

Town of Franklin



Zoning Board of Appeals

**Thursday, June 8, 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. 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 232-045 Daniels Street – Kurt R. Davis and Robin L. Davis, Trustees of The Davis Family
Abutters: None.

7:30 p.m. Applicant is seeking to construct a single-family home that has a 15,200 S.F. lot where 30,000 S.F. is required, has 86.48' of frontage where 150' is required, has 174.56' and 175.76' of lot depth where 200' is required, has 86.48' of lot width where 135' is required and with left and right side yard setbacks of 24.3' where 35' is required. The building permit is denied without a Variance from the ZBA. Applicants present: Attorney Stephen Kenney representing the applicants.

Attorney Kenney reviewed the location of the parcel and noted it was in Rural Residential II district. He stated they are seeking to construct a 36' x 44' single-family home that has a 15,200 S.F. lot where 30,000 S.F. is required, has 86.48' of frontage where 150' is required, has 174.56' and 175.76' of lot depth where 200' is required, has 86.48' of lot width where 135' is required and with left and right side yard setbacks of 24.3' where 35' is required. He discussed the history of the lot and previous variances granted, and he reviewed the deeds and exhibits provided in the application packet. He noted hardship requiring the variance. He stated that the lot is considered a buildable lot by the Board of Assessors since 1956 and is presently being assessed. He stated that it has become a financial burden for the applicants to pay taxes on the lot as it is considered a buildable lot. He reviewed other lots on Daniels Street with similar size lots. He stated the hardship is the shape of the lot. He read aloud the Supporting Statement for a Variance provided in the application packet. He noted that the construction of a single-family residence will add to the housing stock in the town. He stated the variance is a reasonable request based on all information and documents provided.

Chair Hunchard explained that the ZBA does not have to go by what the Board of Assessors has done or by what previous ZBA boards have done. He noted that this was last discussed by the Board in February 2021. Mr. Stickney and Ms. Whitmore had no questions. Mr. Brunelli asked if this was considered new construction. Chair Hunchard confirmed there is sewer in that area. Mr. Acevedo confirmed the Board denied this two years ago. He noted that even so, the Board of Assessors kept taxing it as a buildable lot. Attorney Kenney confirmed that an abatement has not been applied for; there was one in the past that was denied.

Chair Hunchard confirmed the lot was created in 1956 and zoning came into effect in 1951 with an amendment in 1955. He reviewed that there have been a number of zoning changes since then; the square footage increased to 30,000 sq. ft. and the frontage requirement increased to 150 sq. ft. He reviewed the plans signed by the Planning Board in both 1955 and 1956. One of the plans did not meet the zoning requirements at the time; however, it was signed by the Planning Board. He confirmed that they were discussing Parcel C on Exhibit A. He stated that Attorney Kenney is saying that the Planning Board did this to create Lot C. Chair Hunchard stated that we really do not know why the Planning Board did this.

Building Commissioner/Zoning Enforcement Officer Gus Brown stated that there was a change to the zoning between 1946 to 1960 and it occurred on March 24, 1955, at a Town Meeting where the frontage was changed to 100 ft. He stated that this lot was created after that zoning change which makes the lot non-buildable. He stated that statutorily, he does not think under any rules and regulations to grant this as a grandfathered lot because the zoning change came before the lot was created. He stated that with that being said, he believes it would be a true variance if this was to go through, not a grandfathered lot. He stated that all of the relief Attorney Kenney mentioned would all need to be written down as a variance if it was to be approved. He stated that there are some lots in town similar to this that we have not granted in the past because they were not large enough to meet today's zoning. He stated that so, if this lot is approved, it kind of opens the door for other people to come and ask for the same relief. Chair Hunchard stated that he does not think the Board has approved an undersized lot or a lot that did not meet zoning since probably 1985 or 1995 that he can remember.

Attorney Kenney stated that on Exhibit C, Lots 6 and 7 have around 12,000 sq. ft. and less frontage, and there are single family homes built on those lots. Chair Hunchard reviewed that the lots that Attorney Kenney noted were grandfathered lots. Mr. Brown confirmed that they were true grandfathered lots. Attorney Kenney stated that he thinks the Board could find a defensible position with the granting of the variance, and a home could be built on this lot that would fit into the neighborhood.

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 deny a Variance for Parcel 232-045 Daniels Street for Kurt R. Davis and Robin L. Davis, Trustees of The Davis Family, to construct a single-family home that has a 15,200 S.F. lot where 30,000 S.F. is required, has 86.48' of frontage where 150' is required, has 174.56' and 175.76' of lot depth where 200' is required, has 86.48' of lot width where 135' is required and with left and right side yard setbacks of 24.3' where 35' is required, as shown on a drawing titled "Kurt & Robin Davis, 27 Fairlane Drive, Bedford, New Hampshire 03110" prepared by Colonial Engineering, Inc., dated April 21, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

70 Crocker Ave - J L Sullivan

Abutters: None.

7:35 p.m. Applicant is seeking to construct an attached garage with an impervious area of 21.5% where 15% is allowed. The building permit is denied without a Special Permit from the ZBA. Applicants present: Bruce Wilson of GW Site Solutions representing Sara and Matthew Williams, to be constructed by J L Sullivan.

