

Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, September 30, 2010
355 East Central Street
Franklin, MA 02038

Members Present
Bruce Hunchard
Bernard Mullaney
Robert Acevedo
Tim Twardowski

7:30pm – Woodlands
Minor Modification of Comprehensive Permit
Woodlands Subdivision-Stonehedge Lane
No Abutters Present

The board is in receipt of a letter (see attached) dated September 29, 2010 from Galvin & Galvin requesting a continuance till late October. Motion by Bernard Mullaney to continue the public hearing till October 21, 2010 at 7:50pm. Seconded by Robert Acevedo. Unanimous by the board.

7:40pm – Eagles Nest Way - Eastern Management & Development, LLC

Applicant is seeking a building permit to construct an additional building of eight units with no age restrictions and to increase the number of units from 36 to 45 with one unit added to Building #4. This building permit is denied without a variance/special permit from the Zoning Board of Appeals and a Site Plan Modification from the Planning Board.

Abutters Present

Appearing before the board is Attorney Gary Hogan with the principals of Eastern Management Development LLC, Greg and Jason Coras to pursue a variance from a variety of different figurations of the senior permitted project. First thing to go over is administratively the application filed along with the advertisement suggest that the requested relief would be in the form of non-age restricted units. We had an opportunity to rethink that request, meet with some of the owners of the property with units now and we are proposing at this point to change the request or modify the request such that if this board were incline to grant any variance that those would be in fact an age restricted building. For the sake of the record and for sake of clarity maybe go over a little bit of historical perspective and detail what has brought us here today. This project was permitted in 2004 by the Planning Board as one of the first senior districts in the town. The by-law had recently been amended, provided for a senior overlay district as a result of great outcry of public policy requirements and needs. We were granted the permit in 2004. The summer of 2004 we came before this board and were granted a variance permitting the buy out of the required two affordable units, which was part of the original permit. Part of the buy out there were requirements set up in the original by law provision that required so many units to be dedicated as affordable and density bonuses and that. Bottom line was that the project was permitted with the required two affordable units. This board granted relief from that requirement and essentially transformed those required affordable units into cash payments, payments into the affordable housing trust so that the affordable housing trust could use those funds in any fashion they saw fit for their purposes. In 2005 or 2006 the ground was broken on this project and building 9 was constructed. All of 2008 we came back before this board with a plea that having been before the permitted project, having the building up and running we had not yet been successful in selling any units. The real estate market and unemployment acted as a perfect storm against this project. Set the project back a couple of years. Decrease in the real estate market, pricing, everything had a detrimental effect. Well this board heard our plea in 2008 and granted relief by way of a use variance so that we could convert two of the five permitted buildings to non-age restricted buildings. We all thought that would help, at least add some assistance to the ability to sell this property. Meanwhile pricing on the project was reduced by about 40%. So that permit was created about two years ago

