

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, November 12, 2009
355 East Central Street
Franklin, MA 02038**

**Members Present
Bruce Hunchard
Robert Acevedo
Bernard Mullaney
Seth Jackson
Philip Brunelli**

7:30 PM 281 West Central St - Joseph N & Elizabeth M Silvestri

Applicant is seeking a building permit to convert a two family house into a professional medical dental building on a non-conforming lot and building. This building permit is denied without a special permit/variance from the ZBA.

No one appeared before the board so the board voted to continue the public hearing till the end of all scheduled hearings. Motion by Bernard Mullaney to continue 281 West Central Street until the end of scheduled business tonight. Seconded by Robert Acevedo. Unanimous by the board.

During General Discussion: Donald Neilson from Guerriere & Halnon request a continuance for 281 East Central Street till March 18, 2010. Board requests an extension in time. Motion by Bernard Mullaney to continue the public hearing for the property located at 281 East Central Street till March 18, 2010 at 7:30 with an extension in time till March 18, 2010. Seconded by Robert Acevedo. Unanimous by the board.

7:35 PM – Lot 6A Miller St – Miller Street Realty Trust (Edward B Kaiser, Trustee)

Applicant is seeking an earth removal permit for approximately 30,000 yards of earth. This permit is denied without a special permit from the ZBA.

Abutters Present

Appearing before the board is Rick Goodreau with United Consultants; we prepared the plan for this application. Also, present Edward Kaiser owner of the property, Bruce Johnson contractor and Mr. Kaiser's attorney Bill Sack. This project is located at Lot 6A Miller Street. We have been before this board previously for a produce stand so I know the board has some knowledge of this site. Board-Let's correct the record you were here in an appeal of the Building Commissioners decision not to allow you to build a produce stand. Correct? Response: Correct. Spring of 2008 the applicant began farming an area to the north, northeast of the site, approximately 2500 square feet in area. In June of 2008 the applicant determined that they wanted to expand the farming area, maximize the use of the property and to do so they would need to do some regarding of the site, some earth removal. They then commenced to have monitoring wells driven around various locations of the site so that we could monitor the ground water in preparation of this special permit for earth removal. Monitoring needed to take place in the months of February thru May and that was done this year (2009). We finished ground monitoring in May 2009. The results are shown in the information provided. That was the first step to address, was to establish what the ground elevation was. Once we had those wells driven, monitor that ground water elevation variation, we then proceeded to work on a design plan what we presented today so that we could extend and maximize out the farming area. Proposing to utilize the approximate gravel driveway that was created in 08 and earth was removed in that area, extend that driveway down to a level planting area, utilize the slope areas we will create for some slope planting area. We have some letters from some of the other town boards. Farmed the site in 2008 but not in 2009. Board-What did they grow? Response: Lawyer - pumpkins, cucumbers, beans, tomatoes and squash, we have pictures. Rick Goodreau reviews the requirements of special permit for earth removal. Board-Mr. Johnson do you have a work history about your ability to remove the gravel out of there, equipment, how many projects you have done like this in the past? Response: I think I can get it if you want – 25 or 30 years. Board asks Rick Goodreau how high is the slope?

