



**Chelmsford Zoning Board of Appeals  
Town of Chelmsford  
50 Billerica Road  
Chelmsford, MA 01824**

**ZONING BOARD OF APPEALS  
Meeting Minutes  
February 3, 2022**

**Zoning Board of Appeals Members Present:** Chair Mr. Brian Reidy, Ms. Erin Drew, Ms. Nancy Morency, Ms. Jamie L.O. Brown, Mr. Glenn Diggs, Mr. Peter Cassidy.

**Present Remotely:** Member Mr. Steve Mendez, Town of Chelmsford Building Commissioner Mr. Jose Negron, Mr. Ashok Patel, Ms. Georgi Miller

**Others attending to contribute:** Attorney Douglas Deschenes of Finneran & Nicholson, P.C., Mr. Jeff Hansel, Mr. Robert Palumbo, Mr. Daniel Ruggerio, Ms. Deidre Connolly, Mr. Mike Rigby, Ms. Larissa Ruggerio

**Members Absent:** Mr. Charles Wojtas

Chair Reidy opened the meeting at 7:00 PM

**ADMINISTRATIVE REVIEW:**

**243 Riverneck Road, Riverneck Road Realty Trust:** Permit Extension request to a Modification for the approved Comprehensive Permit. Applicant is requesting an extension of one year.

Attorney Douglas Deschenes of Finneran and Nicholson, P.C. explained to the Board a Comprehensive Permit had been granted for this property in 2019. He stated, before his involvement the property had been held up by legal issues for many years. As a result, the permit was granted an extension of three years which is due to expire in March.

Since then, the legal issues have been resolved. The property is currently scheduled to be conveyed by Riverneck Road Realty Trust to 242 Riverneck LLC, managed by Ashok Patel, through Mass Housing. When this is complete, Mr. Patel will file a modification to alter the permit issued. The modification will reduce the number of town house units from 48 to 21. Mr. Patel would also like to construct seven small starter homes. He plans to house many of his employees there.

The need for this extension is to allow for time to file papers with Mass Housing, to reengineer the plans, stormwater reports and the like.

Mr. Deschenes explained the reduction to the number of units will be a positive one as it will be better for the environment, reduce the sewer need, water usage and allow for more landscape buffer and open space. This reduction will no doubt reduce the traffic and noise factors.

Mr. Deschenes recognized the Covid Emergency Act would extend the permit an additional 462 days; they request a one-year extension from that date. He is confident the work can be completed with these two extensions being concurrent.

Chair Reidy suggested an extension of two years, from March so there is a more exact date. Clarifying this would include the covid extension – making the date of expiration March 1, 2024.

Mr. Diggs was displeased with the amount of time the extension of the permit and the Covid extension would allow, especially since the project has already been extended for quite some time.

Chair Reidy asked if there was any audience comment. Ms. Deidre Connolly of 19 Billerica Road questioned if the permitted units were counted in the 10% of affordable housing stock. Chair Reidy explained they have not been built, therefore they do not. She also asked for clarity on why permits can be extended time after time and could the Board decline the request. Chair Reidy explained the process.

Mr. Mike Rigby of 19 Riverneck Road informed the Board that the project began back in 2003, making it close to 20 years and nothing has been built. He stated his dislike to all the extensions. He also expressed his feeling regarding the land changing ownership and felt since the project has changed so dramatically the new owner should have to re-apply. The permit granted was for a completely different plan. He feels the new owner is skipping over the process by coming in after the permit has been approved and changing it completely.

The members discussed the Covid extensions and dates. They discussed timelines, procedures, and ramifications to granting or not granting an extension.

Mr. Ashok Patel of 30 Winter Street, Lexington, MA., the owner and developer attending via Zoom, spoke to the Board and explained the reason for alterations to the accepted plans. He addressed some questions the Board members had been discussing and spoke of the positive point the extension and changes to the development.

Ms. Morency made a motion to close the public hearing, Ms. Drew seconded. Mr. Mendez stated the meeting was not a public hearing and did not need a motion.

Ms. Morency made a motion to approve the extension request to Riverneck Road Realty Trust until March 7, 2024, which shall run concurrently with the

Covid extension, seconded by Ms. Brown. Roll call vote was unanimous. Extension granted.

<https://www.townofchelmsford.us/DocumentCenter/View/13701/Extension-letter-to-Feb-2022>

### **CONTINUED PUBLIC HEARING(S):**

**11 & 13 Third Street, Daniel Ruggiero:** Variance application seeking relief under 195-9 relating to conformity, specifically front setbacks and floor area ratio, and any other relief deemed necessary. Applicant would like to construct a farmer's porch and garage

Mr. Ruggiero's proposed project is to demolish a nonconforming existing 24' x 20' garage and construct a new 24' x 24' garage which is further from the lot line and in conformance with the bylaw requirements and requires no relief.

Mr. Ruggiero would also like to demolish an existing kitchen of the duplex, add a larger kitchen of 14' x 20' which adds 88 square feet to each kitchen (top floor and bottom floor. This requires a full foundation. The variance is necessary as the addition will decrease the requirement of land area by 4%. The bylaw requires there be no more than 20% of land coverage.

Mr. Ruggiero also proposes adding a farmer's porch measuring 6' x 41" to the front of the home. The porch encroaches on the front setback requirement. Allowed by right the setback for the front is 20 feet, the porch will reduce the setback to 14 feet. Mr. Ruggiero explained the existing stairs already extend past the setback requirements by a few feet.

Chair Reidy asked if the audience had any questions or comments, there were none. He asked the Board if they had any questions or comments, there were none. Chair Reidy then read the Board comments into the record, as well as three support letters provided by the applicant.

