

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, November 17, 2016
355 East Central Street
Franklin, MA 02038**

**Members Present
Bruce Hunchard
Robert Acevedo
Timothy Twardowski
Ian Luke**

**57 Anthony Road – James and Lindsay Lorusso
Abutters: See Attached**

Applicant is seeking a building permit to construct an attached garage 5.9' from the sideline where 20' is required. The building permit is denied without a variance from the ZBA. Appearing before the Board: Anthony Lorusso, brother of James Lorusso, who is helping to construct the project. Owner, Lindsay Lorusso, in the audience with abutters. Original proposal was 24' X 26' addition that they then scaled back to a 24' X 30', which is not effected by sidelines. Existing deck that is 12.6' plus bump out for the stairs makes it 13.5' off property line to neighbor's house, proposing to extend that to 5.9' off the property line. Mr. Lorusso then handed out the new set of plans to members of the board and secretary. Chairman: This new version does not encroach any more than the original design? Anthony: It is the same exact design. Abutters Kyle Crandall (55 Anthony Road) and Chris DiRado (54 Anthony Road) both stated their support for the project. Mr. Acevedo: Is 55 right or left of the property? Anthony: To the right on the garage side. To abutter – are you going to be okay with that? Abutter nods yes. Timothy Twardowski motioned to close the public hearing. Seconded by Robert Acevedo. Unanimous by Board. Motioned by Robert Acevedo to grant 57 Anthony Road for James Lorusso, giving them 14.1' relief on the sideline setback for a 24' X 30' 2-story garage as shown on the drawing dated 11/15/2016 by United Consultants, Inc. Site Plan 57 Anthony Road, Franklin, MA. Seconded by Timothy Twardowski. Unanimous by Board.

**21 Peck Street and 180 Cottage Street - Madalene Village-MV Cottage Development LLC
Abutters: See attached.**

Applicant is seeking a building permit to construct a 40-Unit townhome style development. The building permit is denied without a comprehensive permit from the ZBA. Applicants present: Bruce Wilson, Guerriere & Halnon, along with Danell Baptiste and a number of members from the design team - here to address any comments and concerns that the board may have on the project. Chairman asked for a brief overview and any changes that have been made since last meeting. An easel and drawings were set up and Bruce explained the project in detail to include resolutions to neighborhood concerns about amount of parking. Danell then went up to explain the drainage project. A total of 16 drain manholes, an array of catch basins, water quality units, etc. The site is on an up gradient, storm water will flow via the streets and side yards, collected via catch basins which will then traverse to a water quality unit. Localized low point with flow coming in being collected by a set of catch basins, going into infiltration systems. The conveyer system is intricate and overall this whole area currently drains to an existing ditch and design calls for underground collection and dispersement to a relocated ditch drain. A stream, relocated, collecting about 2.1 square miles of drainage area from Franklin and Peck Street. That entire flow is collected and discharged into this ditch via a 24" pipe and 15" pipe.

The proposal is to relocate this area into an enhanced area that is going to slow down velocity, have it settle in, and that is going to be esthetically pleasing. It is increased from approximately 4' to about 8' wide and velocities, volumes and flow rates are less than pre- and post-conditions, stipulated in storm water management. This facility is called a detention basin. It is going to be wrapped so as not to promote infiltration, because if we provided infiltration, we will need to provide a 50' buffer. At this low point, water will flow and there is a structure that will disperse storm water in a manner so as to not cause any adverse effect downstream or at this location which is called an analysis point. Peer review agreed with these calculations.

