

Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, November 30, 2017
355 East Central Street
Franklin, MA 02038

Members Present: Bruce Hunchard
Robert Acevedo
Timothy Twardowski

TOWN OF FRANKLIN
TOWN CLERK

2017 DEC 15 AM 11:50

RECEIVED

16 Padden Road – Timothy F. Nelson

7:30 pm: Applicant is seeking to construct a front portico 37.4 feet from the front setback where 40 feet is required. The building permit is denied without a Variance from the ZBA. Applicants present: Tim Nelson and Alex Lyon of Lyon Landscape Nursery. Alex explains the proposal and offers the board drawings and pictures of a recent portico he built in the same neighborhood five years ago. No questions are proposed from the board. No abutters present. The Chairman reads an e-mail from Christi Apicella, 27 Padden Road, who writes in support of the project.

Motion made by Robert Acevedo to close the public hearing and seconded by Timothy Twardowski. Unanimous by board. Motion made by Robert Acevedo to approve the Variance for 16 Padden Road for Timothy Nelson for a front yard set-back for a front portico of 2.6 feet from 40 feet down to 37.4 feet as shown on a drawing dated 09/26/17 by Dunn-McKenzie, Inc. entitled 'Building Plot Plan, 16 Padden Road - Lot 4, Franklin, MA'. Motion seconded by Timothy Twardowski. Unanimous by board.

Auburn Road – Marinella Construction, Inc.

7:35 pm: Applicant is seeking to construct a single family home on a lot with 151.8 feet of frontage where 200 feet of frontage is required. The building permit is denied without a Variance from the ZBA. Applicants Present: Stephen O'Connell of Andrews Survey & Engineering and Frank Marinella (applicant's brother who would be the beneficiary of this Variance). He seeks to build a single house on the 16-acre lot. The driveway for the house would come off the existing cul-de-sac on Cypress. Mr. O'Connell presents drawings showing current frontage. He explains that they are only interested in one single family home in perpetuity on this 16 acre lot owned by Frank Marinella. He is hoping the Board will grant the Variance due to its uniqueness, due to its shape as residual land, and the suitable access via the driveway from the cul-de-sac. If the Board felt as though a condition or covenant that the lot not be further subdivided or built upon, the applicant would agree. Mr. O'Connell then reads the 'Supporting Statement' criteria from the application submitted. Chair asks about fire suppression given there is no town water. Mr. O'Connell explains there will be a well and a tank and pressure system.

Chair opens the floor to abutters: Jeff Love (23 Cypress Lane) expresses concerns that a type of covenant or amendment be made to keep more than this one home from being built. He is worried that a road beyond the cul-de-sac would open up potential vehicle traffic to another neighborhood or to another thoroughfare. Robert Acevedo (Vice Chair) states that the land could theoretically be subdivided, which was what the intention was in 1996 that never came to fruition. Mr. O'Connell agrees that that is correct, but it is not their intention. Vice Chair confirms that, if the board pushed to have them extend Cypress Lane in order to get frontage needed, the applicant would be forced to throw another couple of houses on there. Mr. O'Connell believes that that is fair given the cost of the road construction to create legal frontage for a new house with a new cul-de-sac. That cost could not be supported by the value of one house and they would seek another house or two for sale to support the cost of the improvement necessary. However, the applicant only wants one house, which is why they chose to seek a Variance.

Conditions, covenants and deed restrictions assuring that no other building within the 16-acre parcel were discussed. Chairman and Tim Twardowski feel that these conditions can be offered, but might not be able to be held down the road. Chairman confirms that it is a consensus from the entire group that they are happy with one lot and not a subdivision.

Tim Twardowski produces a map labeled Phase II Subdivision Plan that shows about 20 lots on the 16 acres that was never approved. He agrees that we have a roomful of abutters who are asking the Board to grant a Variance, basically to protect them for further development in this area. He explains that the situation is difficult because the applicants describe this as a remnant lot and the shape of the lot is the reason for the hardship, but the boundary lines and the shape of the lot are entirely the work of the applicant. After review of the application and map, Chairman suggests the board could grant a Variance to construct one home with the proviso that the engineer get some sort of covenant limiting 16 acres to the one house. The concern that Tim Twardowski has is that the board has seen a number of frontage variances in the past and lot size variances and to his knowledge, the only time they have granted relief for either lot size or frontage were cases where there was a zoning change that resulted in a lack of frontage or a taking that resulted in the deficiency, but in this case it appears that the lack of frontage is entirely by design whenever the property lines were drawn. He can see the merits of the application and he understands the perspective of the abutters, but from the Board's perspective and the need to provide the Variance criteria as well as looking back to how they've treated applications in the past, it is not something they have ever approved before. Although Steve O'Connell agrees with that statement, he feels that the benefits outweigh the alternatives. Tim does not feel that they should approve this application.

Joe Leary of 9 Auburn Road expresses his concern that Tony Marinella would feel obligated to use that land for development if this Variance does not go through. Vice Chair would like to approve this with a covenant to make it harder for Tony or anyone else to come back in the future to develop the land. Chair gives the applicant a couple of options: to meet again on 12/14/19 where they could go back and look at the application and maybe come up with a different scheme; or maybe look at the possibility of extending Cypress Lane (or build a turn-around) which would give them the frontage that is needed. The engineer states that that would be a subdivision process with the Planning Board. The applicant agrees to come back to ZBA in two weeks.

Motion made by Tim Twardowski to continue to December 14th at 7:30 p.m. and seconded by Robert Acevedo. Unanimous by board.

Motion made by Robert Acevedo to accept the Minutes as presented for Thursday, 09/28/2017. Seconded by Timothy Twardowski. Unanimous by Board. Motion made to adjourn by Timothy Twardowski. Seconded by Robert Acevedo. Unanimous by board.

Signature Heleanne Herwin

Date 12-14-17