and I'm happy to report whether it was this board or the combination of people seeing the value of this project, units have sold. We have building 5 under construction and building 3 under construction. The reality is that we have to come back and see if somehow we can modify this project so that we can all get out of it financially intact, pay the bank off, pay the town off the required funds essential to affordable housing and hopefully have a viable and wonderful project for those people that have purchased and are living there making it their home. We are asking for consideration that this board issue yet another variance, which would add an additional unit building onto this project and also add an additional unit to a prior permitted building. Total number of units would then go from 36 to 45. The configuration by way of age-restricted verses non-age restricted would be 3 buildings age restricted and 3 buildings non-age restricted. Of the 45 units 23 would be age restricted or over 55 and 22 would be non-age restricted, that's by way of permit. In reality what we are also finding is a fair amount of people are actually interested in buying in the non-age restricted buildings however are still over the age of 55. So the preponderance of people living up there are those in their 50's or older. Not an overly conducive place to be bringing up and raising children. So it does have the benefit of adding condominium to the tax role but at the same time not extracting valuable resource from the town by way of putting countless children into the school system. Todd Undzis our professional engineer will address the board and lay out more of the technical details. Mr. Chairman for the record my name is Todd Undzis Civil Engineer and we are the site engineers of record for The Villas at Eagles Nest. This site plan is the currently approved site plan and wanted to remind the board exactly what has been constructed to date. Essentially, the entire subdivision road and cul-de-sac is in, along with buildings 9,7,5,3. Utilities are in, water, sewer, drainage all functioning according to the design. Proposing with this petition is shifting building 4 about 25 to 30 feet and will add this new proposed building 2. Proposed building 2 has an identical footprint. The original driveway access to the parking underneath building 4 will become a share driveway between the two buildings, we added a couple of additional service parking spaces for visitors and added additional walkways. The disturbance to the site would be limited to adjust some grades, install some additional utilities, connect water and sewer to the existing water and sewer on the site and the drainage overall will remain essentially the same, no increases in runoff. The subdivision road remains unchanged and the only grading will be site grading to accommodate the building. Board-How do you plan to take care of the water from going into the garage and driveway? Response: Proposing this driveway grade to slope down to a low point before the driveway entrance and going to install a new catch basin. The catch basin we will pipe the runoff. The runoff will be localized. The addition of the building and slightly reconfigure driveway results in about slightly over ¼ acres impervious or 1.27 acres of additional impervious. **Board- what does that do for the total impervious of the whole site, do you know what the percentage is? Response: I don't have it but will provide that number.** It would be a small increase but it would be an increase. **Board-What was the original? Response: Don't know.** Jason Coras states the calculation he came up with was roughly 12,500 sq ft additional would be the footprint of the building and additional pavement compared to 520,720 square feet of area to the site is roughly 2% of the total site increase. Board-What was the total site to begin with? Response: It certainly complied with or was below whatever the maximum was. Board - **You can get that figure? Response: Yes.** Atty. Gary Hogan states the hardship is largely economical and financial. We are in unprecedented historic times, economically not since the Great Depression that we have seen some of the hardships that exist. The fact remains there are many partners to this project, many folks different entities vested to see this succeed. The least of which is the developers, the town, you have the bank that has provided the financing for this project, the owners that are relying on a successful and completed project. You have the neighbors from Cotton Tail that don't want to look at a project that gets abandon 50% of the way thru it's completion stages. Jason Coras states when we originally started the development to where we are today we are selling at roughly 60-65% of what our original pricing was. Everyone knew where the economy was going, including us. There are risks that are factored in. We were ready for a downturn but not of this proportion. Our equitable interest is gone. The goal here is to come out whole for all the parties that are involved. When deciding on what direction to head a

month or so ago, one of the options was to come back and ask for further relief from the ZBA on the affordable housing. When we came last time we didn't get what we were proposing, left it kind of open ended. Is there a different direction we can head, we are not asking to not pay money or take away something from the town. We thought maybe beneficial to everybody as an option if we could get some more units and not ask or take anymore from the town, that maybe that would be an opportunity we could work with. That's why we are here today; we feel financial positives and don't feel this is a negative impact to the town. Greg Coras wants to discuss some of the benefits both financially and economically to the town. In our eyes we don't see any detriment to adding the building. The town would benefit initially in the building with all the fees, turns out to around 30 to 35,000.00 in additional fees. The other financial benefit is we would not go back to the Housing Committee or ZBA for relief. The town would also get water and sewer fees that are continuance and about 43,000.00 in tax revenue from those units. That revenue especially with the 55 and older is basically money that the town won't have to spend on school system, on the roads, or plowing. There is no maintenance with private. The other benefits we see it creates jobs for some local sub contractors, electrical, plumbing, gas people. Revenue will help fire, police, teachers, restaurants; automotive industries in town, residents spend money in town so there is an economic benefit to the town and it's people by having people support business and industries in town. Atty. Hogan feels this can be granted by this board without nullifying or substantially derogating the town's purpose of this by-law. Abutter John Lane 913 Eagles Nest Way, first buyer feels it's a win, win for everybody. Board-You live in the first building and the building next to you is unrestricted with people in there? As a resident, have you had any problems with the age? Response: No, would just assume have it all over 55, we bought into it originally all 55. Abutter Barbara Lane 913 Eagles Nest Way, lives in building 9 the next building 7 is sold and only have two families with younger generation of people living there, the rest of them are all in our age group, we feel very comfortable with that. Joan Geraghty 713 Eagles Nest Way building 7, states we are happy there. James Fredrick lives on Cotton Tail Lane asking if the buildings are sold, you still have units to sell and your asking for another unit, also concerned with blasting. Board-Fire Dept controls the blasting. Other abutters state no objection to building 6 being put up but would like to see 55 and older. Also, abutter states here to support the variance and it's a good proposal. The board received four written comments not signed but they had no problem with the proposed. Board-how many units are occupied? Response: 12 out of the 14 finished units are occupied. Board-Atty. Hogan are you moving forward on an application for age restriction in this new construction or not age restricted? Response: Age restricted. Board- Any concern under the Federal Fair Housing Act that your not being at 80% age restricted requirement? Atty. Hogan states he's not familiar with the requirements of that act. Board-I would suggest that you look into the Federal Fair Housing Act and Older Persons Act. Recommend taking a look into that; see if you have any concerns with that. About density the base is 1.5 up to a maximum of 5 units per acre based on some density bonuses for affordable housing, additional open space, etc. Board-**Would like somebody to entrust the existing density of 36 units, how they arrive with that number, was that true accommodation of affordable housing, indoor open space, or how exactly did they arrive at that number and also address are they planning to remove open space in exchange for additional density here?** Response: Atty. Hogan what will be addressed is that the density calculations and the open space calculations are going to be addressed in great detail when we seek site plan modification approval from the Planning Board. With respect to your question in calculating the original density I think first off that this by-law has changed, been amended. Atty. Hogan maintains that the project doesn't even remotely comply with the requirements of a senior district today would be wasting everybody's time. What I am suggesting is this project having been permitted as an over 55 and having had modifications thru the years by both the Planning Board and the Zoning Board has created a monster, created a development that's no longer, you can no longer go back and look at the original provisions permitting this type of development because it doesn't work anymore. But, it's not or we are not here or certainly before the Planning Board seeking a new permit for an over 55 which all of those questions in my mind would be total relevant and we would have to comply with. The easy answer is the project in its

