



**TOWN OF FRANKLIN**  
**ZONING BOARD OF APPEALS (ZBA)**  
7 Meetinghouse Hill Rd.  
Franklin, CT 06254

**MINUTES**  
**REGULAR MEETING**  
**Tuesday, May 25, 2021**  
**7:30 P.M.**

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1. Call to Order: Chairman Dougherty called the meeting to order at 7:30 p.m.

**Members Present:** Chairman Bruce Dougherty, Thomas Craney, Traci Hastings, Secretary Alden Miner  
**Members Absent:** Henry Konow Jr.  
**Alternates Absent:** Jeremy Beisiegel, Richard Weingart

2. Recognition of Visitors:

3. Public Hearing:

- a. **ZBA #21-01 Garrett Homes, LLC:** Property located at 99 Route 32, Franklin, CT, Assessor's Map 44, Lot 24, Zoned C-2 / I. Requesting variance to Chapter 9, Parking, Section 9.15.8.

Discussion included, but was not limited to, the following:

**APPLICANT PRESENTATION:** Kimberly Masiuk, P.E., Senior Project Manager, BL Companies, and Attorney Robin Pearson, Glastonbury CT, were present to represent the applicant.

Kimberly Masiuk provided an overview of proposed activities in terms of geographical location, proposed project specifications, and topographical challenges from an engineering perspective. A survey plan was submitted into the record dated September 4, 2020, provided by DuFour Surveying, LLC.

**Proposed Activity:** Demolition of existing single-family home and construction of a 10,640 s.f. retail store with new paved parking and loading areas.

**Existing Property Restrictions:** intermittent brook and associated wetlands area running southeast to northwest through the center of the property splitting useable lot area into two sections. The area northeast of the brook is densely wooded with steep slopes averaging roughly 33% making construction impractical. There is also a retention basin along the front of the property that collects stormwater from the State Road (Route 32) and neighboring properties. Due to such site constraints, the buildable area is significantly smaller than the size of the property. There was reference via ZOOM to a topographical mapping of associated property.

**Parking Spacing:** Zoning Regulations require (54) spaces as related to the square footage of proposed building. This variance seeks a reduction to (28) spaces.

**Hardship:** Attorney Robin Pearson noted topographical hardships are real, in that, there are major restrictions on this property including steep slopes, major wetlands on site with a vertical bi-sect, and significant environmental impacts. The requested variance of the reduction in parking spaces will significantly minimize negative impacts on the environment. Additionally, the applicant would have to file for a permit with the Army Corp of Engineers if (54) spaces were required. The applicant would not be able to work with the associated permitting timeline. It was noted, the neighboring property, Pete's Tire Barn, is of approximately similar square footage and had received a similar past variance in 2012 of 23 spaces.

**PUBLIC COMMENTS:**

**IN FAVOR:** Chairman Dougherty asked for public comments in favor of the application. There were none.

**OPPOSED:** Chairman Dougherty asked for public comments in opposition of this application.

**Attorney William McCoy**, Heller Heller & McCoy, spoke in opposition of this application:

Planning & Zoning Regulations determine and require the amount of parking spaces according to the size of the building and its specific use. In this case, the building is a 10,640 s.f. retail store and the requirement is (54 spaces).

**Hardship:** The applicant has only demonstrated practicality difficulties with their presentation and no legal hardship. The applicant has the option of reducing the size of the building, therefore, reducing the number of parking spaces required, but they decided not to. The tenants need of those spaces is due to an economic issue in support of the business use and is not a legal reason for a hardship.

**Existing Property Restrictions:** Applicant states the property dictates a reduction in parking spaces and claims detention basins limit their movement. However, pre-existing detention basins were self-created hardships by property owner when they signed over easement rights.

**Environmental Property Restrictions:** Applicant representative noted the applicant could put in additional spaces but decided not to and then argued those additional spaces would create environmental problems. ZBA is not charged to consider environmental issues. ZBA charge is to determine if there is a legal hardship. Attorney McCoy Recommends "no" approval and that the Town may wish to consult with their Town Attorney.

**Variance Stays with Property:** A variance, as granted, stays with the property and does not change when an owner sells to a buyer. The buyer in effect is purchasing property that has a pre-approved variance that stays with the land and is bound by its definition.