Peter Williams, GZA (peer review consultant for the board) gives an overview of a report that is handed to all members of board and secretary, dated 11/09/16. He did receive revised plans and went through them in relation to the rules, regulations, zoning and Wetlands Protection Act. It appears that the project does not comply with the Wetlands Protection Act. They will need to do an alternative analysis, file a notice of intent and get approval from the town and DEP. His concerns are outlined as follows: Comment #3 - in location of the detention basin, there is no information to see if the basin is actually within the seasonal high ground water, which could have some impacts with performance and liner they are proposing; Comment #5 - they will require an easement onto the town property to connect. There is a stub in the ballfield that does not come on to the property and that will be one requirement. Chairman: what is the story with the sewer easement? Bruce: we are currently short about 6' – 7' to get the stub to the property. That would require seeking approval from town council for an easement to make final connection. The intent was there to provide property with sewer, but failed to meet the true property line. Chairman: it says in your response that the client paid the town for a stub. Margaret Ranieri (property owner) recalled that either the town or the contractor was paid for the stub. Bruce explained that if they are not able to ascertain an easement, they would put in a central collection system and either pump in to Cottage Street or Peck Street with a sewer lift station. Chairman: I know you are relocating the drainage ditch. Is that sewer connection going to be below that drainage ditch? Bruce: It will be above, we will have to construct a culvert. The stream would go under the proposed culvert that we are doing on the connection. Chairman: What are you going to put on the bottom of it? It has to be open for the stream. Bruce: The stream is going to be fairly flat at about 0.5% - 0.75% through there, so we don't have the opportunity unless we were to pump it to the manhole and go under the street. Danell: If push came to shove, we will provide some type of insulation for that pipe. Peter: Comment #9 - I'm not sure that the issue of Emergency Vehicle Access around the building has been resolved and we probably need input from the Fire Department. Bruce: We revised and put the smaller units there and actually pulled them away from the property line to provide more room to lay out a ladder. Comment #19 - the Storm Water Handbook has setbacks and design requirements for infiltration basins and buildings have to be located more than 100' if they are down gradient of an infiltration basin, so that would impact the location of a number of buildings down gradient. There's two or three infiltration basins that may impact the location of where they can put buildings. Chairman: Did you have infiltration basins before and now you are saying you don't have any? Danell: Volume 2, Section 2, Page 88 specifies if you are 100' downstream from a building you need 100' separation. If you are 10' North of the infiltration basis, you are all set. Volume 2, Chapter 2, Page 97 states infiltration trench, rather than infiltration basin, which is very specific that volume states 20' instead of 100'. Bruce: I would consider this a basin where they are connected, a trench would be a singular sort of infiltration structure – a basin is an area underground providing infiltration. There is disagreement on this and Danell offered to discuss after the hearing and going forward.

Mark Brobowski inquired as to date of extension which is 12/24/2016. There is a battle between board and applicant over giving Peter enough information so that he can make an informed

decision. They do have to come back and give definitive construction level details before they can get a building permit and go forward. Mark would also like the board to keep in mind that there are a number of waivers that they requested, which involved at least five other boards between the Fire Dept., DPW, ConComm, water, waste water and the planning board on the subdivision related issues. This is a new plan so those boards have yet to see it, they've yet to comment on it. Where they are asking for waivers from somebody else's regulations, he thinks it's a good idea for the board to get response from those boards to see whether or not they are in favor, not in favor and why. Chairman: when these plans come in, it is disseminated out to everyone and if they haven't looked at it, it is because they aren't interested. The Fire Department has looked at it numerous times. We don't know what they want as far as ConComm because they haven't been before them yet. They are asking for a waiver of all the local regulations. As far as DPW goes, they may be looking for something from the council to extend the sewer and water line. As far as easement over the property line, the town would have to grant them an easement. If they are going to put a pump station in, they should show us that design. ConComm doesn't want anything to do with it until they file. Mark: I always take the position that, if someone requests a waiver from a local ConComm rule, we ought to get what the ConComm thinks. Chairman: Their agent responded that they didn't want to look at it until they file. Mark: I do think that the pump station is important because it is their sewer system. Someone has to look at it in advance. I think that it is fair to say that anticipating that the town council will give you an easement is a false hope.

Chairman opens up discussion to the audience: Several residents raise concerns regarding flooding. One resident asked about the timeline of events and what their rights were after a decision was made. One resident asked - if the Ranieri's paid for a sewage hook-up at the other side of Fletcher Field, why is there no paperwork at the DPW? Angela and Paul Woislaw voice several concerns, notably that the Conservation Commission has not been approached. Chairman reads two memos dated 03/29/16 and 07/12/16 both stating concerns from Conservation Commission that they have not been contacted. Mark comments that it puts ZBA in a hard spot. He would like the Conservation Commission to at least be asked to make a formal recommendation as to whether the waiver of local ConComm regs is appropriate and if not, why not? If we are going to be asking the booster station, then we ought to send them a letter too and if they don't respond, we did our job. Danell responds to flooding comments made by the Woislaw's.

