

Town of Franklin



Zoning Board of Appeals

**Thursday, December 17, 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, Mickey Whitmore. Members absent: Christopher Stickney. Also in attendance: Casey Thayer, 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. 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.

110 Union Street - Union Development Partners LLC

Abutters: Jessica Pisano, 109 Union Street; Karen Landers, 117 Union Street; Attorney Edward Cannon on behalf of Mr. and Mrs. Livio Caravaggio, 112 Union Street; Paul Sackley, 109 Union Street; Frank Strange, 104 Union Street.

7:30 p.m. Applicant is seeking to construct a duplex style home that is 12.5' from the left side yard setback where 20' is required and 12.3' from the right side yard setback where 20' is required. Lot area that is 11,846 sq. ft. where 18,750 is required. Impervious lot coverage of 48.4% where 35% is required. The building permit is denied without a Variance from the ZBA. Applicants present: Marc Fantasia, owner. Mr. Fantasia stated he purchased the property approximately one month ago. The current property is a single-family home, approximately 130 years old, unoccupied for at least 18 months, and in disrepair. He noted that Union Street has many multiple-family dwellings. He reviewed his proposal to construct a two-family townhouse similar to what was constructed next door at 120 Union Street. He requested three variances for side setbacks, impervious coverage, and required lot area. He discussed mitigation plans for the impervious coverage waiver as provided in the plans. He stated that some neighbors have contacted them and do not have any objections. He discussed a letter from CHA Consulting, Inc. to the Zoning Board of Appeals dated December 17, 2020, outlining the impervious area calculations and the proposed mitigation plan for a Cultec system. He reviewed the existing conditions of the current two-story house and noted the porch is over the lot line. He stated that in his proposed plan, the porch has been moved back 34'.

Ms. Jessica Pisano, 109 Union Street, stated she objected to the zoning request and urged the ZBA not to approve the request. She stated the project is not in keeping with the neighborhood and will have a direct negative impact on their quality of life and property values. She stated concern that the property was owned in part by an elected Town Council member who is going before this board asking for the rules to be overturned for their financial interest. She asked to be shown the plans which depict where the neighboring houses are located.

Mr. Fantasia shared the plans on the screen and pointed out existing buildings.

Ms. Karen Landers, 117 Union Street, stated that Mr. Fantasia indicated all the abutters approved, but she knows that some abutters do not like it. She asked about the driveway at the right side of the house as it looks like a lot of asphalt. She asked about the square footage of each unit as the current house is 1,400 sq. ft. Chair Hunchard noted there are garages. Mr. Fantasia confirmed each side of the building would be just under 2,000 sq. ft. He clarified that he did not say all the abutters approved, but that he said the abutters he spoke to approved. Ms. Landers stated that the square footage of the proposed house is too big for the area.

Mr. Edward Cannon, attorney on behalf of Mr. and Mrs. Livio Caravaggio, 112 Union Street, reviewed his Memorandum in Opposition to Applicant's Request for Variance dated December 17, 2020, submitted to the Zoning Board of Appeals for their consideration as part of the evidence for the hearing on this matter. He requested the Zoning Board of Appeals deny the application for a multitude of reasons. He reviewed the requirements that must be shown by the applicant and stated there has been no evidence presented by the applicant. As well, he stated that the applicant does not have sufficient frontage and lot width and no relief has been requested for either. He stated that the driveway at 110 Union Street enjoys a right of way granted in 1942; access to a two-family would overburden that easement and not be permitted. He discussed that the applicant just acquired this property last month; therefore, it would be difficult for the applicant to show any hardship as required. He discussed the minimum lot size required to have a two-family at this location. He stated that the court has been very clear on this issue. There is no unique feature of a deficiency in lot size due to shape, soil, or topography. The hardship arises solely due to the lot is too small. In these circumstances, the ZBA has no authority to grant a variance. He noted that there is nothing preventing the applicant from re-building a single-family dwelling on this property as there is one in existence on the property; the applicant does not have the ability to put in a duplex. He stated that the applicant was aware of these conditions before acquiring the property last month. He requested the ZBA vote to deny the variance.

Mr. Fantasia responded to Mr. Cannon's statement. He reviewed the variances requested on lot area. Mr. Brunelli stated that Mr. Cannon pointed out that the required frontage is not available to build a duplex. Mr. Fantasia stated he disagreed. Mr. Cannon pointed out that there is no way around the lot area issue.

