

Franklin Zoning Board of Appeals  
For Meeting Held On  
Thursday, March 29, 2018  
355 East Central Street  
Franklin, MA 02038

Members Present: Bruce Hunchard  
Robert Acevedo  
Timothy Twardowski  
Philip Brunelli  
Mickey Whitmore

TOWN OF FRANKLIN  
TOWN CLERK

2018 MAY -1 P 1: 20

RECEIVED

**7 Emilio Drive – David Haverty**

**Abutters: None**

**7:30 pm:** The applicant is seeking to construct a farmer's porch 38.7 feet from the front yard setback where 40 feet is required and 22.8 feet from the side yard setback where 25 feet is required. The building permit is denied without a variance from the ZBA. Owner, David Haverty, explains that he wants to construct a farmer's porch for safe access from the driveway to the house for his children, deliveries, and other guests coming in. It will actually be set back less than the current steps go out. Robert Acevedo questions the bump-out on the side of the house being that, had the owner not included the side porch, he would not have had to come to the zoning board for a variance. Mr. Acevedo asks if he could live without the 4 feet on the side. He doesn't feel right giving the applicant 4 feet on the side where it is not really needed. He asks the height of the deck off the ground and applicant explains that it is one step. Mr. Acevedo feels that that one step can be incorporated and level with the side of the house. Timothy Twardowski agrees with Mr. Acevedo as he does not see the hardship towards the side of the house. Chairman suggests, as a compromise, that the applicant run the deck out to the side without a roof on it and confirms with the building commissioner, who is in the audience, that that idea would be exempt from the side yard setback. The commissioner confirms he is exempt up to 4 feet.

**Motion made by Timothy Twardowski to close the public hearing, seconded by Robert Acevedo. Unanimous by board. Robert Acevedo makes a motion to grant a variance for 7 Emilio Drive to David Haverty to construct a porch off the front of his house with a roof that gives a relief of 1.3' to 38.7' where 40' is required with a side porch step down that does not require relief from the ZBA as shown on a drawing dated 01/15/18, entitled 'Certified Plot Plan located at 7 Emilio Drive' by Continental Land Survey, LLC. Seconded by Timothy Twardowski. Chairman asks the applicant to get another plan within a week or so showing the step down side deck without a roof on it. Unanimous by board.**

**725 Union Street – 4 SQ Development, LLC**

**Abutters: See Attached**

**7:35 pm:** Applicant is seeking to construct a 100-room hotel building and needs relief of 1 story and 20 feet from the building height requirement to 4 stories and 60 feet where a maximum of 3 stories and 40 feet is required. The building permit is denied without a variance from the ZBA. Applicants present: Richard Cornetta, attorney representing the applicant, SQ Development, LLC as well as Scott Rogers from J.K. Holmgren Associates, the consulting engineer on the project. He introduces Ashok Patel who is with 4 SQ Development, LLC, who will address the board during the presentation. Richard refers to several new renderings that have been presented to the Board prior to the meeting. In the several weeks since the last meeting, their architect has been in close communication with the Building Commissioner to discuss the definition of height to see what they could do to try to alleviate the relief being requested on their first visit with the ZBA. They have been successful in reducing the height down about 35% from their original proposal. Scott Rogers addresses the audience and does his presentation. He explains that the height is defined by the main parapet. He states they are asking for relief now of roughly 47'5" vs. the 60' that was being asked before which is a considerable change. He discusses soil types which are graded A through D, with A being the best. The site is made up of B and C soils which has slower/poor infiltration rates, causing an increase in expense due to the need for a foundation drainage system costing between \$55K - \$100K. The site is not flat and, because of that topography and the need to grade the site, added costs could be approximately \$145,000 in additional fill costs. Additional costs for packing the fill, a retaining wall, a fence, a guard rail. Total additional site costs will be near \$500,000 or more which is a 38% increase in site costs. Chairman interrupts and asks about the exact height. The highest point is 47'5". The Building Commissioner explains that they took some of the height out of the floors to get to that 47'5". Chairman

