

BILLERICA BOARD of APPEALS
Minutes for the
April 13, 2022 Meeting
6:00 PM
Town Hall, Auditorium
365 Boston Road, Billerica, MA

ATTENDANCE: Members Anupam Wali (Chairman), Robert Accomando (Vice-Chairman), Richard Colantuoni, Salvatore Dampolo, Michael Pendleton. Alternate Member Ralph McKenna attended via speaker phone. Recording secretary Liz Ells, ZBA.

- I. 6:00 PM – PUBLIC COMMENT** – No public comments.
- II. 6:02 PM - Christopher Fitzgerald, by Douglas Castro** – Special Permit Request to construct an In-Law apartment in a Rural Residence Zone located at 21 Belmont Road (Case #22-11)

The applicants, Christopher & Lillian Fitzgerald, are seeking a special permit to construct an addition to their home in order to build an In-Law apartment for themselves. The floor plan is consistent with the 800 sq. ft. requirement with two means of egress and will be attached to the main dwelling.

The Certified Plot Plan of Land prepared by David P. Terenzoni, dated November 16, 2020 and the proposed In-Law addition floor plan prepared by Peter P. Tummino, dated April 6, 2021, shall be filed as part of this decision.

There were no abutters present at this hearing.

MOTION: TO close the public hearing. Moved by Vice-Chairman Accomando, seconded by Member Dampolo. All in favor. Motion carried.

MOTION: TO grant the Special Permit requested. Moved by Member Colantouni, seconded by Member Pendleton. The Board voted 5-0 to grant the Special Permit. All in Favor. **Petition Granted.**

- III. 6:13 PM - Jyoti Jain** – Special Permit Request to construct an In-Law apartment in a Village Residence Zone located at 24 Ridgeway Avenue (Case # 22-12)

The applicant, Jyoti Jain, is seeking a Special Permit to build out an In-Law apartment on the basement level of her home for her parents. The applicant stated that the basement is currently unfinished space. The floor plan design for the in-law is a total of 745 sq. ft. meeting the requirement of 800 sq. ft. or less and has two means of egress.

There were no abutters present at this hearing.

The Certified Plot Plan of Land prepared by Dresser, Williams & Way, Inc. dated September 27, 2019 and the proposed In-Law addition floor plan prepared by David E. Capaldo, dated October 1, 2019, shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Vice-Chairman Accomando, seconded by Member Dampolo. All in Favor. Motion carried.

MOTION: TO grant the Special Permit requested. Moved by Member Colantuoni, seconded by Member Pendleton. The Board voted 5-0 to grant the Special Permit. All in Favor. **Petition Granted.**

IV. 6:18 PM - Kristen Coelho – Special Permit Request to construct an In-Law apartment in a Neighborhood Residence Zone located at 14 Balmoral Drive (Case #22-18)

The applicant, Kristen Coelho, is seeking a Special Permit to construct an In-Law Apartment for her parents. The In-Law apartment addition will be constructed on the left side of the home and attached to the main dwelling. The floor plan design for an in-law meets the requirement of 800 sq. ft. and has two means of egress.

There were no abutters present at this hearing.

The Certified Plot Plan of Land prepared by David P. Terenzoni, PLS, dated August 2, 2021 and the proposed In-Law addition floor plan prepared by Peter P. Tummino, dated August 6, 2021, shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Member Dampolo, seconded by Vice-Chairman Accomando. All in Favor. Motion carried.

MOTION: TO grant the Special Permit requested. Moved by Vice-Chairman Accomando, seconded by Member Dampolo. The Board voted 5-0 to grant the Special Permit. All in Favor. **Petition Granted.**

V. 6:23 P M - Joseph and Elizabeth Carvalho, by John J. McKenna, Esq. – Variance Request to construct a single-family home in a Village Residence Zone located at Wamesit Avenue (Case #22-15)

Attorney McKenna represented the applicants, Joseph and Elizabeth Carvalho, who are seeking a variance to construct a new single-family home on the lot. The applicants purchased three small individual lots and are seeking a variance to combine them in order to construct a modest, single-family home on a 13,500 sq. ft. lot. The frontage is on Hamilton Avenue which requires review from the Planning Board for a B2 Plan. The property is located on the corners of Hamilton Avenue and

Wamesit Avenue. Attorney McKenna stated that housing is much needed in this community. He further stated that these lots were previously owned by Patricia McCarthy.

The submitted Certified Plot Plan of Land prepared by Dresser, Williams & Way, Inc., dated January 17, 2022, shall be filed as part of this decision.

There were no abutters present at this hearing.

MOTION: TO close the public hearing. Moved by Vice-Chairman Accomando, seconded by Member Dampolo. All in favor. Motion Carried.