Response: The slope goes from the swale that is down around 220 up to about a 250/252, about 32 feet. Board-How much of a distance? Response: 60 feet. Board-So that 2500 square foot patch took up how much? Response: 100 by 200. Board- If you have a 60 by 45 area that only slopes four feet now you have a slope 32 feet from the top to the bottom and it's over a 100 foot area or 200 or 300 foot area that is a bit more of a slope than what you have in that 2500 foot area. If you can't keep the material where you're growing products how are we suppose to think you are going to keep the material on the slope to re-vegetate the slope. I would assume that you're proposing to re-vegetate the slope with grass. If you can re-slope this and re-vegetate the slope why can't you keep material on that 2500 square foot piece? Response: Right now the access road there is no drainage system; the access road is causing some of the erosion. Board-But, there is no drainage system on the slope itself, it just slopes down and it's a 32 foot slope. Bruce Johnson states Mr. Kaiser wanted to build houses. Let it sit maybe a year, thought why don't we farm this property, never thought of driveway permit. I began to go with Phase I site prep, cut, and stump and remove trees and remove excess material. We began removing the excess material but by that point we applied for a produce stand. That created the previous appeal. Rick Goodreau responds to the Conservation letter, DPW letter and the Building Commissioner's letter. After you remove will you bring soil back in? Response: Yes, soil about six inches. Abutter John DeLuca from 612 Pleasant Street-how many acres are going to be left when you subtract the slope that can't be farmed and all the wetland within the 100 foot zone and your driveway? Board-Everything outside the buffer zone, what do you have? Response: We start with 5.0 down to 82,000 square feet. How many of those 30,000 cubic yards are going to be removed from the site? Response: All 30,000. Henry DiGiorgio 66 Miller Street the plan shows an 8' retaining wall, how long is it? Response: Along the side of the road about 30' long. Karina Thompson 35 Miller Street concern with hours of operation. Barbara Culleton 61 Miller Street what will happen to our property with erosion? Board: Only erosion on their site. Bart Shea 1A Chrtisine Ave. concerned with erosion, what guarantee do we have that the whole hill does not come down in my backyard? Response: Will slope down away from your property. Applicant can look at screening on the other side but presently no proposed screening. Bio of Mr. Johnson's resume. Board enters Mr. Shea's letter dated 11-12-09 into the record. Richard Goodreau read the Conservation Commission by-law and did not approach the Conservation. Provide a bio of Mr. Johnson at the next meeting. Motion by Bernard Mullaney to continue till Dec. 3, 2009 at 7:30pm. Seconded by Robert Acevedo. Unanimous by the board. Meantime Ted Morine Hydro-geologist if the applicant would provide a couple thousand dollars. Motion by Bernard Mullaney to accept an amount not to exceed \$2,000.00 from the applicant and that the Board hire Ted Morine to do an hydrology study based upon the report from the applicant and his geo-hydro gist that did the work for the applicant. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to continue the public hearing till Dec. 3, at 7:30pm. Seconded by Robert Acevedo. Unanimous by the board.

7:45 PM 179 Brook Street – Mary A Rindler

Seeking a building permit to construct an addition 16.4' from sideline where 25' is required and 37.1' from front lot line where 40' is required. This building permit is denied without a variance/special permit from ZBA.

Abutters Present

Appearing before the board is Rick Brady the engineer for the project along with Mary Rindler the owner of the property and Jack Cronin the architect and builder for the project. This is an existing home that was damaged by fire this past spring. Current configuration of the existing home is a garage along the right hand side of the property that is a one car garage that is not practical to turn a car into. Along with the reinvacations that are required because of the fire they would like to attach a garage to the property that would be more practical for use by the homeowner. What we are proposing here is a 14' by 40' garage along the side of the home. Will utilize the existing driveway. Board-how high is it? Response: One story. Abutter Kent Warren from 8 Short Street why can't we work with what we have? Abutter Christopher Stagg from 175 Brook Street questions the relief being requested? Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to "Take Under Advisement". Seconded by Robert Acevedo. Unanimous by the board.

During General Discussion: Motion by Bernard Mullaney to grant an 8.6 foot sideline setback "Variance" down to 16.4 feet where 25 feet is required and a 2.9 foot front yard setback "Variance" down to 37.1 feet where 40 feet is required for the proposed garage and front entry way cover for the property located at 179 Brook St. as shown on a plan entitled Plot Plan For Addition #179 Brook Street by Grady Consulting, LLC dated October 8, 2009. Seconded by Robert Acevedo. Unanimous by the board.

7:55 PM 14 Island Road – Michael & Diane McManus

Seeking a building permit to construct a second dwelling unit. This building permit is denied without a special permit/variance from the ZBA.

Abutters Present

Appearing before the board is Michael and Diane McManus. Not looking for any relief, no change to the outside structure. Current people that reside at the property will continue to reside there. Asking to add a kitchenette in the existing space which used to be a one car garage under that a few years back was altered to storage space which ultimately became a family room, playroom type. Board-Is it a split level? Response: Yes, split level. Board-One car under? Response: There was a one car under years ago. What used to be a one car garage under which became a family room will have a kitchenette. Abutter Manfred Unkauf from 18 Island Rd, I live directly next door and we are opposed to granting this Special Permit whether the people there are related or total strangers it still adds additional vehicles, and it changes the character of the neighborhood. Numerous vehicles on the property. It looks like a two family, smells like a two family. Letters from abutters were read into the minutes. All the cars are registered. Proposing a inlaw for son and child, Sean Michael McManus Michael & Diane McManus. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to "Take Under Advisement". Seconded by Robert Acevedo. Unanimous by the board.

