

**Franklin Zoning Board of Appeals  
For Meeting Held On  
Thursday, September 18, 2014  
355 East Central Street  
Franklin, MA 02038**

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

**1330-1342 West Central – Acme Jazz LLC  
Abutters: None Present**

Applicant is seeking a building permit to construct a 236 multi-family development. The building permit is denied without a comprehensive permit from ZBA. Request submitted by Atty. Mark Vaughan for a continuance to November 20, 2014 (see attached). Motion by Philip Brunelli to continue to November 20, 2014 @ 7:30 PM. Second by Robert Acevedo. Unanimous by board.

**6 Echo Bridge Road – Michael J. Holland  
Abutters: None Present**

Applicant is seeking to construct a 36.2' x 8' farmer's porch 32.4' from the side yard setback where 40' is required. The building permit is denied without a variance from ZBA. Board: You are looking for a 4.4' front yard setback variance and a 2.6' sideline setback variance. Mr. Holland: Yes, there are topography issues. Motion by Philip Brunelli to close the public hearing. Second by Robert Acevedo. Unanimous by board. Motion by Robert Acevedo to grant a variance at 6 Echo Bridge Road for a 4.4' front yard setback and a side yard setback of 2.6' as shown on a plan entitled "Plan for 6 Echo Bridge Road" prepared by Continental Land Survey, dated July 29, 2014. Second by Philip Brunelli. Unanimous by board.

**154 Brook Street – Joseph & Tamsen Coffey  
Abutters: See List**

Applicant is seeking a special permit for an accessory dwelling unit. This unit was an existing accessory dwelling unit prior to the present property owner. The building permit is denied without a special permit from ZBA. Joseph Coffey: We purchased the property with an approved second dwelling unit. We would like to have the name of owner changed to Joseph & Tamsen Coffey and Ruth Marr who is Tamsen's mother move into the in-law. Motion by Philip Brunelli to close the public hearing for the in-law apartment. Second by Robert Acevedo. Unanimous by board. Motion by Robert Acevedo to amend the original special permit for the second dwelling unit to change the names to Joseph & Tamsen Coffey and Ruth Marr. Second by Philip Brunelli. Unanimous by board.

**154 Brook Street – Joseph & Tamsen Coffey**  
**Abutters: See List**

Applicant is seeking to construct a 22' X 24' attached garage 4.01' from the sideline where 25' is required. The building permit is denied without a variance from the ZBA. Joseph Coffey: We would like to build a two car garage on the left side of the house which would go within 4' of the neighboring property. We have a shape of lot issue as to where we could place this garage. It is basically a simple two car garage, no room above. Board: It is awful close to the sideline, you can barely walk by. Joseph: I do understand that and I do have another plan that I could put it in the back of the house and would not encroach within 25' of any abutters. Board: You have a plan that you could show us? Joseph: Yes it is in the package. Board: Is that attached to the back of the house? Joseph: Yes. But, there is still an issue with the impervious. Board: We don't want to give you impervious if you aren't going to put anything on it but if you can move it to back, being 4' from the line that is awful close. Joseph: Yes and on advice of the building dept that is why I went ahead and got this second plan. Andrew Bissanti (Abutter: Andrew Bissanti): I would have to object to the garage encroaching so close. I have a row of mature arborvitaes 20 feet tall one of my concerns with construction would be destroying the root balls system and also the lawn mower not being able to get through there. If he has a plan B I would suggest that he pursue that. I am not sure plan b would work either but if in fact it is pushing the impervious coverage im' not sure that I would be happy with that. Board: Admittedly so they are going to be over with moving the garage to the back. Abutter: I'm not crazy about Plan B either. Board: He can build a garage by right it fits on the lot and meets the setbacks the only issue would be the impervious coverage. We haven't discussed that yet. Board: I prefer Plan B, all agreed. 4 feet is way to close. Joseph: I am perfectly fine with the garage in the back of the house. I would like to withdraw the initial plan and with your approval would like to pursue putting it in the back of the house. Board: So we will withdraw without prejudice, we will need you to put that in writing. Robert Acevedo grants the withdrawal without prejudice. Second by Philip Brunelli. Unanimous by board.

**154 Brook Street – Joseph & Tamsen Coffey**  
**Abutters: See List**

Applicant is seeking to render impervious coverage of 17.92% where a maximum of 15% is allowed. The building permit is denied without a special permit from ZBA. Board: Now that you have withdrawn the sideline setback part of your request, this by right proposed garage actually increases your impervious coverage from what would have been 17.92% up to 24.23%, just because of the driveway. Board: How wide is the driveway? Joseph: Just wide enough for one

car. Board: I think at this point we should continue the public hearing until the engineer can actually put measurements of the driveway on the plans. Make sure he has calculated out the right area. Joseph: I will find out the width and length for next meeting. Abutter (Andrew Bissanti): My concern is that going over impervious coverage, I always thought the lot was very busy, overburdening the lot with all the structures and improvements. I would like to go on record that I protest. Motion by Philip Brunelli to continue this public hearing to October 23<sup>rd</sup> @ 7:37 PM. Second by Robert Acevedo. Unanimous by board.