MOTION: TO grant the Variance requested. Moved by Member Pendleton, seconded by Vice-Chairman Accomando. The Board voted 5-0 to grant the Variance. **Petition Granted.**

VI. 6:30 PM - GNJM Realty, LLC, by John J. McKenna, Esq. – Variance Request to divide the premises into two lots in a Neighborhood Residence Zone located at 26 Arcadia Road (Case #22-14)

Attorney McKenna represented the applicant, GNJM Realty, LLC., who are seeking a variance to divide the premises into two (2) lots. The property consists of 28,334 sq. ft. and the existing house is to be demolished. The property is located behind Town Plaza. The petitioners resided on the property and consulted with the neighbors regarding the construction of two (2) medium-sized houses rather than one (1) larger home. The proposed two (2) medium houses on the smaller lots is the preferred alternative. The proposed Lot A would be 14,780 sq. ft and Lot B would be 13,554 sq. ft. with a 25' front setback. The side and rear setbacks are conforming to the Zoning Dimensional Table.

Richard Anderson of 19 Arcadia Road expressed his support for the lot split and future development of the property. He has lived in the neighborhood for over 35 yrs. and his Father-In-Law built the house he resides in. He is in favor of this lot split and redevelopment of the property.

The submitted Certified Plot Plan of Land prepared by Dresser, Williams & Way, dated January 14, 2022 with a revised date of February 5, 2022, shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Vice-Chairman Accomando, seconded by Member Dampolo. All in Favor. Motion carried.

MOTION: TO grant the Variance requested. Moved by Member Pendleton, seconded by Vice-Chairman Accomando. The Board voted 5-0 to grant the variance requested. **Petition Granted.**

VII. 6:39 PM - The Crandall Realty Trust by John J. McKenna, Esq. – Variance Request to divide the premises into two lots in a Neighborhood Residence Zone located at 143 Pollard Street (Case #22-13)

Attorney McKenna represented the applicant, The Crandall Realty Trust, who is seeking a variance to divide the property into two (2) lots to afford for Mrs. Crandall to reside on the property in a new single-family home. Attorney McKenna referenced the ZBA decision granting the applicant a variance dated January 22, 2020 (Case # 2019-72) to split the premises into three (3) lots. Due to Conservation restrictions on the south side of the property, the applicants were not able to obtain a building permit to move forward with this variance. The revised plan reflects one (1) new proposed lot that would be a 21,650 sq. ft. with 191' of frontage on Pollard St. The applicant seeks to change the shape of proposed Lot 1 by increasing the frontage on Pollard St. thereby making the lot wider. The new proposed house would be off the 50' No Alteration Zone as per the Conservation Commission's jurisdiction. The existing driveway would need to be relocated further to the right of the property to accommodate the new development. Attorney McKenna stated that this is the best possible plan available to his client given the Conservation restrictions, as well as topography and soil conditions. The distance from the proposed new house to existing house is approximately 125'.

Richard Morrill of 159 Pollard Street expressed his concerns over the proposed lot split, the conformity of the lots and the integrity of the neighborhood. He believes the new lot and development would be detrimental to the neighborhood. He also believes the two houses would be too close together and is opposed to this lot split and development.

Mark Morrill 159 Pollard St. believes this creates a very odd looking property with one proposed house in front of the existing house with the detached garage to the right of the existing house. He is opposed to this lot split and development.

Rachel DeRocher of 165 Pollard Street requested clarification of the three plans she currently has on this property regarding the lot split and development. She expressed concern regarding the placement of the driveway and how far off the curb and lot line it is. She is opposed to this lot split and development.

The Board finds that (1) relief could not be granted without detriment to the public good, (2) relief could not be granted without nullifying or substantially derogating from the intent and purpose of the Zoning By-Law, (3) literal enforcement of the provisions of the Zoning By-Law would not cause the petitioner a financial hardship, (4) granting the petitioners a variance would derogate from the neighborhood, and (5) there were abutters present in objection of this variance request.

The submitted Certified Plot Plan of Land prepared by Dresser, Williams & Way, dated October 11, 2019, with a revised date of January 14, 2020 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Vice-Chairman Accomando, seconded by Member Dampolo. All in Favor. Motion carried.

MOTION: TO grant the Variance Requested. Moved by Member Pendleton, seconded by Vice-Chairman Accomando. The Board voted 2-3 to **DENY** the Variance requested. Voting in Favor:

Vice Chairman Accomando and Member Dampolo. Voting in opposition: Chairman Wali, Members Colantuoni and Pendleton. **Petition Denied.**

VIII. 7:07 PM – Three Billerica Avenue Realty Trust, by Stephen Lentine, Esq. – Variance Request to reduce setbacks in an Industrial Zone located at 92 Billerica Avenue (Case #22-16)

Attorney Lentine requested that both hearings for 92 Billerica Avenue be opened and heard simultaneously as they relate to each other. The Board agreed to hear both petitions simultaneously (Case #22-16 and #22-17).

Attorney Lentine represented the applicant, Jon Metivier, who is seeking a variance to reduce the front setbacks and construct a proposed 3,864+/- sq. ft. building and to utilize the same as a Tradesman Shop for the indoor storage of contractor's materials, machinery, equipment and vehicles. Attorney Lentine stated that the property is a grandfathered contractor's yard and a tradesman's shop by right. The applicant acquired this property in 2011 which has significant wetlands on-site and the applicant is currently seeking an Order of Conditions from the Billerica Conservation Commission. Due to the conservation restrictions, the building must be pushed further forward to the street. The property is zoned for Industrial use which typically requires a 100' setback but they are seeking to reduce the front setback to 55'+/-. The new building will be wood framed with vinyl siding and have a two (2) bay garage attached. New fencing and improvements to upgrade the site are planned as well.

