

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, April 28, 2011
355 East Central Street
Franklin, MA 02038**

**Members Present
Bruce Hunchard
Robert Acevedo
Timothy Twardowski
Philip Brunelli**

Jeffrey Nutting Town Administrator sent the Zoning Board of Appeals Bernard Mullaney's resignation letter (see attached). The board thanks Bernard Mullaney for his many years of service and it was a pleasure working with Bernie.

Town Council approved Timothy Twardowski as a Member to the Zoning Board of Appeals (see attached).

7:30pm–37 Crescent Street – Karl Peterson

Seeking a demolition and building permit to remove and replace a single family home on a non-conforming lot. This building permit is denied without a special permit/variance from the ZBA.

Abutters Present

Appearing before the board is Karl Peterson requesting approval to demolish an existing building and rebuild another home that will fit roughly within the same footprint. The board is in receipt of a letter dated April 25, 2011 from the Franklin Historical Commission and read into the minutes (see attached). Abutter Michael Dubois 41 Crescent Street directly to the left hand side of the property read his letter into the minutes (see attached). Robert Rappa 25 Queen Street states he's not here to object to the request, its fine but only question what's going to happen to the two car garage that's there? Response by applicant nothing, it will eventually be renovated. Craig Dennis 19 Crescent Street is in favor of it. John Riordan 37 Crescent for it. Board–You don't mention the front what is the existing dimension? It's the same 23.2 feet I'm not encroaching anymore on the front. Dimensions what's the difference in floor area the proposed verses the existing house? Response: New house will be about 300 sq ft less than the existing house and the height will be pretty close to what's there presently. I have not had an architect draw it up because I don't have the approval of the Zoning Board yet. The house currently there is two story and propose house will be two story. Pretty much the same, I tried to recreate the style and characteristics of the house. The one thing that is different about the existing house is the front of the roof, it slopes down. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a "Special Permit" to raze existing single family home and rebuild on a pre existing non conforming lot with west side setback no closer than 10.8 and east side no closer than 8.3 with the front setback being 23.2 as shown on a plan entitled Plot Plan of Land in Franklin, MASS dated 4 April 2011 by Landmark Engineering of New England, Inc. for the property located at 37 Crescent Street. Seconded by Timothy Twardowski. Unanimous by the board.

7:40pm - 103 Oxford Dr – William Watson

Seeking a building permit to construct an addition 16' from the side lot line where 20' is required. This building permit is denied without a variance/special permit from ZBA.

No Abutters Present

Appearing before the board is Steve Narducci representing the applicant. Want to build an addition with a screened porch in back. Board-One story? Response: Two stories. Board-Shows a proposed mudroom what's on the top of it? Response: It's going to be a bedroom now. Board-Three season porch is that two stories also? Response: No, that's just one story. Board-Is that on the same side that the driveway is now? Response: Yes.

Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a 4 foot sideline "Variance" down to 16 feet where 20 feet is required for the proposed 14 foot wide proposed three season porch with mudroom and front porch, the existing stairs to be removed as shown on a plan entitled Proposed Variance Plot Plan of Land in Franklin, MA dated March 9, 2011 by Guerriere & Halnon Inc. Seconded by Timothy Twardowski. Unanimous by the board.

7:50pm - 81 Washington St - Richard & Yvonne Remillard

Seeking a building permit to construct a freestanding garage that will not meet the side and rear setbacks. Also, exceeds the lot coverage. This building permit is denied without a variance/special permit from ZBA.

No Abutters Present

Appearing before the board is Mrs. Remillard requesting to tear down the existing one car garage and the shed. You can see on the plan they are much closer to our very small lot lines and proposing a two car garage that's much closer to our house but doesn't meet all the setback requirements. Where is the driveway? We have two driveways, one off of Washington Street. Board-You kept it ten feet away from the house? Response: Yes, we did. Motion by Robert Acevedo to close the public hearing. Seconded by Timothy Twardowski. Unanimous by the board. Motion by Robert Acevedo to grant an 11.5' sideline setback "Variance" down to 8.5' where 20' is required on the east side of the property and a 10.5' sideline setback "Variance" down to 9.5' where 20' is required on the north side of the property and to increase the existing coverage by .5% where the existing is 35.4% and the proposed is 35.9% for the proposed 1 ½ story two car garage with unfinished attic space as shown on a plan entitled Plot Plan of Land in Franklin, Massachusetts dated January 18, 2011 by GLM Engineering Consultants Inc. Seconded by Timothy Twardowski. Unanimous by the board.

