

Town of Franklin



Zoning Board of Appeals

Thursday, March 30, 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.

50 Constitution Boulevard - Joseph Buchholz c/o Dell Technologies

Abutters: None.

7:30 p.m. Applicant is seeking to install two (2) wall signs that total 115 sq. ft where 90 sq. ft. is required. The building permit is denied without a Variance from the ZBA. Applicants present: Joseph Buchholz of Buchholz Signs representing Dell Technologies; Paul Fitzgerald, Vice President of Real Estate and Facilities for Dell Technologies.

Mr. Buchholz stated that they would like to replace the existing letters on the building with the new updated logo. He stated that they went before Design Review and there was no objection except that it was larger than what is allowed by code. He stated they would like the permission of the ZBA for the larger letters. He stated that they were requesting two (2) signs that are 57 sq. ft. each on the wall on the third floor. Mr. Fitzgerald explained that they are replacing current signage as the Dell logo has changed to Dell Technologies globally. He stated that they want the signage to look appropriate for the size of the building.

Mr. Acevedo asked if they were looking to redo signage on the other buildings in the area that Dell owns. Mr. Buchholz stated not at this time. Mr. Fitzgerald explained the other Dell building locations on Constitution Boulevard and stated that they would not be re-doing signage at this time. Mr. Buchholz explained the location on the building of the two proposed signs. He stated that both sides of the building cannot be seen at the same time.

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 50 Constitution Boulevard for Joseph Buchholz, representative of Dell Technologies, to replace two (2) existing wall signs and install two (2) new wall signs that total 115 sq. ft where 90 sq. ft. is required, giving relief of 25 sq. ft., as shown on a drawing titled "Dell EMC Facility, 50 Constitution Boulevard, Franklin, MA" prepared by Engineering Design Consultants, Inc., dated February 3, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

10 Windsor Circle - Michael Marinelli

Abutters: Selena Cousin, 114 Beech Street.

7:35 p.m. Applicant is seeking to install a 16'x 20' pavilion 7.5' from a pool where 10' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Michael Marinelli.

Mr. Marinelli reviewed that he wanted to construct a 16'x 20' pavilion 7.5' from a pool where 10' is required. He stated that the footing is 1' within the 10', so it is about 9' from the pool, but the surveyor recommended he apply for the 7.5' just in case. He stated that it would be pergola style with four posts with a roof; it is not built yet.

Ms. Selena Cousin, 114 Beech Street, asked how tall this would be. Chair Hunchard reviewed the size and asked if it would have a flat roof like a pergola; he stated that the ZBA did not receive an elevation drawing. Mr. Marinelli stated that it would be at least 8' so someone could walk underneath it and with a hip roof it would be approximately 12' to 15' tall. He stated that he did not know the pitch of the roof but thought it may be a 6 pitch. He stated that he does not have an elevation drawing. Chair Hunchard noted that the applicant has a two-story home; therefore, the proposed pavilion would be shorter than the current structure of the house. He reviewed that the proposed structure would not probably be any taller than the current garage. Ms. Cousin said that she feels that it is going to look kind of weird to have it going up a number of feet over the fence and seems it will look pretty odd from the neighbors' homes. Chair Hunchard stated that he does not think it is going to be intrusive. Mr. Stickney stated that it looks like moving it is not an option. Mr. Marinelli explained the location of the footings and noted the contractor is Harris Landscape Design of Bellingham.

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 10 Windsor Circle for Michael Marinelli to install a 16'x 20' pavilion 7.5' from a pool where 10' is required, giving relief of 2.5', as shown on a drawing titled "10 Windsor Circle, Franklin, MA" prepared by Continental Land Survey, LLC, dated January 30, 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: Christine and Jonathan Apicella, 27 Padden Road; Julie Shea, 27 Monterey Drive.

7:40 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 Community Builders; John Harding of The Community Builders; Attorney Peter Freeman of Freeman Law; Frank Holmes of Langan Engineering and Environmental Services.

Mr. Cornetta stated that they have been before the ZBA several times and believes they have addressed all the peer consultant's comments. He stated that during the last several weeks they have been working with the Town's consultant Attorney Mark Bobrowski on the terms and conditions of a proposed decision should this be approved.

