

TOWN OF BILLERICA

Zoning Board of Appeals
365 Boston Road
Billerica, Massachusetts 01862
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Minutes pertaining to the Board of Appeal Meeting held on Wednesday, July 8, 2020 via Remote Participation on Zoom.

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

Vice-Chairman, Richard Colantuoni, opened the Board of Appeal meeting at 6:02 PM. Vice-Chairman Colantuoni read the notice of each petition prior to its hearing.

Hearing #1: Peter Natsios, Trustee
By James T. Dangora, Jr., Esq.

Locus: 66 & 68 Gray Street (Plate 26 Parcel 119-0)

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

Attorney James T. Dangora, Jr., on behalf of Peter Natsios, Trustee, appeared before the Board of Appeals requesting a six month extension on a previously granted variance located at 66 & 68 Gray Street, as shown on the Assessor's Map as Plate 26 Parcel 119-0.

Attorney Dangora, Jr. explained the original decision has been recorded at the Registry of Deeds in Lowell and the applicant has already been to the Planning Board. The applicant still has to appear before the Conservation Commission and the Historic District Commission. Due to COVID-19, the six month extension was filed in an abundance of caution and was filed in a timely manner. The original decision was granted May 17, 2019.

Robert Accomando made a motion to grant the petitioner a six month extension second by Eric Anable. All in favor. Motion granted.

Hearing #2: John and Suzanne Saulnier
By James T. Dangora, Jr., Esq.

Locus: 7 Freedom Way (Plate 31 Parcel 269-0)

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

Attorney James T. Dangora, Jr., on behalf of John and Suzanne Saulnier, appeared before the Board of Appeals requesting a six month extension on a previously granted variance located at 7 Freedom Way, as shown on the Assessor's Map as Plate 31 Parcel 269-0.

Attorney Dangora, Jr. explained the original decision has been recorded at the Registry of Deeds in Lowell. The applicant needs extra six months to get everything in order. Due to COVID-19, the six month extension was filed in an abundance of caution and was filed in a timely manner. The original decision was granted May 28, 2019.

Robert Accomando made a motion to grant the petitioner a six month extension second by Eric Anable. All in favor. Motion granted.

**Hearing #3: Gino Mele
For Elizabeth & Salvatore Mele**

Locus: 23 Eliot Street (Plate 96 Parcel 14)

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

Gino Mele, for Elizabeth and Salvatore Mele, appeared before the Board of Appeals requesting a special permit pursuant to Section 5.C.1.i(e) of the Zoning By-Law to store trailers on the lot located at 23 Eliot Street, shown on the Assessor's Map as Plate 96 Parcel 14 located in a Village Residence Zone.

Gino Mele explained he got a visit from the Health Department and that subsequently led to a visit from the Building Department due to several trailers on the lot. He would now like to legally store two boats, a dump trailer, and a utility trailer.

Richard Colantuoni asked if he was running a business there.

Gino responded no, they're all his. The dump trailer is for leaf and yard waste.

Richard Colantuoni asked so it's for a residential use? Gino responded yes.

Robert Accomando stated he was by there earlier today and there is a boat there now that says under construction. Are you putting a pad in?

Gino explained he is trying to make a level area over there. He was trying to keep the rain out of there. This will all be moved.

Sal Dampolo stated he wanted to hear from abutters. Anupam Wali agreed.

Timothy Casazza of 9 Fuller Road stated at some point, this property transitioned and almost immediately -a ton of structures (campers, etc.) appeared. He would strongly suggest the board goes and has a look at the property and define some limits. Once limits are set, he can pretty much do whatever he wants. Come take a look and envision this property next to you if this special permit is granted.

Richard Colanutoni stated since he applied for a special permit, the board is allowed to put conditions on there as to what he can store, no commercial use, etc.

Timothy Casazza stated he wanted to get educated and didn't have enough time to learn the codes and bylaws specific to this special permit request.

Gino Mele stated he is essentially looking to clean up his yard. His father passed away and things kind of fell apart.

