

Town of Franklin



Zoning Board of Appeals

**Thursday, December 2, 2021
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: Robert Acevedo, Philip Brunelli, Christopher Stickney. Members absent: Meghan Whitmore. 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.

19 Dean Ave - Dean Development Partners LLC

Abutters: Margaret Ranieri of D G Ranieri Real Estate, for 20 Dean Avenue (letter); Mr. Kevin Goffe, President of Dean Bank (Zoom).

7:30 p.m. Applicant is seeking to construct a mixed-use building that needs a Special Permit or Variance for up to 50' in height. Needs a Special Permit to demolish a preexisting non-conforming building and reconstruct. Needs a Special Permit or Variance to waive the 15' setback on frontage. Needs a Special Permit or Variance to construct residential units ½ story above street level. Variance or other relief to allow usage without off-street parking. Needs Variance, Special Permit, or other relief to reduce rear setback to 1.2' where 15' is required. The building permit is denied without a Special Permit and or a Variance from the ZBA. Applicants present: Attorney Michael Khoury on behalf of the applicant. Mr. Khoury stated that two days ago they submitted to the ZBA a withdrawal of a portion of their application which was the variance relief to not provide any off-street parking. He stated that they request to continue the hearing, and they will extend the deadlines that the ZBA is operating under. He stated that they would like to consider this a little further.

Chair Hunchard read aloud a letter that was received from D G Ranieri Real Estate and signed by Margaret Ranieri regarding the special permit/variance application from Dean Development Partners LLC. The letter stated they were writing on behalf of the trust owners of 20 Dean Avenue which is located opposite the proposed project. The letter stated that a variance should not be granted as the applicant has not demonstrated substantial hardship; the letter provided other reasoning, as well.

Mr. Kevin Goffe, President of Dean Bank and abutter to the project, stated that their concern regarded the parking variance which seems to have been removed from consideration at this time. He stated that his other concern is that the proximity of the development to the property line is very close. As such, he asked that during the construction and demolish phase, how are they going to be able to stay off the Dean Bank property. He stated that for the record he wanted to clarify his statement made at the first hearing in August when he was asked if Dean Bank had a purchase and sales agreement with the property. He clarified that in the bank's most recent dealings with them in 2020, they did not get to a P&S. However, in September 2017, they did enter into a P&S for the property, but it never went through.

Motion made by Robert Acevedo to continue the public hearing to January 13, 2022, at 7:35 PM. Motion seconded by Philip Brunelli. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

264 Partridge Street - Martin J. & Betty J. White

Abutters: Michelle Bratcher, 272 Partridge Street.

7:35 p.m. Applicant is seeking to construct a 12'x12' attached covered deck that is 24.5' from the front setback where 40' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Michael Hassett of Guerriere & Halnon, Inc. on behalf of the applicants. Mr. Hassett reviewed the provided plan. He noted that the 12'x12' attached covered deck is more a finished mudroom than covered deck. It would be constructed to replace an existing 10' x 10' uncovered deck. This would reduce the front yard setback to 24.5' from its current 26.8'. He stated that this project would be keeping in character with the bylaws and surrounding neighborhood. Chair Hunchard asked how the applicants got the 10'x10' deck as it is not within the required setback. Mr. Hassett stated that the deck has been there for a number of years. Mr. White stated that they have been in the house for 17 years, and the deck was there when they moved in. Chair Hunchard noted that the applicant's house has been there longer than Blue Jay Street. He reviewed that when Blue Jay Street went in, it caused the applicant's house to be non-conforming. Abutter Michelle Bratcher stated that she had no questions or comments.

Mr. Acevedo asked that if the applicants were already not in compliance, why expand the deck and not keep it at 10'; he stated that the ZBA rarely gives front yard relief. He would be inclined to keep the footprint as is rather than give the extra two feet. Mr. White stated that this will be their retirement home. They have six grandchildren. They need the room for jackets and things as they do not have a garage. Mr. Brunelli stated that it is a front-yard variance, but it is really a side yard; he has no problem with it. It is not infringing on anyone's rights. Chair Hunchard stated that he has no problem with the extra two feet. Building Commissioner Gus Brown stated that this was researched, and the deck did have a permit; he believes it was done before Blue Jay Street was put in. Mr. Stickney asked if any vegetation along Blue Jay Street would be removed. Mr. White stated that no vegetation is going to be removed.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Robert Acevedo to grant a Variance for Martin J. & Betty J. White for 264 Partridge Street to construct a single story 12'x12' attached addition/covered mudroom that is 24.5' from the front setback where 40' is required giving them 15.5' relief, as shown on a plan titled "Variance Plot Plan, 264 Partridge Street, Franklin, MA" dated December 12, 2017, prepared by Guerriere & Halnon, Inc. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Parcel 219-178-002-000 - Bruce Wheeler

Abutters: Alan Wallach, owner at Franklin Heights which is the adjoining property and Trustee; Michelle Minors, 609 Lincoln Street; Colette Fearnley, 25 Trooper Paul Barry Way; Michael Girardi, 48 Leanne Way; Bernice Brown, 3 Leanne Way.