Mr. Bobrowski provided a synopsis of the decision. He stated that he and Mr. Freeman have put the final touches on the comprehensive permit draft for the consideration of the ZBA. He shared his screen and showed the proposed Decision on Application for Comprehensive Permit. He explained the proposed draft decision while reviewing the provided 21-page document which included the following sections: I. Procedural History, II. Jurisdictional Findings, III. Factual Findings, IV. Conditions with sections A.

Regulatory Conditions, B. General Conditions, C. Construction, Inspection, and Bonding, D. Special Conditions, E. Lapse, F. Waivers, G. Validity of Permit. He stated that the most important things were the conditions. He stated that the regulatory conditions are standard. He reviewed that the total number of dwelling units that may be constructed shall be limited to 64 dwelling units, with an approximate mix of 20 one-bedroom units, 37 two-bedroom units, and 7 three-bedroom units. It is expected that 46 of the 64 dwellings will be affordable to households earning up to 60% of Area Median Income (AMI), nine dwellings will be affordable to households earning up to 50% of AMI, and nine dwellings will be affordable to households earning up to 30% of AMI. All of the dwelling units shall be and shall remain affordable for the life of the project. He stated that probably the most important condition is item B. 1. which indicates that the applicant is going to build what was shown on the plans of record and if they are going to change it, they will have to go through the building commissioner first, and if he decides it is a change, the applicant will have to bring to the ZBA a request for substantial or insubstantial change. He discussed as listed on the document the conditions for certificate of occupancy. He pointed out the special conditions with respect to traffic calming measures, sewer related improvements included installing a 15,000 gal. tank to store the flow from the project with timing to be decided upon, and with respect to waivers, a waiver from the need to file for applicable DPW permits.

Mr. Bobrowski shared his screen and showed the provided five-page document titled Town of Franklin Zoning Board of Appeals Comprehensive Permit Application, Requested Waivers. He reviewed the requested zoning waivers, subdivision waivers, and waivers from other Town of Franklin Chapters which will be required. Mr. Freeman reviewed the request to waive requirements for municipal fees for affordable units. He stated that this is a standard request that he puts in especially when the applicant is non profit and we do realize it has an economic impact. He stated that it is within the discretion of the Board and often granted. Mr. Bobrowski stated that this was very common prior to Lehman Brothers around 2008; it is not as common today. He stated that before he would waive a fee, he would want to go to the department or town manager or building commissioner and suggest that this is being contemplated and get their feedback.

Mr. Acevedo asked what is the cost of the fees that would be waived. Mr. Bobrowski stated that if you are waiving someone else's fee, you probably should ask them first. Chair Hunchard stated agreement. He stated that Mr. Peznola would be the onsite inspector for the project. Mr. Bobrowski stated that is not one of the fees that would be waived; Mr. Peznola would get paid for his inspections. He stated that they are talking about the normal fees for permitting. Chair Hunchard asked Mr. Freeman if this was a dealbreaker to have them pay the fees. Mr. Freeman stated that he could not speak to the precise economics. He stated that often the building fees are paid and the municipal connection fees for water and sewer are waived. He stated that frequently what is done is that you do not have to waive the building fee entirely but a portion of it to help the project. Mr. Harding stated that this is not a dealbreaker; it is in there as standard language that we are used to. Chair Hunchard stated that he has been doing this a long time and he cannot remember the last time that they gave everybody a waiver of the fees. Mr. Bobrowski noted that 100 percent of the units are affordable. He advised that Chair Hunchard communicate with the department heads about this.

Building Commissioner Gus Brown stated that he would like some time to think about this. He stated that he does not want to hold up the decision, but there is a good possibility that we come to the understanding that the fees could be reduced to a certain degree if that sounds fair to everyone. Mr. Harding stated that he would be happy to discuss that with Mr. Brown. Chair Hunchard noted that they do not know at this time exactly how much the fees are.

