

Town of Franklin



Zoning Board of Appeals

**Thursday, November 18, 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, 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 304-064 Washington Street, Franklin Flex Space, LLC**

Abutters: None.

**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.

Chair Hunchard stated that an email dated November 16, 2021, was received from engineer Rick Goodreau of United Consultants on behalf of the applicant in which a continuance of the hearing was requested.

***Motion made by Philip Brunelli to continue the public hearing to January 13, 2021, at 7:30 PM.  
Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES.  
Unanimous by the Board.***

**Meeting Minutes October 7, 2021**

***Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, October 7, 2021. Motion seconded by Meghan Whitmore. Roll Call Vote: Acevedo-YES; Whitmore-YES; Hunchard-YES; Brunelli-ABSTAIN. Unanimous by voting members of the Board.***

**15 Oxford Drive- Mark and Michele McGunagle**

Abutters: None.

**7:35 p.m.** Applicant is seeking to construct an attached two-car garage with a mudroom with impervious area of 18.9% where 15% is allowed. The building permit is denied without a Special Permit from the ZBA. Applicants present: Mark and Michele McGunagle. Mr. McGunagle stated that they would like to construct a mudroom and attached two-car garage to their single-family home. He stated that they are partially in a water resource district which limits them to 15% impervious. He stated that they propose to install two Cultec systems to mitigate the rainwater runoff. He stated that he believes they are in the Franklin water resource district. Mr. Stickney confirmed that with the two Cultec systems, the calculation becomes 7.4%.

***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 Mark and Michele McGunagle for 15 Oxford Drive to construct an attached two-car garage with a mudroom with impervious area of 18.9% where 15% is allowed giving them 3.9% relief, which applicant is installing two Cultec systems on the property bringing impervious area to 7.4%, as shown on a plan titled "Plot Plan Located at 15 Oxford Drive, Franklin, MA" dated February 23, 2021, prepared by Land Planning, Inc. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.***

**388 Partridge Street - Jeffrey Nisbet and Kayla Nisbet**

Abutters: None.

**7:40 p.m.** Applicant is seeking to convert space above attached garage into an accessory dwelling unit. The building permit is denied without a Special Permit from the ZBA. Applicant present: Jeffrey Nisbet. Mr. Nisbet stated that they converted the garage to a living space when they moved in last year. They would like to make it an in-law apartment for his wife's parents. Mr. Tim Fiorillo, contractor of Progress Contracting Corporation, on behalf of the applicant, stated that he did the work to convert the garage and the space above to a living space. He stated that there was a kitchenette; the applicant would now like to install a range and make it a legal in-law apartment. Mr. Nisbet reviewed his provided 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 388 Partridge Street with the conditions of the Special Permit being that the in-laws, Deanna and Steve Hood, reside at the property along with the owners Jeffrey Nisbet and Kayla Nisbet 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 388 Partridge Street. 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 shown on the Plan titled "Garage & Breezeway As-Built, 388 Partridge Street, Franklin, MA" prepared by Wilson Associates, dated September 28, 2007. Seconded by Philip Brunelli. 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 and Shala Ranieri, applicant. Mr. Dias stated that he was previously before the ZBA representing Whitman Homes, the builder of the development. The Ranieri's have since taken ownership of the home and moved in. They are seeking to expand what was previously granted under the prior permit which was to allow 22.8% impervious coverage. He stated that mitigation was provided for the rooftop runoff. He reviewed that the applicant



would now like to expand the existing driveway and proposed pool patio area and install a shed. He stated that the house is located within 200' from a stormwater infiltration basin on the opposite side of the road. He reviewed the drainage for the proposed increased impervious coverage. He stated that stormwater runoff from the proposed shed and patio areas will be directed to the flat, previous surface of the lawn area. A retaining wall has recently been installed along the rear yard to allow the yard to be graded such that it will direct stormwater runoff toward the paved surface of Margaret's Cove as intended by the approved subdivision design.

Chair Hunchard asked the applicant for a letter from the Town stating that the Town is okay with having this private drainage drain into the Town's drainage system. He stated that this request is more than the original request for increased impervious area. Mr. Dias reviewed the drainage of the subdivision.

Mr. Stickney questioned if all of the 20.8% was previously mitigated. Mr. Dias stated that he does not believe the entirety of the 20.8% was mitigated. He explained that the plan shows that the applicant was allowed to go to 20.8% impervious where they were recharging a minimum of 10% impervious making the impervious calculation come in under 15%. Mr. Stickney agreed with Chair Hunchard that this is a lot to request in a water resource district. He is not necessarily in favor as is currently proposed. Ms. Whitmore agreed.

