunchard stated that the applicant would have a pump at their site and there may be some pump improvements at the current pump station. Mr. Holmes stated that he thinks there would be an evaluation of the Town's pumping station to make sure it would have the capacities to accept flows from their project; no improvements to the Town's pumping station are envisioned.

Building Commissioner Gus Brown stated that he had a letter from the fire department dated December 1, 2022, which indicated that their concerns were addressed and they have no further comments at this time.

***Motion made by Philip Brunelli to continue the public hearing to February 2, 2023, at 7:40 PM.
Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES.
Unanimous by the Board.***

55 Daniels Street - Shoshanah Graupen

Abutters: None.

7:35 p.m. Applicant is seeking to construct an addition with an accessory dwelling unit. The building permit is denied without a Special Permit from the ZBA. Applicants present: Shoshanah Graupen.

Ms. Graupen stated that she would like to build an in-law unit for her father while keeping the integrity of the home and the look of the house. She reviewed that it will be an addition off the side of the house and they will share the same driveway. She read aloud her Supporting Statement for a Special Permit.

Mr. Acevedo asked about the notation of Holly Lane as indicated on the applicant's plot plan. He asked if it was a road or a driveway. Ms. Graupen stated that was her neighbor's driveway.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Robert Acevedo to grant a Special Permit for a second dwelling unit for the property located at 55 Daniels Street with the conditions of the Special Permit being that the family member, father Mark Graupen, reside at the property along with the owner Shoshanah Graupen and that the Special Permit for the second dwelling unit becomes null and void if either party moves or transfers ownership. No separate utilities shall be permitted unless required by the DPW at 55 Daniels Street. The Board also determines that the social, economic, and community needs which are served by this proposal will be met. Traffic flow and safety will not be encumbered, adequate utilities and other public services exist, the proposal is consistent with the neighborhood character, and social structure as it exists now and the quality of natural environment will stay intact. There is no potential fiscal impact for the Town of Franklin by the issuance of the Special Permit. Also, the Special Permit will be recorded at the Registry of Deeds. The proposed accessory dwelling unit addition is shown on the Plan titled "Certified Plot Plan Located at 55 Daniels Street, Franklin, MA" prepared by Continental Land Survey, LLC, dated October 31, 2022. Seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

261 Daniels Street - Kyle and Kelle Bertram

Abutters: Patricia and Martin Middelman, 257 Daniels Street; Lawrence Tocci, 263 Daniels Street.

7:40 p.m. Applicant is seeking to construct a single-family home that is 20.5' from the right side yard setback where 40' is required and 21.0' from the left side yard setback where 40' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Bruce Wilson of GW Site Solutions; Kyle Bertram.

Mr. Wilson stated they are seeking a variance to replace a house that was destroyed by a fire. He stated that the hardship is that at some point the Town changed the zoning from a 15,000 sq. ft. lot to a Rural Residential 1 zone which requires 40,000 sq. ft.; therefore, they will not be able to conform. He reviewed that the previously existing home and the proposed home are ranch-style. They are trying to make it fit with the setbacks based on the original home. He stated that without being granted a variance, it would be next to impossible to put a home on that property. He confirmed that they have 100' of frontage. Chair Hunchard stated that as the house burnt down it has to be replaced; the applicant is using the same distances off the sidelines.

Ms. Patricia Middelman, 257 Daniels Street, stated that she and Mr. Martin Middelman are in support of the Bertram's getting the variance so they can rebuild their home.

Mr. Lawrence Tocci, 263 Daniels Street, stated that he does not have a problem with the proposed. He asked if there was going to be a detached garage. Mr. Wilson stated that there will be a 24' x 24' family room over the garage. He stated that based on the topography, the garage will be under. Mr. Acevedo asked for the current square footage of the home. Mr. Bertram stated that the current square footage is about 1,100 sq. ft.; the proposed home will be a little bigger.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Robert Acevedo to grant a Variance for 261 Daniels Street for Kyle and Kelle Bertram to construct a single-family home that is 20.5' from the right side yard setback where 40' is required, giving relief of 19.5', and 21.0' from the left side yard setback where 40' is required, giving relief of 19.0', as shown on a drawing titled "Variance Application Plan, Kyle and Kelle Bertram, 261 Daniels Street, Franklin, MA" prepared by GW Site Solutions, with submission date December 19, 2022. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

97 Miller Street - Thomas Burkhart

Abutters: None.