Richard Colantuoni stated based on the current bylaws, you're allowed to store one vehicle or trailer.

Bunmi Faleye of 2 Cottage Street, directly opposite of 23 Eliot Street, stated to be upfront, he was not the one who made the complaint. Every time he looks at this property, he thinks how he is supposed to sell his property with this property across from him. This should be some subtle way to limit what he's allowed to do.

Anupam Wali stated his concern about the impact of it on the neighborhood. He has driven by - it's a congested area and storing any type of equipment is derogating to the neighborhood. They would need to put some type of conditions on the decision.

Sal Dampolo stated it doesn't sound good to him. It's definitely a detriment to the neighborhood. He hasn't seen it but it doesn't sound like these vehicles are needed in the neighborhood.

Bob Accomando stated he was there today. It is congested due to the fact that there has been earth moved around and there is not a lot of flat space.

Gino said my plan is to clean it up. I have three trailers; I'm planning on flattening it out and storing it in flat area.

Robert Accomando asked if it's all Gino's stuff. Gino said yes. I would offer up titles and bills of sale for items. I suggested putting a fence up along the property line so it would be less visible, making it more appealing.

Eric Anable stated he was there today too. I think I know what the neighbors are talking about. I kind of view this as an attempt to make it better for the neighbors. I would like to hear about dick's ideas of restrictions. I would hope if this passes, it would help the process of cleaning this property up and making the neighbors happier.

Richard Colantuoni suggested conditions such as it has to be reviewed again by the board in 6 months and set a condition on what he's allowed to store.

Gino stated he has a 21 foot boat and an 18 foot boat.

Richard Colantuoni asked if he needed the other trailers.

Gino stated the dump trailer if used to dump yard waste. He likes to fill the trailer up instead of stuffing bags and empty it when it's needed.

Richard so what if we said you could store two boats and a small 5 x 8 dump trailer?

Robert Accomando asked if the boat that's in the yard now is Gino's. Gino said yes, it stopped running so he'll be getting rid of the 21 foot boat.

Anupam Wali stated if his intentions were to clean it up, he could have done it by now.

Robert Accomando asked he had considered withdrawing his application until he got the lot cleaned up.

Richard Colantuoni stated we could continue it and ask that progress be made.

Sal Dampolo stated he liked the idea of giving him a chance to clean it up.

Valarie Doerrer of 16 Fuller Road, directly adjacent, stated it is her understanding that he is allowed by right to store one vehicle and one trailer. She is curious as to the RV. Is that allowed too? She has never met Gino but he's had quite a bit of trailers for many years now. She supports the idea of giving him a chance before granting the special permit.

Bunmi Faleyeye asked if the cleanup included a privacy fence for his property. This would help significantly.

Richard Colantuoni stated he is leaning towards a continuance. If we continue this hearing until a date when he can come back when the place is cleaned up, graded up, fence is up, and a definite list of what you're going to store there.

Sal Dampolo made a motion to continue said hearing until November 18, 2020 at 6:30 PM, second by Anupam Wali. All in favor. Motion granted.

The abutters were told they would not be notified again of the said continued hearing and they shall check the Town of Billerica's website to get the Zoom information in order to participate, if desired.

Hearing #4: Daniel Johnson & Karen Lavoie

Locus: 36 Lexington Road (Plate 79 Parcel 304)

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

Daniel Johnson appeared before the Board of Appeals requesting a variance pursuant to Section 7.L of the Zoning By-Law to reduce the front yard setback to install a shed located at 36 Lexington Road, shown on the Assessor's Map as Plate 79 Parcel 304 in a Village Residence Zone.

Daniel Johnson explained he was unaware of the exact setback requirements. His lot is a challenging in regards to topography. A car actually ended up landing in the house and he built a new retaining wall. Now, he needs a new shed to store his stuff and still be able to easily access it without causing physical pain.

Richard Colantuoni stated it's a nice looking shed and he can see the hardship he is faced with.

Eric Anable stated he went be earlier today and can see the issue. Eric also stated he does not see anybody raising their hands.