Mr. Bobrowski stated that he thinks they need an extension so the ZBA can communicate with department chiefs and come back in two weeks to hear about the fee waivers. Mr. Freeman stated that if you were satisfied with the draft and the waivers, it could be voted on subject to the final decision on the fee waiver request. Mr. Bobrowski suggested not taking any votes until the public hearing is closed. Mr. Freeman stated that he thinks the two weeks are okay.

Ms. Christine Apicella, 27 Padden Road, stated that they flew by some of the conditions and mitigation. She stated that it was frustrating to hear that there is so much discussion about fee waivers and not discussion about the other waivers that were being requested. She stated that the developers have stated that they were open to talking about mitigation. She stated that she has provided comments and keeps being told that she is being heard and that conversations are happening. She stated that it has not been a transparent public process. She stated that she does not know what has been decided, what has been ruled out, and what the Town is asking of the developers regarding mitigation for the impacts of the housing when the developer has indicated that they are willing to work with the Town. The only thing she can see is some kind of traffic calming. She stated that some of this is going to impact the people who live there.

Chair Hunchard stated that the Town could lose potentially thousands of dollars for one of the waivers that were requested. He asked Ms. Apicella if she would like to ask about the waivers or mitigation one item at a time. Ms. Apicella stated that she remembers seeing the proposed crosswalk in an RFP. She stated that she was told that there was some discussion about islands, but it was never shown publicly where they would be or what they would look like. She urged the ZBA to keep the public hearing open and follow up on all of the conditions with the elected officials and boards beyond just the fee waivers. She expressed concern that she has only heard the ZBA discuss the fee waiver, not the other waivers on the list.

Chair Hunchard stated that he has seen the traffic mitigation. Mr. Freeman stated that documents were provided. Mr. Holmes of Langan Engineering stated that he does not have the ability to screen share to show the drawings that were reviewed with the DPW and Town officials showing the traffic mitigation. Mr. Harding stated that he would screen share and show the documents. Mr. Holmes described the improvements as shown on the screen-shared plans. He stated that it was proposed at the time to include a crosswalk off Padden Road and Pleasant Street with signage. Mr. Harding reviewed the previously discussed crosswalk and signage which would include rapid flashing beacons. He stated the medians were requested by the town engineer; they are fairly small medians with lots of gaps to make sure they do not block anyone's driveway. Ms. Apicella stated that the four islands she had not seen previously. Mr. Harding stated that the town engineer requested the medians. Ms. Apicella asked what was in the middle of the median. Mr. Harding stated that these are about three feet wide, so he is not sure how much landscaping would fit in there. He stated that they are placed to avoid driveways. Ms. Apicella asked where the bus stop would be. Mr. Harding stated that they do not control the bus stop. Ms. Apicella asked if the School Department weighed in on how this would impact their operations. She stated that she appreciates that the applicant has provided some traffic calming; however, she still has concerns regarding the driveways being two ways regarding traffic impacts. She asked if the public will be able to review the conditions before they are voted on by the ZBA. Chair Hunchard stated that they would be available at the Building Department.

Mr. Brown asked Mr. Holmes if he had available a letter that he sent to Town Engineer Michael Maglio. Regarding the fees, he stated that he speaks for the Building Department only and of possibly reducing the fees, not waiving them. He stated that he would like to speak to Town Administrator Jamie Hellen about this also. Mr. Brown stated that a reduction is something he would entertain.

Ms. Apicella stated that what she is trying to point out is that the ZBA has asked very little of the applicant and that the ZBA has taken more time talking about fees than asking any other questions. Chair Hunchard stated that they have been dealing with this for six months now, and they have had open meetings and comments from every department. He stated that the waivers they are asking for is nothing that other 40Bs have not done, and the 64 units on the property are being done in cooperation with the church and is totally affordable. He stated that the development is 100 percent affordable. He stated that they have dealt with Mr. Harding before with the first building of senior housing behind the high school. Ms. Apicella stated that she supports affordable housing. She stated that conversations have happened and her complaint is that those conversations are not transparent. She stated that we the public are not privy to what some of those conversations are.

