

Town of Franklin



Zoning Board of Appeals

**Thursday, July 22, 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, Robert Acevedo, Meghan Whitmore, Christopher Stickney. Members absent: None. 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.

498 Old Farm Road - Jeffrey and Elena Russell

Abutters: None.

7:30 p.m. Applicant is seeking to finish their basement with an accessory dwelling unit. The building permit is denied without a Special Permit from the ZBA. Applicants present: Jeffrey Russell, homeowner. Mr. Russell stated that they would like to finish the basement to create an in-law unit. His in-laws previously lived with them; however, they since moved to an apartment. He stated that he would like the in-laws to move back in but with more space. He stated that this will not impact the footprint of the home; the egress will be through the existing door. He read aloud his Supporting Statement for a Special Permit provided in the application packet. He noted that the in-laws do not have a vehicle. He also read aloud a statement he submitted to the ZBA dated June 9, 2021, which provides additional reasoning for the requested in-law unit.

Motion made by Philip Brunelli to close the public hearing. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-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 498 Old Farm Road with the conditions of the Special Permit being that the in-laws, Stojancha Milenkovski and Lile Milenkovska, reside at the property along with the owners Jeffrey and Elena Russell 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 498 Old Farm 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. The proposed accessory dwelling unit is to be located in the basement of the existing dwelling. The Plot Plan is titled "Certified Plot Plan

Located at 498 Old Farm Road, Franklin, MA" dated June 18, 2021. Seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

22 James Street - Christopher and Rebecca McVay

Abutters: Philip Brunelli, 26 James Street.

Mr. Brunelli recused himself.

Chair Hunchard activated Ms. Whitmore as a voting member for this item.

7:35 p.m. Applicant is seeking to construct a 24' x 24' two-story addition that is 23.0' from the left side yard setback where 25' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Christopher McVay, homeowner, and Stephen Chaplin, attorney on behalf of the applicants. Mr. Chaplin reviewed the proposed plan. He stated that the addition is to the left side of the home. He explained that when looking at the boundary lines set forth in the deed, it appears as the addition is only 3' from the property line. However, the title to the street on a plan dated 1914 shows that in between 20 James Street and 22 James Street there is a paper street of 40' wide. There is a MA statute regarding a paper street in between two properties where no one has title in the registry; the law holds that each owner on either side holds the center line, whereby there is an additional 20' owned by the applicant. He reviewed that the application provides the case for a hardship and the request for variance as provided in the Supporting Statement for a Variance. He stated that there is sufficient setback because of the paper street, and all three criteria are met for a variance based on the Town's bylaw. In response to Chair Hunchard's question, Mr. Chaplin reviewed statute and case law regarding the paper street. Mr. Chaplin noted the paper street leads to wetlands. Mr. Brunelli, abutter, stated that he is aware of the paper street. It is nice to see young families wanting to stay in Town. He stated that no other abutters are attending this meeting for this item, and no one is objecting; he agrees 100 percent.

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

Motion made by Robert Acevedo to grant a 2.0' relief Variance for Christopher and Rebecca McVay for 22 James Street to construct a 24' x 24' two-story addition that is 23.0' from the left side yard setback where 25' is required as shown on a plan titled "Variance Plot Plan, 22 James Street, Franklin, MA" dated June 9, 2021, prepared by Guerriere & Halnon, Inc. Motion seconded by Meghan Whitmore. Roll Call Vote: Acevedo-YES; Whitmore-YES; Hunchard-YES. Unanimous by the Board.

Mr. Brunelli re-entered the meeting.

11 Maple Street- Scott and Cassie Savard

Abutters: Lisa Oxford, 18 Lincoln Street.

7:40 p.m. Applicant is seeking to construct a porch that is 24.7' from the front yard setback where 30' is required, a two-car garage that is 12.9' from the left side yard setback where 20' is required, and an addition in the rear of the home that is 19.4' from the rear setback where 20' is required. Applicants present: Scott Savard, homeowner. Mr. Savard stated that he is requesting the proposed additions to the home for the long-term growth of his family as well as to make it wheelchair accessible. He reviewed his Supporting Statement for a Variance provided in the application. Ms. Oxford, direct abutter, stated that the lots are very small in the area; she is concerned with the close proximity to her home of the proposed addition on the rear of the applicant's home. In addition, she stated concern about a project that the applicants just finished that is under review by the Building Department. She stated concern that a new