current form does not lend itself to density calculations anymore under the original by-law. Board-This project was approved about 30 days before the senior by-law was changed. The boards understanding is they are here because under the regulations of the senior by-law they couldn't put those other units in, so they are here basically for density relief. What we have here is a project that started as a senior under 185-48 but has become something different. To re-permit under that rule we would be compliant and constraint with all of those requirements. It's a variance on top of a special permit which created the initially permitting. Atty. Hogan calculations where accurate when this began. Board-ask what is the extent of the variance you are requesting? Atty. Hogan-25% increase and the density units initially permitted in 2004, from 36 to 45. Motion by Bernard Mullaney to continue the public hearing till October 21, 2010 at 8:10pm so the Board has an opportunity to walk the project and the engineer will provide calculations on the coverage issues at the next meeting. Seconded by Robert Acevedo. Unanimous by the board.

8:00pm - 3 Reagan Ave – John P Donahoe III

Applicant is seeking a building permit to construct an addition with an accessory dwelling unit by conversion. This building permit is denied without a special permit/variance from the ZBA.

No Abutters Present

Appearing before the board is Don Neilson from Guerrieri & Halnon along with John Donahoe and Richard Farquharson. Apologize for the previous missed hearing on September 16, 2010. Applicant wants to create an addition on his house and once the house is constructed he wants to have the ability at that time to convert it to an in-law apartment. In order to make that conversion we need a special permit from the ZBA. A farmers porch has been newly constructed and that doorway off the farmers porch brings you into the existing activity within the house and as you go to the left there is a doorway that connects to the living room and from the living room back that's the portion of the addition that will be considered the in-law apartment. So the flow pattern from the kitchen to the laundry room, a hallway, then into the living room of the proposed addition. There is an interconnection between the two spaces and a separate exit just outside the living room that you exit thru a stairway and obviously there is a deck in the back and access to the garage and lower level. So, it's a one story proposed addition with a garage in the rear and deck area and a connection to the two units. They have a building permit already. Donald Neilson reviews the special permit criteria. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to grant a Special Permit for a second dwelling unit for the property located at 3 Reagan Ave. with the condition of the Special Permit be that the in-law Elizabeth A. and Richard T. Farquharson reside at the property along with John P Donahoe III and Anne Marie Donahoe and that the Special Permit for the second dwelling unit becomes null and void if either party moves or transfers ownership as shown on a plan entitled Addition Plot Plan 3 Reagan Avenue dated July 30, 2010 by Guerriere & Halnon, Inc., with A1.1 New Elevations Plan #10.06.08 and A2.2 First Floor Plan Proposed Plan #10.06.08. No separate utilities shall be permitted unless required by the DPW at 3 Reagan Ave. and upon completion of the foundation a Certified as Built will need to be submitted and verified to meet the setbacks before continuing construction. The board also determines that the social, economic or community needs, which are served by the proposal, will be met. Traffic flow and safety will not be encumbered, adequate utilities and other public services exist, the proposal is consistent with the neighborhood character and social structure as it exists now and that the quality of natural environment will stay intact. 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.

General Discussion:

Appearing before the board is residence of 49 Prospect Street requesting some direction in possibly separating some land off the family farm to build a home. Short by about five

feet. Previously my father pursued this 61A. Variance received previously does not apply now so what steps do I need to take? Board provides some suggestions and states if the lot does not comply with zoning try and make it comply.

Motion by Bernard Mullaney to accept the minutes of September 16, 2010. Seconded by Robert Acevedo. Unanimous by the board.

Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board.

Signature _____

Date _____