

Framingham Planning Board

Memorial Building • Room 205 • 150 Concord Street
Framingham, MA 01702-8373
(508) 532-5450 • planning.board@framinghamma.gov



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2016 AUG 22 A 9:39

TOWN CLERK
FRAMINGHAM

Town Clerk Stamp

Planning Board Members

Christine Long, Chair
Lewis Colten, Vice Chair
Victor Ortiz, Clerk
Thomas F. Mahoney
Stephanie Mercandetti

Planning Board Staff:

Amanda L. Loomis, AICP, Planning Board Administrator
Raphaela Morais-Peroba, Community Outreach Coordinator

TOWN OF FRAMINGHAM - PLANNING BOARD

Notice of Decision

**Regarding Decision of the Framingham Planning Board
on the Application of Framingham Franklin LLC
for the Property Located at 444-480 Franklin Street
Decision dated August 4, 2016**

On July 12, 2016, Framingham Franklin, LLC filed with the Planning Board and on July 12, 2016, the Planning Board filed with the Town Clerk, the Application for an extension of time to the previously approved Planning Board Decision for Site Plan Review, Special Permits for Use, Reduction in the Required Number of Parking Spaces, and Dimensional Relief to Off-street Parking Design Standards, dated August 7, 2014. The property is located at 444-480 Franklin Street, zoned as Light Manufacturing (M-1), and Framingham Assessor's Parcel ID of 111-50-2385-000.

After the notice of the public hearing was published in "MetroWest Daily News" on July 18, 2016 and July 25, 2016 and mailed to parties of interest pursuant to the Framingham Zoning By-Law and M.G.L. c. 40A, the Planning Board opened the public hearing on August 4, 2016 at 7:00 pm in the Ablondi Room, Memorial Building, Framingham.

On August 4, 2016 the Planning Board DENIED the an extension of time to the previously approved Planning board Decision for Site Plan Review, Special Permits for Use, Reduction in the Required Number of Parking Spaces, and Dimensional Relief to Off-street Parking Design Standards, dated August 7, 2014 for the property located at 444-480 Franklin Street. The **DECISION** was filed in the office of the Town Clerk on August 22, 2016.

Christine Long, Chair
FRAMINGHAM PLANNING BOARD

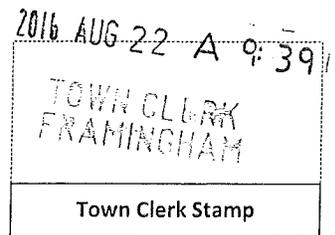
Any appeal from the Decision shall be made pursuant to M.G.L. c. 40A, Section 17 and must be filed within twenty days after the date of filing of the Decision in the office of the Town Clerk.

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Notice of Decision

**Regarding Decision of the Framingham Planning Board
on the Application of Framingham Franklin LLC
for the Property Located at 444-480 Franklin Street
Decision dated August 4, 2016**

On July 12, 2016, Framingham Franklin, LLC filed with the Planning Board and on July 12, 2016, the Notice is hereby given in accordance with M.G.L.c. 40A §15 that in the application by Framingham Franklin LLC. for Request for Extension of Time for a Previously Granted Decision for Site Plan Review, Special Permit for Use, Special Permit for a Reduction in the Required Number of Parking Spaces, Special Permit for Dimensional Relief to Off-Street Parking Design Standards, and Special Permit on premises located at 444-480 Franklin Street, upon which a public hearing was held on 08/04/2016 and notice of which was published in "The MetroWest Daily News" on 07/18/16 AND 07/25/16. The Planning Board has DENIED said application on 08/04/2016 and the decision was filed in the Office of the Town Clerk on 08/22/16. For additional information please see the Planning Board's webpage at www.framinghamma.gov. Any appeal from this decision shall be made pursuant to M.G.L. c. 40A § 17 and must be filed within twenty (20) days after the date of filing of this decision in the Office of the Town Clerk.