asks about the relief given for a prior approved project for the assisted living facility that was never built and that was a full four stories at 54'.8". Tim Twardowski asks how much of the difference of 12.5' is actual physical reduction of the size of the building? About 3' – 4' of actual reduction. Tim does not understand where the 10' disappeared. The Building Commissioner explains that, in their first submission, the applicant asked for 60', but that was not what they actually needed – they needed relief of 57.5'. Scott Rogers explains that they over-shot their figures in the first submission and, after discussion the definition of building height with the building commissioner and further reducing the sizes of the floors, they were able to come to the 47.5'. Scott goes on to address concerns that neighbors brought up during the last meeting using various pictures to show the angle of the sun and line of sight for the neighbors. He compares their lot to that of the lot of the hotel building next door. He addresses the reasoning for a 100-room hotel. He explains the various hotels that they are currently working on, all over 100 rooms. Ashok Patel of 4 SQ Development then addresses the board and explains that the number of rooms is driven by the costs related to the construction of all the common areas (fitness room, pool room, common areas, dining areas). He explains the seasonality of the business with hotels in New England being busy in May through October. Incremental costs for staff to man the hotel is the same for a 75 room hotel as a 110 room hotel. Many financial aspects that drive the development of these projects around the country at a certain number of rooms. Chairman asks about the brand of hotel. This will be a Hilton brand hotel called Home 2 Suites. It is a hybrid mix between the Residence Inn and the Hampton Inn – a new concept geared towards modern design/amenities. Chairman asks if there are any meeting rooms. There will be one meeting room designed to be 500 – 1000 sq. ft. to be able to accommodate 50 people maximum. He confirms that the colors will be earth-tones as in the pictures depicted.

Chairman opens the floor to the public. Abutters from Spruce Pond (see attached) explain their concerns: Traffic concerns and lack of plowing being done on Union Street during the winter and where will any snow be taken? Concerns regarding the architectural style of the building and that it does not conform to what is currently there. Worries that they are trying to squeeze too much economic value out of a small space. Jeff Nutting, Town Administrator, reminds everyone that they are here to speak to the height of the building only and he, once again, reiterates the much needed revenue that a hotel provides. Craig Ciechanowski, attorney representing Claremont Franklin and LLC, the owner of the hotel located at 735 Union Street, speaks to two issues: 1) The argument that the shape of the lot supports the request for the variance. This shape has only existed since 2007 when the restaurants on King Street needed strips of land behind them for drainage. The courts have consistently found that this is a self-imposed hardship that does not justify the granting of a variance. 2) The applicants have acknowledged that "without the requested variance, they will suffer substantial hardship in the form of material development constraints in excess cost to the applicant in connection with the development being sought by the petitioner". Not that nothing can be done on the site, but that the applicant wants to develop this 100-room hotel. He does not believe that the applicant has satisfied the requirements under 40A, Section 10. Robert Acevedo questions the 14' grade variance from the east to the west side. Scott explains the grading of the site and that they would be going to the planning board to discuss potential changes to the grading and the retaining wall. Tim Twardowski asks them to go over the soil conditions and how that relates to the drainage system on-site. He also asks to see the exhibit with the hypothetical building across the street.

Richard Cornetta makes his closing remarks including site costs, the economic need for 100 rooms, the hardship owing to the conditions/shape/topography/soil. The location is a Commercial II Zone even though Spruce Pond is a residential area, and what they are proposing would be allowed by Special Permit of the Planning Board. Impact from traffic will be minimal, but nothing to prevent the development from going forward. The main mass of the building is 47.5' high, which is 7.5' higher than is permitted by zoning by-law and the neighboring building is about 4' higher in topography – the on-looker is not going to perceive the difference in height of the two buildings. In 2007, this property came before the ZBA looking for zoning relief, same property with the same characteristics, and was granted a higher relief of 54.8'. He also agrees with Mr. Ciechanowski's letter, however, he refers to a use variance and they are asking for a dimensional variance which the courts have been very clear that there should be a separate standard. Not changing character of the use, they are just asking for a little bit more height because of the irregular shape of the lot and its site conditions.