Mr. Brown stated that the relationship that he and Mr. Maglio have is extensive. He stated that the trust that I have in him, that he makes decisions based on not necessarily gut instinct, but research that he does with streets and situations all over town, and he has done that in conjunction with the police. Mr. Maglio is not required to attend the ZBA meetings. He stated that he can be his voice during this meeting. He stated that Ms. Apicella can pick their brains later on during this process. He stated that if the vote tonight is in the affirmative, she still has a voice. He stated that they are not going to close the door. He does not want Ms. Apicella to feel that they are not listening to her. Chair Hunchard stated that most of the delay in this project is because she asked the questions which is taking time for them to work out. He stated that they are listening and this is what they have come up with. He stated that this is a true affordable housing. He stated that he appreciates her concerns. Ms. Apicella stated that she simply asked for the development to be reviewed for impacts, and she does not feel the process has been transparent. She stated that she is not seeing the results of what is happening behind closed doors with other town officials in spite of her reaching out to find out more information.

Ms. Julie Shea, 27 Monterey Drive, stated that she is a little concerned about the center islands on Pleasant Street as it is a narrow road; she thinks speed bumps may be better. She noted the document presented about the sewer management. She stated that the pump station is at the end of Monterey Drive. She stated that the association is only contributing about \$25,000 for anything that needs to be rectified for the pump house in order to pump the sewage from the development. She stated that she is not sure why the Town and the taxpayers have to foot the rest of the bill on this. She stated that she agrees the Town should get paid for the permits that have to be pulled for this. Chair Hunchard stated that he called the engineer about the islands, and it will be like the islands on Lincoln Street near the school. As far as the sewer goes, the pumping station at Monterey Drive already has a problem. He stated that he saw the Town do an RFP to do mitigation on that pump station. He discussed other sewer locations and pumping required of wastewater. He stated that the applicant is willing to donate \$25,000 for the pumping station to try to get it fixed.

Mr. Brown stated that he guesses the question would be for Attorney Bobrowski and Chair Hunchard, that these waivers that are being asked for, once they are in place can they be modified later. Mr. Bobrowski stated that if the waiver is granted, the ZBA loses its authority to go back and impose a stricter standard. If the waiver is not granted, the applicant is free to ask for an insubstantial or substantial change; the Board cannot reconsider and take the waiver away if granted. Mr. Brown asked Mr. Harding if down the road things are not working out with some of the waivers that we originally thought, is The Community Builders open to the idea of making changes to the waivers. Chair Hunchard stated that he is not so inclined to approve the waivers as requested; if anything, they could come back later and ask for an insubstantial change. He discussed the proposed sewer and some of the fees. He noted that the applicant is asking for all fees; at this time he is thinking of not granting the fees waiver. He noted that Mr. Harding already stated that this is not a dealbreaker for them.

Mr. Brunelli asked that once the project is built, will they be paying taxes as it is involved with the church. Mr. Harding stated yes; the ownership entity who would own the whole project would pay local taxes. Mr. Harding explained that the profit gets put back into their mission; we spend it on all of our staff, and it gets put into projects that are struggling.

Ms. Shea asked about the stormwater management. Chair Hunchard stated that they are going to manage their own stormwater on their site. Ms. Shea stated that as the property abuts conservation land, does the Conservation Commission and the Town of Franklin have any say or do any investigation as the building and humans encroach on the conservation land. Mr. Harding stated that the project would get approved through the ZBA, not the Conservation Commission; however, the chair of the Conservation Commission requested that they present before them. Mr. Harding stated they presented to the Conservation Commission and got a letter of support from them. Ms. Shea asked for the document to be provided by the ZBA for review. Mr. Bobrowski confirmed that the local Conservation regulations could be waived but not the state regulations.

Mr. Holmes stated that the project is outside of the local and state conservation jurisdiction. Mr. Bobrowski suggested the letter Mr. Harding referred to be submitted and put on the record.

Ms. Colleen Bond stated that she had attended the Economic Development Subcommittee meeting a few weeks ago at which the 40B process was reviewed in great detail. She is disheartened to hear that everyone at this meeting is saying this is happening and at this location and there is not transparency. She stated that this is coming through as a toxic 40B development instead of a friendly 40B development because you are basically saying it is going through no matter what. She discussed that as the applicant said this was going to be 100 percent affordable, they did not have to go through all the steps that a regular 40B would go through. She stated that if this was going to be put in place no matter what, that should have been stated from the start as this has just wasted a lot of people's time thinking that we have a say in our community when it sounds like we do not.

