

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, December 6, 2012
355 East Central Street
Franklin, MA 02038**

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

79 Brook Street – Joseph & Frances Bertone

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 Joseph Bertone proposing an in law apartment on the second floor of their home. Mr. Bertone addresses the special permit criteria. No impact to the neighborhood. The three people in the house are the three that will continue to live there. Board: What is the name of the person who intends to reside on the second floor? Joseph Bertone: My daughter Deneen Bertone. Board: Anything else you would like to add? Mr. Bertone: No nothing I can think of at this time. Motion by Robert Acevedo to close the public hearing. Second by Philip Brunelli. Unanimous by Board. Robert Acevedo made motion to grant special permit for the second dwelling unit for the property located at 79 Brook Street with the condition that the special permit be that the daughter Deneen Bertone reside at the property along with Joseph & Frances Bertone 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 79 Brook Street. 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 Philip Brunelli. Unanimous by board.

828 West Central Street – The Stop & Shop Supermarket Co.

Applicant is seeking a Variance to allow the extension of a portion of a sub-surface fuel storage tank within forty nine feet (49') of the Route 140 By-pass where a sixty foot (60') setback from the Route 140 By-pass, a right-of-way that exceeds seventy-five feet (75') or more in width, is required, and within twenty-nine feet (29') of the southerly Property line where a forty foot (40') Front Yard Setback is required;

Variance to allow the erection of a pylon sign within ten feet (10') and light poles up to fifteen feet (15') from the Property line adjacent to West Central Street where a forty foot (40') Front Yard Setback is required and erection of a light pole within twelve feet (12') of the easterly Property line where a twenty foot (20') Side Yard Setback is required;

Variance to allow relief from the tree planting and screening requirements under Section 185-30 of the Zoning Bylaw;

Variance to allow relief from the tree planting and screening requirements under Section 185-35 of the Zoning Bylaw;

**These building permits are denied without a Variance from ZBA.
No Abutters Present.**

Time being 7:41pm we will read the Special Permit application also. That way if we have to talk about them both at the same time they will both be open.

828 West Central Street – The Stop & Shop Supermarket Co.

Applicant is seeking a special permit for earth removal in excess of 1000 yards. The building permit is denied without a special permit from ZBA

No abutters present.

Appearing before the Board is John Tuich, representing Stop & Shop to my left is Connor Nagle from Vanasse Hangen Brustlin, Inc., and behind us are Bill O'Brien from Stop & Shop. Applicant requests permission to spend a couple of minutes on the history of project before we get into the two matters which are on agenda. Board: Yes, maybe helpful for people who don't know about this project. Project has gone through a series of permitting dating back to 1988 which has received site plan approval there was some Planning Board approvals there was a superseding Order of Conditions and there was a series of variances. Board: They have all gone away correct? Applicant: No actually the Order of Conditions is still valid. There was also a site plan approval for a much different project it had a Dunkin Donuts drive thru a convenience store and many more pumps. Applicant: See attached memo. What we are now proposing is five service islands that include ten self serve fuel pumps. There will be no convenience store, no drive thru. General discussion regarding attached memo. Board: This plan well exceeds anything that was proposed before. Applicant: regarding the special permit we are excavating to put in the underground storage tanks, the footings for the canopy and we have an infiltration system for the storm water. Board: What do you anticipate the total number of yards that you are going to remove? Applicant: Approximately 1700. The only thing with an earth removal permit is that you will have to put a cash bond up whatever the board decides and you will not get it back until the project is completely done. We will get a report from the Town Engineer and the Building Commissioner and if they are satisfied that the project is complete we will give you your money back. Board: Is this one way in one way out or two way in two way out? Applicant: It is two way. Board: Has there been any boring or testing on the area that you are going to be putting the tank? Did you hit any ledge? Will you be blasting? Applicant: We have done borings and we have not hit ledge within 20 feet in the tank area. Motion by Robert Acevedo to close the public hearing. Second by Philip Brunelli. Unanimous by Board. Motion by Robert Acevedo to close the public hearing for the Special Permit. Second by Philip Brunelli. Unanimous by Board. Motion by Robert Acevedo to accept the following:

- 1. Because all of the criteria for issuance of a variance (as set forth in Section 185-45(D) (2) (b) have been satisfied with respect to the requested relief, the Zoning Board of Appeals grants the following variances:**
 - a. Variance to allow the extension of a portion of a sub-surface fuel storage tank within forty nine feet (49') of the Route 140 By-pass where a sixty foot (60') setback from the Route 140 By-pass, a right-of-way that exceeds seventy-five feet (75') or more in width, is required, and within twenty-nine feet (29') of the southerly Property line where a forty foot (40') Front Yard Setback is required;**
 - b. Variances to allow the erection of a pylon sign within ten feet (10') and light poles up to fifteen feet (15') from the Property line adjacent to West Central Street where a forty foot (40') Front Yard Setback is required and erection of a light pole within twelve feet (12') of the easterly Property line where a twenty foot (20') Side Yard Setback is required;**
 - c. Variance to allow relief from the tree planting and screening requirements under Section 185-30 and 185-35 of the Zoning Bylaw; and "to plant trees and put in proper screening as may be required by the applicable boards, departments and committees from which subsequent approval may be sought as required by the Code of the Town of Franklin**
- 2. Other than the relief set forth above, the proposed signage shall meet all other Zoning Bylaw requirements and receive approval by the Design Review Commission.**
- 3. Any construction shall be in accordance with the "Variance Plan" for the Proposed Fuel Facility at 828 West Central Street in Franklin, MA, prepared by Vanasse Hangen Brustlin, Inc., 101 Walnut Street, P.O. Box 9151, Watertown, MA 02471, dated November 6,**

2012, as same may be amended by the applicable boards, departments and committees from which subsequent approval may be sought in accordance with the Code of the Town of Franklin. Second by Philip Brunelli. Unanimous by board.

Motion by Robert Acevedo to accept the following:

1. All criteria relevant to the granting of an earth removal Special Permit under Section 185-23(D) of the Zoning Bylaw have been satisfied, and therefore the Zoning Board of Appeals grants a Special Permit for earth removal activities in excess of 1,000 and not to exceed 2500 cubic yards under Section 185-23 of the Zoning Bylaw.
2. Any earth removal activities shall be in accordance with the Report entitled "Earth Removal Report, Proposed Fuel Facility, 828 West Central Street, Franklin, Massachusetts" from Caitlin Glass and Connor Nagle, PE of Vanasse, Hangen, Brustlin, Inc., 101 Walnut Street, P.O. Box 9151, Watertown, MA 02471, to the Town of Franklin Zoning Board of Appeals, dated November 6, 2012, and the "Earth Removal Plan" for the Proposed Fuel Facility at 828 West Central Street, Franklin, MA prepared by Vanasse, Hangen, Brustlin, Inc., 101 Walnut Street, P.O. Box 9151, Watertown, MA 02471, dated November 6, 2012.
3. Applicant to provide the Town of Franklin with a \$5,000.00 cash bond to be deposited with the Zoning Board of Appeals secretary. Upon final inspection it is up to the applicant to request a bond release to the Zoning Board of Appeals. Prior to the release of the bond final inspection will be completed by Building Commissioner and Town Engineer.

Second by Philip Brunelli. Unanimous by board.

General Discussion:

- Motion by Robert Acevedo to approve the minutes of November 15, 2012. Seconded by Bruce Hunchard. Unanimous by the Board.
- Motion by Robert Acevedo to adjourn and second by Philip Brunelli. Unanimous by the board.

Signature _____

Date _____