Christine Long, Chair
FRAMINGHAM PLANNING BOARD

Any appeal from the Decision shall be made pursuant to M.G.L. c. 40A, Section 17 and must be filed within twenty days after the date of filing of the Decision in the office of the Town Clerk.

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Stephanie Mercandetti

**DECISION OF THE FRAMINGHAM PLANNING BOARD
FOR THE PROPERTY LOCATED AT 444-480 FRANKLIN STREET
DECISION DATED AUGUST 4, 2016**

2016 AUG 22 P 2:53
TOWN CLERK
FRAMINGHAM

General Property Information

Project Number: PB-025-16
Property Address: 444-480 Franklin Street
Assessor's Information: 111-50-2385-000
Zoning District: Light Manufacturing (M-1)

Application Information

Application(s): Request for an extension of time for a previously granted decision
Sections of the Framingham Zoning By-Law under review: Framingham Zoning By-Law October, 2013, including amendments through the Annual Town Meeting of April 29, 2014 Site Plan Review (Section IV.1.2.b), Special Permit for Use (Section III.F), Special Permit for a Reduction in the Required Number of Parking Spaces (Section IV.B.1.c), Special Permit for Dimensional Relief to Off-street Parking Design Standards (Section IV.B.3.g), and Special Permit (Section V.E)
Date application(s) were filed with the Planning Board: July 12, 2016
Date application(s) were filed with the Town Clerk: July 12, 2016

General Project Contact Information

Applicant Name: Framingham Franklin LLC
Applicant Address: PO Box 166, Shrewsbury, MA 01545
Landowner Name/Address: Manager, Sam Adams, PO Box 166, Shrewsbury, MA 01545
Project Contact Name: Susan Nichols, PO Box 166, Shrewsbury, MA 01545

Legal Ad & Public Hearing Information

MetroWest Daily News Run dates of the Legal Ad: (14 days prior) July 18, 2016 and (7 days prior) July 25, 2016
Date of abutter/Seven abutting municipalities/parties of interest mailing: July 12, 2016
Date of opening public hearing: August 4, 2016

Applicant's Representatives in attendance at the Public Hearing(s): Attorney Todd Rodman, Seder Law
Planning Board members in attendance at the public hearing(s): Christine Long, Chair; Lewis Colten, Vice-Chair; Victor Ortiz, Clerk; Thomas Mahoney; and Stephanie Mercandetti

August 7, 2016 Decision Information

The Applicant's Application for Site Plan Review (Section IV.I.2.b), Special Permit for Use (Section III.F), Special Permit for a Reduction in the Required Number of Parking Spaces (Section IV.B.1.c), Dimensional Relief to Off-street Parking Design Standards (Section IV.B.3.g), and Special Permit (Section V.E) proposed the redevelopment of the existing shopping plaza by maintaining and renovating approximately 39,000sf of the existing 50,000sf building (Building C), the remaining portions of the existing building were to be razed and replaced by a new, two-story building (Building B); additionally, the photo mat and gas station were to be razed and replaced by a new, two-story building (Building A) ("Applicant's Application").

On August 7, 2014, the Planning Board approved the Applicant's Application.

On August 8, 2014, the Planning Board filed its August 7, 2014 Decision with the Town Clerk.

On October 6, 2014, the Applicant recorded the Decision with the Middlesex South Registry of Deeds, in accordance with Condition 8 therein (Book 64328, Page: 346, Document: DECIS, Document Number: 15222).

On July 12, 2016, the Applicant filed his request for extension of the August 7, 2014 Planning Board Decision.

PROJECT DESCRIPTION

The Applicant/Owner of the property located at 444-480 Franklin Street has requested an extension of time for the August 7, 2014 Planning Board Decision. The Applicant/Owner proposes to redevelop the existing shopping plaza by maintaining and renovating approximately 39,000sf of the existing 50,000sf building (Building C), razing the remaining portions of the existing building and replacing it with a new, two-story building (Building B). Additionally, the Applicant proposed to raze the photo mat and gas station and to replace them with a new, two-story building (Building A).

