

BILLERICA BOARD of APPEALS
Minutes for the
March 15, 2023 Meeting
6:00 PM – Room 210
365 Boston Road, Billerica, MA

ATTENDANCE: Members Robert Accomando (Chairman), Michael Pendleton (Vice-Chairman), Eric Anable (Secretary), Richard Colantuoni and Anupam Wali. Alternate Member Ralph McKenna was present via ZOOM. Building Commissioner, Mark LaLumiere and Recording Secretary Liz Ells, ZBA.

- I. **6:00 PM – PUBLIC COMMENT** – Justin and Donald Damon informally submitted a signed petition to the Board for St. Mary’s property that the Board acknowledged receiving, however, did not discuss as it was not a posted agenda item.

- II. **6:03 PM** - Ripa Realty Trust and Allen B. Gallant by James T. Dangora, Jr., Esq., - Variance request to construct one single family home in a Rural Residential Zone located at Rangeway Road (Case #23-06)

Attorney Dangora, Jr. presented the petition on behalf of his client to construct a single-family home on 5.8 acres of land and to otherwise make the lot conforming in all aspects. They are requesting relief from the frontage requirement of 200’ as the property’s frontage is 103.5’. The owner would like to build the home keeping in line with the homes on the street. Water and sewer are available on the street as well.

Kevin Fallon, 66 Rangeway Rd., expressed general concerns regarding the environmental impacts. He also questioned parking if the new house was built. Attorney Dangora explained the applicant would have a 50’ driveway to accommodate additional parking and the environmental concerns are in the back of the property and would not be disturbed and are out of the Board’s jurisdiction.

Barbara Malo, 82 Rangeway Rd., is a direct abutter and expressed her opposition to the petition based on the lot not having the required frontage and the narrowness of the lot. She requested that if the variance is granted, could the new development be located further away from the required 15’ side setback on the right side of the property next to her. She also submitted her concerns in writing at the hearing.

Pamela Hammond, 90 Rangeway Rd., Unit #401, expressed her opposition and stated she represents the tenants of Ava Estates as a trustee. She inquired about what type of house would be built and was told that the actual building plans have not yet been developed, pending granting of the variance.

Christine Panek, 90 Rangeway Rd., Unit #108, stated that Ms. Hammond does not represent Ava Estates and therefore, is not speaking on everyone’s behalf or belief.

Marcello Spairani, 70 Rangeway Rd, is a direct abutter and expressed concerns regarding the development being moved further to the left side of the property, closer to his property line.

The submitted Plan of Land prepared by Dresser, Williams & Way, Inc., dated January 1, 2023 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Member Wali, seconded by Vice Chair Pendleton. All in favor. Motion carried.

MOTION: TO grant the Variance requested. Moved by Member Wali, seconded by Secretary Anable. The Board voted 2-3 to deny the variance request with the vote being Members Accomando, Anable and Wali voting in favor and Members Colantuoni and Pendleton voting against. Motion **denied**.

III. 6:25 PM - Michael & Agnes Migliaccio by James T. Dangora, Jr. Esq., - Variance request to divide the premises into two lots in a Village Residence Zone located at 32 Staples Street (Case #23-07) (*Withdrawn without prejudice*)

Attorney McKenna submitted a written request to withdraw this petition without prejudice.

MOTION: TO accept the applicant's withdrawal without prejudice. All in favor. Withdrawal accepted.

IV. 6:27 PM - Joseph Dogherty by Catherine Flood, Esq., - Special Permit request/transfer for non-conforming use with materials/supplies, equipment seeking to be stored outdoors in an Industrial Zone located at 92 Billerica Avenue (Case # 22-84)

Attorney Dangora, Jr. presented the petition on behalf of the applicant's attorney, Catherine Flood, who was unable to attend the meeting. The applicant, Joseph Dogherty, wishes to have the original special permit transferred to his name in order to conduct his landscaping business presently located in Tewksbury. The property would be consistent with the current use as a contractor's yard. He is planning on installing a 6' fence to store mulch and loam outside behind the fence and complete the septic system.

