

Franklin Zoning Board of Appeals  
For Meeting Held On  
Thursday, July 26, 2012  
355 East Central Street  
Franklin, MA 02038

**Members Present**

Bruce Hunchard  
Robert Acevedo  
Timothy Twardowski

**79 Brook Street – Joseph Bertone**

Applicant is seeking a special permit for a new accessory dwelling unit and construction of a second story addition and porch 19.1' from property line where 25' is required. This building permit is denied without a variance and or special permit from ZBA.

**Abutters Present**

Appearing before the board is Joseph Bertone along with his designer Brian. Looking to add a second floor going over the same footprint with living space for Mr. Bertone's daughter, who is currently living at the property. We just want to go with the existing stairs that are there going to the basement is a covered stair and we just wanted the second floor over the existing ranch structure and extend up over that six feet of the stairwell. We are not extending past anything existing. Board - Eliminate the stairwell? Yes, pull the stairs out and have access to the basement in the new portion that is going to be there. We provided two options one with a small wet bar and one with a kitchen. Presently, the daughter is living down in the basement and using the access stairs as an entrance and just bringing space up to the second floor for her. Mr. Bertone explains he had a storage shed in the back yard that was four or five feet over the boundary line and was brought to my attention. We moved it forward and comply. This issue came up after the first plan was done but we have an additional plan showing it complies. Abutter William Yadisernia has no concerns. Abutter Joe Day states he's concerned that the second floor will change the dynamics of the whole neighborhood; there is no other house on the street with a second floor. Board explains the outside stairway is going away there will be an interior of the house and the stairway to get upstairs is going to be on the inside of the house not on the outside. Board-The existing stairs, are they enclosed or just exterior stairs? Response: Covered exterior stairs. Do you have a photo? Response: No, I don't. Board-The accessory dwelling unit are you converting any of the existing space or will that be 100% the new addition? Response: 100% new addition. Board member Tim Twardowski explains the reason I raise this is that the special permit which is referred to in the by-law is two family by conversion and I consistently interpret that provision to require that the conversion be at least in part to existing space so to the extent that you are not converting any existing space to a second dwelling unit my approach has always been that you are not eligible to apply for it till this second story already exist. Which means you could apply for the second story which would require only the variance relief then once that second story exist you could come back and convert that to a separate dwelling unit. It's not the cleanest approach, you have to come back twice rather than doing it all at once but for the sake of consistency that's the way I interpret this since I've been on the board. As a practical matter which you will be doing for the second permit for the special permit really just for the kitchen facility to create a second dwelling unit. Mr. Bertone request in writing a "Withdrawal Without Prejudice" for the Special Permit for the second dwelling unit at 79 Brook Street (see attached). Motion by Timothy Twardowski to allow the applicant to "Withdraw Without Prejudice the Special Permit for the second dwelling unit. Seconded by Robert Acevedo. Unanimous by the board. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a 5.9' sideline setback "Variance" down to 19.1' where 25' is required for the proposed second story addition for the property located at 79 Brook Street as shown on a plan entitled Proposed Plot Plan 79 Brook Street In Franklin, MA dated April 24, 2012 by Dellorco & Associates. Seconded by Timothy Twardowski. Unanimous by the board.

**1 D'Amico Drive – Edward Shanahan**

Applicant is seeking a building permit to construct a detached 24'x24' garage 30' from the front set back where 40' is required. This building permit is denied without a variance from ZBA

**Abutters Present**

Appearing before the board is Edward and Denise Shanahan proposing a two car garage, the original development was built under open space. Board - Two car garage, nothing on top? Response: No, nothing. Board questions why not a free standing garage? Response-We would prefer it be attached. Do you have any pictures of the property? No. Board-did you think to go two feet off to make it 30' off? The board suggests some alternatives to put a smaller garage up. David Constantino is present with the property owners and states initially thought there would be no problem. Board - It's the front yard setback that's the problem. At least maintain the setback that the house is, so step it back or shrink it down. Suggest you revisit and come back with at least a 30' setback. Abutter Gerald Keohane speaks about his variance five or six years ago for the same reason. Board suggest - You had your setback down to 30', you can go back further in the back. Homeowner will revisit the proposed and continue the public hearing. Motion by Timothy Twardowski to continue the public hearing till August 23, 2012 at 7:30pm. Seconded by Robert Acevedo. Unanimous by the board.

**12 Tyson Road – Joseph & Janice Kennes**

Applicant is seeking a building permit to construct a detached 24'x24' garage 30' from the front set back where 40' is required. This building permit is denied without a variance from ZBA

Abutter Present

Appearing before the board is Joseph and Janice Kennes looking to add an addition with a garage to our existing home. We don't meet the zoning requirements on the sideline.

Board-You have a shed too close to the lot line and a swimming pool you built without a permit. Over the garage you have a second floor, what do you plan to use all those rooms for? Response: It's a single room which right now it's a big family room. Board-When has your septic system been done, have you had it checked? Response: We've had it checked, it was mapped out, I didn't have to get a Title V for it. Board-While you're doing all this work it may not be a bad idea to have it checked, the Health Director may in fact want you to do it anyway. These systems are pretty old and I don't know when this one was replaced. The pool will be taken down. This just happens to be property that was rezoned since the houses were built. No comment from abutter. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a 9.7' sideline setback "Variance" down to 30.3' where 40' is required for the proposed kitchen/den extension and the second floor of the garage to be used as a rec room property located at 12 Tyson Road as shown on a plan entitled Certified Plot Plan Located At 12 Tyson Road by Continental Land Survey dated June 25, 2012. Seconded by Timothy Twardowski. Unanimous by the board.

**General Discussion:**

- Sean Slater introduces himself to the Board and will be appointed on August 8<sup>th</sup> to the Zoning Board of Appeals as an associate member.
- The board is in receipt of resignation letter from Barbara Curran ZBA Secretary.
- Motion by Robert Acevedo to approve the minutes of June 7, 2012. Seconded by Timothy Twardowski. Unanimous by the board.
- Motion by Robert Acevedo to keep the Chairs the way they are. Seconded by Timothy Twardowski. Unanimous by the board. Bruce Hunchard as Chairman would like to thank the Board Members for their support. Bruce Hunchard, Chairman, Robert Acevedo Vice Chairman, Timothy Twardowski Clerk, Philip Brunelli Associate Member and Sean Slater Associate Member.
- There will be no Zoning Board of Appeals meeting on August 9, 2012.
- Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board.

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Signature \_\_\_\_\_

Date \_\_\_\_\_