HEARING

On August 4, 2016, the Framingham Planning Board held a total of one public hearing for review of the Applicant's request for an extension of time for the Planning Board's August 8, 2014 Decision.

Framingham Planning Board Members present during the public hearing were: Christine Long, Chair; Lewis Colten, Vice-Chair; Victor Ortiz, Clerk; Thomas Mahoney; and Stephanie Mercandetti.

The following individual appeared on behalf of the Applicant: Attorney Todd Rodman, Seder Law.

Summary of the August 4, 2016 Public Hearing

At the August 4, 2016 public hearing the topics of discussion included the following: the reasons why the Applicant had not commenced construction within the previous two years; the status of permits issued by the Zoning Board of Appeals and Conservation Commission; and the Applicant's disputes with neighboring businesses.

Christine Long, Chair, asked Mr. Rodman to state why the Applicant should receive an extension of the Planning Board's August 7, 2014 Decision. Attorney Rodman presented a brief review of the proposed project, stating that the project is entirely market driven, that the Applicant has not secured leases for the property, and that the Applicant is not prepared to move forward until he has financial commitments securing tenants for the site.

Ms. Long noted an email from Sam Adams, the Owner/Applicant of the property dated August 1, 2016 in which he stated that "this project is completely tenant driven" and that "in order to raze any of the existing structures and build new ones we need signed leases"... "at one point we had a lot of interest from existing downtown framingham tenants to relocate to our project which would have been extremely helpful in creating some core value"... "And that demand was driven by the supposed redevelopment of downtown Framingham into a university campus -those plans appear to have stalled"... "We have spent a considerable amount of time and money obtaining the entitlements and we would not have done so if we didn't perceive there to be viable project there."

The following comments were made by members of the Planning Board:

Ms. Long requested an update on the Applicant's project from the Planning Board Administrator, Amanda Loomis, who provided a brief overview of the status of permits obtained from other Boards and Commissions of the Town, stating that several permits had already expired or were expiring soon.

Stephanie Mercandetti asked Attorney Rodman why the Applicant had not sought new variances or a six-month extension for variances granted by the Zoning Board of Appeals. Ms. Long expressed her understanding that no work had been done on the property for two years and that the Applicant led the Town to believe that these permits would be acted upon right away. Ms. Long stated that the applicant has not demonstrated that he plans to do anything with the site but further stated that she might consider a 60 day extension if the gas station was razed to show that some progress occurs.

Attorney Rodman stated that he is aware that the Applicant must reapply for variances from the Zoning Board of Appeals, and that the purpose of requesting this extension from the Planning Board is to preserve the time, effort, and energy that have gone into the Planning Board's approval previously. Lewis Colten stated the Planning Board had long looked for changes to be made at the property and commented that the property is being offered for sale, suggesting that perhaps some other Applicant would be able to move forward in an amicable way.

Ms. Mercandetti echoed Mr. Colten's comments, adding that the Planning Board spent a lot of time and effort working with the Applicant to get the property permitted, and that the redevelopment of the site was, and remains, a long overdue priority of the Town. Ms. Mercandetti further stated that the Planning Board was under the assumption that work would commence right away and that tenants were lining up, but to date nothing has occurred on the site. Ms. Mercandetti stated that she was not inclined to extend the permits unless the Applicant was going to commit to some work to commence on the site within the first 30 days.

In response, Attorney Rodman stated that his client could not commit to any timeline for commencing work on the project site. Ms. Long stated that the Applicant has not shown the Planning Board that he is marketing the property to tenants or making any effort to move forward on the project proposed.

Ms. Mercandetti stated that if the Applicant had at least moved forward on getting an extension of the Zoning Board's variances that would have shown her the Applicant's good faith effort of moving the project forward. She added that if the Applicant had provided the Planning Board with a plan of action for the property, she would be more in favor of extending the permits.

Ms. Long reiterated her concerns and stated that the Applicant's failure to move forward with the project and conduct toward neighboring business shows that there is no good cause to extend the permit.

