

Town of Franklin



Zoning Board of Appeals

Thursday, January 13, 2022

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, Meghan Whitmore. Members absent: None. 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 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.

Parcel 304-064 Washington Street - Franklin Flex Space, LLC

Abutters: Karen Miller, 246 Washington Street.

7:30 p.m. Applicant is seeking to conduct earth removal in excess of 1,000 cubic yards. The building permit is denied without a Special Permit from the ZBA. Applicants present: Rick Goodreau of United Consultants, Inc., representing the applicant. Mr. Goodreau stated that the project has had a change since the application was filed. The applicant has an additional parcel of land under agreement. He stated that a new application was filed with the project change which includes that additional parcel of land. The application is for the construction of three commercial buildings of approximately 15,000 sq. ft. each with the associated utilities, parking lot, and stormwater system. The project requires earth removal from the site to accomplished the proposed gradings. They are proposing the excavation of just under 18,000 cubic yards of material with about 2,700 cubic yards being utilized onsite for fills. They are requesting a special permit to allow for the removal of 15,186 cubic yards from the site; he noted that contains a 15 percent fluff factor. He stated that they are currently before the Planning Board and Conservation Commission. He stated the hours of operation for the earth removal on the site were provided and are 7 AM to 5 PM, Monday through Saturday. Vehicles will traverse the site as necessary for earth removal operations. The truck routes are planned to exit the site onto Washington Street heading south toward King Street to Rt. 495. He stated that there is a plan for an erosion control pad at the intersection of Washington Street and the site entrance along the frontage; details are provided in the plan.

Ms. Karen Miller, 246 Washington Street, asked how long the earth removal will take. Chair Hunchard stated that would be determined by the number and size of trucks being used. He stated that the earth removal permit is good for two years. Ms. Miller stated that Mr. Goodreau said that there are small items remaining with Planning Board and Conservation Commission. Ms. Miller stated that she is not under the impression that they are small items remaining. She said one of the major items under Conservation is the removal of the earth and the stability of the drop offs/20 ft. cliffs.

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 subject to Site Plan approval from the Planning Board and Conservation Committee approval for Parcel 304-064 Washington Street - Franklin Flex Space, LLC, to conduct earth removal in excess of 1,000 cubic yards, to be no more than 16,000 cubic yards at said premise, with hours of operation to be 7 AM to 5 PM, Monday through Saturday, with direction of travel offsite onto Washington Street. The applicant is to put a stone pad, as shown in the drawings, at the entrance, and the roadways is to be swept daily if there is any gravel or dirt pulled onto the road, and while the operation is going on, any time gravel is taken out, for that week, a report is needed from the engineer for the building commissioner. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

19 Dean Ave - Dean Development Partners LLC

Abutters: Mr. Kevin Goffe, President of Dean Bank.

7:35 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 this application was filed in July of 2021. The application was amended in December to remove the request for a variance for an exemption of the requirement for off street parking as they are no longer looking for that variance, and to remove the request to allow 16 residential units built above garden level commercial unit, on half-story above street level. He stated that they are now are planning to have commercial on the first floor and a total of 16 residential units on the second, third, and fourth floors in compliance with the mixed-use zoning applicable to this district. Mr. Khoury read aloud his letter to the Zoning Board of Appeals dated January 11, 2022, which was emailed to Chair Hunchard and provided in hard copy via Federal Express. The letter was provided in the Zoning Board of Appeals meeting packet materials. The letter details the amendments to the application to remove the above noted two items; the letter also reviews the continued relief of four items sought by the applicant. He stated that justification for the relief sought was discussed during a previous meeting in August. He stated that it is all dimensional relief. He stated that Mr. Brunelli previously had questions about drainage. Their engineer provided a letter to the ZBA that there is no drainage issue, problem, or violation; he stated that he provided the letter in August and again in December. Chair Hunchard said that comes under Planning Board review for site plan.

Mr. Brunelli stated that there will be an issue because they have had that issue before in the downtown, and he has never seen the letter. He stated that there is an issue with buildings in Franklin that are discharging water onto public ways. He stated that this applicant will either have to discharge water into a public way or into Dean Bank's property. So, unless the applicant shows the letter that states they will not be discharging water into a public way, they do not have his vote.

Mr. Hazen Dani, applicant's engineer, stated that there will be no stormwater discharge to the abutters; however, there will be a discharge to the town in the drainage system. Currently, the property discharges over land to the abutters and to the right of way. He stated that they will be improving this existing condition by removing the over land flow and installing a direct connection to the town's drainage system which will require an approval from the town before they do that, and it will be reviewed by the Planning Board during the site plan review. He stated that this is a redevelopment project. He stated that they went through the Massachusetts Stormwater Regulations and the Town of Franklin's Best Development Practices Guidebook, and they did not see any issues with their proposed project. He stated that there is

physically no place to put an infiltration system onsite whether the existing structure is left or a new structure is put in; the setbacks for an infiltration system on this site cannot be met. Mr. Brunelli stated that it cannot be discharged to a town way. Mr. Khoury stated that the letter was sent via email on November 30, 2021. Mr. Brunelli stated that the applicant still has not proved they can do it. Chair Hunchard stated that the only issue now seems to be the drainage; however, the applicant has provided a letter.