7:40 p.m. Applicant is seeking to modify a previously approved comprehensive permit. Applicants present: Attorney Louis Levine on behalf of the applicant, Trustee Bruce Wheeler, and Land Planner Mark Romanowicz. Mr. Levine stated that this is a comprehensive permit issued on or about 2005. Between 2005 and present there were a number of amendments granted to the permit. Where it stands right now is that the permit allows up to 126/127 units. The originally developed plan showed 50 units on Parcel A which was built out. The remaining 76 units on Parcel B were never built. Parcel A and Parcel B

were separated by a wetland. Historically, Parcel A was built, occupied, and sold, and only non-affordable units were created and sold; this is less than what was required. It should have been 13 affordable units. Parcel A is not in compliance with the comprehensive permit and the statute requiring it to be 25 percent affordable. He stated that they submitted an application to amend the comprehensive permit to amend Parcel B. They are asking to reduce the number of units permitted on Parcel B from 76 to 60 units. The configuration of the units is not particularly marketable today. They are proposing a reduction of 16 units to make the units more marketable and for a better look and fit than what was originally proposed. He stated that they are proposing 30 duplexes; they are reducing the impervious area by 12 percent. He noted that the permit is out of compliance right now. He stated that within their 60 units they are willing to have 19 affordable units which would include the missing 4 units to make the project compliant. He stated that this is a substantial improvement in the look of the project, and it is a reduction in units.

Chair Hunchard asked how many bedrooms in each unit. Mr. Romanowicz stated that it would probably be a mix of two- and three-bedroom units. Chair Hunchard stated that the state requires 40Bs to have at least 10 percent three-bedrooms. Mr. Wheeler stated that right now they have all three-bedrooms, but they are flexible. Mr. Paul Cusson, Delphic Associates, LLC, stated that Mr. Romanowicz is going to share a plan that is more recent than the color plan that was submitted to the ZBA. Mr. Romanowicz shared his plan on the screen and reviewed the current plan which did not show which units are affordable and which are at market rate. He reviewed that it would be 60 homes with larger setbacks between homes, all homes will be duplex homes, there is a reduction in impervious, each home has a partial woodland view, cul de sacs have been added to the plan, all market units will have two-car garages, and the affordable units will have a single-car garage. He stated that they should be easily able to handle the stormwater with the reduction in impervious. He confirmed that the market units are all two-car garages; the affordable units will have a single car garage. He stated that this layout gives privacy to all the homes. He reviewed the approved plan for Parcel B and the new plan for Parcel B. He stated that where the wetland will be crossed is the same on the approved and new plan. Mr. Levine confirmed the affordable units will all be one-car garages and are a little smaller. Mr. Wheeler stated that he believes this is allowable. He stated that the affordable units cannot be the same size as the market rate units due to cost. Mr. Levine noted that in the approved plan there were either no garages or one-car garages. Ms. Maxine Kihnart read aloud from the State guidelines: All low- and moderate-income housing units developed through the LIP shall be indistinguishable from market-rate units as viewed from the exterior. She stated that they are not allowed to have them smaller and not allowed to have all one-car garages. Mr. Cusson stated that he does not disagree, and they will have to do a pro forma. He stated that to fix this, they will have to make some of the market rate units one-car garages; therefore, they cannot be distinguished. Mr. Levine stated that he believes there is an outstanding \$110,000 to be paid to the Town. They will ask that the \$110,000 be waived as they are providing the extra 4 affordable units. Chair Hunchard stated that he does not know if he agrees with that.

Attorney Mark Bobrowski stated that he was with the ZBA on this comprehensive permit 15 years ago; he has advised the ZBA for many years. He stated that he has many questions. Mr. Cusson stated there is a condominium association for Parcel A. He stated that there would have to be an agreement regarding the roadway. Mr. Levine stated that Parcel B is being developed separately. Mr. Cusson stated that he believes Parcel A was all two-bedroom units. Mr. Bobrowski discussed that the request for all three-bedroom units may have to be modified. Ms. Thayer confirmed there are no outstanding fees owed.

Mr. Alan Wallach, owner at Franklin Heights which is the adjoining property and Trustee, stated that he would like the project team to address the access onto their property which consists of private roadways and a private bridge. They are condo owners and they pay for all maintenance, repairs, and snow removal. They will need to discuss this this. He asked that when the proposed project in Parcel B goes forward, would there be a construction road built for this or would the vehicles be going through the Franklin Heights property. Mr. Cusson stated that the permit was approved which would allow the truck traffic. In

his experience, when going through one section to another section, they would have an agreement that both phase I and phase II share in the maintenance of the roadway that is shared. Mr. Wallach stated that they are not going to pay for the use of Parcel B on their roads. He stated that there will have to be a formal agreement worked out in advance. Mr. Levine stated that an agreement would need to be worked out. Mr. Bobrowski advised the residents of Parcel A that they should work this out with counsel.

