

Town of Franklin



Zoning Board of Appeals

**Thursday, March 24, 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: Philip Brunelli, Robert Acevedo, Christopher Stickney, Meghan Whitmore. 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.

Parcel 219-178-002-000 - Bruce Wheeler

Abutters: Diana Deschamps, 24 Shayne Road, Unit 216.

7:30 p.m. Applicant is seeking to modify a previously approved comprehensive permit.

Applicants/Others present: Attorney Louis Levine on behalf of the applicant, Mr. Bruce Wheeler, Attorney Mark Bobrowski.

Attorney Levine stated that Attorney Bobrowski forwarded him a memo from the Planning Department relative to the affordables having to be exactly like the markets. Attorney Levine stated that we have had this conversation at the last meeting. There are views on it reflected in the memo. Attached to the memo were emails from DHCD indicating that the affordables and the market rates have to be comparable. He stated that we are in the process and submitted to DHCD a request to transfer the permit. He stated that we can apply for a waiver from the pre se requirement that the affordables be generally identical in outside appearance to the market rate units. We are going to submit that with the approval of the transfer of the permit to this applicant. He stated that he would hope that the next meeting, that he assumes is about another month away, that the DHCD will have acted on the waiver request and at that point if the waiver is granted, we can proceed without this discussion and cloud over this application. He stated that the only thing he would like to point out to the Board is that we are building 60 new units, but the project has other units in it that were previously build, and the new affordables are bigger than the existing units.

Chair Hunchard stated that the only concern from the Town is that maybe they would not look kindly on the affordables being a little bit smaller, and they may not count towards the Town's affordable stock. He said that was the only concern; if you get a waiver for it, that is fine with us.

Attorney Bobrowski reviewed the guidelines for comprehensive permit projects promulgated by DHCD. Exterior appearance: all low and moderate housing units developed through the LIP shall be indistinguishable from market rate units as viewed from the exterior unless the project has an approved alternative development plan.

Mr. Joe Peznola, engineer of Hancock Associates, stated that the applicant provided today a revised set of plans and the response letter as well as some details on the wetland crossing and some defensive of getting a little narrower in the cross section at the wetland crossing in response to what the Conservation Commission would like to see. He stated that he has not done a thorough review of all the materials submitted today. He stated that the applicant has provided a full waiver list; he stated that his initial reaction is that it seems very generic. He requested some specificity on the waivers. He stated that he asked for information on parking and the applicant seems to be compliant with parking without even counting the garages. The second section was on stormwater, although the details are rather sparse. He stated that he asked questions to Guerriere & Halnon, Inc. He stated that the applicant is dramatically increasing the storage volume and they have a decrease in the impervious. He stated that he is comfortable that they can design a system that will not dramatically impact the layout of the project. He noted that he asked for more detail regarding the utilities including demands for water and output for sewer; he believes they have done that on their response. He stated that the last was that he had asked the applicant, regarding general circulation and layout, that they do an analysis for a fire truck moving around the site; the applicant did that in the plans submitted today. He stated that the fire chief should look at that. Mr. Peznola stated that one of his biggest concerns is where they are coming off of Leanne Circle. It is a wide intersection. He thinks that needs to be reconfigured in accordance with the original plans. He stated that the applicant stated they would continue to investigate this. Mr. Peznola stated that there is nothing to investigate; the original plan was proper. They need to put it that way. He stated that he will put together a more formalized written response to the plans and response letter that was received today from the applicant.

Chair Hunchard stated that he is disappointed in that he does not believe any plans were dropped off at Town Hall; that should be done by the applicant. Mr. Wheeler stated that they did an initial response to Mr. Peznola three weeks ago. The additional information that Mr. Peznola requested seven or eight days ago was what the applicant just submitted today. The initial plan submission to Mr. Peznola was three weeks ago and then there has been a round of back and forth. Chair Hunchard stated that copies of that need to be submitted to Town Hall. Mr. Wheeler stated plans can be dropped off at Town Hall on Friday.

Ms. Maxine Kinhart stated that she spoke to Rieko, the LIP director at DHCD, and late this afternoon she got an opinion that if the Town approves this without them getting the waiver, approves the affordable market rate units as they are shown, they will not be counted on our subsidized housing unit inventory.

Chair Hunchard stated that he thinks the ZBA's decision will be contingent upon whatever DHCD determines they have to do. Attorney Levine stated that they have not yet filed for the waiver. They have always been transparent. He stated that he was surprised to see the memo from the Town early this morning that there has been a conversation going on with DHCD while we were corresponding with DHCD as to amending our application and DHCD had previously asked in that correspondence for elevations of the units which were identical market or affordable and the site plan. He stated, so, if folks are going to be writing to anybody, he would appreciate if they could copy us as we are all trying to get to the same place. It is a lot more difficult when things go on and we have to react to those as to be part of the process. We are trying to keep everyone in the loop. Please copy us if you are writing to anyone so we can react appropriately.

Chair Hunchard discussed the timing of the emails that were sent out. He stated that he cannot help what another department does. He is just trying to clear the air; he does not think anyone is trying to go behind Attorney Levine's back.

Ms. Kinhart stated that she would be happy to send anything to him; she does not have his contact information. Chair Hunchard stated that Ms. Thayer would send it to her.