Mr. Kevin Goffe, President of Dean Bank and abutter to the project, stated that Dean Bank is supportive of redevelopment in the downtown area. However, he expressed concern about the parking issue which was removed from the ZBA as a variance request. He stated that it seems that there is still an unresolved parking issue with the 25 spaces that would be required under current zoning laws as there is no provision to put that offsite or on that lot. He asked if the parking is going to be the decision of the Planning Board and not the ZBA. Chair Hunchard stated that parking has always been a Planning Board issue. He stated that the applicant needs a special permit to tear the building down and build a new one in its place. Mr. Goffe stated that during the construction and development side, the applicant will probably have to remove and pour a new foundation. He asked how will the applicant shore up Dean Bank's property so it does not move while they excavate, and how will they do all that needs to be done in about 15" of setback. He asked if the applicant has provided evidence that they will be able to do that without encroaching on Dean Bank's property and caving in their parking lot. Chair Hunchard stated that there are ways that they can do it within 15" of the property line; however, that part is not for the ZBA. Mr. Goffe stated that he wants to make it clear that the applicant understands that they must not have any encroachment onto the abutting property. Mr. Khoury stated that Mr. Goffe is absolutely right, and the applicant must maintain the abutter's property. He noted that the building is in desperate need of renovation, and the project will make it a better constructed building. Mr. Goffe stated that he will speak with the Planning Board to see where the cars are going to go.

Mr. Stickney asked about the applicant's reduction in parking. Mr. Khoury stated that they are going to figure out what they need and may ask for some relief from the Planning Board. Mr. Khoury explained that the first floor will be the commercial level. Mr. Stickney stated that he feels 50' in height is excessive and would prefer 40' in height. Chair Hunchard noted that the abutter, Dean Bank, is almost at 50' in height. Mr. Acevedo stated that his issue with the development was the parking, but it is now off ZBA's plate. Mr. Brunelli stated that the direct abutter seems to be fighting the setback. Mr. Brunelli stated that he agreed with Mr. Goffe that the applicant is getting to close to the abutter's property. He stated that the applicant has not shown any plans on how he is going to do it. Mr. Brunelli stated that he is not voting on anything that he does not see; the applicant has not shown this new plan of the building. Mr. Khoury stated that they can submit the plan. He said that he would like Mr. Brunelli to read the stormwater letter. Chair Hunchard stated that the applicant did submit a plan; they are now eliminating the garden-level. Mr. Brunelli stated that he wants to see the plan. Mr. Khoury stated that they did submit a plan; the dimensions of the building are the same as the plan submitted on July 12th. He stated that they can revise the plan to show the elimination of the garden-level, but other than that, nothing is different. Chair Hunchard asked if the applicant can provide an architectural plan showing the elimination of the garden level and the number of units. Mr. Khoury stated that something needs to be done to the building and his client is willing to do that. Mr. Brunelli asked for a letter that states that the applicant can tie into the town's drainage. Chair Hunchard stated that the applicant should talk to the town to get clarification that the applicant can tie into the town's drainage.

***Motion made by Robert Acevedo to continue the public hearing to January 27, 2022, at 7:35 PM.
Motion seconded by Philip Brunelli. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES.
Unanimous by the Board.***

4 Corrine Road - Timothy and Michele Roberts

Abutters: None.

7:40 p.m. Applicant is seeking to construct a second-floor addition to accommodate additional bedrooms and add the accessory dwelling unit to the first floor, and also construct a front porch that is 34.5' from the front setback where 40' is required. The building permit is denied without a Special Permit and Variance from the ZBA. Applicant present: Timothy and Michele Roberts, and Chris Novelli of n3 architecture. Mr. Novelli stated that the applicants are requesting a special permit for an in-law apartment as the mother is going to be moving in with them. The in-law apartment is going to be completely contained within the footprint of the building. The second request is a variance of the front yard setback of 5.5' for the construction of a front porch. The porch will serve as the entry to the in-law apartment. He stated that this will fit in with the character of the neighborhood. He reviewed the site plan, existing footprint of the house, internal floor plan, and front porch addition. Mr. Roberts stated that his mother, Karen Roberts, would be the occupant. Mr. Roberts read aloud his Supporting Statement for a Special Permit.

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 a second dwelling unit for the property located at 4 Corrine Road with the conditions of the Special Permit being that the in-law, Karen Roberts, resides at the property along with the owners Timothy and Michele Roberts 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 4 Corrine Road. 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 the quality of natural environment will stay intact. There is no potential fiscal impact for the Town of Franklin by the issuance of the Special Permit. Also, the Special Permit will be recorded at the Registry of Deeds. And, to grant a Variance for Timothy and Michele Roberts for 4 Corrine Road to construct a covered front porch that is 34.5' from the front setback where 40' is required giving them 5.5' relief. The proposed accessory dwelling unit and covered front porch are shown on the Plan titled "Certified Plot Plan Located at 4 Corrine Road, Franklin, MA" prepared by Continental Land Survey, LLC, dated November 5, 2021. 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: None.

7:45 p.m. Applicant is seeking to modify a previously approved comprehensive permit. Applicants present: None. Chair Hunchard stated that the applicant is not in attendance. He stated that Attorney Mark Bobrowski found the ZBA an engineer, Joe Peznola of Hancock Survey Associates, to do the engineering review. He has provided a scope of work and price.

Motion made by Philip Brunelli to allow Joe Peznola of Hancock Survey Associates to do the engineering review. Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

No Motion, Second, or Vote made to continue the public hearing to January 27, 2022, at 7:40 PM.

Meeting Minutes December 2, 2021

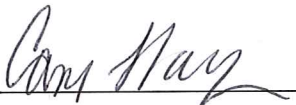
Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, December 2, 2021. Motion seconded by Philip Brunelli. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES. Unanimous by the Board.

Meeting adjourned at 8:38 p.m.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature 

Date 2-2-20