

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, January 7, 2010
355 East Central Street
Franklin, MA 02038**

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

Zoning Board of Appeals begins the 7:30pm public hearing in Room 205

**7:30PM - 71 East Central St – Bassam Younes (Leemilt's Petroleum, Inc.)
Applicant is seeking approval to sell motor vehicles in a CI zone where it is not permitted.
A variance/special permit for use will be required from the ZBA
The board is in receipt of a letter dated January 6, 2010 from Doherty, Ciechanowski,
Dugan & Cannon, P.C. requesting a continuance until February 4, 2010. Motion by
Bernard Mullaney to continue the public hearing until February 4, 2010 at 7:30pm.
Seconded by Robert Acevedo. Unanimous by the board.**

**Zoning Board of Appeals begins the 8:00 & 8:15pm public hearings in Town Council
Chambers**

**8:00 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 William Sack and Bruce Johnston for the applicant with
Rick Goodreau from United Consultants. We left off from the last hearing with questions
from the board for us to answer which included the resume of Mr. Johnston with respect
to the earth removal application which I have provided given you a copy of. Also the
board had requested which the applicant agreed to have the project reviewed by the
town's hydrogeologist DL Maher. That review was completed and we do have the report
from DL Maher with respect to this project. They did raise a few issues that we would like
to discuss this evening. Board-Start with the resume, it doesn't look like a resume to me it
looks like who's going to be hired to do the work. You made the presentation that you
were going to do the work and that you had previously done stuff like this before. It's not
reflected in this letter that you gave us. Response: We typed out the cost and now the
cost is getting so high that Tresca can actually move it quicker, faster and cost about 30%
less just to have him remove all the material with his equipment. Board is in receipt of a
letter dated December 2, 2009 from DL Maher and read into the minutes. Rick Goodreau
wants to address the concerns that were mentioned in the DL Maher letter. What we
would propose would be to pave the area that we marked parking area on site. That area
could then be used for refueling of the vehicles. As far as fertilizers, herbicides and
pesticides they would be stored on site in a trailer and they would be applied at the
minium amount necessary and by a certified licened applicator. As far as the suggestion
to have the excavation equipment to take place off site the applicant is in agreement to a
condition that would be proposed by the board for that to take place. Mr. Goodreau
reviews the letter from the Conservation Commission dated December 15, 2009. Out of
five acres you will end up with 30,000 square feet to farm. William Yadisernia states some
minor issues, I agree with DL Maher's position that the gravel removal is more than you
need to do to farm the land. Purpose of this is farming the land that's why they are taking
the gravel out, so in realty the purpose of this they should employ some more terracing.
We see some very deep cuts, dramatic slopes in back of the residential properties. Mr.
Yadisernia's concern is that they are 10 feet above the water, this is a water resource area**

and they need to be 10 feet above and I'm not sure they demonstrated that yet. I have not seen an answer to the question that I asked-why there is such a grading if it's gravel? That's veritually impossible, that can not exist. Rick Goodreau says they took the readings at each of the well locations and we maintained at least 10 feet separation and felt we meet the criteria of what was being asked (of the 10' separation due to the fact that we were in a water resource district). As far as Mr. Yadisernia's concern and comment I would have expected that we would have gotten some type of feed back from DL Maher in respect to that concern. Board asked the town engineer about revegetate the site after the excavation, do you have any problems with the letter he wrote dated December 17, 2009? Response: Mr. Goodreau says no, I do have a copy of that. Board-Following up on Mr. Maher's report the fact that his opinion is he's unclear why so much sand and gravel need to be removed to accomplish the intent of the farming. I have not heard a valid response why again so much needs to be removed, if you want to focus on the farming that's fine but it seems like way to much needs to be removed. Response: Rick Goodreau, I have explained it and continue to explain it, we are trying to maintain the slope as far away of the wetlands that we can, if we terrace the site that's been suggested it's going to require a second drainage system in proximity to the 100 foot buffer zone and that drainage system will take away farming areas. By designing it this way it maximizes the farming area, if you do what DL Maher says it will diminish the farming area. Abutters have an opportunity to speak. 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.

8:15 PM Off Brandywine Road (Lakeview Terrace) – Blueview Construction, Inc.
Applicant is seeking an earth removal permit Section 185-23. This building permit is denied without a special permit/variance from ZBA

Abutters Present

Appearing before the board is Rob Truax of GLM Engineering Consultants and Jim Chilson President of Blueview Construction. This project is a two lot definitive subdivision located off Brandywine Road in Franklin, down off of Populatic Street. Total of approximately eight acres in total, a long narrow strip of land. The houses along the Brandywine Road backyards all butt up to this piece of land. Drainage system design for the roadway for the proposed subdivision. We did some test pits for the subdivision, one up in the cul-da-sac area and one down in the front where the drainage basin is and we found that the site was all sand and gravel, very course, fine, good drainage material. We did not encounter any ground water, however we were high in elevation. When you come into the site there will be a proposed retaining wall on the right hand side of the roadway, which will be constructed down near the property line, approximately five feet of the property boundaries. We applied to the ZBA for a gravel removal permit for the entire site just to let you know the permit we asked for was for 72,000 plus or minus cubic yards and that's for the entire site. If you were to just develop the roadway and the primary house shown on Lot 2 you would be removing approximately 42,000 yards just for the roadway construction and the house on Lot 2. Board-Any wetlands involved on that? Response: There is no wetlands on the site, no wetlands within 100 feet of site. Board states that's a lot of earth removal for two lots. That's the summary of where we are. The engineer reviews the application. The applicant is asking for the initial permit to excavate 50,000 yards now, he puts the utilities in, get's his roadway in then take a permit out on a house. Two fold I would think, you made a valid point what if there is rock, we did not do any test pits back there. So if you gave us a permit up to the swall now and we did all that and you conditioned it, that this could be done once they gained a permit but prior to doing that they had to dig a couple of test holes since your in there. Abutters Rob Kucich 45 Brandywine Road and Jack Berry 49 Brandywine discuss their concerns. Question, how close it will be to buffer line? Concern that the area will be cleared cut, dug out and left and nothing else will be done. Would like a bond to be high enough so that this doesn't happen. 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.

General Discussion:

Motion by Bernard Mullaney to accept the minutes of November 12, 2009. Seconded by Robert Acevedo. Unanimous by the board.

Motion by Bernard Mullaney to accept the minutes of December 3, 2009. Seconded by Robert Acevedo. Unanimous by the board.

The board is in receipt of a bill from DL Maher for 880.00 to review and comment on the earth removal permit for Lot 6A Miller St – Miller Street Realty Trust (Edward B Kaiser, Trustee). The applicant provided the funds to pay the invoice. Motion by Bernard Mullaney to have the chairman of the ZBA sign the invoice. Seconded by Robert Acevedo. Unanimous by the board.

The board is in receipt of a letter dated December 22, 2009 from Arista Development, LLC requesting the release of the bond in the amount of 10,000.00 for Walgreens. The board is in receipt of a letter dated December 23, 2009 from William Yadisernia Department of Public Works and read into the minutes in regards to the bond for Walgreens. Motion by Bernard Mullaney to return the 10,000.00 bond. Seconded by Robert Acevedo. Unanimous by the board.

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

***Seth Jackson arrived for the 8:00pm hearing only**

Present at hearing: Town Engineer William Yadisernia and Town Planner Beth Dahlstrom