Mr. Acevedo asked if the shed was already built and the driveway already expanded. Mr. Dias stated not to his knowledge. Ms. Ranieri stated that they have not been; however, the pool is in, but not the pavers. Mr. Acevedo questioned why the applicant would not go with pervious pavers and a possible additional Cultec system in order to reduce the impervious number. Mr. Dias stated that they could possibly employ some additional steps to reduce the amount of impervious.

Mr. Brunelli asked about the proposed driveway increase. Mr. Dias stated that they are proposing to add 9' to the width of the driveway; the current width is about 12' which opens up to 24' closer to the garage. He explained where the 9' would be added. Mr. Brunelli stated agreement with the other ZBA members; the applicant is asking a little too much.

Mr. Dias requested a chance to regroup and discuss with his applicant what they can revise. Ms. Ranieri asked for recommendations as to what the ZBA would like to see in order for an approval. Chair Hunchard stated that the applicant should try to mitigate what they are trying to do to the best they can. He and Mr. Dias discussed when they applicant would be ready to return to the ZBA. Chair Hunchard noted that he received a phone call from an abutter who stated that they did not have any problem with this.

***Motion made by Philip Brunelli to continue the public hearing to December 2, 2021, at 7:45 PM.  
Motion seconded by Robert Acevedo. Roll Call Vote: Acevedo-YES; Brunelli-YES; Hunchard-YES.  
Unanimous by the Board.***

**54 Anthony Road- Christopher and Christina DiRado**

Abutters: None.

**7:50 p.m.** Applicant is seeking to construct a two-car garage with a room above that is 5.5' from the side lot line where 20' is required and total impervious coverage area of 21.8% where 15% is allowed. The building permit is denied without a Special Permit from the ZBA. Applicants present: Christopher and Christina DiRado. Mr. DiRado stated that they are proposing to add a two-car garage with a master bedroom and bathroom above to their existing home. He stated that they will need side lot line relief and impervious coverage relief. He stated that they are located in a water resource district. He stated that the constructed addition will be going on the side where the driveway currently exists. He explained that to

mitigate the increased impervious coverage, they will be installing a roof runoff infiltration field. He stated that he is not sure what the impervious coverage will be mitigated down to as it does not appear to be listed on the plans.

Ms. Whitmore asked about the addition and the driveway. Mr. DiRado stated that it is currently a single car driveway and they are proposing to make it wider for two cars. Mr. Acevedo confirmed the proposed mudroom attached to the garage. He asked that since the applicant is here for relief, could they do without the 6' mudroom or take some feet off the garage. Mr. DiRado stated not without losing their current bedroom upstairs or having a garage that is too small. Mr. DiRado noted that two years ago the home at 55 Anthony Road did a similar addition and asked for similar relief. Chair Hunchard reminded the ZBA that the ZBA has in the past granted similar relief. Mr. DiRado noted that there are high tension wires behind his home.

***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 Christopher and Christina DiRado for 54 Anthony Road to construct a two-car garage with a room above that is 5.5' from the side lot line where 20' is required giving 14.5' relief, as shown on a plan titled "Certified Plot Plan Located at 54 Anthony Road, Franklin, MA" dated September 30, 2021, prepared by Continental Land Survey, Inc. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board. To Grant a 6.8% relief Special Permit for Christopher and Christina DiRado that increases the impervious coverage to 21.8% where 15% is allowed shown on a plan entitled "Roof Runoff Infiltration Filed "fro 54 Anthony Road, Franklin MA 02038 done by Legacy Engineering, 730 Main Street Suite C, Millis, MA 02054 dated October 14, 2021. 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; William McKenzie, 781 Lincoln Street

**7:55 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. Applicant present: Stephen Kelleher, owner KJS Realty, Inc. Mr. Kelleher stated that he is applying for a variance to put a 190' cell tower on his land on Bent Street. He stated that the Town of Franklin is looking to use some of the space on the tower for municipal equipment for police, fire, and more, requiring about 40' of space. He stated that the Town would be allowed the space at no charge. He noted that originally the Town was looking to put up a tower on Mechanic Street; however, this tower would suit their purpose. He discussed that at 150' and below possibly Verizon is considering a lease. The towers are built to lease in 10' increments. He purchased the land a few years ago for this purpose. He stated that he owns about six parcels in the area. He has done an ANR plan. He stated that this would provide increased cell coverage in Franklin. He discussed the location and construction of the tower and the access road as shown on the provided plans. He stated that the tower would be located in a 60' x 60' fenced compound. The construction takes about six weeks. In addition, each carrier that comes on takes about two weeks. He expects maintenance about once a month from each of the tenant carriers. He stated that engineers would be onsite during construction. He discussed the location of the nearest house.