Ms. Colette Fearnley, 25 Trooper Paul Barry Way, asked if a traffic study would be conducted. She stated that she has an issue with the wetlands and noted that some people in the condos have water issues when it rains. Mr. Cusson stated that a traffic study was completed when it was approved at 76 units; since they are reducing the number of units, the traffic would be less. They cannot address issues of water for people on Parcel A; but the engineering will be adequately designed for Parcel B. Mr. Bobrowski confirmed a traffic study was done when it was originally approved. He stated that peer review will need to be done on civil and traffic. He stated the applicant's attorney should be worked with for peer reviewers. Chair Hunchard stated that the Town uses BETA Group for peer reviewers. He gave Mr. Bobrowski permission to speak to BETA regarding a scope for the civil and traffic. Mr. Wheeler stated that the wetlands were reflagged. They will be filing an NOI with Conservation, and they will probably want a peer review. Mr. Cusson stated that the traffic study should be limited. Ms. Fearnley asked that the water table be looked at. Mr. Cusson asked that the ZBA consider approving the peer reviewer prior to the next meeting on January 13, 2022. Chair Hunchard stated that he would take a motion from the Board to have the Chair tell the representing attorney to hire the peer reviewer. Mr. Bobrowski stated that he would work with Mr. Levine to identify a couple of peer reviewer candidates to put in front of the ZBA on January 13, 2022. Mr. Brunelli asked if the culvert and bridge will be part of the peer review. Chair Hunchard stated it will all be covered.

Motion made by Philip Brunelli to continue the public hearing to January 13, 2022, at 7:45 PM.

Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES.

Unanimous by the Board.

10 Margaret's Cove - Shala Ranieri

Abutters: None.

7:45 p.m. Applicant is seeking to make improvements to their property that increase the total impervious coverage area to 35% where 15% is allowed. The building permit is denied without a Special Permit from the ZBA. Applicants present: Eric Dias of Strong Point Engineering representing the applicant, Shala Ranieri. Mr. Dias stated that they were before the ZBA at the last meeting. He stated that the ZBA was underwhelmed with the presented proposal. He stated that since then, they have made some substantial changes to the plans. He stated that the driveway has been reduced from 9' to 7', the walkway was changed to cobblestone, and the size of the shed was reduced with a Cultec system installed. They are also installing an infiltration trench around the pool. He noted that it is only .2 percent, 65 sq. ft., more impervious from the approved plan. Chair Hunchard confirmed there are three Cultec systems and a 110' drain around the perimeter of the pool.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Robert Acevedo to grant a Special Permit for Shala Ranieri for 10 Margaret's Cove to make improvements to their property that increase the total impervious coverage area to 32% where 15% is allowed, giving them 17% relief, as shown on a plan titled "Special Permit Plan for 10 Margaret's Cove" dated October 12, 2021, with revision date November 23, 2021, prepared by Strong Point Engineering Solutions. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Bent Street - KJS Realty, Inc.

Abutters: Paula and Romuald Zulawnik, 95 Bent Street; Ashley and Patrick DeRoy, 97 Bent Street.

7:50 p.m. Applicant is seeking a building permit to install a 190' cell tower (196' to the highest appurtenance) and wireless communications facility. The building permit is denied without a Variance from the ZBA. Applicants present: Stephen Kelleher, owner KJS Realty, Inc. Chair Hunchard stated that at the last meeting Mr. Kelleher was asked to prepare a draft decision for the ZBA. He stated that said decision was received. It has since been reviewed by Town Attorney Mark Cerel who made a paragraph correction which the applicant has agreed to. Ms. Ashley DeRoy, 97 Bent Street, stated that they made their concerns known at the last meeting. She asked that if this is approved, what is the timeline. Mr. Kelleher stated that there are many federal regulations to be done. Construction will probably start around July and finish in October. Mr. Acevedo noted that there is a chain link fence around the structure and equipment on the ground. Ms. DeRoy asked if there will be a gate at beginning of the access road. Mr. Kelleher confirmed that the gate will be put in about 20' from the road.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Robert Acevedo to grant a Variance for KJS Realty, Inc. for Bent Street (Map 206 Lot 103) to install a 190' cell tower (196' to the highest appurtenance) and wireless communications facility, with the decision dated December 2, 2021, drawn up and presented to the Board. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes November 18, 2021

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, November 18, 2021. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Chair Hunchard stated that there is one more item to take care of. He read aloud a memorandum from the Department of Planning and Community Development to the Zoning Board of Appeals regarding the Franklin downtown community engagement to identify a vision for the downtown and make changes to the zoning to unlock development potential which will contribute to revitalization. There are several steps in the process of rezoning downtown. A steering committee will be created for this. A ZBA member is requested to be on the steering committee.

Motion made by Philip Brunelli to nominate Chair Bruce Hunchard to be on the above-described steering committee and attend the meetings. Motion seconded by Robert Acevedo. 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. No Roll Call Vote. Unanimous by the Board. Meeting adjourned at 9:07 p.m.

Respectfully submitted,

Judith Lizardi
Recording Secretary

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Signature Cathy Shay

Date 1/19/22