

Franklin Zoning Board of Appeals  
For Meeting Held On  
Thursday, March 26, 2009  
355 East Central Street  
Franklin, MA 02038

Members Present  
Bruce Hunchard  
Bernard Mullaney  
Robert Acevedo  
Seth Jackson

7:30PM-19 Florence Street - **Timothy & Frances Saunders**

**Applicant is seeking a building permit to construct an addition 32.5' from rear lot line where 40' is required. This building permit is denied without a variance/special permit from the ZBA.**

**No Abutters Present**

Appearing before the board Timothy and Frances Saunders proposing to add onto the rear part of the garage, above a master bedroom, below storage. Need relief from the rear line setback. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant an 8' rear lot line "Variance" down to 32' where 40' is required for the proposed addition as shown on a plan entitled Certified Plot Plan Located At 19 Florence Street by Continental Land Survey dated January 20, 2009. Seconded by Bernard Mullaney. Unanimous by the board.

7:40PM-5 Willow Street - **Scott Wright**

**Applicant is seeking a variance to allow pool equipment that was installed 2'6" from the side lot line where 10' is required.**

Abutter Present

Appearing before the board is Scott Wright and Patrick Ellsworth from McCarthy Pools. The pool pump was placed too close to the lot line. The pool company takes the blame for the error. Abutter Carlo Geromini from 3 Willow St. - has no problem where it is located and comfortable where it is. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to grant a 7.5' sideline setback "Variance" down to 2.5 feet where 10' is required for the pool equipment as shown on a plan entitled As-Built Plot Plan 5 Willow Street, Franklin, MA by Odone Survey & Mapping dated 12/8/08. Seconded by Robert Acevedo. Unanimous by the board.

7:50PM-Lincoln St/Daniels St – Franklin Heights Corp

**Applicant has requested to change the 18-unit condominium building to apartments. Also requesting the amount of affordable units to change. This is denied without a modification of the comprehensive permit issued by the Zoning Board of Appeals.**

Abutters Present

Appearing before the board is Bob Shelmerdine attorney for the applicant Franklin Heights. Present is Attorney Mark Bobrowski who had a meeting with Jeff Nutting Town Administrator and Maxine Kinhart Assistant Administrator. It was agreed at the meeting that conversion of the 18 unit building to rental was not acceptable. So we asked the applicant to rethink and we came up with a solution that we think is going to work. The applicant requested relief in the following manor; first they requested a change for the 18-unit building condominium building from ownership to rental. I believe Attorney Shelmerdine is going to withdraw that request. Number two, they asked to increase the number of affordable units from 45 to 48 and alter the affordable designation of the units. I believe that request is going to be withdrawn as well. The third request was to decrease the number of affordable units in the townhouses from 38 to 30 and we have slightly modify that and come up with a solution. Still 7 of the 18 units as affordable, that has not changed, that is the same number of affordable units as before. There is an overall reduction in the number of affordable of six and those will be taken from the townhouse units. That means

that the number of affordable units in the project will be 32 and that is still 30% of the total number of units. Also, discussed at the meeting was that the price for the seven affordable units would be significantly reduced. Attorney Shelmerdine submits a letter dated March 26, 2009 requesting a withdrawal to convert the 18 unit building from homeownership to rental and withdrawing the request to increase the number of affordable units in the 18 unit building from 7 to 11. What we are asking for is a reduction in that 1<sup>st</sup> phase Parcel A of affordable from 11 down to 5 so it will be a reduction of six across the board. Attached to this letter is a new affordable designation plan. On the existing plan are 11 townhouses that are affordable and 7 in the 18 unit building for a total of 18. We are asking if you look at the new plan that is attached to the letter we are not touching the 18 unit building at all but we are reducing from 11 down to 5 in the affordable. The only change we are asking is the 18 unit building, the existing plan shows unit 323 a middle unit is designated affordable, unit 114 is market rate, if you look at the new plan we are asking to swap 323 which is an interior for 114 an interior. Attorney Bobrowski states the actual affordable units shall be identified in the Regulatory Agreement so Attorney Shelmerdine will have to submit a modification to the Regulatory Agreement. The permit does not need to change but the Regulatory Agreement needs to change. Attorney Bobrowski wants to highlight - one is under Existing Condition 35 in the permit that was issued back in 2005, there is a time table set for payment of certain sums to the town. Attorney Shelmerdine and Mr. Nutting discussed this and you will see Condition 3 in the propose modification which was acceptable to the Town Administrator. Abutter Steve Myers from 2 Shepard Road - did they withdraw on the rental? Response: Yes. No other comments. Motion by Bernard Mullaney to accept the letter dated March 26, 2009 of Withdrawal Without Prejudice as submitted on March 26, 2009 by Robert Shelmerdine Attorney At Law representing Franklin Heights Estate Condominiums. Request for Withdrawal Without Prejudice is the request to convert the 18 unit building from homeownership to rental and the request to increase the number of Affordable Units in the 18 unit building form 7 to 11. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to close the public hearing for the substantial modification of Franklin Heights Condominiums. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to approve the Notice Of Decision Substantial Change Pursuant to 760 CMR 56.05(11) as submitted by consulting attorney with the Findings and Decision and Conditions as stated in the document that the Board was provided. Seconded by Robert Acevedo. Unanimous by the board. Attorney Bobrowski explains there is an insubstantial change, which is that the affordable unit configuration be changed to match up with the submitted plan. Motion by Robert Acevedo to approve the insubstantial change, which is that the affordable unit configuration be changed to match up with the submitted plan. Seconded by Bernard Mullaney. Unanimous by the board. Note: Attorney Bobrowski explains that the last thing is the Regulatory Agreement needs to be changed, which I don't need to be involved with that but you need to keep in mind that he has to comply with his Regulatory Agreement in order to received a building permit. The Regulatory Agreement here is between him and DHCD (LIP). No concern to the Board on the appropriate authority that issues the building permit. Attorney Shelmerdine has to change the Regulatory Agreement.