Robert Accomando stated he was their earlier today too. It's a nice shed and the land is definitely challenging – it's very steep. He has no problem with it.

Richard Colantuoni stated it's a topography nightmare.

Sal Dampolo said it all sounds like it shouldn't be a problem.

Anupam Wali stated he knows the topography is a problem there.

There were no hands raised.

Robert 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 variance pursuant to the legal ad, plan submitted and testimony given, second by Sal Dampolo. All in favor. Motion granted.

Hearing #5: Janet & Kenneth Smalley

Locus: 71 Nashua Road (Plate 47 Parcel 12-1)

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

Janet Smalley appeared before the Board of Appeals requesting a special permit pursuant to Section 5.C.3 of the Zoning By-Law to construct an in-law apartment located at 71 Nashua Road, shown on the Assessor's Map as Plate 47 Parcel 12-1 in a Neighborhood Residence Zone.

Janet Smalley explained she is looking to put an in-law apartment on. Her son and daughter in-law currently live in the main house and she would like to build an in-law for herself and her daughter whom is special needs. They would be the ones to live in the in-law apartment.

Anupam Wali stated he has no questions.

Sal Dampolo stated he also had no questions.

Robert Accomando said his only question is if she had spoken with any of the neighbors.

Janet Smalley stated yes she spoke with both sides prior to even filing for a special permit. They had no issues with it.

Eric Anable stated it looks good.

There were no abutters present.

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 special permit pursuant to the legal ad, plan submitted and testimony given, second by Robert Accomando. All in favor. Motion granted.

Hearing #6: David McLaughlin
By John J. McKenna, Esq.

Locus: Dyer Street (Plate 66 Parcel 114)

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

Attorney John J. McKenna, on behalf of David McLaughlin, appeared before the Board of Appeals requesting a variance pursuant to Section 7 & Section 7.K of the Zoning By-Law to divide their parcel into two conforming parcels located at Dyer Street, shown on the Assessor's Map as Plate 66 Parcel 114 located in a Village Residence Zone.

Attorney McKenna explained after speaking with the Building Commissioner, Mark LaLumiere, it should be Section 7.L, not Section 7.K. Attorney McKenna explained this lot is a very unique shape located on Treble Cove Road and it goes up onto Dyer Street. They would like to split off the piece that is on Dyer Street to create a new lot. This new lot will stand alone and have frontage on Dyer Street. This section of Dyer Street is an unapproved way but the access to the property will be through the paved portion of Walton Street. There is no access from Rio Vista Street and/or Treble Cove Road. The petitioners are trying to make use of unused property. The lot right now is currently a wooded area that is susceptible to dumping.

There were letters in support received by the Board of Appeals on July 8, 2020 from Kelly & Brian Proulx (3 Rio Vista Street), Brian Lewis (9 Dyer Street) and Anna Parcella and Robert Arsenault (7 Rio Vista Street).

Robert Accomando asked if Dyer Street isn't finished, will it be in the plans to make the road passable.

Attorney McKenna stated yes, if granted, they will go to DPW to extend the street.

Eric Anable, Sal Dampolo and Anupam Wali all stated they have no questions.

There were no hands raised.

Robert 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 variance pursuant to the legal ad, plan submitted and testimony given, second by Sal Dampolo. All in favor. Motion granted.

**Hearing #7: 0 Republic Road, LLC
For Emerald Realty Trust
By David Giannetta**

Locus: 4 Republic Road (Plate 58 Parcel 17)

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

David Giannetta, on behalf of 0 Republic Road, LLC for Emerald Realty Trust, appeared before the Board of Appeals requesting a variance pursuant to Section 7.J (Walls, Fences & Retaining Walls) of the Zoning By-Law for a height variance to construct a retaining wall located at 4 Republic Road, shown on the Assessor's Map as Plate 58 Parcel 17 located in an Industrial Zone.

