

Town of Franklin



Zoning Board of Appeals

Thursday, March 2, 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. Members absent: Christopher Stickney, Meghan Whitmore. 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.

97 Miller Street - Robert Shaw and Julia Macleod

Abutters: None.

7:30 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 noted that no applicants were present.

Motion made by Philip Brunelli to continue the public hearing until the end of meeting agenda.

Motion seconded by Robert Acevedo. No Roll Call Vote Taken.

Meeting Minutes February 16, 2023

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, February 16, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

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

Abutters: None.

7:35 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.

Chair Hunchard stated that he was in receipt of a letter from Mr. Cornetta, representing the applicant, requesting a continuance of the hearing to March 30, 2023.

Motion made by Chair Hunchard to continue the public hearing to March 30, 2023, at 7:40 PM.

Discussion: Mr. Cornetta stated that the reasons for the continuance would be that we are working with

attorney Mark Bobrowski on a proposed decision and also actively meeting with the Town to address some of the traffic mitigation measures that we have discussed. He stated that they should be ready for the March 30, 2023, meeting to appear before the ZBA. ***Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.***

373 Prospect Street - Michael and Julie Leblanc

Abutters: None.

7:40 p.m. Applicant is seeking to construct a single-family home and inground pool with impervious area of 20.6% where 15% is allowed. The building permit is denied without a Special Permit from the ZBA. Applicants present: Attorney Richard Cornetta on behalf of the applicants; Michael Leblanc, applicant.

Mr. Cornetta stated that this is an application for a special permit for impervious coverage. He stated that it was a vacant piece of property on which the applicants planned to construct a single-family home and inground pool with impervious area of 20.6% where 15% is allowed. He stated that the property is located in Rural Residential I and it happens to be located in the Water Resource Overlay District. He reviewed the proposed plan. He stated that approximately 90,300 sq. ft. of the property is located in Bellingham. He stated that this Board is only concerned with the jurisdictional area in the Town of Franklin. He stated that to the requirements of the bylaw, the applicant is proposing to create a network of gutters and downspouts system that would essentially capture the stormwater that would otherwise be permeated through the home and would channel the stormwater from the gutter system to a subsurface leaching system shown underground on the plan on the north and south side of the house and would include two Cultec systems. He stated that effectively this subsurface system would be mitigating the existence of the house. He stated that with the successful mitigation of this system, they would be able to bring the impervious coverage number to 12.8%. He stated that the applicants have also proposed a stormwater management and operations plan to be put in place which essentially means that they would monitor this system several times over the course of the year particularly following heavy rain events. He stated that with the proposed systems and the operations and maintenance plan, we believe that the criteria of the bylaw would be met and addressed. He noted that the plan submitted was prepared by GLM Engineering and stamped by the engineers as well as the maintenance plan provided by the engineering firm. He noted that the property will be served by a septic system. Mr. LeBlanc confirmed that the property is served by well water with the well on the north side of the house.

Mr. Acevedo stated that it looks like there is a massive patio proposed; if they did away with some of that concrete, the numbers could be brought down. He asked why is the patio so big. Mr. Cornetta stated that although the patio appears to be massive, that is why they selected the home and have proposed mitigation to get under the 15%. He stated that it is a nice residential plan. Chair Hunchard asked if the patio will be poured concrete or patio blocks. Mr. LeBlanc stated that it is not yet determined.

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.

Chair Hunchard stated that Mr. Cornetta provided a proposed decision. Mr. Cornetta read aloud the following from the proposed decision:

FINDINGS

Based upon the evidence and testimony presented at the public hearing, the Board has made the following findings and determination.

6. *The Applicant came before the Board requesting relief, in accordance with M.G.L., Chapter 40A, §9 and §185-40 D of the Code of the Town of Franklin for approval of Special Permit to allow the rendering of impervious coverage more than 15% or 2,500 square feet, whichever is greater, of the upland area of a lot located within the Franklin DEP Approved Zone II (WRD) pursuant to Section 185-40 D. (1)(l)(i) of the Zoning By-Law.*

7. *Pursuant to §185-40 G of the Franklin Town Code, special permit relief may be authorized by this Board with respect to a particular parcel of land where the Board finds all of the following:*

- a. *Groundwater quality resulting from on-site waste disposal, other operations on site and natural recharge will not fall below federal or state standards for drinking water or that, if existing groundwater quality is already below those standards, on-site disposal or operations will result in no further deterioration.*
- b. *Proposed control and response measures adequately and reliably mitigate risk to groundwater quality resulting from accident or system failure.*
- c. *The proposed use is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.*
- d. *The criteria of §185-45E(3), Administration and enforcement, special permits criteria, must be satisfied in cases where special permit variance is also necessitated by provisions outside this section.*