During General Discussion: Motion by Bernard Mullaney to grant a Special Permit for a second dwelling unit for the property located at 14 Island Road with the condition of the Special Permit be that Diane and Michael McManus reside at the property along with their son Sean Michael McManus and that the Special Permit for the second dwelling unit becomes null and void if either party moves or transfers ownership and all common utilities to be tied into 14 Island Road. The board also determines that the social, economic or community needs which are served by the proposal, traffic flow and safety will not be encumbered, adequate utilities and other public services basically consist of the neighborhood character and social structure that is there now as I know it and that the quality of natural environment will stay intact and that there is no potential fiscal impact for the Town of Franklin by the issuance of the Special Permit. Also, that the Special Permit be recorded at the Registry of Deeds. Seconded by Robert Acevedo. Unanimous by the board.

8:05 PM – 781 King St – Halligan Properties LLC

Applicant is seeking a building permit to demo existing home on a non-conforming lot and construct a new SFR. This demolition and building permit are denied without a special permit/variance from ZBA.

Abutters Present

Appearing before the board is Joseph Halligan from Halligan Properties LLC. Purchased the property and is not even habitable. Proposing to remove and center a home on the existing lot and get the proper setback off the street and help the character of the neighborhood with a two-car garage. Abutter Norman Ristaino happy with the proposed plan. Abutter Don Neilson states it's great it's being changed. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a "Special Permit" to demolish and replace a single family residence on a pre existing non conforming lot and to grant a 25 foot sideline setback "Variance" down to 15 feet where 40 feet is required on the easterly side grant a 21.3 feet side line set back "Variance" down to 18.7 feet where 40 feet is required on the westerly side of the proposed structure as shown on a plan entitled Variance Plan Lot A 781 King Street Franklin, Massachusetts Halligan Properties LLC by GW Site Solutions Inc.

dated 10/16/09. Seconded by Bernard Mullaney. Discussion: Applicants question is that the sideline variances that I am getting would that be true to the whole length of the property in the event down the line someone wants to put a swimming pool in? Board – It would be up to a certain extent because we addressed the plan and put the plan in the decision that's all your going to get. If you put a pool in the back yard and you meet the 40' and 40' then you would be all set. Unanimous by the board.

General Discussion:

Motion by Robert Acevedo to approve the minutes of October 22, 2009. Seconded by Bernard Mullaney. Unanimous by the board.

Appearing before the Board is Michael Civitarese Arcadia Enterprises sponsor of the Woodlands Project and Ed McLoughlin contractor for Scituate Federal Savings Bank who is the bank that is completing the project. Advised by Mr. Mullaney in his capacity as electrical inspector he could not sign off on the final signoff for the electrical permit for the lighting info structure at the Woodlands Project. It was recommended that I come before the board to discuss the matter of the actual style of lights. From what I understand the underground info structure portion of it is acceptable. The issue is the actual fixtures themselves. Board-Was a bond posted before you received occupancy permits on any of the lots there? Response: No sir. The Board discusses the waivers that were granted, the plan and the decision. This was a negotiated settlement. Motion by Robert Acevedo to grant a "Finding" to the developer of the Woodlands Mr. Michael Civitarese and the Scituate Federal Savings Bank that the lights that were installed are proper and adequate. Seconded by Bruce Hunchard. During discussion the Board read a letter into the minutes from Dave Roche Building Commissioner dated November 12, 2009. Bernard Mullaney opposed.

Appearing before the board is Don Neilson representing Guerriere & Halnon. Was hired by Williams Construction to perform as built for the Eaton Place project. Architect is present along with Rachana Crowley of Community Builders, the developer. Walked the site with town officials on the 10th. Donald reviews the Interim F-3477 Eaton Place Exhibit A. Estimated cost is 4,900.00 to complete the site. Eaton Place provides a check in the amount of 5,000.00 for a bond amount and also a check in the amount of 975.00 to pay the consultant fees. Hired consultant Peter Williams went to the site and resolved a lot of issues, they did the additional guard rail going around the corner that was not required on the plans but for a safety issue with the grading. Fencing was accomplished. Motion by Bernard Mullaney to accept the Form H Engineer's Certificate Of Completion with the Exhibit A Certificate of Completion and also to accept the letter from Beals & Thomas, Inc. Amendment to the motion to direct Mr. Dave Roche Building Commissioner to issue Certificated of Occupancies at his discretion. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to pay Vine Associates for services rendered on Eaton Place in the amount of 975.00. Seconded by Robert Acevedo. Unanimous by the board.

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