8:00pm - 3 Julie Dawn Drive – Timothy MacLeod

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

No Abutters Present

Appearing before the board is Timothy MacLeod proposing an in-law for my mother and a garage. The in-law will be my current two car garage and proposing a new two car garage that requires no relief. The board questions the septic system. Mr. MacLeod believes everything that needed to be addressed was. We had an engineer put in a new septic design and utilities will be tied into the main house. No trees will be cut down. The board asks the applicant to review the criteria for a special permit. Applicant request a few minutes to review. Motion by Timothy Twardowski to continue the public hearing until the agenda items have been concluded. Seconded by Robert Acevedo. Unanimous by the board.

The hearing resumes and the applicant reviews the special permit criteria. Motion by Robert Acevedo to close the public hearing. Seconded by Timothy Twardowski. Unanimous by the board. Motion by Robert Acevedo to grant a Special Permit for a second dwelling unit for the property located at 3 Julie Dawn Drive with the condition of the Special Permit be that the in-law Edna MacLeod reside at the property along with Timothy and Lisa MacLeod and that the Special Permit for the second dwelling unit becomes null and void if either party moves or transfers ownership. No separate utilities shall be permitted unless required by the DPW at 3 Julie Dawn Drive 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 Timothy Twardowski. Unanimous by the board.

8:10pm - 278 West Central St – Double J Development LLC

Seeking a demolition and building permits to remove an existing single family home and construct three duplex town house units. This building permit is denied. Not more than one single family or two family dwelling shall be erected on a lot without a variance/special permit from the ZBA.

Abutters Present

Appearing before the board is Richard Cornetta attorney for the applicant Double J Development LLC with John Marguerite and John Mucciarone they are both principles of Double J Development LLC. We are here this evening seeking a variance for use, the property in question is 278 West Central Street, it's a little over an acre lot and located on West Central Street heading toward Beaver Street on the left hand side in that direction. Currently, the lot has an abandon 1 ½ story wood structure that was formally used as a residence. The zoning for the property is a SFIV zone which as you know by right only permits a two family use in that zone. The applicant is proposing the demolition of the existing building and the construction of three structures each containing two town house residential units for a total of six residential units on the property. We are here this evening seeking a variance for use to allow for multi family use in a SFRIV residential district. I believe you have a plan in front of you and we'd be happy to address any questions you may have but specifically address the variance requirements under Massachusetts General Laws Chapter 40A Section 10. I have submitted a memorandum in support of this variance and if you look at that we do provide a case for either standard within the Section 10. Attorney Cornetta reads the memorandum. We will be happy to address ay questions the board may have. Board-Talking about the use, three buildings with two units a piece. Zone again is a SFRIV which allows a two family use by right and that's why we need a variance. There are multi condominiums in the area. Will need to seek site plan approval from the Planning Board because it is a site plan that exceeds residential use. Will use the same curb cut. Will you have something on site to slow down drainage? Response: Yes, it all goes onto 140 and our engineer is not here this evening due to a prior conflict so I don't want to overstep my bounds in terms of speaking about the drainage specifically but they will need to address the drainage in conjunction with the earth removal and grading of the site and these are issues that would most specifically be addressed during the site plan approval process with the Planning Board. Board-Have you given consideration to subdividing this lot to get additional density on this property? Response: Subdivide this lot, no we didn't. Proposing a common ownership condominium association which is what's being proposed and these units will all be individual owned and they will have a common area ownership of a driveway as well as other areas within the site, if that addresses your question. Board-I think it does, part of the reason why I asked that is I guess I'm not sold on your argument in terms of the hardship or the unique circumstances attached to this property. It seems pretty regular shaped to me, I do see some grading issues here but to make an argument that the hardship is based on the existence of what appears to be relatively small amount of slope that it justifies tripling the allowed density on this property, I'm not seeing it.