8:00PM – Plain St-Franklin Housing Authority

**Applicant is seeking a comprehensive permit to construct D.M.R. Group Housing.**

**Members of the 8:00pm hearing are late so the Board at 8:05pm opened this hearing.**

Abutter Present

Appearing before the board is Lisa Collins Executive Director of Franklin Housing Authority. Last time we met we made a motion to direct the Town Attorney Mark Cerel to prepare a favorable decision based upon the documents presented up to this point. Attorney Mark Cerel Franklin Town Attorney has a draft of a decision, which still needs a little refinement and input. Hope to review then finalize for your signatures. Mark Cerel states this is being handled as a Chapter 40B because the town had problems with Department of Housing Community Development about getting accurate counts on the subsidies housing inventory. We wanted to make sure we received full credit for this project. So at the town's request the Housing Authority agreed to go this route. It's an exempt use under 40A Section 3. At the request of the applicant you have been provided by the Town Administrator to draft the decision and oversee the finding. Mark

Cerel states actually the town is going to deed land to the housing authority to make this project happen. Board-That was one of the requirements, was that they went through the process to make sure this was actually put into the affordable housing stock in perpetuity. Mark Cerel – Before the Board closes the hearing there are some gaps that may or may not need to be filled in but I just want to make sure for accuracy sake that everything is covered. Lisa Collins has been provided a draft copy. Response: I just wanted to point out that there are eight bedrooms in total and there will be eight individual units counted towards the affordable housing. The front will have four single bedrooms and the rear unit will also have four bedrooms but divided into three units, two single and one double. Lisa Collins explains one unit holds four bedrooms, two units hold one bedroom each, and one unit holds two bedrooms. Mark Cerel–Explains that the deed will be restricted to insure the use. Abutter Dave Patterson speaks in regards to three items he requested and states he's the only direct abutter. Fence line extended, parking and the building to straighten it out and bring off the lot line. The fence disappeared and parking west to east side and the building shifted. The Board explains they are within the setbacks. Also, they may yet move, this is a concept that we are approving but if anything comes of it and they decide down the road they want to change. Lisa Collins - we would like to be good neighbors, have nothing against our neighbor and will take any suggestions under consideration but our primary goal is use for the clients use. We have to arrange the building and the parking spaces to accommodate people who will be living in the building. Board–Possibility the building may get twisted a little bit? Response: It maybe a possibility but I cannot make any promises to anybody because it takes four different departments that make that decision. Lisa Collins-Those suggestions have already been put in writing. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to approve the project as shown on the four page plans dated February 25, 2009 to incorporate the material and the decision to contain the conditions as discussed with the town attorney. Seconded by Bernard Mullaney. Unanimous by the board.

#### General Discussion:

Motion by Bernard Mullaney to approve the minutes of February 25, 2009. Seconded by Robert Acevedo. Unanimous by the board.

The Zoning Board of Appeals has no hearings scheduled for April 16, 2009.

Motion by Bernard Mullaney to direct the chairman to sign a voucher to pay consultant Michael Jacobs. Seconded by Robert Acevedo. Unanimous by the board.

The decision for 122 Chestnut has elapsed; they will re-file with the ZBA.

Motion by Bernard Mullaney to adjourn. Seconded by Robert Acevedo. Unanimous by the board.