

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, March 20, 2014
355 East Central Street
Franklin, MA 02038**

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

79 Cottage Street – Joel Thayer and William Durham

Abutters: None present

Applicant is seeking a building permit to construct a portico 23.1' from the front yard setback where 30' is required. The building permit is denied without a variance from ZBA. Appearing before the Board is William Durham, owner and David Sharff, Architect. David: We are hoping to add a covered portico for the front door of this property. We are aware that it is a pre-existing non-conforming lot. Originally, we had plans that were just showing a blue stone landing and are here to ask for the variance to do the portico. We have pictures that show what it will look like (attached). This will add to the neighborhood character and social structure and will be an improvement to natural environment. Motion by Tim Twardowski to close the public hearing. Second by Robert Acevedo. Unanimous by board. Motion by Robert Acevedo to grant a 6.9 foot front yard setback variance where 30 feet is required down to 23.1 feet as shown on a drawing entitled "Certified Plot Plan" for property at 79 Cottage Street prepared by Odone Survey & Mapping, 291 Main St., Suite 5, Northborough, MA dated February 12, 2014. Second by Timothy Twardowski. Unanimous by board.

648-652 Old West Central Street – Franklin Retail LLC and Rossini Development Corp.

Abutters: See List

Applicant is seeking to construct a commercial building with a vehicular service establishment (drive- thru) containing 20 or more parking spaces; where the exit or entrance center lines are less than 150' to the center line of any other parking area located on the same side of the street if serving 20 or more spaces. The building permit is denied without a variance from ZBA.

648-652 Old West Central Street – Franklin Retail LLC and Rossini Development Corp.

Abutters: See List

Applicant is seeking to construct a commercial building with a vehicular service establishment (drive-thru) containing 20 or more parking spaces that has less than 400' of visibility in either direction for egressing vehicles. The building permit is denied with out a variance from ZBA.

Appearing before the board are Atty. Richard Cornetta, Greg Liscotti, Applicant and owner of Franklin LLC, Ron Mueller of Mueller and Associates, Traffic Consultant on the project and Austin Turner of Boehler Engineering, Consulting Engineer on the project. Atty. Cornetta: As you can see from the plans this is comprised of three(3) separate lots, The first lot was sold to Franklin Retail by the Town of Franklin, The Second (2) lot was owned by a private land owner the property was unused and basically a vegetated site, grassy, and that lot was also acquired by Franklin Retail. The third lot is currently owned by Rossini Development and is under contract the property currently has a dilapidated building that was formerly used as a single family home. I believe there are three driveways that access Old West Central Street from these parcels. The plan for this site is that the lot lines are to be reconfigured and all become one single lot. The properties are located in the Business District, it was recently rezoned by the Town Council for Business Commercial Retail Use in the Business District. The proposal as being presented to you this evening is a commercial retail building to be constructed on the site approximately 9000 sq. ft. There are to be 50 parking spaces that would service the building and there will be 2 points of entry, egress to the site one from Old West Central St., which would be a full service drive and the second from West Central St., which would be a restricted right in right out. The uses for the site that are being proposed is about a 1900 sq. ft. coffee shop (Starbucks) there is a number of other uses being proposed, 2500 sq. ft. restaurant. There is a hair salon and then a medical use for the site. The points of relief that we are seeking this evening are two-fold, first any parking lot that services more than 20 spaces cannot be located from the center line of the driveway servicing that parking lot closer than 150 feet to another parking area of 20 or more spaces and in this particular site, we have the Franklin Professional Building located to the East, and they have a parking lot with 20 or more spaces. The second point of relief is in that same section 185 section 21 c7b, says that any parking lot that has 20 or more spaces has to provide visibility of at least 400 feet to a vehicle exiting that parking lot. What we would like to do tonight is elaborate to the Board as to why these two particular sections would be an impossibility for this particular proposal to comply with, given the fact that the site, the topography of the site, elevations of this site and I would alert you to the horizontal curvature of Old West Central St., These two sections that we are looking for variance relief for it would be specific to the Old West Central St., driveway. We have sufficient site distance exiting the site onto West Central St, Route 140 that would neither exceed the 400 feet as well as there is no corresponding driveway from the Skilled Physical Therapy building onto West Central St. so we are not contending with the distance between those two driveways. We are also seeking approval from the Planning Board, we are seeking site plan approval and in addition we are seeking a special permit relief to allow the construction of a vehicle service establishment (drive-up). We are also seeking a second special permit for impervious coverage in this particular zone we are allowed 80 percent impervious coverage and we are just a bit over that. Austin Turner (Boehler Engineering): discussion of why the site was laid out the way it is. The drive-up component is located on the left side of the plan. The window was located on that side specifically to enable us to provide more that adequate stacking distance for any vehicles that would be wanting to visit Starbucks. The drive-way was put on Old West Central that is what we are seeking the relief for on that location specifically because we have about 12 – 15 feet of relief across the back of the property on Old West Central

