

## Town of Franklin

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## Zoning Board of Appeals

Thursday, May 7, 2020  
Meeting Minutes

Chair Bruce Hunchard called the above-captioned **Remote Access Zoom Virtual Meeting** to order this date at 7:30 p.m. Members in attendance: Philip Brunelli, Robert Acevedo, Christopher Stickney, Mickey Whitmore. Members absent: None. Also in attendance: Gus Brown, Building Commissioner; Melissa Kiriacopoulos, Administrative Assistant.

This meeting is being conducted as a **Remote Access Zoom Virtual Meeting** as allowed by the Governor's Order relating to the COVID-19 outbreak emergency. Chair Hunchard noted the Zoom Meeting link and the Zoom Meeting call-in number are provided on the agenda. He announced the meeting is being televised and recorded for the public's information.

**9 Ashbury Drive – Michael and Deborah Druar****Abutters: None.**

**7:30 p.m.** Applicant is seeking to increase impervious coverage to 26.5% where 25% is allowed. The increase in impervious coverage is denied without a Variance from the ZBA. Applicants present: Mr. Michael Druar and Ms. Deborah Druar, property owners. Mr. Druar stated they wanted to increase the impervious coverage on the property to 26.5% where 25% is allowed. He stated that based on his research, this will improve the ability to collect rainwater and be a more efficient way of moving vehicles in and out of the driveway. Ms. Druar stated she did research and thinks that having a tank to save rainwater and using it for landscaping is a win situation. She noted that the Town of Franklin has been looking into using stormwater, and her plan for using rainwater is in line with the community. She said this information was provided in the ZBA members' packets. Chair Hunchard asked who prepared the plan and was a perc test done. Mr. Druar said he is a civil engineer and designed the water collection system; a local surveyor was also used. A perc test was not done. He explained that the collected rainwater would be going into a tank with an overflow. Mr. Acevedo asked if the applicants planned to pump out of the cistern. Mr. Druar said they were going to use it for the greenhouse and the lawn. Chair Hunchard stated that the applicants are only 1.5% over the allowed impervious coverage, and they have provided plans to mitigate; it is good if they can use the rainwater on the lawn.

***Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Unanimous by Board.***

***Motion made by Robert Acevedo to approve the Variance for Michael and Deborah Druar for 9 Ashbury Drive to increase impervious coverage to 26.5% where 25% is allowed, giving relief of 1.5%, as shown on a drawing dated August 21, 2019 with a revision date of January 24, 2020, titled Plot Plan of Land showing proposed garage prepared by Dana J. Standley. PLS, 9 Baron Road, Franklin, MA. Seconded by Philip Brunelli. Unanimous by Board.***

**22 Mount Street – Jason Correia**

**Abutters: None.**

**7:31 p.m.** Applicant is seeking to construct a 25' x 25' attached garage that is 18.7' from the right side yard setback where 40' is required. The building permit is denied without a Variance from the ZBA.

Chair Hunchard stated that he received a letter indicating that the applicant was attending another meeting and could not be present for this ZBA meeting until approximately 8:15 PM.

***Motion made by Philip Brunelli to continue this public hearing until the end of tonight's meeting. Motion seconded by Robert Acevedo. Unanimous by Board.***

The public hearing commenced later in the meeting.

Applicants present: Mr. Brian Wright on behalf of the property owners. Mr. Wright reviewed that the owners would like to construct a 25' x 25' attached garage that is 18.7' from the right side yard setback where 40' is required. They are requesting relief of 21.3'. He stated this is a hardship due to the shape of the lot, a power easement, a wetland, and a brook. The proposed plan seems like the best and easiest location for the two-car garage which would be on a slab with nothing above. He noted an existing wood deck encroaching on the setback. In response to questions, Mr. Wright explained that the garage was not square due to the grade difference. It is significantly lower on one side of the property. As such, he needed to accommodate a set of stairs in the front to put in a door. He said the driveway will extend to the garage and will probably be gravel.

***Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Unanimous by Board.***

***Motion made by Robert Acevedo to approve the Variance for 22 Mount Street to construct a 25' x 25' attached garage that is 18.7' from the right side yard setback where 40' is required, giving relief of 21.3', as shown on a certified plot plan dated January 23, 2020, titled Certified Plot Plan prepared by Continental Land Survey, LLC, 105 Beaver Street, Franklin, MA. Seconded by Philip Brunelli. Unanimous by Board.***

**524 West Central Street – Animal Kennel/Hospital**

**Abutters: None.**

**7:32 p.m.** Applicant is seeking to allow an animal hospital within the Business District per Special Permit for a change in use from the ZBA.

Chair Hunchard clarified that this is not a change in use from the ZBA, but it is a use that is only allowed by Special Permit from the ZBA.

