

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, October 25, 2012
355 East Central Street
Franklin, MA 02038**

**Members Present
Bruce Hunchard
Robert Acevedo
Timothy Twardowski
Sean Slater**

**8 Cottontail Lane – John & Carolyn Calarese
Applicant is seeking a building permit to allow for a new accessory dwelling unit. The building permit is denied without a special permit from the ZBA.**

No Abutters Present.

Appearing before the board is John & Carolyn Calarese proposing an in law apartment in the basement of their home. Property was purchased June 30, 2012 with the understanding of the basement area being an in-law apartment, issues arose with the wiring. We corrected other issues with the bedroom by installing a window and the rest of it fell into compliance as we understood. There was a building permit pulled for that particular part of the home that was for a game room, bathroom and computer room. We purchased the home assuming that it was an in-law apartment, complied with what we needed to as far as we were told. Gus Brown, Building Commissioner added: Applicants came to us on the fact that this was advertised to them as an in-law apartment, there was no in-law apartment filed with ZBA, proper paperwork was given to them for relief. Applicants address the special permit criteria. Board: There is no additional expansion of your property as it currently exists? Answer: No, Nothing. Board: Was it permitted with a kitchen? Gus: It was not, kitchen was “bootlegged in by previous owner and unbeknown to them the property was advertised through the realtor I do believe as an in-law ready apartment in the basement. They came to building department for help on getting this approved legally. Board: All they are technically doing is putting a window in for ventilation as required? Gus: Yes 99 percent sure that the previous owner had used it as a bedroom but it did not have the proper egress they cut a window in and it gives it now the proper egress, they are allowed to let a person sleep in that basement now and I believe that what they are asking for now is relief. Board: You are aware that this goes with you and your mother in law and if she leaves you can not rent it out or you can't do anything with it and it is tied in with your deed? Applicants: Yes. Board: When you sell the special permit goes away, not to say that the next owner can't come in to apply for it. If you advertise it do not advertise as in law apartment unless you disclose that they need a special permit. Motion by Robert Acevedo to close the public hearing. Second by Timothy Twardowski. Unanimous by Board. Robert Acevedo made motion to grant special permit for the second dwelling unit for the above property. With the condition that the special permit be that the in-law Rose Binda reside at the property along with John and Carolyn Calarese and that the special permit for the second dwelling unit become null and void if either party moves or transfers ownership. No separate utilities shall be permitted unless required by the DPW at 8 Cottontail Lane. The board also determines that the social economic and community needs which are served by this proposal will be met. Traffic flow and safety will not be encumbered, adequate utilities and other public services exist. 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 this special permit also that this special permit be recorded at the registry of deeds. Second by Timothy Twardowski. Unanimous by board.

Applicant has paved their parking lot with an impervious covering which exceeds the 15% maximum allowable in a water resource district by 6.4%. Under this condition a variance is required.