Don Parsley (resident) a GIS analyst, speaks to the drainage ditch issue as a consultant. He examined the lake over a period of six months and at no point did he not see water, including late August when he expected not to see any – at the height of severe drought. This should not be categorized as intermittent. He then gives definition of ditch as described in the U.S. Geological Survey – a constructed waterway specifically for movement of water for drainage or irrigation. He saw no evidence of construction at site (looking at maps back to 1945) which would warrant calling it a ditch. This is a natural stream. He also discusses concerns for existing septic sites at Cottage Court that are 30 years or older. His major concern is the drainage and the FEMA flood zone at the corner of Union Street and Washington. He also states that figures used by applicant comes from Technical Paper #40 (source for their 5-year, 10-year, 25-year, 100-year storm figures). This document was published in 1961 and any figures using this are erroneous. Chairman questions definition of perennial stream and whether or not it has to come from a body of water that made up more than .5 acre. Mark states that the watershed for the stream has to be more than .5 square miles in order to constitute a perennial stream. Dan Wells from Goddard Construction spoke to perennial vs. intermittent stream. He had submitted a report on 09/27/2016 that detailed all of those calculations and the square mileage of the watershed and the watershed area was .22 square miles, which is well

below .5 square miles. Even if it does flow throughout the year, it does not meet the criteria established in the regulations. Mark explains that the audience needs to understand that Conservation Commission has jurisdiction over this under State Regulations which are not waivable. They must comply with that. The ConComm will hold public hearings and they will make a determination. The only thing the zoning board has jurisdiction over is the locally adopted Wetlands Regulations that are generally more stringent than state regulations.

Chairman asks who can speak to number of bedrooms. The town is looking for a reduction in bedrooms. Current count is 18 threes and 14 twos. A total of 82, down from 120. Design team - the state requires at least 10% and this project brings it to roughly 9.5% only because Weston Woods hasn't pulled a building permit and to come in with all three bedroom units is contrary to the town's needs at this point. Chairman is looking for more around 8 or 10 which would be 25% of the project. Applicant is willing to review the numbers.

Mark asked the board members to take another look at Tab 9 in the application, the waivers that were requested. Tim requested more information on the waivers as the applicant themselves state that a number of changes were made on the plan. Mark states that the most important thing he is hearing tonight is that the people in town government who deal with booster stations/pump stations for sewer need to see the preliminary plan as to how they propose to do this and they need to be able to comment to us in time for December 15th.

Tim to Mark: with respect to ConComm, what specifically can we request that they provide to us in advance of the next meeting? Mark: a letter should be sent to the Conservation Commission as soon as the applicant submits their new waiver lists. Tim: there are a lot of people in the audience that we owe a duty to in terms of doing a thorough review and getting as much input from ConComm and other town officials as possible. I want to see updated comments from various boards including the Fire Department. Mark: if the applicant will send an electronic version of the new plan and an updated waiver list, I will send it to ConComm, the Fire Chief and the person who is responsible for supervision, construction and maintenance of the pump station along with a letter that says we need your advice by December 15th. Motion made by Timothy Twardowski requesting that Mark Bobrowski obtain from the applicant the latest version of the their plan and an updated waiver list, which he will then in turn send to the Conservation Committee, the Fire Chief, the DPW and the person in town who is responsible for supervision, construction and maintenance of the pump station with a letter stating the board needs their advice prior to the December 15th meeting. Seconded by Robert Acevedo. Unanimous by Board. Motion made by Timothy Twardowski to continue the public hearing until December 15th at 7:30 p.m. Seconded by Robert Acevedo. Unanimous by Board.

General Discussion

- Motion by Timothy Twardowski to approve minutes of September 22, 2016. Seconded by Robert Acevedo. Unanimous by Board.
- Gus Brown, Building Commissioner, introduced the new Secretary of the Zoning Board of Appeals, LeeAnne Kerwin, and thanked Chairman Hunchard for being extremely helpful with all three of his zoning board secretaries. He also expressed his appreciation for Casey Thayer as well as Nancy Danello for all of her help with training.
- Motion made to adjourn by Timothy Twardowski. Seconded by Robert Acevedo. Unanimous by board.

Signature _____

Date _____