FINDINGS

During the course of the public hearing process, the Planning Board took under advisement all information received from the Applicant and his representative, in addition to discussion and testimony made during the public hearing. Having reviewed the information provided, the Planning Board must make its determination of "Good Cause" by weighing the evidence and testimony during the course of the hearing and under the provisions of Sections VI.E.5 and VI.F.7.d of the Framingham Zoning By-Law. The Planning Board arrived at its Decision based on the Framingham Zoning By-law and information submitted by the Applicant. Specifically, the Planning Board makes the following findings:

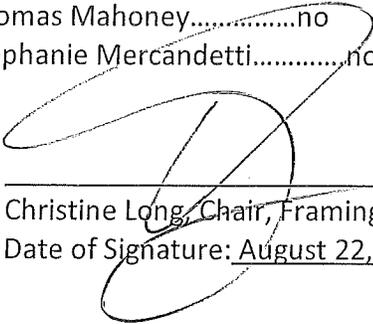
1. The Planning Board must find the Applicant's request for an extension of time is supported by "Good Cause" in accordance with Sections VI.E and VI.F of the Framingham Zoning By-Law and pursuant to M.G.L. c. 40A, Sections 9 and 17.
2. Other than the recording of the Decision, the Applicant has taken no action to meet the conditions recited in the August 7, 2014 Planning Board Decision.
3. The Applicant has neither commenced, nor demonstrated any intent to commence work on the property. Nor has the applicant substantially used or commenced construction upon the site demonstrating use of the permits.
4. Through the Applicant's counsel that he has not secured leases for the property, is not prepared to move forward until he has financial commitments from tenants for the site, and could not commit to any timeline for commencing work on the project site.
5. The Applicant has offered no support for the requested extension, nor has the applicant offered support to demonstrate good cause for such extension. The only documentation and/or materials that the Applicant offered the Planning Board regarding such request was a response to an email from the Administrator providing a brief summary as to why the permits had not been acted upon. Further, the Applicant acknowledges both in his email and his application that "permits have not been acted upon" nor having commenced construction of the project.

VOTES

The Planning Board voted five in favor, zero opposed, and zero in abstention to deny the applicant's request for an extension of time of the August 7, 2014 Planning Board Decision due to the insufficient demonstration of Just Cause. The property is located at 444-480 Franklin Street.

Request for an extension of time for the August 4, 2014 Decision for Site Plan Review (Section IV.I.2.b), Special Permit for Use (Section III.F), Special Permit for a Reduction in the Required Number of Parking Spaces (Section IV.B.1.c), Dimensional Relief to Off-street Parking Design Standards (Section IV.B.3.g), and Special Permit (Section V.E)

Christine Long.....no
Lewis Colten.....no
Victor Ortiz.....no
Thomas Mahoney.....no
Stephanie Mercandetti.....no

By: 
Christine Long, Chair, Framingham Planning Board
Date of Signature: August 22, 2016

EXHIBITS

Not attached unless indicated

The Applicant has filed with the Planning Board various plans and reports required under the requirements of the Framingham Zoning By-Laws. During the review process the Applicant and its professional consultants also submitted revisions to plans in response to requests by the Planning Board and by the various Town Departments that reviewed the Project. All of these plans, reports and correspondence are contained in the Planning Board's files and are hereby incorporated into this Decision by reference.

1. Form A – Application Cover Letter, Property Address: 444-480 Franklin Street, stamped by the Town Clerk on July 12, 2016
2. Form H – Request for an Extension of Time Application, Property Address: 444-480 Franklin Street, stamped by the Town Clerk on July 12, 2016
3. Copy of the Decision of the Framingham Planning Board on the Application of Framingham Franklin LLC for Site Plan Review and Special Permits for Use, Reduction in the Required Number of Parking Spaces, and Dimensional Relief to Off-street Parking Design Standards, 444-480 Franklin Street, Framingham, MA, dated August 7, 2014
4. Email, from Sam Adams, Subject: RE: 480 Franklin Street, dated August 1, 2016