

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, January 3, 2013
355 East Central Street
Franklin, MA 02038**

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

**68/76 Chestnut Street – Marino Family Trust
Applicant is seeking a special permit to subdivide a lot with two existing dwelling units.
This building permit is denied without a special permit from ZBA.**

No Abutters Present.

**Appearing before the board is Attorney Richard Cornetta representing the applicant,
Marino Family Trust.**

Attorney Cornetta: In addition to this Special Permit a Variance was filed for publication purposes we weren't at the time certain how the Board wanted to address this but we did in the alternative file for a special permit under your Section 185-14 referring to a situation where you have two buildings located on a non conforming lot and the subdivision of which would not meet the standards under the current by-law. In this case the property is located at 68 Chestnut St., it is located a short distance from the intersection of 140 and Chestnut St. These two homes are older homes built on or about 1924 by the Marino family. They were separately owned one by a sister and the other was owned by a cousin and it found its way into the Marino Family Trust. There was a death in the family and the family is looking to liquidate the land. It became evident that the two homes that were built in the 20's the home that is located at 76 Chestnut St is encroaching on the legal boundary line to the property and so what is being proposed is a redrawing of the property. Number 68 is lot 24 consisting of 19,484 sq ft. on plan entitled "Plan of Land in Town of Franklin, Norfolk County, MA. Prepared for the Marino Family Trust by United Consultants, Inc. 850 Franklin St., Wrentham, MA dated June 26, 2012. Proposal is to subdivide approximately 3200 sq ft. which is identified on the plan as Parcel A and granting Parcel A to the property that is 76 Chestnut St. Which is identified on the plan as lot 23. The new lot 24A with the reduction of the 3200 sq ft will be 16,266 sq ft and Lot 23 becoming now Lot 23A will be increased by the 3200 sq ft. and it will go to 8461 sq ft. I will note that there is a detached garage that is used for the home at 68 Chestnut Street you will notice proposed lot line is very close and you may question why the engineer choose such a close proximity to that building what is not evident on the plan is that there is an old grape vine that exists on the property and it has become near and dear to Mrs. Marino who lives at 76 Chestnut Street so they wanted to include the entire grapevine property on her new parcel so that she could maintain that grapevine which is 100 years old. We do identify an easement area within this parcel A which will allow the owners of 68 Chestnut Street to maintain the garage should that be necessary so that there is not a boundary dispute there with the lot line being so close to the structure. In dividing this particular locus and correcting this encroachment area we would not be involving any physical changes to either of the existing structures or the lot and we would not be substantially creating a more detrimental scenario or situation in this neighborhood because these homes have been there since the 20's and in fact allowing this would be consistent with Section 185-10 of the code which would allow the redrawing of boundary lines between two legal non-conforming lots provided that there is no change to the potential number of buildable lots being created, which is what we have here. Board: So there is 2 feet plus the 5 foot easement gives you 7 feet to walk around the garage? Attorney Cornetta: Yes that is correct. Board: So 68 Chestnut Street are getting 3200 sq ft? Attorney Cornetta: Yes. Board: For clarification these are separate lots now right?

Attorney Cornetta: Yes they are. Board: I think this may be a variance that you need I don't think this qualifies for a special permit under Section 185-14 and you have a lot 76 Chestnut that has one dwelling on it has an encroachment but it doesn't technically have two dwelling units on it. Attorney Cornetta: Well it does have an encroachment dwelling so we would suggest that there are two dwellings on that lot. Board: My interpretation is different. You either have two dwellings or you don't. In this case I don't consider an encroaching portion of the structure to be a second dwelling unit. Board: We had the same situation on Corbin St., and we were of the same opinion. After consultation with Mark Cerel the Town Attorney he corrected me and said it was a special permit. Board: It is better to allow for a substandard lot and dimensional relief than it is to have two primary uses on a single lot. They do get there regardless of which direction they take. If it is the special permit or the combination of dimensional variances. Board: According to Mark Cerel, Town Attorney this is the chapter and verse that goes along with doing that. So that is the way Attorney Cornetta was directed to present this.

Attorney Cornetta: We did apply for a variance relief specifically and we submitted a separate memorandum in support of that as well. Board: Based on my review of the material the arguments were well founded for either requests for relief the only distinction is which is appropriate and to the extent that has been applied in the past. I am o.k. going in either direction.

Motion by Timothy Twardowski to close public hearing. Second by Robert Acevedo. Unanimous by board. Motion by Timothy Twardowski to grant a special permit in accordance with Section 185-14 to allow the subdivision of the Locus in accordance with the plan entitled "Plan of Land in Town of Franklin", Norfolk County, MA. Prepared for the Marino Family Trust, 76 Chestnut St, Franklin, MA. Prepared by United Consultants Inc., Wrentham, MA dated June 26, 2012. Second by Robert Acevedo. Unanimous by the board.

75 Crescent Street – Matthew & Leslie Kelly

Applicant is seeking a building permit to construct an addition 15.6' from the sideline where 20' is required. This building permit is denied without a variance from ZBA.

No Abutters Present.

Appearing before the board is Matthew & Leslie Kelly.

Applicant: We are looking for relief on the back corner of our house. Due to the unique shape of the lot we are looking for I believe it is 7 feet of relief on the property. Board: Well 4.4" Applicant: We are looking to expand our house for our family. We went through the process a couple years ago of purchasing the back portion of the lot from the Franklin Federated Church. We are looking for some relief on that corner so that we can begin the addition and move forward on the house that has been in my wife's family for almost a 100 years. Board: Proposed addition says 24 X 18" that is new and not there yet? Applicant: We are doing a 3 stage addition that is the 18 X 24 family room the 7 by 6.2 squaring off of the house and the proposed 3 car garage as shown on Variance Plot Plan dated September 24, 2012 prepared by Guerriere and Halnon, Inc.

Motion by Timothy Twardowski to close public hearing. Second by Robert Acevedo. Unanimous by board. Motion by Timothy Twardowski to grant a sideline variance of 4.4' down to 15.6' where 20' is required for the proposed one story addition as shown on a plan entitled "Variance Plot Plan" 75 Crescent Street, Franklin, MA dated September 24, 2012 by Guerriere and Halnon, Inc. Second by Robert Acevedo. Unanimous by the board.

Motion made by Robert Acevedo to close public hearing. Second by Timothy Twardowski. Unanimous by Board.

General Discussion:

- **Marinella Construction: Brandywine Village reduction in Bond.**
The Board is in receipt of a letter from Marinella Construction regarding bond reduction of Brandywine Village. (See attached). Also in receipt of a letter from the Town Engineer William Yadisernia who is recommending the reduction from \$263,772.00 to \$87,667.00. (See attached memo). Motion by Timothy Twardowski to reduce bond amount by \$176,105.00 from \$263,772.00 to the revised estimate from the engineering dept. of \$87,667.00. Second by Robert Acevedo. Unanimous by the Board
 - **Motion by Robert Acevedo to approve the minutes of December 6, 2012. Seconded by Bruce Hunchard. Unanimous by the board.**
 - **Motion by Robert Acevedo to adjourn and second by Tim Twardowski. Unanimous by the board.**
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Signature _____

Date _____