Jon Metivier, the current property owner, was granted a special permit for this property on April 16, 2022 (Case #22-17) and stated that there is an open Wetlands Permit on the property which would also apply to the new owner of the special permit. The petition received letters of support from abutters for the transfer of the special permit to Joseph Dogherty to conduct his landscaping business.

There were no abutters present at this hearing.

The Certified Plot Plan of Land prepared by Dresser, Williams & Way, Inc., dated February 2, 2022 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Vice Chair Pendleton, seconded by Member Wali. All in favor. Motion carried.

MOTION: TO grant the Special Permit requested. Moved by Vice Chair Pendleton, seconded by Member Wali. All in favor. Petition **granted**.

V. **6:39 PM** - Jingsh & Rita Patel by John McKenna, Esq., - Variance request to divide the premises into two lots in a Rural Residence Zone located at 10 Shawsheen Road (Case #23-03) *(Continued from 2/15/2023)*

Attorney McKenna submitted a written request for a continuance of this petition to April 19, 2023.

MOTION: TO accept the continuance request to April 19, 2023. All in favor. Continuance accepted.

VI. **6:41 PM** - Left Eden Restaurant Corp. d/b/a/ Maggie's Other Farm by Jill Elmstrom Mann, Esq., - Special Permit request to allow three (3) signs to be installed in an Industrial Zone located at 15 Middlesex Turnpike (Case #23-02) (Continued to March 15, 2023)

It is noted that the Chairman opened both hearings simultaneously for Left Eden Restaurant Corp. as both petitions are related.

Attorney Elmstrom Mann presented the petitions requesting three (3) signs to be installed on the property that houses one tenant operating as Maggie's Other Farm. The location of these signs are one wall sign above the entry door, one above the patio entry door, and one freestanding sign in front of the of the building along the turnpike. The prior tenant maintained three signs in the same locations and her client, Left Eden Restaurant Corp., is requesting to utilize the same locations for the same number of signs but with different wording and logo.

There were no abutters present at this hearing.

The submitted Plot Plan of Land prepared by B&R Survey, Inc., dated August 10, 2019 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Member Colantuoni, seconded by Vice Chair Pendleton. All in favor. Motion carried.

MOTION: TO grant the Special Permit requested. Moved by Member Wali, seconded by Secretary Anable. All in favor. Petition **granted**.

VII. **6:41 PM** - Left Eden Restaurant Corp. d/b/a/ Maggie's Other Farm by Jill Elmstrom Mann, Esq., - Variance request to allow signs above maximum height and freestanding

signs to be installed in an Industrial Zone located at 15 Middlesex Turnpike (Case #23-05) (Continued to March 15, 2023)

Attorney Elmstrom Mann presented the petitions requesting three (3) signs to be installed on the property that houses one tenant operating as Maggie's Other Farm. The location of these signs are one wall sign above the entry door, one above the patio door and one freestanding sign in front of the of the building along the turnpike. The prior tenant maintained three signs in the same locations and her client, Left Eden Restaurant Corp., is requesting to utilize the same locations for the same number of signs but with different wording and logo.

The requested signage for all three signs exceeds the height maximum allowed. The main entrance sign exceeds the maximum height by 3'; the patio entry exceeds the height by 2' and the freestanding sign is not permitted in an Industrial Zone without a Special Permit. Two of the three signs would be illuminated.

The submitted Plot Plan of Land prepared by B&R Survey, Inc., dated August 10, 2019 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Member Wali, seconded by Secretary Anable. All in favor. Motion carried.

MOTION: TO grant the Variance requested. Moved by Member Wali, seconded by Secretary Anable. All in favor. Petition **granted**.

Administrative Matters:

1. Approve the Minutes of the February 15, 2023 Board of Appeals Meeting

MOTION: TO accept the minutes of the February 15, 2023 Board of Appeals Meeting as presented. Moved by Vice-Chair Pendleton, seconded by Member Anable. All in favor. Minutes accepted.

6:57 PM - ADJOURN

MOTION: TO adjourn. Moved by Vice-Chair Pendleton seconded by Member Colantuoni. All in Favor. Motion Carried. Meeting adjourned.

Respectfully submitted,



Eric Anable, Secretary