Applicants present: Ms. Amanda Cavaliere of Guerriere & Halnon, Inc. and Mr. Krishnapraveen Yadlapalli, veterinarian. Ms. Cavaliere stated that Carlson Veterinary Care PC is requesting to obtain the use of the building at 524 West Central Street; this type of use is only allowed by Special Permit in the Business District by the ZBA. Chair Hunchard stated that he is not comfortable with this as the veterinary use is right next to a food establishment in the same building. He stated that all the other veterinary establishments in Town are in single-use buildings. He stated that when he went by the building, there were two doors in the back of the building: one door to the Subway food establishment



and the other door for the veterinary establishment where he assumes medicines and supplies as well as dogs that pass away will be brought in and out. He asked if there was to be any boarding overnight for dogs that have procedures. Mr. Krishnapraveen Yadlapalli said they are not planning to have any overnight boarding, only regular preventative care and routine procedures. He said they will not have any hazardous materials in the building. They may have a dead animal and will store the bodies in the freezer. A company will come and pick up the dead animal the same day. They will not be causing issues to the restaurant next door. He stated that they are building a wall all the way to the roof between the units so there will be no odors. Mr. Whitmore asked if the air handling systems were independent for each unit. Mr. Krishnapraveen Yadlapalli said they are building another system to separate the air. He explained that noise reduction is also included in the plans to make sure they are not causing noise disturbance to the building neighbors or the public. Mr. Stickney asked if there would be designated parking spaces for both businesses. Ms. Cavaliere said it was common parking, but they can designate spots for the veterinary clinic. Mr. Acevedo said he is not comfortable with a veterinary establishment moving in next to a restaurant; he stated that animals may be passing away, having surgery, or relieving themselves outside. Mr. Brunelli asked if this was being called a clinic or hospital. Chair Hunchard said it was a kennel hospital. Mr. Brunelli said kennel means boarding dogs. Ms. Cavaliere said kennel hospital is the designation on the schedule for the application. Mr. Brunelli asked if it would not be kennel, but only a veterinary establishment. Ms. Cavaliere said yes. Mr. Brown noted that Section 2.2 of the Zoning Code relates to kennels as well; therefore, if this were approved, it would also be for kennel use. Mr. Brunelli asked where is a specified spot where the animals can relieve themselves. Ms. Cavaliere said a location is not listed, but a location can be provided on the plans. Ms. Cavaliere asked that when veterinary establishments are looking to come to town, is there documentation that they are not supposed to be located next to food establishments, or is this just something that is not a preference of the ZBA. Chair Hunchard said that as this is a Special Permit situation, each permit is reviewed on a case-by-case basis; the ZBA does not change the bylaw. He stated that all veterinary establishments approved by the ZBA in the past have been in stand-alone buildings and specifically not next to a food establishment. Ms. Cavaliere asked if this public hearing could be continued to the next meeting to work with the applicant to see if they can come up with additional responses to some of the questions. Mr. Krishnapraveen Yadlapalli said he worked in Florida for three years and a pizza shop and restaurant was next to his veterinary clinic. He said he did not think this location would be a problem in Franklin, and he already signed a lease at the building. He lives in Franklin, and his partner in the clinic is from North Attleboro. Mr. Brunelli asked how the medical/ hazardous waste would be stored in the building and how would it leave the building. Mr. Krishnapraveen Yadlapalli said a company would pick up the animal waste, biohazard materials, and needles; it will be disposed of properly. Ms. Cavaliere said they can do some research on this and come back to the ZBA. Mr. Acevedo said there is no reason to continue this public hearing as the applicant cannot make their veterinary not be next to a restaurant.

***Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Unanimous by Board.***

***Motion made by Robert Acevedo to deny the Special Permit for 524 West Central Street animal kennel hospital. Seconded by Philip Brunelli. Unanimous by Board.***



