

Town of Franklin



Zoning Board of Appeals

**Thursday, January 5, 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, 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.

78 Conlyn Avenue - Reidar Davies

Abutters: None.

7:30 p.m. Applicant is seeking to construct a 24' x 30' attached garage that is 11.0' from the right side yard setback where 20' is required. Applicant is also seeking to increase the impervious coverage in a WRD to 27% where 15% is allowed. The building permit is denied without a Variance and Special Permit from the ZBA. Applicants present: None.

Chair Hunchard stated that he was in receipt of a document from the applicant's attorney requesting a continuance to January 19, 2023.

Motion made by Philip Brunelli to continue the public hearing to January 19, 2023, at 8:00 PM. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

71 A North Park Street - Jerry Lawler

Abutters: Robert Glencross; John Powers, attorney representing Robert Glencross.

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: Jerry Lawler; David Volkin, attorney on behalf of the applicant. Mr. Volkin stated that after the hearing last month which was continued, there were a few things that he wanted to address that the ZBA had questions about as well as a proposed amendment to the requested variance to allow more distance between the two properties. He stated that Chair Hunchard had raised the issue of a subdivision of property that was approved by the ZBA and denied by the Planning Board in the late 1960s/early 1970s. He stated that it appears it was attempted to be subdivided but was not, so the property is unsubdivided today. Therefore, Mr. Lawler owns the entire parcel. Chair Hunchard stated that he had someone look it up at the Registry of Deeds; they will take at face value Lots 71 A and 71 B.

Mr. Volkin discussed the elevation issues on the land that were raised at the last meeting. He showed and reviewed the Town's GIS map to illustrate the elevations and what is being proposed in the amendment to

push the building over. He reviewed the proposed amendment to move everything over so there is a minimum of 12'. He discussed that the difference between the 5' and 12' is one additional truck of fill; he stated that for 20' it would be four trucks of fill to level and grade out the land where the foundation was because of the high elevation coming down. He stated that the current plan is to build up against the stone works. He said that at this point, there is no further over the applicant can go without tearing out the existing stone staircase and landscaped area; many of the existing shrubs would have to be removed. He discussed the proposal for the house in regard to the elevation. He explained that the overall footprint of the house was reduced from the original proposal.

In response to a question from Chair Hunchard, Mr. Volkin stated that the new foundation for the new structure would be the new retaining wall for that area. He stated that where the retaining wall is right now will have to be torn down to move the house. If they were doing 5' that retaining wall would stay there; but as they are doing 12', they are proposing removing and cutting out the retaining wall using new building structure as the retaining wall for the back elevation. Mr. Brunelli asked about the walkway and the stones on the side view. Mr. Volkin stated that it is difficult to see as it is hidden by shrubbery and debris such as dirt, but there are about nine or ten steps. He noted that no one has been living on the properties for over one year due to the fire.

Chair Hunchard stated that he is not happy with the house being 5' off the line. Mr. Volkin stated that they are proposing an amendment to make it 12' and 14'. ZBA members asked questions. Mr. Volkin stated that their surveyor is on vacation, so they provided the sketch. They will provide the formal surveyor drawing which will show they are now proposing 12' and 14'. He explained that they cannot get to 15' due to the slope in the back portion, and it would require about a \$10,000 to \$15,000 landscaping change. He confirmed that the house will be set from the street 14.36' from the front and stated that this is consistent with the other homes on the street. Chair Hunchard noted a 30' setback for the front yard.

Building Commissioner Gus Brown stated that the existing home that was there before the fire was 14.39'. He stated that he did not send them for relief for that; they are just here for the sideline setback. Chair Hunchard stated that there is nothing the ZBA can do for the applicant tonight. He will need to have the engineer show it on the plan. He suggested that when the applicant returns, it be a minimum of 15' off the lot line and the only reason why he proposes that is because the neighbor who is going to be in the next public hearing is proposing his be 15' off the line. Mr. Volkin stated they would take Chair Hunchard's suggestion under advisement. Chair Hunchard stated that if the Building Commissioner is happy with the front setback at 14.39', he can live with that; however, if the guy on the left is coming in asking for 15' off the line, then he suggests this applicant make it 15' off the line also. Mr. Volkin stated that he would like to continue the hearing until February 2, 2023. ZBA members stated agreement with the 15' setback.

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

71 B North Park Street - Robert Glencross

Abutters: Jerry Lawler.

7:40 p.m. Applicant is seeking to construct a single-family home that is 14.0' from the right side yard setback where 20' is required, 15.0' from the left side yard setback and 14.0' from the rear setback where 20' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Robert Glencross; John Powers, attorney representing Robert Glencross; Peter Padula, attorney on behalf of the applicant.

Chair Hunchard stated that another plan was submitted today showing a 20' setback in the rear.

Mr. Powers discussed the history of the home. He stated that the home was partitioned down the middle and each side was given to a different family member, and it proceeded within the family for generations. He stated that his client, Mr. Glencross, was the first person outside of the family, in 2016, to get involved in a portion of the building. Mr. Glencross brought 71 B which is essentially half of a house. He stated that the house burnt down and now they are trying to rebuild it. He discussed that trying to build it in the same spot presented many problems such as being too close to the lot line. He stated that he is suggesting taking the original footprint of the house and putting it in the rear of the lot as this would not have issues of a building trying to be reconstructed which was right at the property line. He stated that they do not need rear relief, and they are 10' away from the existing garage. He stated that all they are asking for is the two side setbacks of 15' and 14'. He stated that they are trying to reconstruct.

Mr. Stickney asked questions. In response, Mr. Powers stated that this would be a two-story structure. He stated that they would be following the same footprint as the original. Building Commissioner Gus Brown stated that up to 2' from soffits and overhangs are exempt from setbacks. Chair Hunchard stated that he can understand the two parties wanting their own separate residences.

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 Philip Brunelli to grant a Variance for 71B North Park Street for Robert Glencross to construct a single-family home that is 14.0' from the right side yard setback where 20' is required giving relief of 6', and 15.0' from the left side yard setback where 20' is required giving relief of 5', as shown on a drawing titled "Plot Plan, Located at Parcel ID: 297-130-000-000, 71B North Park Street, Franklin, MA, Prepared for Robert Glencross" prepared by Land Planning, Inc., dated July 26, 2022, revised January 4, 2023. Motion seconded by Robert Acevedo. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes December 15, 2022

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, December 15, 2022. 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.

Chair Hunchard explained to a resident who was on Zoom that the 78 Conlyn Avenue - Reidar Davies public hearing was continued to January 19, 2023, at 8:00 PM.

Meeting adjourned at 8:20 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature Cary Nays

Date 1.20.23