Mr. Bobrowski stated that we had talked on the phone today to get Mr. Peznola's opinion on whether traffic review ought to be engaged. Mr. Peznola stated that he does not believe so. He stated that the receiving streets are acceptable; he does not know of any issues in the area. Chair Hunchard stated that he agreed; he is not concerned about the traffic. He stated that he is mindful of a project done three or four years ago in which they came in and proposed all three-bedroom units and we cut that back. Chair Hunchard review the final bedroom allocation for that previous project. Attorney Bobrowski discussed the number of three-bedroom units proposed for this project. He stated that for planning purposes, it would be useful to know what the Board's mindset is. Attorney Levine stated that in the proposal, of the 60 units, 25 percent would be two bedrooms, and all would be market rate units. None of the affordables would be two bedrooms; the remaining units would be three bedrooms with 19 being affordable units. Mr. Wheeler confirmed there would be 19 affordables which is 31.6 percent of the development. He noted that the total project ends up being 25 percent.

Chair Hunchard asked what to do regarding that this is technically one project with two separate owners; they brought up the question of using the road. He asked can we put this part B of the project as part of the original condo association. How is that going to work? Attorney Bobrowski stated that he was going to read the condo documents and then he will have an answer. Mr. Wheeler stated that they are willing to follow Mr. Peznola's suggestion with regard to the intersection. He stated that he will communicate directly with the condo association/Parcel A. He will confirm the applicant's rights to construction as well. He stated that their plan is to have a separate association.

Ms. Diana Deschamps, 24 Shayne Road, Unit 216, stated that at the next board meeting for the Association, there will be a new panel of trustees. The current three trustees representing the association will no longer be on the board. So, any verbal agreements are just verbal. She stated that there needs to be more formal agreements so that we can have a clear understanding moving forward as to what the rights are to the roads. She noted the secondary access road for fire and asked is there going to be a separate one required for Parcel B. She stated that at the next meeting the three new trustees will be seated. Attorney Bobrowski noted that this is a separate development; he will send Chair Hunchard the relevant documents. Chair Hunchard asked Ms. Deschamps to provide the names of the new trustees. Ms. Deschamps said she would be one of them. Mr. Wheeler stated that he would find out as well.

Motion made by Philip Brunelli to continue the public hearing for Parcel 219-178-002-000, Bruce Wheeler, to April 21, 2022, at 7:30 PM. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

19 Dean Avenue - Dean Development Partners LLC

Abutters: None.

7:40 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: None.

Chair Hunchard stated that a letter was received from the applicant's attorney requesting a continuance to April 21, 2022.

Motion made by Philip Brunelli to continue the public hearing for 19 Dean Avenue - Dean Development Partners LLC, to April 21, 2022, at 7:45 PM. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

58 Anchorage Road – Joshua and Kate Gates

Abutters: None.

7:45 p.m. Applicant is seeking to construct a 20'-10 ¼" x 16'-7 ¼" addition that is 15.7' from the right side yard setback where 40' is required and 30.2' from the left side yard setback where 40' is required. The building permit is denied without a variance from the ZBA. Applicants present: Mr. Joshua Gates, Ms. Kate Gates. Ms. Gates stated that they would like to build a small master bedroom with a bathroom where their deck is currently located. They would demolish the existing deck and construct the bedroom. She stated that the architect drew up the plans and told them they were encroaching. Mr. Gates stated that they have talked with their neighbors and they have no problem with it. Chair Hunchard stated that he received a call yesterday that the Gates were good people and they should be given what they want. Ms. Whitmore stated that he realizes that non-conforming lots are tricky. Chair Hunchard discussed how there have been many zoning changes by the Town; many of these houses cannot meet the new zoning. Ms. Whitmore discussed the location of the proposed bedroom on the right side of the house. She questioned if the bedroom were placed on the left side of the house. Mr. Gates stated that would make the bedroom off the dining room adjacent to the kitchen. Ms. Whitmore confirmed that would not make sense.

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 Variance for Joshua and Kate Gates for 58 Anchorage Road to remove an existing deck and in its place construct a 20'-10 ¼" x 16'-7 ¼" single-story addition that is 15.7' from the right side yard setback where 40' is required giving 24.3' relief, and 30.2' from the left side yard setback where 40' is required giving 9.8' relief, as shown on a plan titled "Proposed Addition Plan of Land in Franklin, MA, Owners Kate and Joshua Gates, 58 Anchorage Road, Franklin, MA" dated December 2, 2021, prepared by Colonial Engineering, Inc. Motion seconded by Philip Brunelli. Discussion: Chair Hunchard asked how big is the shed shown on the plans. Mr. Gates said that he guessed it was 10' x 8' and about a little less than one story tall. Chair Hunchard told Mr. Gates to check with the Building Commissioner as he thinks it is a little too close to the lot line as it must be a minimum 10' off the side line. Mr. Gates asked if it was a definite that they have to move it. Chair Hunchard stated that he was not the Zoning Enforcement Officer, but the shed is shown on the plan and it may have a violation; he reiterated that the applicant should check with the Building Commissioner. Mr. Gates stated the shed was there when they bought the house. Ms. Gates stated that there was not a permit for the shed; their architect seemed to think that if it was a certain number of years from being built, then it would not matter. Chair Hunchard requested the Building Commissioner be consulted. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes January 27, 2022

Motion made by Philip Brunelli to approve the Meeting Minutes as presented for Thursday, January 27, 2022. Motion seconded by Meghan Whitmore. Roll Call Vote: Brunelli-YES; Whitmore-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.


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Meeting adjourned at 8:23 p.m.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature 

Date 4-13-22