

BILLERICA BOARD of APPEALS
Minutes for the
June 15, 2022 Meeting
6:00 PM
Town Hall, Room 210
365 Boston Road, Billerica, MA

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

- I. 6:00 PM – PUBLIC COMMENT** – No public comments.
- II. 6:05 PM - Atlantic Ave. Builders** by John J. McKenna, Esq. – Special Permit Finding request to demolish and rebuild a new single-family home in a Neighborhood Residence Zone located at 116-116A Concord Road (Case #22-29)

Attorney McKenna presented the project to demolish the existing home to build a new single family home. He explained that the existing home is in disrepair and the structures are presently close to the rear and side property lines. The proposed new home would be a 24x24 two story Colonial home with an attached two car garage with increased setbacks from the property boundary lines. The client is requesting a Special Permit finding that the property is a pre-existing nonconforming lot. It was noted that the property has access to an existing 12' Right-Of-Way off of Concord Road on a 9500 sq. ft. lot. Further, the Board of Health determined that a deephole test is required to determine the groundwater elevation, as well as an asbestos survey shall be conducted. The new proposed home will be required to connect to town water and sewer.

The Certified Plot Plan of Land prepared by Dresser, Williams & Way, dated March 1, 2022 shall be filed as part of this decision, as well as the submitted proposed house plan.

There were no abutters present at this hearing.

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

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

III. 6:14 PM - Brian and Grace Dawson by John J. McKenna, Esq. – Variance Request to divide the premises into two lots in a Neighborhood Residence Zone located at 30 Devonshire Drive (Case #22-30)

Attorney McKenna presented the Variance request to divide the property into two lots. The property is a 42,105 sq. ft. lot and is irregular in shape and under-utilized. His client is seeking to divide the property creating a new 21,465 +/- sq. ft. lot. The new lot will be developed with a moderate size split gambrel or sideways colonial in an attempt to keep the new house in conformity with other homes in the neighborhood. It was noted that the water table will determine the building envelope.

Attorney McKenna presented three letters of support from abutters for this project.

The Certified Plot Plan of Land prepared by Ludwig Survey Solutions dated January 14, 2022 shall be filed as part of this decision, as well as the submitted proposed house plan.

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

MOTION: TO grant the Variance requested. Moved by Member Colantuoni, seconded by Vice-Chairman Accomando. The Board voted 4-1 to grant the Variance. Voting in favor: A. Wali, R. Accomando, R. Colantuoni, and M. Pendleton. Voting against was R. McKenna. **Petition Granted.**

IV. 6:18 PM - Robert Maher by John J. McKenna, Esq. – Variance Request to divide the premises into two lots in a Rural Residence Zone located at 206 Andover Road (Case 22-31)

Attorney McKenna presented the variance request to divide the property into two lots. His client wishes to develop the newly created lot for his son to build and reside in a single-family home. There was discussion surrounding the driveway which is shown on the left side of the existing home and the new house would face Andover Road. There is a paper road on the other side of the property which would have to be developed if the driveway was moved to the other side. The Board expressed concern regarding access to the property and the frontage on the real road. The DPW commented that the existing house must be connected to town sewer that is available on Andover Road and stated that there is no existing sewer stub available for the new lot if granted. Both lots would have to be connected to town sewer. It was decided to continue this hearing per the applicant's request so that further information could be provided to the Board.

There were no abutters present at this hearing.

The Certified Plot Plan of Land prepared by Dresser, Williams and Way, dated March 8, 2021, shall be filed as part of this decision.

MOTION: TO continue the hearing per the applicant's request to August 17, 2022, pending updated information. Moved by Vice-Chairman Accomando, seconded by Member Pendleton. Motion carried.

- V. **6:49 PM** - John Conway by John J. McKenna, Esq. – Variance Request to reduce the side setback to construct a Tradesman Shop in a Neighborhood Business Zone located at 254 Salem Road (Case #22-34)

Attorney McKenna presented the variance request to reduce the side setback from the required 25' to 10' in order to construct Trademan's Shop on the property. The applicant is proposing to construct four garage bays and rent out 2/3 of them. Tom Masse of 2 Carley Way will be a tenant operating a HVAC Tradesman shop in one bay. There was discussion regarding the number of garage bays as well as equipment/vehicle storage on the property. It was noted that all equipment would be stored indoors and there would be no vehicle storage or vehicle repairs made on the property.

The submitted Certified Site Plan of Land prepared by Dresser, Williams & Way, Inc., dated May 12, 2022, shall be filed as part of this decision.

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

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

- VI. **7:11 PM** – Dean Jenkins by John J. McKenna, Esq. – Variance Request for lot area, frontage and boundary line change to construct a single-family home in a Neighborhood Business Zone located at Mt Pleasant Street (Case #22-35)

Attorney McKenna presented the variance request for area, frontage and boundary line change to build a single-family home on a 40,054 sq. ft. lot with access from a right of way on 7 Hickory Lane. The right of way is 40' wide with a driveway that serves 7 Hickory Lane. The applicant is proposing to widen the driveway to 16' then lengthen it to access the property at 0 Mt. Pleasant Street. The only access to 0 Mt. Pleasant Street without impacting the wetlands is via the right of way onto Hickory Lane.

Andrew Deslaurier, 32 Mt. Pleasant St., is a direct abutter to the property and is opposed to this variance with the new development via the right of way on Hickory Lane.

Mrs. Patricia Mead of 7 Hickory Lane supports the variance request and has no issues with the property being developed. She believes it would enhance the neighborhood.

The Board requested more time to further discuss this hearing and the applicant requested a continuance to August 17, 2022.

The submitted Certified Plot Plan of Land prepared by Dresser, Williams & Way, dated April 14, 2022 shall be filed as part of this decision.

MOTION: TO continue the hearing per the applicant's request. Moved by Vice-Chairman Accomando, seconded by Member Colantuoni. All in Favor. Motion carried.

VII. 7:22 PM - Joseph Kenney by John McKenna, Esq. – Variance Request to divide the premises into two lots in a Rural Residence Zone located at 15 Kingston Street (Case #22-24)

This petition was originally continued to June 15, 2022. Attorney McKenna presented the variance request to divide the property into two lots. The lot is approximately 45,000 sq. ft. and the existing house would be 25,000 sq. ft and the newly created lot would be 20,000 sq. ft. The proposed lots would be similar in size to the other lots in the area. The applicant has stated that the hardship is the lot is too big to maintain and they wish to divide the property so that their daughter and her family can build a new single-family home.

Andrea Giargiari, 14 Kingston Street, expressed support for the variance request.

Philip Dunnigan, 23 Fourth Avenue, also expressed support for the variance.

The submitted Certified Plot Plan of Land prepared by Dresser, Williams & Way, dated February 11, 2022 shall be filed as part of this decision.

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

MOTION: TO grant the Variance Requested. