



TOWN OF BILLERICA

BOARD OF APPEAL

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Minutes pertaining to the Board of Appeal Meeting held on Wednesday, JANUARY 16, 2019 in the Thomas Conway hearing room, Town Hall, 365 Boston Road, Billerica, MA.

Members Present: Doris M. Pearson, Chairman; Richard A. Colantuoni, Vice-Chairman; Anupam S. Wali, Secretary; Salvatore A. Dampolo and Robert B. Accomando and Eric Anable.

Chairman Doris M. Pearson opened the Board of Appeal meeting at 7:00 P.M. Chairman Pearson read the notice of each petition prior to its hearing and swore in those wishing to speak on each petition.

HEARING #1 THOMAS MATLEY, JR. AND DONNA MATLEY
LOCUS: 12 PHILLIP ROAD (PLATE 40 PARCEL 16-0)

Members sitting on this hearing: Doris M. Pearson, Richard A. Colantuoni, Anupam S. Wali, Salvatore A. Dampolo and Robert B. Accomando.

Thomas and Donna Matley appeared before the Board of Appeal requesting a VARIANCE pursuant to Section 7 (Dimensional Regulations) of the Zoning By-law to build a first floor and second floor addition and a two-car garage onto their house located in a Village Residence Zone.

We are looking to build a second floor addition onto our ranch style house for our growing family and a two-car garage onto the house. In order to build the second floor addition and a two-car garage, a Variance is needed from the setback requirements.

Mr. Accomando said the request seems cut and dry.

Mr. Wali said he can see that a setback Variance is needed to build the additions.

Mr. Colantuoni asked, if they are building a one-story garage?

Mr. Matley replied yes. The second floor addition will extend over the garage.

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

Richard A. Colantuoni made a motion to Grant the petitioner a Variance pursuant to the legal ad, plan submitted and testimony given, second by Salvatore A. Dampolo. All in favor. Motion granted.

HEARING #2 **BRICK KILN PLAZA, LLC
FOR JABED NYUGEN D/B/A SMOOTH
BY STEPHEN J. LENTINE, ESQ.**

LOCUS: **99 CHELMSFORD ROAD (PLATE 13 PARCEL 8-0)**

Members sitting on this hearing: Doris M. Pearson, Richard A. Colantuoni, Anupam S. Wali, Salvatore A. Dampolo and Robert B. Accomando.

Attorney Stephen J. Lentine, Esq., representing the petitioner, appeared before the Board of Appeal requesting a SPECIAL PERMIT pursuant to Section 5.C.6.c(2)(m) (Fast Order Food Establishment) and 5.F (Use Table) of the Zoning By-law to operate a smoothie bar with a fast food component restaurant in a building unit in a General Business Zone.

Jabed Nugyen, has an LLC now. He will serve as manager of the smoothie bar with a fast food component. He has chosen the business name of "Feel Good Café". There will be seating for 40 customers. The requested hours of operation are 6:00 A.M. to 11:00 P.M., seven days a week. The earlier opening is to accommodate the health club at the site and general public traveling in the area. In order to operate the smoothie bar and fast food component restaurant, the Special Permit is required. He received a copy of the Board of Health memo with their comments.

Mrs. Pearson asked, if they have enough parking spaces?

Atty. Lentine replied there are many spaces in the front of the building. Most of the customers will be just parking long enough to pick up their order.

Mr. Colantuoni asked, if he has met with the Board of Health?

Atty. Lentine replied he has been working with the Board of Health office.

Mr. Wali complimented them on their plans for this business location.

Mr. Dampolo said this is better than an empty unit and wished him well.

Mr. Accomando said this is something different for our area and it looks very good.

Mr. Anable asked, when does he intend to open the smoothie restaurant?

Atty. Lentine replied it will take about two-three months to complete the process.

Mrs. Pearson asked, how many seats will you have for this restaurant?

Mr. Nyugen replied there will be 40 seats for his customers.

Smoothie cont'd:

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

Salvatore A. Dampolo made a motion to Grant the petitioner a Special Permit pursuant to the legal ad, plan submitted and testimony given, second by Robert B. Accomando. All in favor. Motion granted.

HEARING #3 WAYNE E. O'LOUGHLIN AND CATHLEEN S. O'LOUGHLIN
BY JAMES T. DANGROA, JR., ESQ.

LOCUS: 12 POND STREET (PLATE 42 PARCEL 83)

Members sitting on this hearing: Doris M. Pearson, Richard A. Colantuoni, Anupam S. Wali, Salvatore A. Dampolo and Robert B. Accomando.

Attorney James T. Dangora, Jr., Esq., representing the petitioners, appeared before the Board of Appeal requesting a SPECIAL PERMIT pursuant to Section 5.C.I.I.(2)(c) of the Zoning By-law to raze their existing house and build a house, with an in-law apartment onto the new house, located in a Neighborhood Residence Zone.

Wayne and Cathleen bought their ranch style home with 15, 000 square feet of land in 1955. They plan to convey their property to their son Philip, a Billerica Police Officer, and daughter-in-law Noelle. Their son will raze the existing home and build a new home for his family fronting on Skyline Drive. The house will have a three-car garage fronting on Pond Street. The new home will include a 768 square foot in-law apartment addition for his parents to include two means of access/egress. In order to build the new home to include the in-law apartment, a Special Permit is required.

Mrs. Pearson said the driveway will definitely be on Pond Street only.

Atty. Dangora replied yes.

Mr. Accomando said the new house will face the similar style house across the street.

Mr. Wali said the plan looks very nice and will be good for the family.

Mr. Colantuoni said he is concerned with the garage facing Pond Street, as it can be very difficult coming out onto Pond Street there. They need to make sure there is good site distance for their vehicles and roadway vehicles.

Heidi Rowell said she abuts this property on Pond Street and is in support of this request.

O'Loughlin cont'd:

Salvatore A. Dampolo made a motion to close the hearing, second by Robert B. Accomando. All in favor. Motion granted.

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

HEARING #4 DONALD MERCIER, TRUSTEE OF
GROVEGATE REALTY TRUST
FOR KHUNDMEER S. MOHD

LOCUS: 500 BOSTON ROAD (PLATE 61 PARCEL 113-0)

Members sitting on this hearing: Doris M. Pearson, Richard A. Colantuoni, Anupam S. Wali, Salvatore A. Dampolo and Robert B. Accomando.

David A. Kinsella, representing the petitioner, appeared before the Board of Appeal requesting a SPECIAL PERMIT pursuant to Section 5.C.6.(2)(m) of the Zoning By-law to allow the petitioner to operate an Indian style restaurant and a grocery store in a building unit located in a General Business Zone.

Kundmeer would like to operate an Indian style restaurant and a grocery store in the former Stephanie's restaurant unit. They will have five employees and seating for eight customers. The restaurant will have take-out and delivery service for their customers. The requested hours of operation are from 9:00 A.M. to 9:00 P.M. seven days a week. There are sufficient parking spaces for their employees and customers in their parking lot.

Mrs. Pearson explained that it is very necessary to maintain the restaurant and store inside their unit and their outside area regarding debris from their customers.

Mr. Mohd explained he currently owns the Towne Line Market in Burlington and he has been very responsible with the maintenance of the store and related area. He will definitely maintain this business in the same manner.

Mr. Accomando asked, if he is taking over the Stephanie's unit only.

Mr. Mohd replied yes.

Mr. Dampolo said this is something new for the town. This is a win/win for the town.

Mr. Wali said his wife will be very happy to have your restaurant and store there. Now she won't have to go out of town for her grocery supplies.

Mercier cont 'd:

Mr. Colantuoni said if the Walis are happy then he is happy.

Richard A. Colantuoni made a motion to close the hearing, second by Salvatore A. Dampolo. All in favor. Motion granted.

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

HEARING # 5 FABIO PINHNEIRO DESOUZA

LOCUS: 50 GREAT ELM ROAD (PLATE 88 PARCEL 79-0)

Members sitting on this hearing: Doris M. Pearson, Richard A. Colantuoni, Anupam S. Wali, Salvatore A. Dampolo and Robert A. Accomando.

Chayme Rangel, 3 Powder Keg Road, Saugus, MA, representing the petitioner, appeared before the Board of Appeal for a SPECIAL PERMIT pursuant to Sections 10.C.1 and 10.C.2 (Alteration, Reconstruction, Extension or Structural change to a Single or Two Family Dwelling) of the Zoning By-law to allow the petitioner to build a second floor addition onto his house located in a Village Residence Zone.

Fabio purchased his home in September of 2018. He and his wife are expecting their second child and he would like to build the second floor addition for his growing family. In order to build the second floor addition, the Special Permit is required.

Mrs. Pearson asked, how high is the house?

Mr. Rangel said the second floor addition is eight feet high with a five and one half (5½) foot pitch. With the addition the house will be 21 feet high.

Mr. Colantuoni said the house will be 22 feet to the ridge. He asked, if they will have the overhang shown on the plan?

Mr. Rangel replied not at this time.

Mr. Accomando said he was concerned with the height at first, but this seems to be fine.

Richard A. Colantuoni made a motion to close the hearing, second by Salvatore A. Dampolo. All in favor. Motion granted.

DeSouza cont'd:

Anupam S. Wali made a motion to Grant the petitioners a Variance pursuant to the legal ad, plan submitted and testimony given, second by Robert b. Accomando. All in favor. Motion granted .

OTHER BUSINESS - BOARD OF APPEAL MEETING - JANUARY 16, 2019

**HEARING: JOSEPH P. SHAW TRUSTEE OF SHAW FAMILY TRUST II
BY STEPLHEN J. LENTINE, ESQ.**

LOCUS: 0 MARLYN ROAD, BILLERICA, MA

Members sitting on this hearing: Doris M. Pearson, Richard A. Colantuoni, Salvatore A. Dampolo and Robert B. Accomando.

Attorney Stephen J. Lentine, representing the petitioner, appeared before the Board of Appeal requesting a VARIANCE pursuant to Sections 7.B.4 (Lot Split), 7.B.8 (Circle Rule) 7.D (Yards) and 7.L (Dimensional Table-Frontage and Rear Setback) of the Zoning By-law to subdivide his premises into two legally buildable lots and to otherwise make the premises conforming in all respects under Section 7 of the Zoning By-law for land located in a Rural Residence Zone.

Joseph Shaw purchased this land 40 years ago. At that time the lots had legal frontage on two streets. Now he wishes to subdivide his premises into two legally buildable lots in a Rural Residence Zone as per the plan submitted to the board. These two lots will be larger than other lots in the area. In order to subdivide the land to create two buildable lots, a Variance is now required, as minimum lot size and setback requirements have changed. Each new lot will have 26.85 feet of frontage on Marlyn Road and a rear setback of 15 feet.

Joseph P. Shaw, 22 Marlyn Road said he bought the land 40 years ago that was connected to Fox Hill Road at that time with frontage to both roads.

Mrs. Pearson asked, how did that frontage disappear?

Mr. Shaw said that was done at Town Meeting.

Mrs. Pearson asked, if they took any of his land?

Mr. Shaw replied not at that time.

Mrs. Pearson asked, if he is planning to build on this land?

Mr. Shaw replied not at this time.

Shaw cont'd:

Mr. Colantuoni said if the road wasn't discontinued you wouldn't have had any problem there.

Mr. Shaw noted the sewer and water lines are there.

Mr. Wali said it appears the cul-de-sac would be needed due to the frontage creating a hardship on the land.

Mr. Accomando said the plan looks good to him.

Anupam S. Wali made a motion to close the hearing, second by Salvatore A. Dampolo. All in favor. Motion Granted.

Robert B. Accomando made a motion to grant the petitioner a Variance pursuant to the legal ad, plan submitted and testimony given. All in favor. Motion granted.

Attorney James T. Dangora, Jr. appeared before the Board of Appeal requesting a six-month extension to the Variance granted to Patricia Ann O'Reilly and Michael T. Marcucella on December 27, 2018 as they are awaiting departmental approvals.

The Board of Appeal, with five members present and voting, Granted the request for a six-month extension only to the Variance granted to Patricia Ann O'Reilly and Michael T. Marcucella on January 17, 2018 in accordance with M.G.L.A Chapter 40B regulations.

Richard A. Colantuoni made a motion to Grant a six-month extension only to the Variance granted to Patricia Ann O'Reilly and Michael T. Marcucella on January 17, 2018, second by Anupam S. Wali. All in favor. Motion granted.

Vishwa Hindu Parishad of America, Inc. by Christopher J. Alphen, Esq. requesting an Appeal of the Building Inspector's denying a building permit for parking for the proposed religious structure at 240 Boston Road continued from January 3, 2018 and a Variance request for insufficient parking for proposed religious structure at 240 Boston Road continued from January 3, 2018.

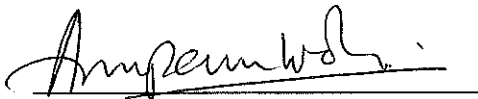
Chairman Doris M. Pearson read a letter from Attorney Mark Bobrowski requesting permission to continue these hearing to the April Board of Appeal meeting, as they are continuing to have discussions on resolving the building and property concerns for this development with other departments.

Richard A. Colantuoni made a motion to continue the Vishwa Hindu Parishad of America, by Christopher J. Alphen, Esq. and Mark Bobrowski, Esq. for an Appeal and Variance to April 17, 2019 at 7:00 and 7:05 P.M.

Richard A. Colantuoni made a motion to accept the minutes of the Board of Appeal meetings on December 5, 2018 and January 2, 2019, second by Robert A. Accomando. All in favor. Motion granted.

Anupam S. Wali made a motion to adjourn the Board of Appeal meeting on January 16, 2019 at 10:16 P.M., second by Robert A. Accomando. All in favor. Motion granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Anupam S. Wali", is written over a horizontal line.

Anupam S. Wali, Secretary