8. *During the public hearing, the Applicant provided testimony as to the physical characteristics of the property, with reference to the Plans submitted to the Board with the application. The Board determines the following:*

a. *The single family residence as proposed by the Applicant shall be serviced by a newly designed private septic system. The Applicant has proposed the installation of a network of roof gutters and downspout drains installed on the residential home. This stormwater collection system will collect and direct the stormwater otherwise displaced from the impervious coverage of the home, into two (2) subsurface leaching storage systems, located on the north and south side of the residence, each including a Cultec Dry Well System encased in sixty-six (66") inches of double washed stone. This proposed system will collect runoff from the roof of the building through a network of gutter and downspout drains routing it through the Cultec Dry Well System allowing for the removal of suspended solids and recharge through the network of double washed stone. The proposed development does not disturb any Wetland Resource Areas or buffers. The Applicant has incorporated Best Management Practices (BMP's) into this project to meet the Department of Environmental Protection Stormwater Management runoff quality requirements. Water quality requirements are met through the use of the Cultec Dry Well System. Groundwater quality resulting from on-site waste disposal or other primarily residential operations on site and the natural recharge will not fall below federal or state standards for drinking water.*

b. *The Applicant has proposed the use of good housekeeping practices through the implementation of the Stormwater Management Operation and Maintenance Plan which has been attached to the Application. The landowner/operator, or its successors, shall be responsible for financing maintenance and emergency repairs of the entire stormwater management system on their property, and through the implementation of the measures of this plan the Best Management Practices (BMP's) in place will remain functioning as designed.*

c. Since the existing site as developed will maintain pervious areas of up to +31,758 square feet of area, detention of the entire site is not necessary. The underground detention basin of the Cultec Dry Well System will provide a total water storage volume of 550 cubic feet which has been designed for a 2inch storm event. Groundwater was not encountered in the borings performed in the areas proposed for the Cultec Dry Well System. Therefore, it is expected that the infiltration units will be above groundwater.

9. The Board further determines that the Applicant's proposed development, as enumerated in the Plan and Stormwater Management Operation and Maintenance Plan, demonstrate a method of mitigation consistent with BMP stormwater management practices and local measures, and shall provide for artificial recharge that does not degrade groundwater quality.

Motion made by Philip Brunelli to approve 373 Prospect Street for Michael and Julie Leblanc to construct a single-family home and inground pool with impervious area of 20.6% where 15% is allowed, as proposed in the draft decision read by Mr. Cornetta. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

220 Chestnut Street - Anthony Cabeca and Kimberli Jacobsen

Abutters: None.

7:45 p.m. Applicant is seeking to construct a 12' x 22' sunroom that increases the total impervious area to 19.7% where 15% is allowed in the Water Resource District. The building permit is denied without a Special Permit from the ZBA. Applicants present: Amanda Cavaliere of Guerriere and Halnon, Inc. representing the applicant; Anthony Cabeca and Kimberli Jacobsen, applicants.

Ms. Cavaliere stated that since they last met before the ZBA, they reevaluated the site and have added two Cultec chambers to the property to mitigate the stormwater and treat the impervious coverage so they are below the 15%. She shared her screen and reviewed the proposed plan. She stated that they are mitigating the impervious down to 14.3%. She stated that additional calculations have been added to the plan set as requested.

Chair Hunchard noted that the applicant provided what was requested by the ZBA members.

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 220 Chestnut Street for Anthony Cabeca and Kimberli Jacobsen to construct a 12' x 22' sunroom that increases the total impervious area to 19.7% where 15% is allowed in the Water Resource District, giving relief of 4.7%, as shown on a drawing titled "Special Permit Plot Plan, 220 Chestnut Street, Franklin, MA" prepared by Guerriere and Halnon, Inc., dated January 9, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Continued - 97 Miller Street - Robert Shaw and Julia MacLeod

Abutters: None.

7:30 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: Robert Shaw and Julia MacLeod.

Ms. MacLeod stated that the previous owner built a 10' x 12' wooden deck on the left side of the property set back 33.4' where 40' is allowed. She stated that they submitted a site plan that was stamped by the land surveyor certifying that the deck shown on the plan is no closer to the property line than the existing structure. She responded to Chair Hunchard's question and stated that she did not know where the relief came from for the right-side deck, but could ask the previous property owner. She stated that she thinks the left-side deck was built without a permit by the previous owner.

Mr. Acevedo clarified that this home was acquired and these decks were already in place, and the applicant is trying to clean up the permitting mess. Ms. MacLeod stated yes. Chair Hunchard stated that this application was presented a few meetings ago; it was determined that the former owner did not pull permits for some of the work done. He stated that that current applicant purchased the property and is trying to clear everything up. Ms. MacLeod confirmed that was correct.

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 97 Miller Street for Robert Shaw and Julia MacLeod for the constructed 10' x 12' deck that is 33.4' from the left side yard setback where 40' is required, giving relief of 6.6', as shown on a drawing titled "Owner: Thomas W. Burkhart, 97 Miller Street, Franklin, MA" prepared by Colonial Engineering, Inc., dated December 5, 2022. Discussion: Chair Hunchard asked and confirmed that the current applicants closed on the house on December 8, 2022. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

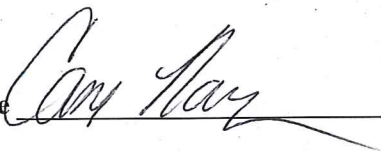
Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting adjourned at 8:10 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature



Date

4-11-23