project will begin when the integrity of the current project is still in question. Chair Hunchard noted that the proposed construction will be .6' to close to the rear line. Mr. Savard stated that he could remove the porch project from the variance request and make sure it is within code for the required setback. Mr. Brunelli stated that he conducted a site visit. He reviewed that he was happy with the the wall that the applicant built on the property in order to utilize the backyard as there was previously a slope. He thinks the addition is a welcome addition to the neighborhood; he is in favor of the plan the way it is. Chair Hunchard stated that he does not have a problem with the .6' being requested being too close to the rear line. He stated that he has spoken with the Building Commissioner who said they will be going out to measure the wall. Mr. Savard explained the drawing and noted that Ms. Oxford's two-car garage is within 3' of the property line. Ms. Oxford stated that the garage being within 3' of the property line is grandfathered as it was built in the 1940s. She reiterated her concern that a new project will begin when the integrity of the current project is still in question and stated that if her grandchild falls off the drop that has been created, he will get hurt. She stated that she is here to protect her property that has been in her family since 1927. In response to Chair Hunchard's questions, Mr. Savard stated that the wall is 110' long in total from the Red Brick School to the corner of the abutters garage. He stated that a contractor built the wall; the contractor conferred with the Building Department, and the wall was built to code. Mr. Brunelli stated that the wall is 3' to 3.5' tall at the highest; it is a very sound wall. He noted that the applicant provided pictures of the wall. Chair Hunchard stated that the Building Commissioner's question is not about the integrity of the wall; the question is if the wall is more than 4' out of the ground, would it need a permit. He noted that if the abutter is concerned about someone falling off a wall that is on someone else's property, the abutter may want to consider putting up a fence. Ms. Oxford reviewed that her concerns with the wall are that it was not built to the height of the land that was dug, so it is not completely retaining what was dug. She requested the ZBA table this item until the matter of the wall is finalized with the Building Commissioner. Chair Hunchard stated that he did not think the wall has anything to do with this application.

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

Motion made by Robert Acevedo to grant a 5.3' relief from the front yard setback, 7.1' relief from the left side yard setback, and .6' relief from the rear setback Variance for Scott and Cassie Savard for 11 Maple Street to construct a porch that is 24.7' from the front yard setback where 30' is required, a two-car garage that is 12.9' from the left side yard setback where 20' is required, and an addition in the rear of the home that is 19.4' from the rear setback where 20' is required, as shown on a plan titled "Certified Plot Plan, Located at 11 Maple Street, Franklin, MA" dated May 18, 2021, prepared by Continental Land Survey, LLC. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

General Business:

Meeting Minutes June 24, 2021

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, June 24, 2021. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

920 Washington Street - Trees

Chair Hunchard that there is a request from the applicant installing the solar tower at 920 Washington Street; the applicant has trees coming to be planted tomorrow. Chair Hunchard stated that the applicant said that if he goes 100' back from the brown rock on the lot line with the trees, he will run into a rock outcropping. Chair Hunchard questioned why the applicant did not state that information during the ZBA public hearing. He stated Mr. Brunelli volunteered to visit the site tomorrow late morning. He stated that

as Mr. Brunelli used to be the tree warden, he would rely on Mr. Brunelli's decision on where the trees could be planted. He noted that the idea was to plant 15 trees within the 100'. ZBA members agreed to having Mr. Brunelli visit the site tomorrow. Chair Hunchard stated that Mr. Brunelli is appointed tree master and will visit the site tomorrow; Mr. Brunelli will take pictures if the homeowner is not home.

September 2021 Meeting Dates

Chair Hunchard noted a few conflicts with the Conservation Commission regarding the meeting schedule. Therefore, a few upcoming meeting dates will be changed to avoid conflicts with TV broadcasting.

Motion made by Chair Hunchard to change the September 2021 ZBA meeting dates to September 2, 2021, and September 16, 2021. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Schedule and Deadline for 2022 Chair Hunchard noted that Governor Baker has allowed remote meetings until April 2022.

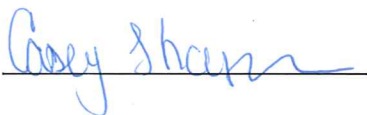
Motion made by Robert Acevedo to approve the Meeting Schedule and Deadlines for 2022 as presented. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board. Meeting adjourned at 8:26 p.m.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature



Date

8-9-21