

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, February 9, 2012
355 East Central Street
Franklin, MA 02038**

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

7:30pm – 140 Maple St – Richard Frongillo

Applicant is seeking a building permit to convert part of an existing SFR into an accessory dwelling unit. This building permit is denied without a special permit from the ZBA.

No Abutters Present

Appearing before the board is Richard Frongillo requesting an in-law. Taking an existing structure that has living space and install a kitchen so that my father who's a Franklin resident can live with us. Met with you in August and the board gave me some advice on how to proceed. We built an addition without the kitchen and we have occupancy for that so now we are looking to take the next step. It's attached to our existing house but it will have a separate place where he can cook. The applicant reviews the special permit criteria. The board reviews the layout. Board member would like to express appreciation to the applicant for doing a very good job in addressing all the criteria for the applicant and the written submittal (see attached) that was provided to the board is very helpful in our deliberations. 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 for a second dwelling unit for the property located at 140 Maple Street as shown on a plan entitled Certified Plot Plan of Land in Franklin, MA Prepared For: Richard Frongillo 140 Maple St., Franklin, Massachusetts by Hancock Associates dated 10/07/11 with the condition of the Special Permit be that the in-law Edward Frongillo reside at the property along with Richard and Sandra Frongillo 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 140 Maple Street. 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.

7:40pm - 7 Forge Parkway–Happy Tails Doggy Daycare Inc Applicant is seeking special permits to conduct an animal daycare facility with accessory uses located in an existing building in the industrial zone.

No Abutters Present (present are clients who use the service)

Appearing before the board is Attorney Gary Hogan here for Happy Tails Doggy Daycare Inc., along with Rob Truax who is a Massachusetts licensed engineer along with the architect, builder and realtor. Here for a special permit for an animal daycare facility this is an allowed use by special permit under your current zoning by-law. We also seek in connection with that an additional special permit which includes animal kennel and hospital. Reason we seek a separate special permit for that is that your animal daycare provision limits the hours of operation from 7am to 8pm. You may know Ms. Sutton who already operates the same facility in another part of town, does have a 24hr license; she obtained a special permit from this board in 2006 to operate a 24/7. At the time of that particular special permit this provision of your by-law did not exist so there were no restrictions on hours under your animal daycare definition. So we are faced with having to ask for a special permit under both in order to be 100% legal and consistent with the by-

law. Additionally, there are some accessory uses proposed in the property. There is a small retail site, grooming, there's training, there are offices and conference rooms and there is a chiropractic/minute-clinic for veterinary care also proposed within the structure. With respect to the accessory uses that the applicant is seeking I would submit that they are all allowed accessory uses under the by-law with the exception of the medical which is included in the animal clinic or hospital definition. So by obtaining both special permits I think we've got everything covered that's proposed at the site. The architect goes over the plan. The retail space represents about 800 square feet in the overall floor space. The percentage is less than 15% of the entire floor space. About 12,500 sq. ft. is for general doggy daycare space. Board, what is the significant of 12,500 square ft? Response: The applicant is asking permission for 250 dogs and your by-law requires that all of the dogs be able to be housed inside. She will testify that a dog is required to have 50 sq ft and if you multiple 250 x 50 or 12,500 sq. ft which is adequate assembly area inside to meet your by-law. Applicant is asking for 250 dogs, by-law requires that all dogs are able to be inside. Board, does it actually say in our by-law that they need 50 sq. ft? Response: No, it's an industry standard. With respect to retail the by-law allows accessory retail so long as it doesn't occupy more than 15% of the gross floor area of the remainder of the site. Cathy Sutton has been in Franklin 8 years, operating Happy Tails Doggy Day Care and has become very successful. We need to move, we have run out of space. Overview is we currently provide daycare, overnights, training and grooming for your dog family member. It's an indoor facility so there is no dog walking, there's no outside, and it's an indoor facility. On average over 100 dogs a day about 10 to 15 that sleep over each night. Close to 1,000 active customers. We have 35 people who work at Happy Tails and no complaints from neighbors. Our current lease is over end of May so I have a short time frame to get out of our building and get into the new building. This is a new facility not in residential area, in an industrial zone. Doing the same thing we are currently doing just a mile down the road in a larger facility. Not changing the footprint of the building, the only thing additional is adding an outside fence. Moving into a lease arrangement but I have a schedule to buy the building which I'm hoping to do in two to five years. Items I just want to address is that this is an easy access for the customer, I'm going from single residential road to two lanes going in and out with a light that will help the flow of traffic. We are the second property in the park so people won't be driving thru the entire park. We are going to have more parking spaces than what our by-law requires. It's a drop off, pickup service. Dogs are just dropped off taken in and the people leave so the same parking spaces are utilized over and over again all day long. The big times for people to drop off and pickup are 7:30am to 10ish is the main part in the morning and the afternoon they start picking up around 4:30pm to around 6pm is our heavy usage for cars coming and going. Noise, we are just adding an outside fenced area to this current building and we pointed the yard away from the closest building. Dogs are inside for most part of the day, we rotate them in and out and they are in these small groups so there wouldn't be a lot of noise that way. Board of Health did not write a letter stating you never had a complaint and you are doing business the same way. About 36% of customers live in Franklin, all others come from outside. This is a stand alone building. Rob Truax with GLM Engineering, this site is 3.2 acres overall. Existing building which is currently being used for dry storage. Existing parking lot in front along Forge Parkway that can accommodate 48 cars, that's what they currently utilize for that building. Not looking to add any impervious surface or to pave. In the back area there is a paved area loading dock, we are going to utilize that as the outdoor pin area, that will get fenced in, there will be a fence around the perimeter. Dumpster will be enclosed at the far corner so we have access to it. We want to stripe the paved area which will accommodate 20 cars. We are going to put a berm around that concrete pad just to hold in the wood chip mass that we are going to put in. Back portion will be main entrance to the doggy daycare. Will have signage on the site. No drop off in front of building. All drop off rear of building. Don't anticipate any lights to be put up, lights currently there. Handicap parking will be available. Don't anticipate any increase in traffic for this site. Site currently serviced by city water and sewer. No change in building structure and conducive to what's up there now. No change to existing natural area, tree structure and grass area. Jeff Nutting Town Administrator, here both on behalf of Economic Development Sub-Committee and Councilor who voted unanimously to support

