



# TOWN OF BILLERICA

## BOARD OF APPEAL

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Minutes pertaining to the Board of Appeal Meeting held on Wednesday, FEBRUARY 13, 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, Robert B. Accomando and Eric Anable

Chairman Doris M. Pearson opened the Board of Appeal meeting at 7:02 P.M. Chairman Pearson read the notice of each petition prior to its hearing and swore in those wishing to speak on each petition.

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HEARING #1      BRANTFORD AYLWARD, JR. AND RUTH A. AYLWARD  
BY JAMES T. DANGORA, ESQ.

LOCUS:            TOWN FARM LANE AND DRIFTWOOD LANE  
(PLATE 3 PARCEL 24)

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, representing the petitioners, appeared before the Board of Appeal requesting a VARIANCE pursuant to Section 7.L (Dimensional Regulations) of the Zoning By-law to divide their land into two lots and to make the lots conforming in all respects in a Rural Residence Zone.

Brantford and Ruth Award's lot is very large in their Rural Residence zoning district. They have lived in their house for many years. They own the land with their house and they own the abutting property. At this time they would like to divide the abutting property in order to build a home on each lot. These lots will front on Driftwood Lane and have over 50,000 square feet of land, but lack the sufficient frontage for each lot. Both lots will be larger than most lots in the area. The Variance to divide the land is required due to the new lots lacking sufficient frontage on Driftwood Lane.

The board received a memo from the Conservation Commission with their comments supporting this request. They will have to appear before the Planning Board and the Board of Health for their approvals. They are dealing with a lot of checks and balances.

Mrs. Pearson asked, how long have they owned the property?

Atty. Dangora replied 70 years.

Mrs. Pearson said she is concerned with the plan for this property especially with the shape of the proposed lots.

**Aylward cont'd:**

**Atty. Dangora explained the Aylwards live in the house on Town Farm Lane and they are asking to split the back lots facing Driftwood Lane into two buildable lots.**

**Mr. Wali said he thinks it will be difficult to build on the lots due to the wetlands there.**

**Atty. Dangora replied there were similar lots on Salem Road that were subdivided with similar issues and that all worked out fine.**

**Mr. Accomando said it looks like there is enough frontage for one lot.**

**Atty. Dangora said most of the houses in the area lack the frontage requirement. He presented a letter from an abutter that is in support of this Variance request.**

**Mr. Colantuoni asked, where do you think you can build a house on these lots?**

**Atty. Dangora said the barn is being taken down to build a house on that lot and the house on the second lot will be set back considerably.**

**Francis Sullivan and Linda Sullivan, 8 Driftwood Lane, explained they live next door to the Aylwards and they are concerned with this Variance request as they feel the house will be too close to their property and very concerned with the possible drainage problems due to building in the wetlands area. Also there is a gas transmission line on that land.**

**Atty. Dangora said we will have to inform the gas company prior to any building.**

**Mr. Colantuoni said a house would have to be setback at least 300 feet on the lot and he has a problem with the shape of these lots. He has issues with this request.**

**Atty. Dangora said they have their house lot where they reside and this land to be subdivided for two house lots.**

**Mrs. Pearson said Conservation Commission may need to make the decision on where a house should be built. From the beginning she has a concern with this request for two lots on this land.**

**Anupam S. Wali made a motion to close the hearing, second by Robert B. Accomando. All in favor. Motion granted.**

**Richard A. Colantuoni made a motion to Grant the petitioners a Variance pursuant to the legal ad, plan submitted and testimony given, second by Anupam s. Wali. All opposed. Motion denied.**

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**HEARING #2&3     EMD SERONO RESEARCH AND DEVELOPMENT, INC. AND  
BSC GROUP, INC. BY TAYLOR DOWDY, P.E.**