Abutters: Abutters Present- See Attached

Appearing before the board is Kanayo Lala (Civil Engineer), Guangchun Mi, General Manager, Elena Li, Assistant Manager. Mr. Lala: We are proposing an increase in the parking spaces and based on the size of the property we calculated that we would need somewhere between 20-25 parking spaces and it is at the maximum capacity. Accordingly I prepared a site-plan and there was a miscommunication and it got paved without the approval. It wasn't done exactly as per my plan and I had to recalculate the total area of the paving. It came out to be more than the zoning allows because of that confusion. Town Engineer William Yadisernia is present to answer any questions. Board: I know that at the last Planning Board meeting you had just received a revised plan and is this September 19th the latest? Response: There has been one submitted since then. There is a revised plan that will be submitted to the DPW. Leland Academy was there for over 20 years and was never paved. Town used it for a while and had never paved it. They recently paved it a few months ago. Right now it is a water resource district; more important than a water resource district or just as important is there is no town water between Miller Street and Juna Way the immediate abutters have a private well on their site which is within 50 feet of the property line here. Board: Does Juna Way have water? William: Juna Way does have water. This site has water but they get it from Juna Way they don't get it from Pleasant Street, for this particular building. The biggest concern we have is letting storm water enter the site and its mostly the left hand portion of the site where the access road off of Pleasant Street and the majority of the parking areas that water has a potential to go into the adjacent property which is low and belongs to the Pelossi family. Also has the potential to go to Pleasant Street. Pleasant Street has no drainage in it and that will go to a low point of Pleasant Street about maybe a thousand feet or so towards town from there it goes onto private property where there is no real drainage so our major concerns with this is making sure that the immediate adjacent property owned by Pelossi on Pleasant St and all of Pleasant Street, doesn't get any water. The bottom line is we are in favor of granting the waiver with the following provisions that # 1 is that storm water be treated according to the new storm water regulations in the water resource district they have to pre-treat the water to 44 percent and put the rest of the water back into the ground. That is what we are working with the engineer to try to get done. We think it is better off to have it paved, It is already paved there were some violations, they were not suppose to pave it without coming to the Board of Appeals, Planning Board, I guess we are passed that right now. I think they should leave it paved the paving they have done is minimal to get the parking they need and the bike trail that they have which is not bothering anyone. I hate to see that taken off to get to the 15 percent. I think it is in the towns best interest to grant the waiver for the additional impervious coverage but we need to make sure that this storm water treatment and infiltration and the adjacent property is protected. We can certainly put the conditions on through the Planning Board and the engineers and the applicants have been very cooperative in trying to get there. We are not there yet. We need to treat the water particularly because there is a well adjacent to it. Get the water into the ground; prevent it from getting into the adjacent property or onto Pleasant Street. They are willing to do it so given all of those things we will be in favor of granting the variance to get us to 21.4. Board: It is a residential zone. William: It is really a commercial use in a residential zone. Board: There is only one other thing as far as the water resource district goes and that's why I wanted to ask you this question. As far as the special permit from the 15 to 60 which we could hold for a variance it asks that we hire the Towns Hydrologist and have them pay for it to review this. Are you confident enough that this plan is going to address all those issues that are going to come up with whatever he might think of? I have to tell you that all the ones that we have had the Towns Hydrologist do I don't think that he has had many comments on any of them everybody seems to be doing the right thing you have been involved with most of those so that's why I am asking you rather than delay this another two months and added expense to the applicant do you feel confident enough that what you guys are going to work out is going to meet or address what the by-law states? William: I am confident that what they are doing will protect the town wells and this is in a water resource district, at well 5 which is on Miller Street, this is really in the outlying reaches of the water resource district for us the bigger dangers are the private wells in the area. I am confident that we do not need to hire the consultant, we have 3 engineers in our