Chair Hunchard noted that he met with Town Administrator Jamie Hellen yesterday. He said Mr. Hellen made a deal with the applicant. Mr. Hellen had spoken with the applicant about the height of the tower which was initially proposed at 150'; Mr. Hellen suggested the tower be built higher. The Metacommet Emergency Communications Center dispatch would be using the tower for municipal communications.



Mr. Hellen told him there was an agreement that the applicant would provide the top 40' for the Town of Franklin. Chair Hunchard noted that Mr. Hellen said the agreement has not yet been finalized. Chair Hunchard stated that the Town is onboard with this as they will be getting some free tower space that they do not currently have.

Mr. Romuald Zulawnik, 95 Bent Street, stated that they have concerns about this proposed tower regarding how close they are to the tower. He noted that they are the closest abutter to the tower. He stated that they have been in their house for 36 years; there has been much change over those years. However, they are concerned about a cell tower going up regarding cell radiation; there have been instances of this in Pittsfield and health issues with the residents. He discussed the effect of cell towers and electromagnetic fields. He stated that there is a cell tower at the end of Cortland; therefore, why do they have to build a new one here. As well, since all the development, they are inundated with water in their yard. He noted concern about the wildlife. He stated that they are concerned about the two big propane tanks that are going to be onsite as the area gets a lot of lightning strikes. He explained that their concerns are about health and safety.

Chair Hunchard stated that he was on the Board of Health for many years. He stated that such health questions have come up before regarding cell towers. With 5G, more towers will be needed. He stated that he had asked about the presumed radiation from the towers. He was told that it would take 60,000 antennas together before the recorded radiation would be unhealthy. He stated that this is less obtrusive to the wildlife than if it was a residential home. He stated that the towers would probably be maintained once a month. He stated there is obviously a need for a tower by the Town. He stated that from his meeting with the Town Administrator, this is a win-win for the Town. Mr. Kelleher stated that he owns a lot of land in the area. He does not know what he is going to do with the rest of the land. He is not looking to clear cut the area. He stated that there is a lot of water over there. He said they will be mindful of that when they put in the road. He will be cutting down as few trees as possible and will try to shield the tower and keep a buffer of trees. He stated that it is about 450' from 95 Bent Street. He stated that propane tanks will probably be used rather than diesel generators.

Mr. Patrick DeRoy stated that they have some of the same concerns as the Zulawnik's. He stated concern about the long-term health effects. He noted concern about the access road which is right next to his fenced-in yard. He stated that he has two young children and is concerned about how often trucks would be going in and out. The water and drainage are also a concern. Mr. Kelleher stated that there would be a gate about 20' in. It is a 40' wide access road. They can try to skew it to the left side to keep as many trees next to Mr. DeRoy's fenced area as possible.

Mr. William McKenzie asked for the height of the tower in relation to the height of the trees. He asked if there will be improvements in cell phone coverage for nearby residents. Mr. Kelleher stated that the coverage will benefit the nearby residents. Visually, the tower will be about double the height of the trees. He will try to leave as many trees as possible.

Mr. DeRoy asked if the tower will be able to be seen from the street. Mr. Kelleher explained the most likely places that the tower will be seen. He reviewed the grounding system in regard to lightning.

ZBA members asked questions. Mr. Kelleher explained the parcels that he owns, the right of way, and the ANR. He stated that he was going to skew the road to keep a buffer from the DeRoy's home.

Ms. Zulawnik asked about the gate to protect the area from someone coming off the street on the weekends. Mr. Kelleher stated that the gate is usually about 20' in and they put boulders on either side to prevent kids on dirt bikes to prevent people from getting hurt. They do not want anyone in there that is not supposed to be in there from a liability standpoint.

Mr. Kelleher told Chair Hunchard that he does not have the wording for the motion/decision from the attorney. Mr. Acevedo requested the gate information be spelled out in the decision.

Building Commissioner Gus Brown commended Ms. Thayer for making the public hearing go smoothly when an applicant did not have all the information.


***Motion made by Philip Brunelli to continue the public hearing to December 2, 2021, at 7:50 PM.  
Motion seconded by Robert Acevedo. 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 9:18 p.m.***

Respectfully submitted,

Judith Lizardi  
Recording Secretary

Signature



Date