**LOCUS:             45 MIDDLESEX TURNPIKE (PLATE 109 PARCEL 6-9)**

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

**James T. Dangora, Jr., Esq., representing the petitioner, appeared before the Board of Appeal requesting a SPECIAL PERMIT pursuant to Section 5.C.1.k(2)(b) (Commercial Uses Earth Migration) and 5.C.8.5 (Industrial Uses Earth Migration) of the Zoning By-law to build an addition onto the existing building located in an Industrial Zone. Also submitted, a VARIANCE pursuant to Section 7 (Dimensional Regulations) of the Zoning By-law to build an addition onto the existing building and appurtenance structures on the building on land located in an Industrial Zone.**

**Attorney Dangora introduced Jack Conway with EMD Serono Research and Development Institute, Inc. and John Hession with the BSC Group.**

**Merck KGaA is a Germany biopharmaceutical company operating as EMD Serono in Billerica. EMD Serono would like to build an addition onto their building for oncology research. This is a \$70 million dollar investment of the company. The construction for this project will include excavation of earth materials over 500 cubic yards, which are proposed to be removed from the Site. Due to the topography and presence of wetland resource areas at the Site, the earth materials cannot be redistributed on the Site and must be removed. In order to remove the earth materials from the site and to build an addition onto existing buildings, the Special Permit is required.**

**They came to the Board of Appeal in 2001 to obtain a Special Permit and Variance to build the original building. They returned to the Board of Appeal in 2009 and 2012 to build additions onto their building. They are asking for a 65 foot height Variance, but they do not think the building itself will be that high. With the appurtenance structures atop the building the height variances will be needed.**

**They have been to the Planning Board and received their Site Plan Approval. They are working with the Board of Health regarding their concerns.**

**Mrs. Pearson said EMD has been a great business for this town.**

**Mr. Accomando said this appears to be a beautiful plan and project for this town. They are great people and they are always concerned about the residents in the area.**

**Mr. Dampolo asked, if the town has fire trucks that will be able to reach the 65 foot high building?**

**Atty. Dangora said they are working with the Billerica Fire Department for this project.**

**Mr. Wali asked, if there will be any blasting around that area?**

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**EMD cont'd:**

**Atty. Dangora said he does not know at this time.**

**Mr. Colantuoni asked, if they will have any mice there? Is there a TIE?**

**Atty. Dangora said he does not know the answer to either.**

**Jack Conroy of EMD Serono said we have been given the Well Building System award. This is the 1<sup>st</sup> Gold Reward that was given to a USA company.**

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

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

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**HEARING #4            EMILIA AND CHARLES FAZIO/RICHFIELD LLC  
BY JAMES T. DANGORA, JR., ESQ.**

**LOCUS:                43 ELSIE AVENUE (PLATE 59 PARCEL 97)**

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

**The petitioner appeared before the Board of Appeal requesting a VARIANCE pursuant to Section 7.D.4 (Yards) and 7.L (Dimensional Regulations) of the Zoning By-law to reduce the required front yard setback for a proposed dwelling on land located in a Village Residence Zone.**

**The lot was created in January 1935 and determined to be a grandfathered building lot. A Variance is required due to the soil conditions, and topography (riverfront, wetlands and floodplain) the proposed dwelling needs to be constructed fourteen feet from Braemore Road to preserve Board of Health and Conservation Commission resource areas. The proposed dwelling will be 24 feet from the edge of the pavement. The Conservation Commission sent a memo to the Board of Appeal recommending this request to be approved. He will have to appear before the Board of Health and the Conservation Commission for their approvals.**

**Fazio cont'd:**

**Mrs. Pearson asked, if this land is on town water and town sewer?**

**Atty. Dangora replied yes.**

**Mr. Colantuoni said the plan looks good, but he is concerned that the residential cars for the house will be too close to the roadway.**

**Gary Litchfield said there will be a one-car garage under the house with enough room for parking in the driveway.**

**Richard A. Colantuoni made a motion to close the hearing, second by Anupam S. Wali. 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.**

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**HEARING # 5            MARIE MONTGEMAGNO DIMARTINO**

**LOCUS:                12 PINES ROAD (PLATE 82 PARCEL 47-0)**

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

**Marie Montemagno DiMartino appeared before the Board of Appeal for a VARIANCE pursuant to Section 7 (Dimensional Requirements) of the Zoning By-law to build an additon onto her house located in a Rural Residence Zone**

**Ken Montgemagno, Maria's dad, explained Maria purchased their home in 2013 when they had one child. Currently, they have four children and are in need of additional living space for their growing family. He plans to renovate the kitchen too. In order to build the much-needed addition onto her house, a Variance is necessary, as the house and proposed addition do not comply with the setback requirements.**

**Mr. Colantuoni asked, if this a one-story or two-story addition?**

**Mr. Montemagno replied it will be a two-story addition with the bedrooms and bathroom upstairs and the new kitchen on the first floor.**

**Mrs. Pearson asked, if this property is on town sewer?**

**Ms. DiMartino replied yes.**

**DiMartino cont'd:**

Richard A. Colantuoni made a motion to close the hearing, second by Anupam S. Wali. 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.

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HEARING # 6            ANITA FLINT AND JEFFREY D. FLINT

LOCUS:                1 MONTBATTEN ROAD (PLATE 54 PARCEL 126-0)

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

Jeffrey Flint appeared before the Board of Appeal for a SPECIAL PERMIT pursuant to Sections 5.C.1.i(2)(c) (In-law Apartment) and 5.C.3 (Rural Residence) of the Zoning By-law to build a two-car garage and an addition for an in-law apartment onto their house located in a Rural Residence Zone.

Jeffrey and his mother Anita live in the main house. He would like to build a handicapped accessible in-law apartment addition for his mother. The in-law apartment will not exceed the 800 square foot requirement. Also, they would like to build a two-car garage onto the house. There will be sufficient parking area in the driveway for all residential vehicles.

Mrs. Pearson asked, if he is taking down the shed on their land?

Mr. Flint replied yes.

Mr. Accomando asked, if this is a one-story addition?

Mr. Flint replied yes.

Mr. Colantuoni asked, how the in-law apartment will be connected to the main house.

Mr. Flint explained there is a door in the garage that leads into the in-law apartment.

Elaine Levine, 2 Sheffield Drive, said she is an abutter and wants to make sure that this addition is for family only and not to be rented to the public.

Mrs. Pearson explained the in-law apartment approval process.

**Flint cont'd:**

Richard A. Colantuoni 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 petitioners a Variance pursuant to the legal ad, plan submitted and testimony given, second by Anupam S. Wali. All in favor. Motion granted.

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HEARING #7            JAMES I. D'AMBRA AND MARY C. D'AMBRA  
                              BY DAVID KINSELLA, D.A. KINSELLA COMPOANY

LOCUS:                10 SUSAN DRIVE (PLATE 89 PARCEL 47)

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 petitioners, appeared before the Board of Appeal requesting a VARIANCE pursuant to Section 7 (Dimensional Requirements) of the Zoning By-law to build an addition, a farmer's porch and a garage onto their hosue located in a Rural Residence Zone.

James and Mary D'Ambra recently purchased their ranch-style home. They would like to build an addition to the left side of their house and a garage to the right side of their house and a roofed porch to the front of their house. They have antique cars and two motorcycles they would like to keep safely in the garage. The Variance is needed due to the curve on the roadway. In order to build the addition, roofed porch and the garage, a Variance is needed from the setback requirements.

Mrs. Pearson said the Variance includes the farmer's porch to the front of the house.

Mr. Kinsella said that's correct.

Richard A. Colantuoni 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 Anupam S. Wali. All in favor. Motion granted.

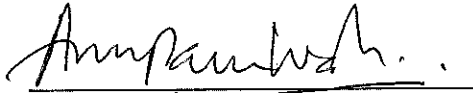
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**OTHER BUSINESS - BOARD OF APPEAL MEETING – FEBRAURY 13, 2019**

**Anupam S. Wali made a motion to accept the minutes of the Board of Appeal meeting on January 16, 2019, second by Salvatore A. Dampolo. All in favor. Motion granted.**

**Salvatore A. Dampolo made a motion to adjourn the Board of Appeal meeting on February 13, 2019 at 9:13 P.M., second by Anupam S. Wali. All in favor. Motion granted.**

**Respectfully submitted,**

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**Anupam S. Wali, Secretary**