**3 Bent Street – Bourne Realty Trust****Abutters: None.**

**7:33 p.m.** Applicant is seeking to site a pest control/leaf and brush removal company at 3 Bent Street. The use is denied without a Variance/Special Permit from the ZBA. Applicant present: Mr. Ronald Bourne of Bourne Realty Trust. Mr. Bourne stated he was requesting approval for a new tenant. As required by the Planning Board, every new tenant must be approved by the ZBA. He stated that the previous tenant was Encore Music Academy. The new proposed tenant is Kinder Spray which is an environmentally friendly pest control company. They would like to set up a storage area for their vehicles; it is only for their equipment and products, not an office. They intend to use the garage space for two vehicles plus whatever environmentally friendly products they store. Chair Hunchard stated this would be a contractor's yard. Mr. Bourne stated that he does not want this to be a negative influence on the neighbors. He said there are two parking spaces assigned to this rental space. The tenants would limit their registered vehicles to a maximum of 22'. He said that he reviewed a list of conditions with the proposed tenants that would eliminate the kind of usage that would be considered detrimental to adjacent residents. He noted that he submitted a site plan dated March 2020. Chair Hunchard stated that it looks like they would be parking on someone else's property. Mr. Bourne reviewed the property boundaries, driveway location, and parking plan. He stated this was submitted to the Planning Board as the approved parking plan. Chair Hunchard stated the plan he is looking at is not clear, and he noted he is more concerned with the use than the parking. Mr. Whitmore asked how the property is entered and where the driveway is located. Mr. Bourne explained the location is entered from Bent Street. Mr. Stickney confirmed that the tenants would be mixing the materials at the location and asked if they would also be doing vehicle washing there. He expressed concern about particulate runoff. Mr. Bourne said the tenant's product would be mixed with water from inside the building, and the tanks would be loaded into the vehicles to be used throughout the day. There is no waste of the product. If the product is not used that day, it will be used the next day. There are no provisions inside the building to do vehicle washing. Mr. Stickney asked about floor drains in the building in case of leaks. Mr. Bourne said floor drains will be a condition of the building permit. He reviewed the history of the building and the redevelopment of the site from years ago. Mr. Acevedo said this is located in a residential area and people live right across the street; there is a clear view of the door. He asked who will make sure there are not more trucks parked there. He stated the tenants are going to park their vehicles and possibly load up the vehicles at 6:30 AM in a residential area. Mr. Bourne said under current usage there is a limit that they could not start before 7 AM, and there is also an evening limit. He stated that he is asking approval not for the use, but for this particular company; if this company leaves, any new company would need ZBA approval. Mr. Acevedo stated that they are doing pest control and leaf and brush; so, the tenant is a landscaper. Mr. Bourne said the Bourne Consulting Engineering firm was originally approved with offices on the second floor and use of the garage for marine surveying equipment. In late 2011, separate ZBA approval was granted for the Encore Music Academy that rented space on the first floor for music lesson teaching; they are still there. He stated that one year ago he sold his company to another firm who stayed in the building at first, then moved out. Encore then took over that space. Encore did not want the garage space, so he is trying to utilize the garage space with a tenant. He explained that when he took over building it was dilapidated. He invested money in it; he did a service to all surrounding residents as he made it better. He is trying to find a use for the garage space that would help him cover some of the previous construction costs. He would like to work with the ZBA to limit and control usage in a way that is satisfactory to the ZBA and abutters. Mr. Brunelli said the tenant is a landscaper which is a construction yard. Mr. Bourne said he is willing to put limitations on this. Mr. Acevedo said he thinks Mr. Bourne did a good job on the site, but does not want to see a construction yard there. Mr. Brown said his interpretation is that it is a contractor's yard which is why he sent Mr. Bourne to the ZBA. Chair Hunchard said the site was for professional use. He is not willing to allow a contractor's yard in a residential district.



***Motion made by Robert Acevedo to close the public hearing. Motion seconded by Philip Brunelli. Unanimous by Board.***

***Motion made by Robert Acevedo to deny the Variance/Special Permit for 3 Bent Street as presented for seeking to site a pest control/leaf and brush removal company. Motion seconded by Philip Brunelli. Unanimous by Board.***

**138 Wachusett Street – Meghan and Ray McGovern**

**Abutters: None.**

**7:34 p.m.** Continuation from February 27, 2020 hearing. Applicant is seeking to construct an accessory dwelling unit that is 5.6' from the left side yard setback where 20' is required. The building permit is denied without a Variance from the ZBA. Also, applicant is seeking relief to create an accessory dwelling unit in the above referenced addition. The accessory dwelling is denied without a Special Permit from the ZBA. Applicant present: Ms. Meghan McGovern, homeowner, and Mr. Ryan Senkler, architect. Chair Hunchard noted this is a continuation of a previous public hearing. Ms. McGovern said a drawing was emailed to Mr. Brown and Ms. Kiriapoulos showing the revision of 10' as requested by the ZBA. Mr. Acevedo confirmed it was an architectural drawing and stated that the plot plan was not redone to show the 10' revision. He stated that he had no issue with the variance as long as a stamped certified plot plan showing the 10' is provided. Ms. McGovern said that could be done. She stated there is still going to be a one-car garage. She said the in-law apartment will be one-level; an addition of a second floor to the part of the house that they live in will also be made. Mr. Senkler said they reviewed the information provided at the last ZBA meeting, and the addition is now going to appear as though it is continuous with the house. He showed and described the plan. He said the garage and living room have been shrunk to fit into the allowed space; he reviewed the dimensions as shown on the drawing. Chair Hunchard stated that the applicant made the revisions the ZBA had requested.