office looking at it already, so we have looked at it quite extensively and I am confident that what we are utilizing for protection you don't need the water resource consultant that we have usually had. As long as you are representing the town as the town engineer you do not have any problem with it, we are not talking a major parking field we are talking 6 percent of coverage. Board: Septic design I know the septic system was in there what is the septic system based on? Kanayo Lala: The existing septic is good for 79 capacity. Board: What would the flow be for 79 people? Kanayo Lala: 79 it is 400 gallons per day. Board: How big is the site? Kanayo Lala : 73000 sq ft. Board: So a little less than 2 acres? Kanayo Lala: Yes. Board: The design flow is for 400 gallons a day? Kanayo Lala: No. Board: O.K. because in a water resource district you are limited to in a 1 bedroom 110 gallons a day you are limited to one bedroom per 10,000 sq. ft. so you do not have to adjust the septic system issue also. Kanayo Lala: No, they do not have to because they will be under the 60. Board: Gus do you know what the capacity of the building is? Gus: We are limited to no more than 79. I believe the occupancy is 73. Board: O.K. William is that right it is about 400 gallons a day? William: That sounds a little low to me. I haven't researched the issue if its 2000 gallons a day than he is over a threshold that has to go to D.E.C. Board: Any abutters have any questions? Richard Pelossi (Abutter), 626 Pleasant Street. How will septic be verified? There are probably records in the Board of Health. Kanayo Lala: Board of Health report is 400 gallons per day. Bruce: The BOH didn't report that somebody else did it it's a Title V septic system inspection report and it must say how big the system is and it says it's what? Kanayo Lala : Piece of information from the Board of Health record the last time septic system was built was for 80 people at 5 gallons. Title V allows for day care 5 gallons per occupant so 80 daycare children times 5 is 400. Board: The system is designed for how many gallons today? Kanayo Lala: 400 gallons. Patricia Morse (Abutter), 626 Pleasant Street. Thanks to the town for the guidance that you have been providing us through this process. Echoing concern if variance goes through that it is conditional that the drainage does get in that the site plan continues. My biggest concern is that it gets approved today and then nothing else happens. Because right now it seems to all be pitched towards our property where the well is. We have a hurricane coming up on Tuesday the weather is probably not going to be that great and if the catch basins and things don't get in there I could have hazardous conditions in my driveway, I could have flooding in my garage. Board: I can almost guarantee you that they are not going to be done by Tuesday. Patricia Morse: Oh yes that's for sure, but I just want to echo concern that this is somehow linked that you are granted a variance if possible based on the fact you are going to follow through with this other work. Board: If we were so inclined to grant a variance it would be condition upon site plan approval from the Planning Board which would address all the drainage issues and everything else that William brought up. Board: I can almost guarantee you that the Zoning Enforcement Officer (Gus) when this is all said and done if they don't get in compliance within a certain amount of days that he is going to give them to do it and I would hope that would be before the weather sets in that they would be subject to some sort of a compliance order. Patricia: Thank you. Kanayo Lala: One comment to make the concerns go away that when they did the plumbing they drop the grades and the paving has a curb which is 3-4 inches and all the water will go to the street and not the property. Board: If it gets into street there is a crown in the road it's not going to go across the street it's going to go down the street into Pelossi's property, the most adjacent property and they are lower than the street if I am not mistaken. They have wells there and I know historically there have been problems with wells in the area they are very deep and don't produce a lot of water and if there was a problem with them then that's a major problem that somebody is going to have to address. If not you people than the homeowners would have to either drill new wells or loop the water main through there. Board: I am curious as to how this all came about was there a permit pulled to renovate the existing structure? In that permit did you show your parking lot? Kanayo Lala: No we did not show parking lot that was a separate plan I was preparing and was suppose to go for permit but somehow there was miscommunication between the contractor and the owner. Gus: There was a stop work order given to the contractor. Board: After it was finished? Gus: After the fact. Board: Is it just the base coat or top coat too? Gus: Just base coat. Board: Do you have plans on top coating it? Kanayo Lala: Yes. Board: They have to put drainage in first and probably have to cut some of it. Board: Ordinarily I don't favor applicants who come in asking for a variance after the work is already done. Kanayo Lala: I apologize for that. Board: I understand the circumstances here it happens and that the stop work order was put in place, and we do have it appears support from the town engineer and the Planning Department. for the project. My concern obviously is the one that was raised by the abutters that the runoff isn't going to run down the street into their yard and cause problems for the abutters but in that respect I think it is appropriate for us to rely on the

advice of the engineers and the Planning Dept to the extent that they believe that it can be addressed through artificial recharge or whatever means is being used that so be it but I think we have asked as much as we can. Guangchun Mi, General Manager: I apologize for the problem about paving without a permit. There are some miscommunication between the contractors, engineers and paving company. Regarding the comments from our neighbors I will state tomorrow we will send to the surveying company to do the survey of the property line. It is our first step and I send it to a company to bid for this project and do it as soon as possible before the storms. Motion by Robert Acevedo to close the public hearing. Second by Timothy Twardowski. Unanimous by Board. Motion by Robert Acevedo to take under advisement. Second by Timothy Twardowski. Bruce Hunchard: I prefer to do this now. We will make motion subject to memorandum dated October 24, 2012 from the Department of Planning and Community Development. (See Attached) Motion by Robert Acevedo to grant a "Variance" to allow 6.4 percent where 15% maximum allowable in water resource district bringing total not to exceed 21.4% subject to water is treated in compliance to the DPW regulations as suggested by the town engineer subject to the memorandum by the Department of Planning Community Development dated 10/24/12. Subject to compliance to Title V Regulations and subject to improve site plan by the Planning Board in the Town of Franklin as drawn on a plan entitled proposed playground areas and bike paths drainage plan dated 10/25/2012 by Kanayo Lala, as may be amended during site plan approval with the Planning Board. Second by Timothy Twardowski. Unanimous by board. See Memo from Planning Department dated October 24, 2012.

General Discussion:

- Motion by Robert Acevedo to approve the minutes of September 20, 2012. Seconded by Timothy Twardowski. Unanimous by the Board.
 - There will be no Zoning Board of Appeals meeting on November 8, 2012. Our next scheduled hearing will be November 15, 2012.
 - Motion by Robert Acevedo to approve 2013 ZBA Calendar. Second by Timothy Twardowski. Unanimous by Board.
 - Motion by Robert Acevedo to adjourn and second by Timothy Twardowski. Unanimous by Board.
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Signature _____

Date _____