Mr. Stickney stated that he liked the addition of the dividing medians on Pleasant Street as a good addition for safety mitigation. He voiced a concern that the waiver of fees is a step too far. Ms. Whitmore stated that she echoed Mr. Stickney's comments about the road and the fees.

Mr. Acevedo asked about the contribution going to the pump station and what will that money do for the Water Department. Chair Hunchard stated it was \$25,000. He stated that the \$25,000 is if the applicant did not put the 15,000-gallon tank on their side of the street, or the Town can use the \$25,000 to mitigate the problems already at the pumping station. Mr. Harding reviewed the condition and the agreement of \$25,000. Mr. Holmes stated that he thinks they are in agreement with the town engineer. He stated that one option is to install a tank onsite to hold the sewage from the project and pump it overnight at times when there is not a lot of sewer and water use happening. He stated that would be an acceptable way for the project to work. He stated that the study that is being done is going to identify what improvements might need to be made at the town's pump station to improve it. If those improvements that are identified were less than or equal to the \$25,000 that it would cost to install a tank on site, The Community Builders would contribute that amount if the town's pump station issue could be solved. He stated that the project can be built with a tank on site and the town's engineer is in agreement with that. Mr. Brunelli stated that he is not in favor of giving any fee waivers.

Mr. Bobrowski requested the applicant provide a letter that they agree to the hearing continuance to April 13, 2023. Mr. Freeman stated that he agreed that they would send a letter to extend as necessary.

Motion made by Philip Brunelli to continue the public hearing to April 13, 2023, at 7:35 PM. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

341 Union Street - Cam Afonso

Abutters: None.

7:45 p.m. Applicant is seeking to install a free-standing sign that is supported by one upright. The building permit is denied without a Variance from the ZBA. Applicants present: Cam Afonso of Signs by Cam.

Mr. Afonso stated that Robert Vozzella is building a new restaurant/winery at the location and with all the requirements for parking, dumpster, etc., he has limited space for a free-standing sign, so they are proposing a single pole sign which meets the requirements of 10' off the road. He stated that they are also asking for a 3' distance off the sideline to a vacant property because of the space restrictions. He stated it is pretty straightforward and a beautiful sign.

Mr. Stickney confirmed the location and asked for the sign height. Mr. Afonso stated the height is 15' and confirmed the sign is illuminated; it is a backlit sign and the letters are solid. Ms. Whitmore stated that she

thinks the sign looks nice. Mr. Acevedo confirmed that this is the Franklin Lighting Company building, and the restaurant will be taking over the backside of the building. He asked how is this sign in size in relation to the Franklin Lighting Company free standing sign. Mr. Afonso stated that this sign will be a little bigger, but it is under that allowed square footage. He stated that regarding height, it is a 20' maximum and the proposed sign is at 15'; the sign will be on Cottage Street but be angled to face the intersection of Cottage Street and Union Street. Mr. Brunelli stated that he was concerned that it was 3' from the vacant lot. He asked who will be going into the vacant lot. Mr. Afonso explained the ownership of the building. He stated that the owner of the vacant lot only stores his excavator there and that the owner of the vacant lot is in agreement with the sign. Chair Hunchard reviewed the sign bylaw requirements regarding setbacks.

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 341 Union Street for Cam Afonso to install a free-standing sign that is supported by one upright, as shown on a drawing titled "Proposed Sign Plan, LaCantina Winery, 341 Union Street, Franklin, MA" prepared by United Consultants Inc., dated March 15, 2023, and the sign rendering by Signs by Cam, provided in the application packet. Motion seconded by Philip Brunelli. Discussion: Chair Hunchard stated that the last plan that was submitted, we are talking about 3' setback and this only shows 1'. He asked what it is going to be. Mr. Afonso stated it was 3'. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes March 2, 2023

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, March 2, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

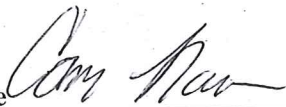
Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting adjourned at 9:14 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature



Date

4-19-23