Mr. Paul Sackley, 109 Union Street, stated that he does not know of any abutters who approve this and asked if Mr. Fantasia would provide in writing a list of abutters who approved as he had indicated. Mr. Sackley stated that he disagreed with Mr. Fantasia's statement that this proposed building would be in character with the neighborhood. The only reason why it could be true is because people keep coming to get variances for the duplexes that have been built recently. He stated that the variance for lot size is not even close to what is required. He pointed out that there is an appearance of a conflict of interest on the part of one of the applicants. For the third time in a few years, an elected official is coming before the Town and saying that I don't think the laws should apply to me. Mr. Sackley stated he objects to that.

Ms. Landers asked why we have bylaws regarding building and zoning and then people go for variances; to make money off of it, they ask for variances. She asked under what circumstances does the ZBA refuse to allow this. Chair Hunchard stated they take each case based on what is presented and if they feel it is good for the community. Discussion commenced on the three-family unit that Ms. Landers lives in and the amount of asphalt proposed for the two-family dwelling.

Mr. Frank Strange, 104 Union Street, stated it seems to make sense to have this be more of a single-family and keep the existing paved driveway and the agreement with that driveway. The proposed plan has much asphalt and driveway. Chair Hunchard reviewed the current pavement in the existing area. Mr. Strange confirmed he is against a duplex; he is for a single-family and keeping the driveway structure as it is.

Mr. Acevedo commented that he thinks trying to fit a duplex in there is just a little too much. He would be in favor of seeing a single-family home put back in there. But, the duplex, in his opinion, is going to be too much for the people who have residences in front of that. He will not vote for it the way it is.

Mr. Brunelli stated he agreed with Mr. Acevedo. He stated the lawyer brought up a good point about the duplex not having frontage; Mr. Fantasia did not have an answer for it. Therefore, he is not voting for it.

Mr. Fantasia stated he did have an answer for it. The answer is that the lot is currently residential. The frontage, as he is being told by his attorneys and the building commissioner, does not need a variance because the lot is currently residential; there is a house on it.

Mr. Brunelli reviewed Mr. Cannon's statements. He stated that by changing it to a duplex that is changing the residential, so you need frontage. So, he is voting against it. Mr. Fantasia stated that his attorneys and the building commissioner both said that they are not changing the use. Therefore, he is requesting variances on side yard and impervious. He discussed the driveway issue and the current right of way/easement. Mr. Acevedo reiterated that he does not like a duplex behind a person's current house; if it were kept a single-family home, he would approve it.

Building Commissioner and Zoning Enforcement Officer Gus Brown stated that if the ZBA does deny the variance, there is still a property that is in disrepair. He stated that Mr. Fantasia presented his proposal and the ZBA members indicated some objections to it which is the board's decision to vote the way they feel is the best way and the best for the neighborhood. However, we still have a unit in disrepair. Something is going to be done there. He stated that he thinks Mr. Fantasia will have a different proposal coming back, and we will entertain that; if it needs a variance, he will be back to the ZBA. Chair Hunchard discussed the easements and noted that he is not sure if in 1940 when it was granted if it was referenced for only a single-family residence. He asked Mr. Cannon if he had any documentation that it was only for a single-family home. Mr. Cannon reviewed the language used in the document that referenced the dwelling house and garage.

Ms. Landers asked Mr. Fantasia if it would be a hardship for him to build a one-family house there. Mr. Fantasia stated that he presented what he would like to build there.

Mr. Whitmore stated it seems like it needs a lot of relief and it is a lot of pavement and it is right in someone's backyard.

Mr. Fantasia stated it was important to recognize that the current house is over the existing lot line, and the proposal is to move the house back 34'. Therefore, they are rectifying that and it makes it a better neighborhood. He pointed out that there are already multiple-family dwellings on the street.

Discussion: Chair Hunchard added that it is predominantly a two-family neighborhood, as well as a three-family, and as the building commissioner pointed out, the building is abandoned or in a derelict situation; if it were approved, the situation would be better under the new proposed unit

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 Variance for 110 Union Street - Union Development Partners LLC. To construct a duplex style home that is 12.5' from the left side yard setback where 20' is required and 12.3' from the right side yard setback where 20' is required. Lot area

that is 11,846 sq. ft. where 18,750 is required. Impervious lot coverage of 48.4% where 35% is required. Seconded by Philip Brunelli. Unanimous by Board.

General Business – Meeting Minutes December 3, 2020

Motion made by Philip Brunelli to approve the Meeting Minutes as presented for Thursday, December 3, 2020. Seconded by Robert Acevedo. Unanimous by Board.

Mr. Whitmore announced he is changing his name from Mickey Whitmore to Meghan Whitmore. He stated that he is transgender and will be using female pronouns.

Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Seconded by Robert Acevedo. Unanimous by Board. Meeting adjourned at 8:20 p.m.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature _____

Date _____