7:45 p.m. Applicant has constructed a 10' x 12' deck that is 33.4' from the left side yard setback where 40' is required. The building permit is denied without a Variance from the ZBA. Applicants present: None.

Chair Hunchard stated that he is in receipt of a letter dated January 18, 2023, to the ZBA from Thomas Burkhart regarding 97 Miller Street, stating that the application for a variance for a 10' x 12' wood deck is being withdrawn without prejudice. Mr. Acevedo confirmed that if the applicant withdraws the application, the applicant would have to apply a second time and start anew.

Motion made by Philip Brunelli to let the applicant withdraw the application. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

78 Conlyn Avenue - Reidar Davies

Abutters: None.

7:30 p.m. Applicant is seeking to construct a 24' x 30' attached garage that is 11.0' from the right side yard setback where 20' is required. Applicant is also seeking to increase the impervious coverage in a Water Resource District to 27% where 15% is allowed. The building permit is denied without a Variance and Special Permit from the ZBA. Applicants present: Attorney Edward Cannon on behalf of the applicant; Bill Halsing of Land Planning; Reidar Davies, applicant; Paul Griffin, applicant's uncle.

Mr. Cannon shared his screen and discussed the application. He reviewed the location and zoning map. He stated that the Water Resource District bisects the lot diagonally. He stated that there is 100' of frontage. He stated that there are two forms of relief. He read the Supporting Statement for a Variance regarding 9' of relief on the right side setback. He explained that because it is in the Water Resource District, they were asked to apply for a Special Permit regarding impervious coverage relief. He read the Supporting Statement for a Special Permit.

Chair Hunchard confirmed the proposed attached garage dimensions of 24' x 30'. He stated the standard two car garage is 24' x 24'. He asked what prompts the applicant to want 30'. Mr. Davies stated aesthetics and useability; as he drives pickup trucks, he needs a little bigger width. Chair Hunchard asked what is the preexisting condition for impervious coverage. Mr. Halsing stated that preconstruction coverage is about 18.5% and post construction is about 23.5% coverage. He stated that to mitigate that, they propose to infiltrate the existing house and the proposed addition which brings impervious coverage down to 12.3%.

Ms. Whitmore stated that 12.3% is better than it was so that sounds great. Mr. Acevedo asked about the application for both a variance and special permit. Chair Hunchard confirmed that the dimensional relief is for the variance and due to the Water Resource District, they cannot go over 15%. He stated that this is consistent with what the ZBA has granted in the neighborhood before. He asked about the shed and stated that it looks like it is over the line. Mr. Davies stated that the shed has been there for about 15 years and he owns 70 Conlyn Avenue as well. He stated that the shed is on cinder blocks. Chair Hunchard stated that the sheds should be moved to the correct locations with the setback to comply with zoning.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Robert Acevedo to grant a Variance and Special Permit for 78 Conlyn Avenue for Reidar Davies to construct a 24' x 30' single story attached garage that is 11.0' from the right side yard setback where 20' is required, giving relief of 9.0' and the Special Permit to increase the impervious coverage in a Water Resource District to 27% where 15% is allowed, giving relief of 12.0%, and including the mitigation, as shown on a drawing titled "Plot Plan Located at 78 Conlyn Avenue, Franklin, MA" prepared by Land Planning, Inc., dated December 27, 2022. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes January 5, 2023

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, January 5, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. No Second Made. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting adjourned at 8:53 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature

A handwritten signature in blue ink, appearing to read "Cary Ray", written over a horizontal line.

Date

A handwritten date "2/5/23" in blue ink, written over a horizontal line.