Robert Acevedo wants to know why they didn't go down deeper on this site and maybe put some basement units? Ashok Patel explains that in the world of hotels, he has not seen any new projects in the last thirty years that have basement rooms. It is not a friendly environment for the guests. They do need to have a window.

Chairman reiterates what council has already stated – that over the years many projects have come and gone and for whatever reason have not been developed. They are only looking for relief of 7 feet, which makes sense in the scheme of things, next to the highway, next to another hotel and up against a restaurant.

**Motion made by Timothy Twardowski to close the public hearing. Motion seconded by Robert Acevedo. Unanimous by board. Motion made by Robert Acevedo to take under advisement. Seconded by Timothy Twardowski. Unanimous by board.**

**45 Forge Hill Road – Kevin Dionne, Director**

**Abutters: None**

**7:40 pm:** Applicant is seeking to construct a covered picnic/craft area with storage/office space and needs relief of 27.6 feet from the front yard setback to 12.4 feet where a minimum of 40 feet is required. The building permit is denied without a Variance from the ZBA. Applicants present: Kevin Dionne, Director of the YMCA, Amanda Cavalieri, Office Manager for Guerriere & Halnon and Scott Martin, Executive Director. Amanda Cavalieri explains the scope of the plan for a 100 X 22 feet covered picnic/craft area with office and storage. The year-round playing fields are of the utmost importance and building this structure will allow them to take down three temporary tents and three storage sheds on the property – allowing them to consolidate down to one single shed and giving them more room for playing fields. Jeff Nutting, Town Administrator, fully supports this project and speaks as to the huge asset that the YMCA is to the town of Franklin.

**Motion made by Timothy Twardowski to close the public hearing. Motion seconded by Robert Acevedo. Unanimous by board. Motion made by Robert Acevedo to grant a variance for the Hockomock YMCA at 45 Forge Hill Road to grant them 28' relief for a 12.4' setback where 40' is required shown on a drawing dated February 28, 2018 entitled "Hockomock Area YMCA Variance Site Plan for Proposed Covered Picnic/Craft Area". Motion seconded by Timothy Twardowski. Unanimous by board.**

**6 Midland Avenue – Steve and Samantha Florest**

**Abutters: None**

**7:45 pm:** Applicant is seeking to construct a second story addition, mudroom and garage. The garage is 26.97 feet from the front yard setback where 40 feet is required and the addition is 39.81 feet from the second front yard setback where 40 feet is required. The building permit is denied without both Variances from the ZBA. Applicants present: Clay Reeder, Contractor; Samantha Florest and Steven Florest, owners of the property. Clay explains the scope of the project. It is a corner lot so they are faced with the front set back on the side and the front. Samantha grew up in the house and she would like to remain in the house with their four children. Robert Acevedo wants the contractor to consider downsizing both the garage and the mudroom as the house is large. Chairman explains that he wouldn't have any problem with a standard size 24 foot garage. Timothy Twardowski agrees with Robert Acevedo. He explains that the hardship is hard to find when the size of the building relative to the lot is this big. He appreciates the need for a growing family, but the 12' mudroom is not a bedroom. Chairman suggests to the contractor that he should go back and revise his plan and return to the zoning board on April 26<sup>th</sup>.

**Motion made by Timothy Twardowski to continue hearing until April 26, 2018 at 7:45 p.m. Motion seconded by Robert Acevedo. Unanimous by board.**

**Motion made by Robert Acevedo to accept the Minutes as presented for Thursday, 02/22/2018. Seconded by Timothy Twardowski. Unanimous by board.**

Signature Leanne Kerwin

Date 4-26-18