Tape malfunctions

Abutters have an opportunity to speak. There has been a dispute with this property for 25 years. Currently a petition for rezoning. Board-this looks a little too extreme, would you scale back when you have an abutter against it? Atty. Cornetta states we discussed it. Board suggests a cul-de-sac and put in two. Board-then they would need the circle by-law but don't think they would be able to do this on that lot. We are proposing what is presently there duplex or condo a legal common ownership. Atty. Cornetta - will be making a five foot cut to level off the area elevation topography begins in the middle crest then tape to the back and proposing to make a cut, it would exceed 1000 cubic yards seeking not to exceed 5000 cubic yards. Would you like time to continue? Response: Will take 5 minutes. Abutter - we are not against the abutters but you understand what we are saying. Motion by Robert Acevedo to continue the public hearing so the applicant could consult with his attorney. Seconded by Timothy Twardowski. Unanimous by the board.

Hearing reopened – Attorney Cornetta states the existing is closer and they are pulling the proposed further away. Close to what is being proposed. We are asking for dimensional relief. Ask the board to consider the surrounding area. Suggest there is not going to be a grave distance at this site. Would like to have the three buildings. You are not looking for dimensional relief? Correct. What is the front setback? Atty. Cornetta measured today about 30' so if you look at our building about 60' or at least 50'. Earth removal – limit the hours of operation. Bond–Suggest earth removal bond be 3,000.00. Board 5,000.00 bond is minimum. Motion by Robert Acevedo to close the public hearing. Seconded by Timothy Twardowski. Unanimous by the board.

During General Discussion: Discussion: Board - What's being proposed is consistent with what's there now and this particular piece has similar on both sides of the road. This area was never rezoned. They could go to Planning Board and ask for re-zoning. Member thinks this is not the answer; even double wouldn't alter my decision. Robert Acevedo votes to "Approve" a demolition and building permits to remove an existing single family home and construct three duplex town house units. Bruce Hunchard votes to approve. Timothy Twardowski votes to "Oppose".

8:11pm - 278 West Central St – Double J Development LLC

Seeking a special permit/variance to remove earth in excess of 1,000 yards but not to exceed 5,000 yards.

Abutters Present

See minutes under 8:10pm

General Discussion:

407 Pond Street – Resident of 407 Pond Street appeared before the board in regards to a landing on the outside door. We want to replace it with a larger landing. Suppose to have 40' believe 23.1 presently if we make it larger it would be closer. Proposing 6' more out, 10' toward yard down Oak Street. Board-File an application, put dimensions on a plan, call it an open deck or landing, not an addition and don't see any problem with it.

Appearing before the board is Stephen Doucette in regards to Earth Removal Permit for Lakeview Terrace. Mr. Doucette talked to Mr. Raniere and he was going to fix the problems Dave Roche Building Commissioner/Zoning Enforcement Officer commented on. Motion by Robert Acevedo to change the name from Blue View Construction to Theodore Raniere. Seconded by Timothy Twardowski. Unanimous by the board.

Return Unused Funds:

- Motion by Timothy Twardowski to return unused funds of 1476.60 to VoiceStream for an application for Franklin First Methodist at 82 West Central Street. Seconded by Robert Acevedo. Unanimous by the board.
- Motion by Timothy Twardowski to return unused funds of 7149.25 to Structure Consulting Group for an application for Bell Atlantic Mobile of Mass Corp., Ltd. d/b/a/Verizon Wireless for Dean College Site located at 99 Main Street. Seconded by Robert Acevedo. Unanimous by the board.

Motion by Timothy Twardowski to accept the minutes of March 17, 2011. Seconded by Robert Acevedo. Unanimous by the board.

Motion by Timothy Twardowski to adjourn. Seconded by Robert Acevedo. Unanimous by the board.

Signature _____

Date _____