

TOWN OF BILLERICA

Zoning Board of Appeal
365 Boston Road
Billerica, Massachusetts 01862
Telephone: 978-671-0964

Minutes pertaining to the Board of Appeal Meeting held on Wednesday, July 17, 2019 in the Thomas Conway Hearing Room, Town Hall, 365 Boston Road, Billerica, MA.

Members Present: Richard A. Colantuoni, Vice-Chairman; Anupam S. Wali, Secretary, Robert B. Accomando, Ralph J. McKenna, Sal Dampolo and Eric Anable.

Vice-Chairman Richard A. Colantuoni opened the Board of Appeal meeting at 7:10 PM. Vice-Chairman Colantuoni read the notice of each petition prior to its hearing and swore in those wishing to speaking on each petition.

Hearing #1: EHP Billerica LLC / DBA MooYah

Locus: 199 Boston Road (Plate 22 Parcel 11-1)

Members sitting on this hearing: Richard A. Colantuoni, Vice-Chairman; Anupam S. Wali, Secretary, Salvatore Dampolo, Robert Accomando, & Eric Anable.

EHP Billerica, LLC / DBA MooYah appeared before the Board of Appeals requesting a transfer of ownership on a previously granted Special permit located at 199 Boston Road, as shown on the Assessor's Map as Plate 22 Parcel 11-1.

Dudley Trading Associates Nominee Trust for D & D Burgers BDA MooYah Burgers was granted said Special Permit on November 2, 2016 and recorded with the Town Clerk on November 14, 2016. Condition #1 of said Special Permit reads "This Special Permit is for a use of the petitioner only and may not be transferred, sold or assigned without the permission of the Board of Appeal".

It was explained to the board members that the team's goal is to reopen the MooYah Restaurant located at 199 Boston Road under new management. The team already runs 3 successful other locations. The menu will remain the same. The goal is to have all orders completed within 10 minutes of ordering. The team will also be training staff in their North Borough location before bringing them into the Billerica location.

The Board members wondered why the first location closed its doors. The team believes it was due to lack of customer service and long waits for food.

Richard Colantuoni confirmed the new owners will follow all the Special Conditions listed on the Special Permit.

Anupam Wali made a motion to grant the petitioner a transfer of ownership, second by Eric Anable. All in favor. Motion granted.

Hearing #2: George & Amy Tremblay

Locus: 24 Ox Road (Plate 88 Parcel 200)

Members sitting on this hearing: Richard A. Colantuoni, Vice-Chairman; Anupam S. Wali, Secretary, Salvatore Dampolo, Robert Accomando, & Eric Anable

George Tremblay appeared before the Board of Appeals requesting a variance pursuant to Section 7.L (Dimensional Table) of the Zoning By-law for front yard setbacks to construct a farmer's porch located at 24 Ox Road, shown on the Assessor's Map as Plate 88 Parcel 200.

George explained in addition to putting a second floor onto his garage, he would also like to put a farmer's porch. The house is currently setback 28 feet where it should be 35 feet.

There were no abutters present.

The board agreed the porch would look nice. There were no questions from the board.

Anupam Wali made a motion to close the hearing, second by Sal Dampolo. All in favor. Motion granted.

Sal Dampolo made a motion to grant the petitioner a variance pursuant to the legal ad, plan submitted and testimony given, second by Bob Accomando. All in favor. Motion granted.

Hearing #3: Joseph & Marie Salemi by Stephen J. Lentine, Esq.

Locus: 28 Peace Street (Plate 76 Parcel 68-1)

Members sitting on this hearing: Richard A. Colantuoni, Vice-Chairman; Anupam S. Wali, Secretary, Salvatore Dampolo, Robert Accomando, & Eric Anable

Attorney Stephen J. Lentine appeared before the Board of Appeals representing Joseph and Marie Salemi requesting a Special Permit pursuant to Section 10 (Non-Conforming Uses, Building, and Structures) and Section 15 (Administrative Appeals) of the Zoning By-Law to

consider the premises a legal, pre-existing, non-conforming three family dwelling located at 28 Peace Street, shown on the Assessor's Map as Plate 76 Parcel 68-1.

Attorney Lentine explained the Salemi's are looking to sell their home calling it a legal, pre-existing, non-conforming three family dwelling; calling it the same thing it was when they bought it in 1980. There is nothing in the Billerica Building Department file that points to this premises ever being called a legal, pre-existing, non-conforming three family dwelling. Building Commissioner Mark LaLumiere agrees with Attorney Lentine that they file may have been lost when the Building Department moved to Town Hall decades ago. The board was assured everything is up to code as the Billerica Fire Department, Board of Health, and Plumbing Inspectors have all been out on the property within the last few years addressing other issues. The premise is on town sewerage and they have a new ejector pump due to it being on the top of a hill.