Street. If we were to put the driveway at another location it would make the site undevelopable as it would put it too low for us to properly attenuate storm water, it would require us to do a substantial amount of ledge removal that we don't want to get into. Board: How tall is that retaining wall at the point where the site line goes across? Austin: it is approximately 3 ½ to 4 feet tall. Board: So you can see the roof of a car at that distance? Austin: The way we are required to assess site distance is from driver eye to driver eye which is approximately 3 ½ feet above grade. We have a storm water plan that we have prepared that shows we are reducing? Board: And that couldn't be done if you lowered the site plan? Austin: Correct, you would be below the structure that would allow us to connect to Old West Central St. Board: Even if you ran a new pipe down the street? Because there is a drop-off right at that corner to a significant wetland there. Austin: I don't think we could hit it. Our system right now is that existing elevation is approximately 271-272, you would come down into the site the storm water obstruction the bottom of it would be approximately another 6 – 8 feet lower putting you down around 264,263 the infrastructure on the road is almost 6 feet higher, we would completely have to redesign the drainage to that whole neighborhood. Board: You would have to put in another pipe from the entrance down to the corner. Austin: The active point if we were to put an access where we are discussing now on the western most edge of the property would require us to shift our right in right out. The existing elevation at our Eastern most property is approx. 286 or 287 we have nearly 15 feet of relief between both active points, which would not be feasible. Ron Mueller (Mueller & Assoc.): Site distance is a function of the speed of traffic on the road. The greater the speed the more site distance you need, in some instances you may need more than 400 feet, depending on the speed of traffic. We have gone out and done a speed study on both Route 140 and Old West Central St. What that showed us is that people are driving substantially faster than the posted 25 mph speed limit on Old West Central Street. The average speed was approximately 30 mph and 85 percentile speed was around 35 mph. with 15 percent of people driving faster than that. Board: So you have to evaluate the speed before you do the site distance? Ron: Exactly. The desirable distance so that people would have to reduce their speed to avoid a collision is 280 feet. That is achievable. Ron: Ideally you would want to locate the driveway directly across from Rolling Ridge Road, that is not feasible from a site development perspective and would potentially make the site undevelopable. Board: So you are saying if you came in that way you could never develop the site? Ron: Potentially is what I'm told. Board: You couldn't develop the site for that particular building. But, you could still develop the site. Ron: I will let Austin answer that because it has to do with infiltration and access. But, essentially what DOT has told us when we originally had the drive-way proposed here they didn't want the driveway here because of this cut through. With the 10 – 15 foot elevation difference between this curb cut location you couldn't have a parking lot at least with ADA requirements regardless of how this site is laid out. Board: You said that the site was undevelopable I'm saying you could still put an access point there and still develop the site. Maybe not with this particular plan. See attached traffic report. Atty: Cornetta: Given the topography of this site, given the existing horizontal curvature of the roadway we are having a problem satisfying both of the requirements of 185-21 c7a&b. The first 1a is the distance between the driveways and what we have heard from our engineer is that even if we were to try to satisfy that requirement by moving that driveway on Old West Central St., further to the