### **55 Oxford Drive – Harold & Lynn Valencia**

**Abutters: None**

Applicant is seeking to construct an accessory dwelling unit. The building permit is denied without a special permit from ZBA. Appearing before the board is Lynn and Harold Valencia. Harold: We would like to put in addition off the back of the house where my mother will move in. Board: Do you already have a building permit? Harold: Yes. Board: Who will be residing in the house with you? Lynn: My mother Patricia Cavanaugh. Harold: The neighborhood characteristic will not change. When we built it we kept the normal contour of the land. There will be no environmental impact. Board: How will the second dwelling unit be incorporated into the flow of the house? Harold: From the main floor it's a walkout into the family room with a staircase and open access into the in-law. The topography is unchanged. Motion by Robert Acevedo to close the public hearing. Second by Philip Brunelli. Unanimous by board. Motion by Robert Acevedo to grant a Special Permit for a second dwelling unit for the property at 55 Oxford Drive. Second by Philip Brunelli. Unanimous by board.

### **340 East Central Street – Franklin MA Properties c/o Joseph F. Halligan Jr.**

Applicant is seeking to construct an oil change facility and to include motor vehicle service and repairs within a Water Resource District. The building permit is denied without a variance from ZBA. See following.

### **340 East Central Street – Franklin MA Properties c/o Joseph F. Halligan Jr.**

Applicant is seeking to construct a service station within a Water Resource District. The building permit is denied without a variance from ZBA. Appearing before the board are Atty. Craig Ciechanowski, Don Neilson, Project Engineer, Don Smith, representative of one of the potential tenants of the property. We are here seeking variances with respect to uses of the above property. The property is a 6 acre site and is located entirely within the water resource protection overlay district as adopted in the Town Bylaw in that certain uses are restricted as of right. Unfortunately, with this site approximately 50% consists of wetland soils so we have certain types of soils on this property that impact our ability to develop the site. If these use variances are granted we still have a large number of permits that we still need to pursue for these particular uses. Specifically under Chapter 185 Section 40 of the zoning we are seeking use variances for the

storage of hazardous materials for motor vehicle service which would include a filling station and storage of fuel oil gasoline or hazardous materials unless it is no more than 550 gallons above ground. We would be proposing an excess of over 550 gallons. We are proposing a filling station, a Cumberland Farms type facility, not saying the will be the exact tenant but that will be the type of tenant. The second tenant not specific was a Valvoline Oil change type facility and the oil and waste oil containment system would be above ground as well. I do want to emphasize that under the DEP regulations above ground does not necessarily mean it is above the grade of the existing ground it simply means that it is off the ground and capable of being inspected, being able to walk around and get under it so that we could in fact have storage containers that are below grade but are in concrete vaults basically that are lifted off the ground and somebody could get around them. The quantity of building on this site is quite limited and that impacts my clients' ability to attract tenants. We do have a number of permits that we would still have to pursue both of those uses are considered special permit uses so even if granted here we still need to go to the Planning Board for special permits and for site plan review we still need to comply with DEP guidelines with respect to the tanks not only the designs but also the location of them. Board: Does the town have an easement for water lines there? Don Neilson: Yes, there is a water line easement to the right side that goes out to the public way. If the site is developed that easement might be revised slightly to accommodate future changes. Board: We are in receipt of numerous memos. (See attached) The DEP does not regulate at a local level it is the local regulations which you are here for to get the use variance for the variance to be able to use the use. There were e-mails going around from someone at DEP that had a different opinion of what could and couldn't be built there and then there was another memo from the head person from DEP from Boston that said it could be built. I checked with the Town Attorney because he was the one who brought the concerns about what it may do to the discharge permit at well 9 which is approximately 1500 feet behind the site. He was concerned with the ability of the town to pull water out of that well. He was satisfied with the second letter that came from Boston from the DEP. The Town does not want actual service repair facilities right on the main road. Most are consistent with what they all do they change oil, flush radiator, transmission work, change light bulbs, gear box work, rotate tires, etc. I didn't want to get into the position of approving a full scale auto service facility. I have a few conditions as to what may go on, on this site. There was no objection whatsoever to my conditions (see decision). Motion by Philip Brunelli to close the public hearing. Second by Robert Acevedo. Unanimous by board. Motion by Robert Acevedo to approve the use variance for the construction of a oil change facility to include motor service and repairs limited to oil changes, battery service, gear box service, serpentine belt, tire rotation, air conditioning service, etc. also subject to approval from all boards and departments as required by the Town Code of Franklin along with any approvals necessary from the Commonwealth of Mass as shown on a plan entitled "ZBA Site Plan" proposed Central Square 340 East Central St, Franklin, MA dated July 29, 2014 by JB Jones & Beach Engineers with the understanding that there may

