

Town of Franklin



Zoning Board of Appeals

**Thursday, February 2, 2023
Meeting Minutes**

Chair Bruce Hunchard called the above-captioned Remote Access Zoom Virtual Meeting to order this date at 7:30 PM. Members in attendance: Bruce Hunchard, Philip Brunelli, Robert Acevedo, Christopher Stickney. Members absent: Meghan Whitmore. 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.

16 Dom Lea Circle - Dana Schock

Abutters: None.

7:30 p.m. Applicant is requesting ZBA relief for a 14' x 14' detached pergola that is 5.5' from the principal structure where 10' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Dana Schock, landscape architect on the project.

Mr. Schock stated that they are seeking relief on this detached garden pergola. He stated that he has done many pergolas. He stated that everything on this job was permitted: the wood deck, swimming pool, plumbing, and electrical. He was unaware of this bylaw. He reviewed that there is one side of this that is 5.5' from the deck where 10' is required; they are looking for relief. He stated that this was a huge improvement to the property. He stated that there was no building permit on it; as a landscape architect he does not pull building permits. He stated that he has spoken with the contractor who said that they have worked in Franklin before and it was not a permitted scope of work. He stated that obviously, retroactively, he can get them in there to pull a permit.

Building Commissioner Gus Brown stated that he always makes people pull permits for pergolas because we consider it a structure, not a fence, and if someone builds these too close to a property line, the building department has received phone calls in the past about a neighbor aggrieved by another neighbor doing that. He stated that it needs a building permit. He confirmed that no building permit was requested for this pergola. He stated that the pergola was discovered when an inspection was done for the pool. He stated that the standard penalty is three times the cost of the permit. Mr. Schock stated he can have someone in there to retroactively pull the permit.

In response to Mr. Acevedo's question, Mr. Schock stated it was 5.8' from the deck; it is 11' away from the back of the house. He stated that it is an open deck.

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 16 Dom Lea Circle for Dana Schock to construct a 14' x 14' detached pergola that is 5.5' from the principal structure where 10' is required, giving relief of 4.5', as shown on a drawing titled "As-Built Plan, 16 Dom Lea Circle, Franklin, MA" prepared by Snelling & Hamel Associates, dated November 21, 2022, subject to obtaining a building permit and any applicable fees that may be determined by the building commissioner. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

71 A North Park Street - Jerry Lawler Abutters: None.

7:35 p.m. Applicant is seeking to construct a single-family home that is 5.0' from the right side yard setback where 20' is required. The building permit is denied without a Variance from the ZBA. Applicants present: David Volkin, attorney on behalf of the applicant.

Chair Hunchard reviewed that the ZBA did not like the first plan submitted and requested the applicant to submit a new plan showing the proposed structure would be 15' from the sideline. Mr. Volkin stated that a new plan which has a minimum of 15' from the property line and 17' from the property line where the area bumps out has been presented for the ZBA's consideration. Building Commissioner Gus Brown stated that he saw the new plan and it meets his approval.

Motion made by Chair Hunchard to close the public hearing. Motion not seconded. Roll Call Vote: Brunelli-YES; Acevedo-ABSTAIN; Hunchard-YES. Vote: 2-0-1.

Motion made by Christopher Stickney to grant a Variance for 71 A North Park Street for Jerry Lawler to construct a single-family home that is 15.0' from the right side yard setback where 20' is required, giving relief of 5.0', as shown on a drawing titled "Proposed House, 71A North Park, Franklin, MA" prepared by GW Site Solutions, dated January 26, 2023, submitted and received by the Town of Franklin on February 1, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Stickney-YES; Hunchard-YES. Unanimous by the Board.

237 Pleasant Street - St. John's Episcopal Church of Franklin and The Community Builders Inc.
Abutters: Christine Apicella, 27 Padden Road.

7:40 p.m. Applicant is seeking a building permit to construct a 64-unit multi-family development. The building permit is denied without a comprehensive permit from the ZBA. Applicants present: Attorney Richard Cornetta on behalf of the applicant; Project Manager John Harding of The Community Builders Inc.; Frank Holmes, civil engineer of Langan Engineering & Environmental Services; Maximo Polanco of Langan Engineering & Environmental Services; Peter Freeman, 40B Consultant of Freeman Law Group.

Mark Bobrowski, attorney, and Joe Peznola of Hancock Survey Associates were in attendance at the meeting.

Mr. Cornetta stated that representatives from Langan Engineering would be providing an update.