David Giannetta explained the lot is heavily sloped in the rear. They currently have all the permits they need from the state and the town to operate a weed shop. In order to provide a safe parking area, the need to construct a retaining wall which would exceed the allowed six feet in height in the rear. This would be a great substantial hardship if not granted. The parking lot also slightly goes into the green strip as well as the wall itself. Therefore, they would also have to reduce the green strip. The topography of the lot creates a hardship. The wall will be 10 feet from the property line and the parking lot is 16 feet off the property line.

Richard Colantuoni stated you know you'll have to work with DPW right?

Robert Accomando stated when he was in the Dunkin Donuts Drive-Thru; he noticed everything is level now. Will there be a barrier between the lots?

David Giannetta stated temporarily, there will be a chain linked fence. Once they took all the fencing, shrubs, and trees down, it appeared they actually brought the grade up. At the end, they will be completely fenced in until the building itself is secure.

Anupam stated he thought it would be a really good improvement there in the industrial zone.

Sal Dampolo stated it looks good to him. It's going to be a definite improvement.

Eric Anable asked if it all goes right, when do you open?

David Giannetta stated February of 2021.

There were no hands raised.

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

Richard Colantuoni noted to include the decreasing of the green strip into the decision.

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

Hearing #8: Doreen & Gary Ganley
By Phillip Conroy

Locus: 9 Christina Ave (Plate 91 Parcel 210)

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

Phillip Conroy, on behalf of Doreen and Gary Ganley, appeared before the Board of Appeals requesting a variance pursuant to Section 7.L of the Zoning By-Law to reduce the side yard setbacks to construct an addition located at 9 Christina Ave, shown on the Assessor's Map as Plate 91 Parcel 210 located in a Village Residence Zone.

Phillip Conroy explained they are looking to put a small addition in to the back but in order to do so, they must decrease the side yard setback from 15 feet to 13.2 feet. They would like to expand the existing 12 x 12 addition to 12 x 24. The new addition would total to be another 12 x 12. Phillip and Doreen explained they spoke with all the neighbors personally and none were opposed to granting said variance.

Anupam Wali stated he has no questions.

Sal Dampolo said he is ok with it as long as all the abutters were ok with it.

Robert Accomando stated no problem. His only concern was notification for abutters.

Eric Anable was good with granting said variance.

There were no hands raised.

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

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

Hearing #9: Allen Swanson
By John J. McKenna, Esq.

Locus: 30 & 32 Eliot Street (Plate 96 Parcel 154-2)

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

Attorney John J. McKenna, on behalf of Allen Swanson, appeared before the Board of Appeals requesting a variance pursuant to Section 7 & Section 7K of the Zoning By-Law to divide the parcel into two lots located at 30 & 32 Eliot Street shown on the Assessor's Map as Plate 96 Parcel 154-2 located in a Village Residence Zone.

Attorney McKenna explained after speaking with the Building Commissioner, Mark LaLumiere, it should be Section 7.L, not Section 7.K. Attorney McKenna explained the two houses on this lot were built prior to 1945. The owners lived in one house and the other house was lived in by many of the owner's children. This is a pre-existing, non-conforming lot.

The petitioner is looking to take the house down towards Beech Street (#30 Eliot Street) and built a split level house from him and his family. His mother and sister will continue to live in #32 Eliot Street. They are trying to make the two lots as conforming as they possibly can.

30 Eliot Street will be approximately 5,000 square feet while 32 Eliot Street will be 6,000 square feet.

Anupam Wali stated he has no questions. It will be an improvement there and he wished both houses were coming down instead of just one.

Sal Dampolo stated he is ok with it.

Robert Accomando asked if the pool and deck will come down since the new property line goes right through it.

Attorney McKenna stated he didn't think so, at least not right away anyways. Eventually it will be removed and there will be an easement between the families.

Eric Anable stated he had the same question as Robert Accomando.


There were no hands raised.

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 Eric Anable. All in favor. Motion granted.

Other Business:

1. Approve Minutes of the July 1, 2020 Board of Appeals Meeting.
 - Vote 5-0.
 - Minutes Approved.


Robert Accomando,
Secretary