**Staff Comments:**

**Carly Holzschuh, Town Planner spoke in opposition:** Agrees with Ron Chalecki and Attorney McCoy. The applicant has the option of moving the Brook and is, therefore, not locked into the need for a parking variance. The issue that the Army Corp of Engineers would require the applicant enter into the permit process is a timing and economic issue and is not considered a hardship.

**Ron Chalecki, Zoning Enforcement Officer**, spoke in opposition of this application:

**Regulations:** Planning & Zoning Regulations determine and require the amount of parking spaces according to the size of the building and its specific use. In this case, the building is a 10,640 s.f. retail store and the requirement is (54 spaces). The applicant is asking to vary required parking spaces by over half. That is considerable. Of those 23 spaces, some will be filled by employees. If this building were to be sold, the new owner of the 10,640 s.f. building would be required to operate within the (23) spaces potentially creating considerable restrictions. The applicant has the option to apply for a text amendment to the Planning & Zoning if they feel it is necessary to move further forward with their project. In summary, the applicant has not demonstrated a legal hardship.

Chairman Dougherty closed the public hearing at 8:05 PM

- b. **ZBA #21-02 Hannah Dupuis:** Property located at 892 Route 32, Franklin, CT, 06254, Assessor's Map 6, Lot 2, Zoned C-2. Requesting variance to Chapter 12, Signs

**APPLICANT PRESENTATION:** Hanna Dupuis was present and noted she would like to put up two signs showing "Egg & Cheese" for her food establishment. One sign would be a free-standing road sign at the front of the property and the second sign would be painted on the roof of the building at the back of the property. The Egg & Cheese food establishment is far off of Route 32 and essentially hidden from traffic. There is no affiliation between Egg & Cheese and Raymond's Auto.

**Ron Chalecki:** This application is considered a mixed-use due to the food establishment and auto repair businesses. It would be very difficult for Ms. Dupuis to establish a business without signage because the food establishment building is so far off of the road. There was a previously approved food establishment in this building with signage. The painted sign on top of the roof is acceptable because no brackets were used to secure it to the existing building.

## 4. Approval of Minutes:

## a. November 24, 2020:

**MOTION #1 (05-25-21):** made by Mr. Craney SECONDED BY Mr. Miner that the Zoning Board of Appeals approve November 24, 2020- as presented

**VOICE VOTE: UNANIMOUS;**

**MOTION CARRIES**

## 5. Unfinished Business:

- a. **ZBA #21-01 Garrett Homes, LLC:** Property located at 99 Route 32, Franklin, CT, Assessor's Map 44, Lot 24, Zoned C-2 / I. Requesting variance to Chapter 9, Parking, Section 9.15.8.

**MOTION #2 (05-25-21):** made by Mr. Craney SECONDED BY Mr. Miner that the Zoning Board of Appeals deny ZBA #21-01 Garrett Homes, LLC. due to lack of a legally defined hardship

**VOICE VOTE: UNANIMOUS;**

**MOTION CARRIES**

- b. **ZBA #21-02 Hannah Dupuis:** Property located at 892 Route 32, Franklin, CT, 06254, Assessor's Map 6, Lot 2, Zoned C-2. Requesting variance to Chapter 12, Signs

**MOTION #3 (05-25-21):** made by Mr. Craney SECONDED BY Mr. Miner that the Zoning Board of Appeals approve ZBA #21-02 Hannah Dupuis:

- Variance granted to Section 12.5.3 of 25 sq ft for free-standing existing road sign
- Variance granted to Section 12.5.4 of 126 sq ft for food establishment building
- Hardship due to traffic safety concern on Route 32 due to restricted view of sign/building at back of property

**VOICE VOTE: UNANIMOUS;**

**MOTION CARRIES**

## 6. New Business: NONE

## 7. Public Comments:

## 8. Adjournment:

**MOTION #4 (05-25-21):** made by Mrs. Hastings SECONDED BY Mr. Craney that the Zoning Board of Appeals adjourns the meeting at 8:25 p.m.

**VOICE VOTE: UNANIMOUS;**

**MOTION CARRIES**

Respectfully submitted,

**Sherry Pollard**

ZBA Board Secretary