There is a private pumping station in the neighborhood but it was determined that a better alternative would be to create a Title 5 system on site.

It was noted that for the Special Permit, fencing would be required at the side and front of the property to shield residential views from the Tradesman shop.

There were no abutters present at the hearing.

The submitted Certified Site Plan of Land prepared by Dresser, Williams & Way, dated February 2, 2020 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Vice Chairman Accomando, seconded by Member Dampolo. All in favor. Carried.

MOTION: TO grant the Variance requested. Moved by Member Dampolo, seconded by Vice Chairman Accomando. The Board voted 5-0 to grant the Variance requested. **Petition Granted.**

IX 7:07 PM - Three Billerica Avenue Realty Trust, by Stephen Lentine, Esq. – Special Permit Request to construct a Tradesmen Shop in an Industrial Zone located at 92 Billerica Avenue (Case #22-17)

Attorney Lentine requested that both hearings for 92 Billerica Avenue be opened and heard simultaneously as they relate to each other. The Board agreed to hear both petitions simultaneously. (Case #22-16 and #22-17).

Attorney Lentine represented the applicant, Jon Metivier, who is seeking a special permit in order to construct a proposed 3,864+/- sq. ft. building and to utilize the same as a Tradesman Shop for the indoor storage of contractor's materials, machinery, equipment and vehicles. Attorney Lentine stated that the property is a grandfathered contractor's yard and a tradesman's shop by right. The applicant acquired this property in 2011 which has significant wetlands on-site and the applicant is currently seeking an Order of Conditions from the Billerica Conservation Commission. Due to the conservation restrictions, the building must be pushed further forward to the street. The property is zoned for Industrial use which typically requires a 100' setback but they are seeking to reduce the front setback to 55'+/-. The new building will be wood framed with vinyl siding and have a two (2) bay garage attached. New fencing will be required at the side and front of the property to shield residential views from the Tradesman Shop

There were no abutters present at this hearing.

The Certified Site 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 Chairman Accomando, seconded by Member Dampolo. All in Favor. Motion carried.

MOTION: TO grant the Special Permit requested. Moved by Member Pendleton, seconded by Vice Chairman Accomando. The Board voted 5-0 to grant the Special Permit requested. **Petition Granted.**

X. 7:20 PM - Jean Marie Clements and Sandra A. Finnell, by George Medeiros, Esq. – Variance Request to divide the premises into two lots in a Rural Residence Zone located at 290 River Street (Case #22-19)

Attorney Medeiros represented the applicants who are seeking a variance to divide their property into two (2) lots. The property consists of approximately 105,582 sq. ft. of land (2.42 acres) with 261.95' of frontage and is burdened with an extensive amount of ledge which has prevented the property from being developed in the past. The family has owned and occupied the house for 58+ years and the home is in need of multiple repairs and updates. The division of land would create a 30,00 sq. ft. lot with 172.41 sq. ft. of frontage and the second lot would be a 75,583 sq. ft lot with 89.74 sq. ft of frontage.

There were no abutters present at the hearing.

The submitted Certified Plot Plan of Land prepared by Dresser, Williams & Way, dated March 7, 2022 shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Vice Chairman Accomando, seconded by Member Dampolo. All in Favor. Motion carried.

MOTION: TO grant the Variance requested. Moved by Member Pendleton, seconded by Member Dampolo. The Board voted 5-0 to grant the variance requested. **Petition granted.**

XI. 7:30 PM - Marc Lombardo by James Dangora, Jr. – Extension Request for a previously granted variance in a Village Residence Zone at 9 Eubar Circle (Case #21-14)

MOTION: TO grant a six (6) month extension on the original Variance, Case #21-14, with a new expiration date of October 14, 2022. Moved by Vice Chairman Accomando, seconded by Member Pendleton. All in Favor. **Extension granted.**

Administrative Matters:

1. Clarification of vote for 8 Birch Street heard on March 30, 2022 (Case # 22-05)

The Board clarified the vote for this hearing as it requires a Super Majority vote of 4-1 to be granted. This hearing was denied with an original vote of 3-2. Voting in favor were Chairman Wali, Vice Chairman Accomando and Member Dampolo. Voting in opposition were Members Parker and Pendleton. **Petition denied.** Member Colantuoni recused himself from the original hearing.

2. Approve the Minutes of the March 30, 2022 Board of Appeals Meeting.

The minutes for March 30, 2022 were postponed to May 18, 2022.

7:32 PM - ADJOURN

MOTION: TO adjourn. Moved by Vice Chairman Accomando, seconded by Member Pendleton. All in Favor. Motion Carried.

Respectfully submitted,

Liz Ells, ZBA
Principle Clerk