West that we essentially may be able to satisfy that requirement but what we would be doing is creating less of a safety issue as cars exit the site because we would certainly not be improving the site distance looking West exiting the site and that runs us smack into the second by-law that we are here this evening to discuss which is the 400 feet of visibility exiting the site. Given the horizontal curvature of the road and the topography of this site and its existing elevations and the elevations that we would need to obtain in order to meet the storm water management requirements we will not be able to reach that 400 feet of visibility. Based on some of the conversations that we have had this evening and some of the information that Ron has provided us we know that when you are talking about site distance you need to consider a number of different factors. None of them seem to be addressed in the by-law, maybe what should be done is the Town should look at that by-law and impose some kind of a special permit on it so that you can review that and say on a case by case basis, maybe more site distance is required. In developing this site with this particular site plan we have done so with an eye toward safety, entering and exiting the site and also internal circulation of the site. In facing these two by-laws we have realized that we would not be able to comply with those by-laws given the topography and elevation and the shape of the particular lot. We believe this particular plan given the meetings that we have had with DOT, local Town Engineer as well as the Technical Review Dept. we have determined that this is the best proposal in fact the only proposal that would allow this site to be developed as a commercial retail site. This is one of those uses that are as of right under the business zone except the vehicle service establishment. A special permit is required every time that a drive-up is proposed in the Town of Franklin. Board: I think the site is a little bit busy for the size. I looked at the site plan I think it shows a requirement of 59 spaces and you are only proposing 50 but the planning board will make a judgment on that. I have been involved with many Vehicle Service Establishments it's always been my understanding that the Town has always wanted a 20 car queue. How many cars can you have in queue until you get back to the entrance? Applicant: 11 cars. Board: We are in receipt of a couple of letters the first is from Pinto Real Estate dated March 13, 2014 regarding 648-652 Old West Central St., expressing approval for development (see attached) Second letter is from Cedar Realty Trust, who own the mall across the street, expressing their objection for the development (see attached) Board: Question regarding traffic study (see attached) What are the peek hours AM and PM? Applicant: AM peek is from 7AM to 8 AM and the afternoon peek is from 5PM to 6 PM and the Saturday from 12 PM to 1 PM. Board: You mentioned a medical use. What type of medical use are you talking about? Applicant: we have two or three potential tenants proposing an urgent care facility. Board: Is it a local hospital that they will be affiliated with? Applicant: Yes, Milford. Board: What are the current status of the lots have you gone through a replotting or does this still exist as three lots? Applicant: There are three lots. Board: Do you have enough frontage and lot area to divide this into two lots in conformance with the requirements? Applicant: We looked at that and I believe we do but the original iteration of this plan was with two of the lots and the town did not like that plan. They like this plan much better because it allows the dual access. Abutters: Many abutters appeared before the board (see list) to express their concerns regarding safety, traffic, congestion. They feel that this is not the best use for this property. The master plan was brought up regarding the top locations where the most traffic/ accidents occur and this area was on the list. Jeff Nutting: The Town of Franklin did own about a 15 sq. ft. piece of property on

the Easterly side of the proposal. We tried to sell that about 7-8 years ago to no avail. Recently last year the council did through the process rezone the entire parcel from the easterly side all the way down to the corner to business in order to have the area developed for economic development, we then put out after that was rezoned again that the land for sale on the request for proposal with a minimum bid and awarded the bid to the highest bidder with no stipulations as you mentioned with the idea that the marketplace would dictate ultimately what would go forward there. The council had not seen this proposal but certainly would like to see economic development in that area. The parcel itself would not meet zoning because it was too small in both terms of area and frontage for an individual but would have to be put together with one or two other parcels at least to have it developed. I know before the Zoning Board is a very strict issue of two items, there is a lot of passion here this evening which is probably more for the Planning Board discussion on Monday night as it relates to many of the things that were mentioned. Board: From my perspective I think that both of the items that they are asking relief from at least one of them the site distance is a safety issue and understanding we have a report from the traffic engineer who has addressed that adequately, We would like to hear from the Town Engineer in that respect. Technically the mixed uses that are proposed for this property are not before us but indirectly they are because the standard that you need relief from is in play only because the parking on this property is greater than 20 spaces and the number of spaces required is a function of the uses that are proposed for the property. Part of what I would like to see at the next meeting is an analysis to the extent that this property can be feasibly developed and economically viable either as a single lot or two lots for mixed use or single use on each lot for uses that would not require greater than 20 parking spaces and therefore would not require relief that you are asking for. The only reason you are here is because your parking lot is more than 20 spaces if you were proposing a development that had 19 spaces you would not need the relief that you are asking for. If this property were proposed to be developed as a single lot or as two lots and I think we understand from the record that they have enough frontage and area to develop this as two lots by right so I think that scenario needs to be examined. Can you do so? Have a project on one or two lots that does not need the relief that you are asking for. Applicant; I would say yes. Board: How about a common access? Applicant: We tried that it won't work because of elevation. Motion by Robert Acevedo to continue the public hearing to April 10, 2014 at 7:35PM. Second by Tim Twardowski. Unanimous by Board.

656 King Street – Columbia/ Wegman Franklin, LLC.

Abutters: See attached.

Applicant is seeking to relocate shrubs that were previously intended to be located per the plans and approved ZBA decision dated November 3, 2011 and April 19, 2012. The modification is denied without a variance from ZBA. Appearing before the board is Don Neilson of Guerriere & Halnon and also representing Columbia/ Wegman Franklin, LLC. Discussion regarding relocating shrubs. Abutters were given the opportunity to speak. Mrs. Debbie Murphy showed concern as to the placement of said shrubs. She submitted a letter (see

attached. George Russell, Conservation Agent for the Town of Franklin also submitted a memorandum. (see attached) Motion by Robert Acevedo to continue the public hearing to April 10, 2014 at 7:40PM. Second by Timothy Twardowski. Unanimous by board.

General Discussion:

- **Motion by Robert Acevedo to approve minutes of February 27, 2014. Second by Tim Twardowski. Unanimous by board.**

Motion by Timothy Twardowski adjourn. Second by Robert Acevedo. Unanimous by board.

Signature _____

Date_____