Dave Martin of 500 Middlesex Turnpike had a few concerns. The first was if everything was up to code; he has no problems as long as everything is safe. His biggest concern is if someone else buys the house, are they allowed to knock it down and build an even bigger three family dwelling in place of the current one? Richard Colantuoni confirmed they would only be able to rebuild to what it was. If the house is destroyed or burnt down, the house must be rebuilt as the same (this will be included as part of the decision).

Bob Accomando made a motion to close the hearing, second by Anupam Wali. All in favor. Motion granted.

Anupam Wali made a motion to grant the petitioner a Special Permit pursuant to the legal ad, plan submitted and testimony given, second by Sal Dampolo. All in favor. Motion granted.

Hearing #4, 5, & 6: Gaudet Family LLC & Store Master Funding III, LLC by James T. Dangora, Jr., Esq.

Locus: 56 Sullivan Road (Plate 37 Parcel 2-2)
36 Sterling Road & 0 Sterling Road (Plate 38 Parcel 32-1 & 32-2)
400 Lynnway, 159 Rangeway, 215R Rangeway, Rangeway Road, & Lots 3, 4, & 9B Sullivan Road(Plate 28 Parcel 6, Plate 29 Parcel 1-1, Plate 38 Parcel 1-2, Plate 28 Parcel 4, Plate 37 Parcels 11-3-3, 11-3-4, and 11-3-5)

Members sitting on this hearing: Richard A. Colantuoni, Vice-Chairman; Anupam S. Wali, Secretary, Salvatore Dampolo, Robert Accomando, & Eric Anable

Attorney James T. Dangora, Jr., Esq. appeared before the Board of Appeals requesting a Special Permit pursuant to Section 5.C.8.f (2)(b) (Automotive Sales) and Section 5.C.8.f (2)(d) (Wholesale Use) along with any extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises of the Zoning By-Law to operate an auto auction business located at 56 Sullivan Road, shown on the Assessor's Map as Plate 37 Parcel 2-2.

Attorney James T. Dangora, Jr., Esq. also requested a Special Permit pursuant to Section 5.C.8.f. (2)(b) (Automotive Sales); Section 5.C.8.f. (2)(d) (Wholesale Use); Section 5.C.8.f. (2)(a) (Accessory Retail and Automotive Services); Section 5.C.8.f. (2)(c) (Automotive Services); and Section 10.D.1 and 10.D.4 (Extension/Alteration of Non-Conforming Use) along with any extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises of the Zoning By-Law to operate an auto auction business located at 36 Sterling Road & 0 Sterling Road, shown on the Assessor's Map as Plate 38 Parcel 32-1 & 32-2.

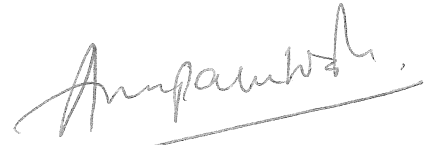
Attorney James T. Dangora, Jr., Esq. requested a third Special Permit pursuant to Section 5.C.8.f. (2)(b) (Automotive Sales); Section 5.C.8.f. (2)(d) (Wholesale Use); Section 5.C.8.f. (2)(a) (Accessory Retail and Automotive Services); and Section 5.C.8.f. (2)(c) (Automotive Services) along with any extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises of the Zoning By-Law to operate an auto auction business located at 400 Lynnway, 159 Rangeway, 215R Rangeway, Rangeway Road, & Lots 3, 4, & 9B Sullivan Road, shown on the Assessor's Map as Plate 28 Parcel 6, Plate 29 Parcel 1-1, Plate 38 Parcel 1-2, Plate 28 Parcel 4, Plate 37 Parcels 11-3-3, 11-3-4, and 11-3-5.

Attorney Dangora explained the land located at 56 Sullivan Road will be used for auto sale and wholesale use only. The land located at 36 Sterling Road will be used for automotive sales and wholesale use only. The building located at 36 Sterling Road will be used for minor auto repair and auto services (i.e. bulbs, batteries, alternators, etc.). The property located at 400 Lynnway as well as the property located at 159 Rangeway Road will both be used auto sales, whose sales, auto repair, and auto service. The property located at 215 R Rangeway Road will be used for auto sale and whole sale. The property located at Rangeway Road will be used for auto sale and whole sale. Lastly, Lots 3, 4, & 9B Sullivan Road will be used for auto sales whole sale use.

Attorney Dangora pointed out Lynnway Auto Auction utilizes Billerica Police and Billerica Fire details weekly. The company's intent is to keep all operations first class.

Bob Accomando made a motion to close the hearing, second by Sal Dampolo. All in favor. Motion granted.

Anupam Wali made a motion to grant the petitioner a Special Permit pursuant to the legal ad, plan submitted and testimony given, second by Sal Dampolo. All in favor. Motion granted.



Anupam S. Wali, Secretary