

Town of Franklin



Zoning Board of Appeals

**Thursday, February 4, 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: Philip Brunelli, Meghan Whitmore, Christopher Stickney. Members absent: Robert Acevedo. Also in attendance: Gus Brown, Building Commissioner; 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.

889 Upper Union Street-Dane & Tiffany Grandizio

Abutters: James and Kelley Sewell, 884 Upper Union Street

7:30 p.m. Applicant is seeking to divide one parcel that contains two single-family dwellings into two parcels that each contain one single-family dwelling. The building permit is denied without a Special Permit from the ZBA. Applicants present: Nate Carlucci, attorney for the applicant; Dave and Tiffany Grandizio, applicants. Mr. Carlucci stated that there are two houses on one parcel at 889 Union Street. The applicants would like to divide the parcel in order to own each house under its own deed. One of the two lots would be short of the required frontage. He noted that local bylaw Chapter 185, Article 4, Section 14 provides relief. The bylaw indicates the landowner can obtain a special permit from the ZBA if it can be shown that the two dwellings existed at the time of adoption of the zoning, and the division is done in a manner that complies as closely as possible with the zoning requirements. The applicants are applying for the special permit with the ZBA; if obtained, they will go to the Planning Board for the ANR. He reviewed the plans and noted that Title 5 could be met with the parcel division. He reviewed the lot frontage requirement of 200'. The plans show Lot 1A as a fully conforming lot; Lot 1B, the rear lot, meets all of the requirements except frontage and lot width. Currently, both dwellings have separate utilities except a shared existing well. The proposed plans show separate water sources for the lots. He reviewed that it must be shown that both houses existed at the time of the adoption of the zoning which was 1930. The rear house was built in 1900. The front house is a reconstruction; therefore, it shows on the assessor's records that it was built in 1986. They are requesting the ZBA recognize that the house was a reconstruction of a much older house; there are no local records to determine a date. However, it is evident through research that the house was there well prior to 1930. They are applying for the ability to draw the line and divide the two lots so they can both be under separate title. In response to ZBA members' questions, Mr. Carlucci stated the purpose the applicants would like to split the lot is to have the lots in separate ownership. They have no specific plans for the property; they just want to use the option that is available. Mr. Grandizio confirmed there were no present plans; they just want to take advantage of the option. Mr. Carlucci confirmed no new driveway is proposed at this time. He reviewed the bylaw to allow making two lots from one parcel if there are already two existing dwellings.

Chair Hunchard stated that the use went away when the rear house was abandoned years ago. Mr. Carlucci stated it is not abandoned; there is a tenant in place. Chair Hunchard stated the lot does not meet frontage or the circle bylaw requirement. It is one lot with two buildings; it cannot conform to two lots as it does not meet frontage. Mr. Carlucci reviewed the intent of the bylaw to make such properties have two lots. It is currently taxed as one parcel. Chair Hunchard stated he is not in favor of cutting the lot into two as it does not conform to zoning. Mr. Carlucci stated that is the purpose of a special permit; this is not a request for a variance. As such, it is to relieve situations just like this one. He asked the point of the bylaw on the books if it is not to be used. He asked what is the benefit of leaving the property with two dwellings on it. He reviewed the need for relief of the frontage and the circle bylaw.

Building Commissioner Gus Brown stated that several properties in town have accessory dwelling units designed for relatives to move into them. Some of them include garage structures. If this is voted in favor, it sets a precedent that this could happen all over town. He is not in favor of it. Mr. Carlucci reviewed that as these dwellings existed at the time zoning was adopted, it would address the concern about precedent. Mr. Brown stated that it was an accessory dwelling at one time; he believes it was created by the Bissanti's so a family member could live in the back unit. Mr. Carlucci stated he has documents going back 100 years showing a free-standing house, not a modern accessory dwelling. He asked that when voting, ZBA members remember that this bylaw was made for a reason; it was intentionally put on the books to allow land owners to resolve the undesirable scenario that these applicants are facing. He noted that regarding precedent, there are very few parcels in town that meet these requirements. Discussion commenced about possible development options for the lot.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Meghan Whitmore. Unanimous by Board.

- 1. Motion made by Philip Brunelli to Deny the Special Permit to divide one (1) parcel that contains two (2) single family dwellings into two (2) parcels that each contain one (1) single family dwelling for 889 Upper Union Street for Dane and Tiffany Grandizio. Seconded by Meghan Whitmore. Unanimous by Board.***

7 Teri's Way - Paul Guarino – See letter attached – To Be Continued

Abutters: None.

7:35 p.m. Applicant is seeking to construct a shed and a covered patio that increases the impervious area of the lot to 25.5% where 15% is allowed. The building permit is denied without a Special Permit from the ZBA. Applicants present: None. Chair Hunchard stated the ZBA is in receipt of a letter requesting continuance of the public hearing to the next ZBA meeting.

Motion made by Philip Brunelli to continue the public hearing to the end of this meeting to determine the public hearing continuance date. Motion seconded by Meghan Whitmore. Unanimous by Board.

232-045 Daniels Street - Cameron Bagherpour - Larkin Real Estate Group Inc.