be modifications to the plan as required by the Franklin Planning Board, Conservation Commission, Board of Health, Fire Dept. and Mass DOT and DEP. Second by Philip Brunelli. Unanimous by board. Motion by Robert Acevedo to approve the use variance for the construction of a filling station and storage within a water resource district, subject to approval by all boards and departments as required by the Town Code of Franklin along with any approvals from the Commonwealth of Mass as shown on a plan as stated above with the understanding that there may be modifications to the plan as required by the Franklin Planning Board, Conservation Commission, Board of Health, Fire Dept. and Mass DOT and DEP. Second by Philip Brunelli. Unanimous by board.

**106-108 Hayward St. – Moseley Realty, LLC**  
**Abutters: See attached**

Applicant is seeking to locate and erect a free-standing double-sided offsite directional/information sign with an area of sixty square feet and a vertical height of eleven feet on property at 106-108 Hayward Street. Under the zoning bylaw, offsite signs are not an allowed use; also, permitted signs in this zoning district are limited to twenty square feet of area and six feet of vertical height. Applicant therefore requires both a use variance from the ZBA to locate the proposed sign offsite and a dimensional variance for the sign's area and height. Appearing before the board is Attorney Richard Cornetta representing the applicant and joining me is Mr. Tom Moseley, Manager of Moseley Realty LLC. The applicant is the owner operator at 31 Hayward St, which is down the street from the proposed off premises sign location. Mr. Moseley's location houses about 30 commercial businesses. One of the issues that the premises has is that people travelling to patronize some of these businesses travelling down West Central St, which is a rather busy thorough way in town those that are not familiar with the location sometimes may pass by Hayward Street without knowing they have done so. The proposed sign would be a solution to this issue. The hardship for this particular point of relief would be that given the very unique location for this commercial center that is located just off of West Central St. it would allow the location of there patrons in a much more timely, efficient and safe manner it would avoid people missing the road trying to find a way to turn around and come back and that can get dangerous. The neighborhood is a mix of residential and commercial. The location of the particular sign would be setback from the road it would be at minimum 12 feet off of the roadway. There would be sufficient site distance in either direction to see oncoming cars so there wouldn't be a public safety issue. We would be looking for a 60 sq. ft. and 11 foot sign recognizing that it is a rather large structure for that area. I do have some renderings that have been provided to me that show a much smaller scaled sign that we would certainly be willing to introduce to the board. We wanted to at least open the public hearing and give our presentation and if there are any abutters that wanted to comment and certainly we can respond. Board: What was the size of the mock rendering? Atty. Cornetta: I believe it was about 7.2 inches in height and 2 feet in width and 10 feet in length so it would essentially meet the square

footage requirement for a sign in a residential zone which is 20 sq. ft. but the height limit for a residential zone is 6 feet. If I could I would be happy to submit these renderings to the board. Board: So you are asking for 60 feet? Atty. Cornetta: Correct. Abutters: Opposing sign. Atty. Cornetta: We have enclosed in the filing materials a lease agreement that was signed by Moseley Realty LLC the agreement was signed the last time that Moseley had filed with the Zoning Board of Appeals, what we would like to do is to continue the rendering until the next meeting. We would like to make a presentation to the condo association to get the final sign off on this and present it to the board. Board: The Condo Association did make an agreement with Mr. Moseley to locate the sign there. There were three trustees who signed off on it. Motion by Philip Brunelli to continue public hearing to October 23<sup>rd</sup> @ 7:45PM. Second by Robert Acevedo. Unanimous by board.

- Motion by Robert Acevedo to approve minutes of August 21, 2014. Second by Bruce Hunchard. Unanimous by the Board. Philip Brunelli abstains.
- Request submitted by F & L Realty Trust, Kurt Courtemanche for a 6 month extension to a special permit that was recorded with the Town Clerk on November 20, 2012, for the property at 3 Pearly Lane. Motion by Robert Acevedo to grant a 6 month extension for 3 Pearly Lane. Second by Philip Brunelli. Unanimous by board.
- Motion by Robert Acevedo to accept the ZBA 2015 Calendar. Second by Philip Brunelli. Unanimous by board. (See attached).

Motion by Robert Acevedo to adjourn. Second by Philip Brunelli. Unanimous by the Board.

**Signature** \_\_\_\_\_  
**Date** \_\_\_\_\_