this application before the Zoning Board and Planning Board as well as my own personal and professional opinion. This is a huge access to the community, it brings jobs, it begins to refill our industrial park and bring folks to Franklin to spend money. We need to expand our tax base and we look for every opportunity to do that. This woman has a proven track record and a successful business and an opportunity to expand it and use vacant space. It's good for the tax payers and it's good for the customers. So we appreciate your support. Also, present is Rick Caplan real estate broker for Cathy and a customer. Rick Caplan has been Cathy's real estate broker for the last two years looking for space and we looked at every property before we found this property. This is a building that works very well for her and it's been a long search to find this property. Other clients of Happy Tails Doggy Daycare speak in favor of this proposal. Board—what's future tenants? Response: There are other dog professionals that are in my future, I don't have anybody right now but that is empty space, I will use it for storage. Board—so we will say storage? Response: Yes storage. Board would you address parking calculations and how you came up with those? Response: We tried to take the uses and base them on the by-law. The only one that really does not base on the bylaw is the doggy daycare. We met with Dave Roche the Building Commissioner, we went over this parking schedule with him and we feel the daycare portion because it's a drop off situation, it's quick, they come in park bring a dog in and leave. As stated not all 107 people show up, at different times three to five cars drop off at the same time but come and go. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Timothy Twardowski to "Take Under Advisement". Seconded by Robert Acevedo. Unanimous by the board.

During General Discussion: Motion by Timothy Twardowski:

In view of the foregoing, the Board hereby decides that the applicant has satisfied the specific criteria and therefore grants the Applicant the requested Special Permits under Franklin Zoning By-law §185-Attachment 3 (Use Regulation Schedule Part II) 2.2, 2.21 and 2.22 to allow the applicant to operate a daycare and kennel for dogs for up to 250 dogs to include overnight boarding and accessory uses including a veterinary minute clinic, a retail store, a photography studio and other allowed dog related businesses in accordance with the terms and conditions as set forth below, to wit:

1. Express approval to operate said daycare twenty-four (24) hours a day, seven (7) days per week three hundred and sixty five (365) days per year. Also, said daycare may provide for accessory and other uses consisting of a veterinary clinic, a retail store (not to exceed 15% of the gross floor area), a photography studio, offices, conference rooms, training and grooming areas and other allowed dog related businesses.

2. The Board further finds that the evidence presented results in the determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site.

3. The Board further determined that:

- a. The social, economic and community needs are served by the proposal;
- b. That the proposal provides for adequate and safe traffic flow;
- c. There are adequate utilities servicing the site;
- d. The proposal fits with the neighborhood character and social structure;
- e. The proposal does not impinge on the natural environment; and
- f. The proposal will have a positive financial impact on the community.