Abutters: Linda and William Kelley, 66 Daniels Street; Michael Schell, 59 Daniels Street

7:40 p.m. Applicant is seeking to construct a single-family home that is 21' from the left side yard setback where 35' is required; 21' from the right-side yard setback where 35' is required; 86' of frontage where 150' is required; 174' of lot depth where 200' is required; 86' of lot width where 135' is required; 15,200 sq. ft. of lot area where 30,000 sq. ft. is required. Applicant is also applying for conformance with 185-10 Nonconforming lots. The building permit is denied without a variance from the ZBA. Applicants

present: Cameron Bagherpour. Mr. Bagherpour stated the lot does not conform to the current zoning; he reviewed the history of the lot. He stated the lot was formed prior to 1960 when the zoning changed. At that time, it was held in common ownership with the lot next door. A building permit was issued in 1960; it was not acted upon. The old setbacks were 15'; now they are 30'. Another building permit was issued in 1967; it was not acted upon. A variance was granted in 1981. The family has held the lot since that time. He stated that in 1992, the owners went before the taxing authority requesting a tax abatement. They were told it was a buildable lot and taxes would not be reduced. It has been taxed as a buildable lot since. They are looking to put a single-family home on the lot and let the family recuperate some of the taxes they have paid which amount to over \$50,000. They are requesting a variance to construct a single-family home. They are looking for relief from the zoning put in place.

Mr. Schell stated his concern is the suitability of the lot and where it is positioned on the street. He stated that he deals with a flooding issue on his property and asked if this would be looked into before construction were to begin. He questioned the suitability of the land and fixing the flow of the water. Chair Hunchard stated that may be a reason the lot was never built on before. Ms. Kelley confirmed Mr. Schell's yard looked like a lake on Christmas. She asked that as the lot is so narrow, would they position the house sideways. Mr. Bagherpour stated they were looking at putting the garage under so they would not be as wide on the build. They would like to center the house. He stated it would be single width driveway with a one-car garage. Ms. Kelley stated they purchased their home in 2015; she asked about a sewer easement. Mr. Bagherpour stated they could tie into sewer, and anything disturbed on the neighbor's property would be restored. Ms. Kelley asked that since the applicant is requesting a waiver to reduce the side-yard setback, would he commit to putting in a row of arborvitae bushes so they would have a green buffer installed for privacy. Mr. Bagherpour said that would be acceptable. Ms. Kelley said the big concern is the water issue. Mr. Schell reviewed the water issue and said he does not think this is a good plot of land to put a house on. Discussion commenced on where the house would be built.

Chair Hunchard asked if there was an easement on the deed for the sewer tie in. If the applicant does not have an easement or rights to it, the applicant cannot go on the abutter's property and tie into the sewer. ZBA members' asked questions. In response, Mr. Schell reviewed the drainage setup at his property and the need to keep the drainage cleaned. Mr. Brunelli reviewed the drainage in the area. Mr. Brown stated he has spoken with Mr. Bagherpour and reviewed the relief requested. He noted that he does not have a copy of the building permit applied for in 1967 that Mr. Bagherpour mentioned. Mr. Bagherpour stated it was a building permit application from 1967. Mr. Brown asked if an abatement application was filed or if the owners had just asked about an abatement. He stated he was not in favor of this request for variance.

Chair Hunchard confirmed the abatement application was submitted and denied. He noted that if this was a lot with a few acres and they were short a few feet of frontage, that might be one thing; but this is a small lot in a small area, and he is not in favor of granting the relief they need to make it a buildable lot. Mr. Bagherpour reiterated that an approval would allow the family to recuperate the costs they have spent over the years on taxes of over \$50,000; a denial means the land has little value.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Meghan Whitmore. Unanimous by Board.

1. ***Motion made by Philip Brunelli to deny the Variance request to construct a single family home that is 21' from the left side yard setback where 35' is required. 21' from the right side yard setback where 35' is required. 86' of frontage where 150' is required. 174' of lot depth where 200' is required. 86' of lot width where 135' is required. 15,200 sq. ft. of lot are where 30,000 sq. ft. is required and conformance with 185-10 Nonconforming lots for 232-045 Daniels Street***

*for Cameron Bagherpour-Larkin Real Estate Group Inc. Seconded by Meghan Whitmore.
Unanimous by Board.*

General Business: Zoning Code 185-40 E.(5) – Water Resource District - Placement of fill

Chair Hunchard read aloud and reviewed Zoning Code 185-40 E.(5) – Water Resource District - Placement of fill. He noted the reason this is being brought up regards the sentence indicating that a certification shall be presented to the ZBA or its designated agent. He would like to appoint the Building Commissioner/Zoning Enforcement Officer, Gus Brown, to be the ZBA's designated agent.

Motion made by Philip Brunelli to adopt the Building Commissioner/Zoning Enforcement Officer to be the ZBA's designated agent for Zoning Code 185-40 E.(5). Seconded by Meghan Whitmore.

Discussion: Mr. Brown stated we do deal with this all the time; we do get reports that this is done the right way. He will work in conjunction with the water superintendent. Unanimous by Board.

General Business: Meeting Minutes January 21, 2021

Motion made by Christopher Stickney to approve the Meeting Minutes as presented for Thursday, January 21, 2021. Seconded by Meghan Whitmore. Unanimous by voting members of the Board; Philip Brunelli abstained.

7 Teri's Way-Paul Guarino – See letter attached – Continue

Chair Hunchard reviewed the date to hold the continuance of this public hearing.

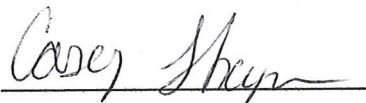
Motion made by Philip Brunelli to continue the public hearing for 7 Teri's Way for Paul Guarino to April 1, 2021. Motion seconded by Meghan Whitmore. Unanimous by Board.

Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Seconded by Meghan Whitmore. Unanimous by Board. Meeting adjourned at 8:31 p.m.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature



Date

3-4-21