Chair Hunchard noted that Mr. Brunelli was not in attendance at the initial public hearing; Mr. Whitmore was in attendance and will vote on this item at tonight's meeting. Mr. Brown reminded the applicant to maintain 10' from the back structure/pool and to put it on the plot plan.

***Motion made by Robert Acevedo to close the public hearing. Motion seconded by Mickey Whitmore. Unanimous by Board.***

***Motion made by Robert Acevedo to approve the Variance for 138 Wachusett Street for Meghan and Ray McGovern granting a 10' side yard setback variance to construct an addition to be no closer to the left sideline than 10' where 20' is required, as shown on a plot plan dated May 7, 2020, titled "Proposed Addition Plot Plan" prepared by GW Site Solutions, 248 Elm Street, Blackstone, MA. Seconded by Philip Brunelli. Unanimous by Board.***

Chair Hunchard said the engineer must revise the plot plan; the structure must not be closer than 10' and the plan must have today's date on it. The plot plan must be submitted to Ms. Kiriapoulos or Mr. Brown within 14 days.

***Motion made by Robert Acevedo to grant a special permit for a second dwelling unit for the property located at 138 Wachusett Street with the conditions of the special permit be that the in-laws, Robert and Denise Stone, reside at the property along with the owners of the property, Meghan and Ray McGovern 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 138 Wachusett Street. Upon completion of the foundation a certified As-built will need to be submitted and verified to meet the setbacks before continuing construction. 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 that the quality of natural environment will stay intact. There is no potential fiscal impact for the Town of Franklin by the issuance of this special permit and also that this special permit be recorded at the Registry of Deeds. Seconded by Mickey Whitmore. Unanimous by Board.***

#### **General Business – Franklin Heights Estate – Modification**

Mr. Mujeeb Ahmed, applicant, Franklin Heights project, stated that Mr. Cornetta, his attorney, sent a letter to the ZBA last week. Chair Hunchard confirmed that the ZBA would change the name on the permit to his entity as requested by Mr. Ahmed. Mr. Ahmed read from Mr. Cornetta's letter requesting a change in some of the two-bedroom units to make them three-bedroom units. Chair Hunchard said that last week Mr. Ahmed only wanted the name change and that could be done at tonight's ZBA meeting, but not anything else. Chair Hunchard confirmed that the name change on the permit should now indicate Two High Meadows LLC. Mr. Ahmed reiterated that he also wanted the bedroom change. He said he was told that as long as the number of bedrooms is not altered more than 10 percent, it was okay. Chair Hunchard stated that the amount Mr. Ahmed would have to pay the Town is down to \$92,000. Mr. Acevedo said that if Mr. Ahmed is requesting bedroom changes, it should not be discussed under General Business. Chair Hunchard stated that an insubstantial change such as a name change can go under General Business. However, if Mr. Ahmed wanted to change bedrooms, that would be a substantial change. Mr. Ahmed stated that Mr. Cornetta had made a presentation to the ZBA and said that he thought the bedroom change was an insubstantial change. Chair Hunchard said he is willing to change the entity name at tonight's meeting, and at a future meeting Mr. Ahmed can return to the ZBA to have the bedroom change voted on. Mr. Ahmed said the name and the bedrooms should be changed at the same time. Chair Hunchard said the ZBA may not meet again until July. Mr. Ahmed said he wanted to continue this to July to discuss the bedroom changes. Chair Hunchard stated that an applicant must come before the ZBA to change anything from how it was approved by the Planning Board. He noted that a consulting engineer and consulting attorney would have to be hired to represent the Town; Mr. Ahmed would have to pay for these consultants to determine if the bedroom change was a substantial change or insubstantial change. Mr. Ahmed said he may also need to change a bridge to a culvert. Chair Hunchard said if the ZBA determines it is an insubstantial change, it can be approved that night; if the ZBA determines it is a substantial change, a public hearing about it would be required. Mr. Ahmed asked if the ZBA was interested in a second phase of the development. Chair Hunchard stated that whoever comes in and builds the project will have to build it as approved. Mr. Ahmed and the ZBA members discussed the number of units remaining to be built in the second phase. Mr. Ahmed stated that he wanted to continue the meeting to the next time the ZBA meets.



**General Business – Meeting Minutes**

***Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, March 26, 2020, and Thursday, April 23, 2020. Seconded by Philip Brunelli. Unanimous by Board.***

Mr. Brown thanked the ZBA members and Ms. Kiriapoulos for all they did to make this meeting happen. Chair Hunchard thanked Ms. Kiriapoulos for delivering the meeting packets to the ZBA members.

***Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Seconded by Robert Acevedo. Unanimous by Board. Meeting adjourned at 9:42 p.m.***

Respectfully submitted,

Judith Lizardi  
Recording Secretary

Signature Lloyd Brown Date 7/10/2020