Chair Hunchard stated that according to our consultant, most of the issues have been resolved. Mr. Holmes stated that he thinks all the issues have been resolved. Mr. Peznola stated that there was one issue with regard to the sewer; the applicant will need to do a study at the nearest pump station as to whether or not an onsite holding tank is needed. He stated that in our letter of January 30, 2023, this is a condition of approval that this study be done in cooperation with the Franklin DPW, and if it is found that the storage tank needs to be implemented, then the applicant needs to do it and all at the applicant's expense. Mr.

Holmes stated that this would be a condition of potential approval. He stated that other than that, they have addressed everything they can at this point. He stated that he would like to share his screen to show a sketch that has been submitted to the DPW to address some concerns regarding pickup of students and school buses and crosswalks and sidewalks along Pleasant Street. He reviewed the drawing/aerial view and discussed the proposed sidewalk, proposed crosswalk, advanced signage warning of curve and upcoming crosswalk, and crosswalk signage with flashing crosswalk signal. He stated that the DPW is going to consider this. He stated that they are happy to work with the DPW on this. Mr. Polanco discussed the rapid flashing beacons for the crosswalks.

Ms. Christine Apicella, 27 Padden Road, abutter, thanked the applicant for listening to the concerns and trying to address some of them. She asked how this came about regarding the development of this proposal. Chair Hunchard stated that he did not know how it came about; however, the applicant cannot do it unless the DPW approves it. He stated that he thinks the Town Administrator and staff have been talking about this for a couple of weeks. He stated that the consulting attorney will draft a decision that the ZBA will not vote on until at least March 2, 2023.

Ms. Apicella stated that she thinks the Town would be well within its rights to require mitigation for a project that is asking for a variance that is outside of the required 40B process so she would expect that the Town would start to negotiate for mitigation that might be needed rather than just waiting for the developer to propose it. Chair Hunchard stated that there have been ongoing discussions about this project; they are looking at it and what they come up with we will know by March 2, 2023. Ms. Apicella asked if those would be comments coming from Town staff and submitted to the ZBA like you have for fire department and other letters. Chair Hunchard said that he is sure it would if it has to go into the decision. He stated that it takes time for everything to get together. Ms. Apicella stated that she read every page of the traffic impact study. She asked if the operations of the two driveways that are currently one way, that will be proposed to be two ways, have been looked at in the context of Padden Road. Mr. Polanco stated that in their traffic study they did analyze the major traffic for the driveway of our proposed development and the way it will interact with Padden Road. He discussed that for the driveway for the church for the morning and afternoon peak hours, there is little traffic expected at that driveway; we expect the other driveway to be more intense compared to the church. Ms. Apicella asked if they looked at any alternatives for keeping one driveway as one way in and one way out. Mr. Holmes stated that he did not think that would be compatible with the way the parcels would be set up to operate. He stated that they are going to be separate parcels for the church and the housing project. Mr. Harding stated that early on in the discussions they talked about interconnections between the church parcel and the new development and decided that they did not want to go that route.

Ms. Apicella asked if there are any other evaluations being done for potential mitigation and how would a resident provide input to that process. Chair Hunchard stated that a person would have to call the Town Administrator and ask. ZBA members had no questions. Chair Hunchard stated that he appreciated Mr. Peznola's efforts to get timely responses back to the applicants.

Motion made by Philip Brunelli to direct the consulting attorney Mark Bobrowski to come up with a favorable decision for this project which will be presented to the ZBA on March 2, 2023. Motion seconded by Robert Acevedo. Discussion: Attorney Bobrowski stated that with Chair Hunchard's permission, he would consult with the two attorneys on the other side. Chair Hunchard stated that is fine. Building Commissioner Gus Brown stated that he would like to add a comment that during Ms. Apicella's comments in the course of this, we have taken everything to heart that she has said; there have been several discussions about what the best way to proceed is. He stated that she is being heard. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Motion made by Philip Brunelli to continue the public hearing to March 2, 2023, at 7:35 PM. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes January 19, 2023

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, January 19, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

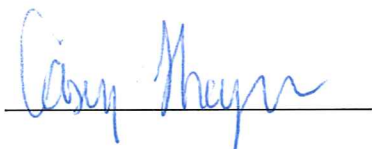
Motion made by Philip Brunelli to adjourn the Remote Access Zoom Virtual Meeting. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting adjourned at 8:08 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature



Date

2/22/23