Mr. Wilson reviewed that the applicant is seeking to construct an attached garage with an impervious area of 21.5% where 15% is allowed. The parcel is located in a WRA overlay district. He reviewed that in order to exceed the amount of impervious cover, the applicant will infiltrate the roof leaders into an

underground stormwater system to recharge the excess runoff. The proposed compensation results with 12.8% of impervious cover. He reviewed the Supporting Statement for a Special Permit provided in the application packet. He explained the plan and noted it would be a single story 26' x 42' garage on the left side.

Mr. Stickney requested clarification on the reduction. Mr. Wilson explained that the reduction would result in 12.8%. Ms. Whitmore stated that the 12.8% sounded good. Mr. Brunelli and Mr. Acevedo had no comments. Mr. Brown asked what will the garage be used for. Mr. Wilson stated that he believes it will just be for cars.

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 70 Crocker Ave. for J L Sullivan to construct an attached garage with an impervious area of 21.5% where 15% is allowed, giving relief of 6.5%, as shown on a drawing titled "Proposed Infiltration, 70 Crocker Avenue, Franklin, MA" prepared by GW Site Solutions, dated March 8, 2023, revised April 18, 2023, as long as the proposed mitigation is constructed. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

25 Forge Parkway – TMC Holding & Development 2 LLC

Abutters: None.

7:40 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. Applicants present: Brian Jones of Allen & Major Associates, Inc. representing the applicant.

Mr. Jones stated that the owner/applicant's intention is to expand the building, constructing a 16,000 sq. ft. high bay building and expanding the parking lot for 17 additional parking spaces. He stated that this requires removal of approximately 3,600 cubic yards of earth from the site. He shared his screen and showed and reviewed the plans. He explained that they wanted to use the back portion of the lot for a high single-story building. He reviewed the elevation which generates the export from the site. He stated that the Planning Board and Conservation Commission have both approved the project. He stated that they have an Order of Conditions from the Conservation Commission. He stated that the intent is to extend/attach the 16,000 sq. ft. high bay warehouse off the back of the existing building and expand the pavement area. He stated that they did stormwater compliance. He noted the project was peer reviewed. He reviewed the location of the drainage system and the location of the earth removal. He discussed that it was not practical to keep the earth removal on site.

Chair Hunchard asked what would be stored inside. Mr. Jones explained that he believes that the owner is going to be using the whole building. He confirmed it would be like a contractor's yard. He reviewed the hours of operation for the earth removal would be 6 AM to 6 PM, Monday through Saturday. He stated that the vehicle routes for the export would be Forge Parkway to West Central Street to I-495. Chair Hunchard stated that they would sweep the road every night when they are done if there is mud on the roadway. Mr. Brown confirmed that the road in Forge Parkway is a private road.

Mr. Stickney and Ms. Whitmore had no questions. Mr. Acevedo confirmed it was 3,600 cubic yards to be removed. He asked if the start time should be 7 AM. Chair Hunchard stated that it would be 7 AM to 5 PM if approved. Mr. Jones stated that he had no problem with that time. Mr. Brunelli stated his question was about the start time as well. Mr. Brown requested Mr. Jones make sure to have the truck drivers do

what the bylaw asks for which is follow that route and report how much is taken out with an engineer's report.

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 25 Forge Parkway for TMC Holding & Development 2 LLC to conduct earth removal in excess of 1,000 cubic yards to approximately 3,600 cubic yards, with the start time of earth removal at 7 AM and no earlier, and no later than 5 PM, Monday through Saturday, with trucks departing the property down Forge Parkway to West Central Street and onto I-495, as shown on a drawing titled "Site Development Plans for 25 Forge Parkway, Franklin, MA, Tax Map 275, Lot 14" prepared by Allen & Major Associates, Inc., with revision date May 1, 2023, conditioned upon a building permit and site plan approval, and written reports from the engineer verifying the amount of gravel taken out weekly. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

83 Peck Street - Michael J. Dailey

Abutters: None.

7:45 p.m. Applicant is seeking to construct a 24' x 6' farmer's porch that is 20.2' from the front yard setback where 30' is required. The building permit is denied without a Variance from the ZBA.
Applicants present: Michael Dailey.

Mr. Dailey reviewed that he is seeking to construct a 24' x 6' farmer's porch that is 20.2' from the front yard setback where 30' is required. He stated that the house is grandfathered as far as pre-existing non-conforming to the bylaws. He stated that many houses on the street have the same configuration as far as the distances from the frontage. He stated that it would be a definite improvement and consistent to the neighborhood. He read aloud the Supporting Statement for a Variance provided in the application packet.

Ms. Whitmore asked about the number of feet extending from the front of the house. Mr. Dailey stated it was 9.5' extending from the main body of the house. He stated that there was a 3' walkout bay which gets you to the 20.2'. Mr. Stickney, Mr. Acevedo, and Mr. Brunelli had no questions.

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 83 Peck Street for Michael J. Dailey to construct a 24' x 6' farmer's porch that is 20.2' from the front yard setback where 30' is required, giving relief of 9.8', as shown on a drawing titled "Plan of Land in Franklin, MA, 83 Peck Street" prepared by C S Kelley Land Surveyors, Pembroke, MA, dated May 8, 2023. Motion seconded by Philip Brunelli. Roll Call Vote: Brunelli-YES; Acevedo-YES; Hunchard-YES. Unanimous by the Board.

Meeting Minutes May 11, 2023

Motion made by Robert Acevedo to approve the Meeting Minutes as presented for Thursday, May 11, 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.

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Meeting adjourned at 8:43 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Signature 

Date July 5, 2023