Last, the board has found that there will be no substantial derogation from the intent or purpose of the by-law.

Seconded by Robert Acevedo. Unanimous by the board.

7:50pm – 101 Forge Hill Road – Sprint Spectrum LP

Applicant is seeking a building permit to replace six antennas and add coax cables and associated ground equipment. This building permit is denied without an amendment to the special permit from ZBA

No Abutters Present

Appearing before the board is Carmen DeMarco and Leo DeMarco on behalf of Sprint Spectrum LLC. Proposing an upgrade so the equipment can utilize both the 3G and 4G network. No further info to provide. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Timothy Twardowski to “Take Under Advisement”. Unanimous by the board.

During General Discussion: Motion by Timothy Twardowski:

Based on the foregoing documentary evidence, other evidence submitted during the public hearings, and the foregoing findings, the ZBA hereby grants the Special permit and finds that a height variance is not required to allow Sprint to remove six (6) antennas and installing six (6) antennas upon the existing tower at the 140.4’ centerline level and to update equipment cabinets within Sprint’s existing equipment area in accordance with the Application and as shown on the Plans entitled “Sprint Site Number: BS23XC485, Site Name: CROWN CASTLE, Site Address: 101 FORGE HILL ROAD, FRANKLIN, MA 02028, DATED 10/12/11”, consisting of five (5) sheets (T-1, C-1, A-1, A-2, and A-3) prepared by Atlantis Group, Incorporated, except as set forth below.

I. Conditions

Said Special Permit is granted subject to the following conditions and limitations:

A. General

- 1. Before exercising any rights under this decision, it shall be recorded with the Norfolk County Registry of Deeds and written evidence of such recordation shall be furnished to the Building Commissioner.**
- 2. No additional antennas or appurtenant equipment shall be added to the tower or compound unless approved by the ZBA.**
- 3. Within thirty (30) days after completion of installation of the Antennas on the Tower and construction of the accessory equipment cabinets, one set of as-built plans containing information in the Plans shall be filed with the Building Commissioner.**

B. Construction Requirements

- 1. The centerline height of the antennas shall not be more than 140.4’ (center-line of the antennas) above ground as shown on the Plans dated October 12, 2011.**
- 2. Otherwise, construction of the Antennas and the accessory equipment cabinet shall be in accordance with the Plans dated October 12, 2011.**
- 3. Signage associated with the Antennas and the appurtenant equipment cabinets shall be in accordance with Section 185-44D(17) of the By-Law.**
- 4. There shall be no night lighting associated with the Antennas.**
- 5. Construction shall not begin until the Tower modifications, which are needed in order to support Sprint’s equipment modifications, have been completed.**

Seconded by Robert Acevedo. Unanimous by the board.

8:00pm – 121 Longhill Road – New Cingular Wireless LLC

Applicant is seeking a building permit to remove and replace tower antennas and add related ground equipment. This building permit is denied without a special permit modification from the ZBA.

Abutters Present

Appearing before the board is Joseph Giammarco with Brown Rudnick, LLP with the firm representing the applicant. Last time we left off we had just introduced a structural modification plan and we were continued to allow people to look thru that. The structural that we had done for the perspective antennas would not pass as it stands so there were certain modifications to the tower to strengthen the first 25’ of the legs and once those modifications are made then the tower should be structurally sound enough to bear the weight of the new antennas. The board is in receipt of a letter (see attached) dated February 9, 2012 from the Building Commissioner Dave Roche and read into the minutes. Board asks abutter Kathy Ryan if she had the opportunity to review the structural data and

Speak to the Building Commissioner? Response: Yes and what I'm reading here says to me that this tower is over stressed and not structurally acceptable, so where are the modifications? We have Mark who is an engineer and works for AT&T and he will summarize the new structural. Mark--apparently there was an analysis done December 7, 2012 at which the legs of the tower were approximately 25% over stress. The same firm that did that came up with a modification plan shown on this document that is introducing bracing to brace the leg from zero to 25. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Timothy Twardowski to "Take Under Advisement". Seconded by Robert Acevedo. Unanimous by the board.