Ms. Brown made a motion to close the public hearing, seconded by Ms. Morency. Motion unanimous, public hearing closed.

Mr. Mendez asked what the hardship would be for this application. He didn't feel the lot being a corner lot qualified as a hardship. The Board discussed this matter. Chair Reidy, who had driven by the home stated he had no issue with approving the request and the age of the home pre-dates zoning regulations. This would make it in compliance. He added the neighborhood is currently tight as it is and does not feel it would be out of character in the area.

Ms. Drew expressed her concern was more for the front setback change with the addition of the porch. Mr. Mendez added the addition on the back decreases the lot area as well and there does not seem to be a legitimate hardship. Mr. Ruggiero (and his sister Ms. Larissa Ruggiero) answered questions from the Board. Ms. Ruggiero explained the personal reasons for the request as well.

Chair Reidy stated he felt if the farmer's porch was removed, they could potentially allow a special permit as the change would require no relief to land coverage. This does not require a hardship, the way a variance does. The Board discussed the land coverage and reviewed the plan and measurements and concluded that the required land coverage of 20% would still be reduced due to the addition off the back for the new kitchen. They went over the bylaws and discussed procedures.

Mr. Mendez stated the measurements of the farmer's porch did not match in two separate areas. One says 20' another says 22' and neither of them supported the measurement of the porch from the setback. Mr. Cassidy and Mr. Diggs agreed there was a discrepancy in the measurements, therefore a decision could not be made at this time.

Mr. Ruggerio expressed his frustration as the Board previously requested a stamped architectural plan. He paid for and provided. Chair Reidy replied that the numbers on the plan do not add up and they could not decide based off an incorrect plan. He stated if Mr. Ruggerio asked them to decide, at this meeting, without proper plans it may not go in his favor.

Mr. Ruggerio left the meeting at this time. Without him present, Ms. Morency made a motion to close the public hearing, seconded by Ms. Drew. All in favor, motion passes.

Ms. Morency made a motion to continue the public hearing on 11 & 13 Third Street until March 3, 2022. Seconded by Ms. Drew. All in favor, motion passes.

<https://www.townofchelmsford.us/DocumentCenter/View/13708/11-13-Third-Street--Variance-1-6-2022>

<https://www.townofchelmsford.us/DocumentCenter/View/13709/Support-Letters-3>

#### **NEW PUBLIC HEARING(S):**

**16 Freeman Road, Jeffrey Hansel:** Variance application for relief from 195-9 pertaining to required setbacks and any other relief deemed necessary. Parcel ID: 113-427-14 in the RB District.

Mr. Freeman explained he would like to construct a garage on the right side of his home which will further encroach on the setback requirement. The construction of the garage would leave five feet between it and the side yard lot line. By right the site setback is 25 feet. Mr. Freeman submitted a narrative which was read into the record, he submitted pictures, letters of support as well as a stamped professional land surveyor's plan indicating the location of the proposed garage, it's dimensions and measurements to the lot lines.

Chair Reidy read letters of support into the record. He read comments from town Boards.

Mr. Freeman's narrative explained the garage will be esthetically pleasing, does not cause any detriment to the public good, nor does it significantly detract from the zoning plan for the district.

The Board members informed Mr. Freeman they were having issues with finding a legitimate hardship. Mr. Freeman stated hardships he faces are the odd lot shape and placement of the house which are out of his control. Mr. Freeman explained the financial hardship locating the garage on the left side of the home would cause. The driveway and entrances to the home are on the right side and the bedrooms are on the left side of the home. Relocating the paved driveway and alterations to the existing home on the left would create a financial hardship. Placement to the back of the home would likely be too close to the existing brook.

They discussed the possibility of an attached garage, relocating the garage to the left side of the home, the rear of the home and various scenarios. Mr. Diggs suggested where the home sits was possibly due to ledge on the left portion of the lot, leaving the right side the only solution. He felt this would qualify as a hardship according to the bylaw, however Mr. Freeman had no proof of this being the case. The Board reviewed the requirements in the bylaw which are considered hardships.

Chair Reidy asked if any audience members had questions or comments. Mr. Robert Palumbo of 14 Freeman Road stated he had no issues with the construction of the garage.

Chair Reidy asked Mr. Negrón's opinion on topography being part of the qualifications of a variance. Mr. Negrón stated that decision was theirs to make. His opinion is where the plan shows it may have an adverse impact on the neighbor. He added there is more land to the other side to build a garage with no variance needed.

After hearing the opinions and suggestions from the Board, Mr. Freeman chose to withdraw and return at another time, possibly with revised plans.

Ms. Brown made a motion to accept the applicants request to withdraw without prejudice, seconded by Ms. Morency. All in favor, motion passed.

<https://www.townofchelmsford.us/DocumentCenter/View/13702/16-Freeman-Rd-variance-application>

<https://www.townofchelmsford.us/DocumentCenter/View/13703/Plan---Proposed-Garage-location>

<https://www.townofchelmsford.us/DocumentCenter/View/13707/Narrative>

**NEW BUSINESS:** None

**MEETING MINUTES TO APPROVE:**

Ms. Morency made a motion to approve the minutes from November 4, 2021, December 2, 2021, and January 6, 2022. Seconded by Ms. Drew. All in favor, motion passed.

**NEXT MEETING DATE(S):**    March 3, 2022    April 7, 2022

**Adjourn**

Ms. Morency made a motion to close the meeting. Seconded by Ms. Morency. All in favor, meeting adjourned at 9:03 PM.

Prepared by Sheryl Belley