During General Discussion: Motion by Timothy Twardowski:

Based on the foregoing documentary evidence, other evidence submitted during the public hearings and the foregoing findings, the ZBA hereby grants the special permit/variance to allow AT&T to install three (3) antennas upon the existing Tower at the 75' centerline level and place equipment within the fenced compound at the base of the Tower in accordance with the Application and as shown on the Plans entitled "at&t Site Number MA1343, Site name: French Tower" dated October 17, 2011, prepared by E. G. Advanced Engineering Group, P.C. and stamped by Marc R. Chretien, PE (the "Plans"), and as further set forth below.

IV. Conditions

Said special permit/variance are granted subject to the following conditions and limitations:

1. Required routine maintenance will be Monday thru Friday between the hours of 7am and 5pm at the AT&T Facility.

A. General

1. Before exercising any rights under this decision, it shall be recorded with the Norfolk County Registry of Deeds. Written evidence of such recording shall be furnished to the Building Commissioner.

2. No additional antennas or appurtenant equipment shall be added to the Tower or compound unless approved by the ZBA.

3. Prior to, or in conjunction with, an application for a building permit to install the Facility, the Applicant shall submit the structural from the engineer to the Building Inspector attesting to the structural integrity of the tower and foundation and its ability to support the proposed antennas. Applicant shall comply with the recommendations made for upgrade of the foundation.

4. Prior to, or in conjunction with, an application for a building permit to install the Facility, the Applicant shall submit a certificate of insurance evidencing that the installation is insured in an amount of at least one million dollars. Said certificate shall be submitted to the Building Department annually.

5. Within thirty (30) days after completion of installation of the antennas on the Tower, one set of certified as-built plans containing the information in the Plans shall be filed with the Building Commissioner. Certification of construction and antenna height shall be provided to the Building Commissioner by a registered engineer within the aforementioned thirty (30) days.

B. Construction Requirements

1. The Facility shall be installed in accordance with the Plans entitled "at&t Site Number MA1343, Site name: French Tower" dated October 17, 2011, prepared by E. G. Advanced Engineering Group, P.C. and stamped by Marc R. Chretien, PE (the "Plans").

2. Prior to the installation of the facility, the structural modifications as recommended within Structural Analysis Report, prepared by Michael T. De Boer, PE of Global Tower Services, dated December 7, 2011 and illustrated by a Plan entitled, "Modification Drawings for Pigeon Hill, MA; At&t New Cingular: Franklin Long Hill Road; GTP: Pigeon Hill", stamped by John Bozetto, PE of Structural Components and dated January 11, 2012.

3. Signage associated with the antennas and the appurtenant equipment cabinets, if any, shall be in accordance with Section 185-44D (17) of the Code.

4. There shall be no night lighting associated with the Facility.

5. At the discretion of the Building Inspector, the antennas are to be painted to match the color of the existing Tower.
Seconded by Robert Acevedo. Unanimous by the board.

General Discussion:

12 Tyson Joseph and Janice Kennes – Current homeowners looking to add an addition to our current house. Will not clear the 40' setback. Board-Is there going to be an upstairs? Response: Yes, a family room upstairs. Hardship because the parcels were rezoned. Will need an engineer to show the proposed and how it will fit but not a guarantee you'll receive the relief.

83 Park Road – Chris Miller proposing a deck. Board-What's your hardship? Response- There's no hardship. Board suggests have an engineer do a proposed plan and file otherwise do a patio.

41 Crescent St – Michael Dubois to discuss the removal of a carport and reconstruction of a different structure (pictures provided). Carport came down so in consideration asking for guidance. Carport doesn't fit with neighborhood or style of the house. So options that I came up with were a single story garage or one and half story garage. Provide three basic concepts and looking for guidance and opinion. Staying in the footprint of the carport moved back slightly by a foot or two. It will be within the footprint of where the carport was. Board-How long has that carport been down? Response: About two weeks. You would apply for a special permit to allow you to build on that site. Show what was there. You are making it smaller so show us that. Without numbers we need clear pictures. Talk to Building Commissioner Dave Roche about the overhang and what doesn't count.

10 Michelle's Way – Chris and Amy Sault sent a letter (see attached) dated January 20, 2012 requesting an extension in time for a variance dated March 17, 2011 for 10 Michelle's Way. Motion by Robert Acevedo to grant a six months extension till September 18, 2012 for 10 Michelle's Way for the variance ZBA-2011-0025 granted on March 18, 2011 for the proposed breezeway and single story garage addition. Seconded by Timothy Twardowski. Unanimous by the board.

Motion by Robert Acevedo to approve the minutes of January 12, 2012. Seconded by Timothy Twardowski. Unanimous by the board.

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

Signature _____

Date _____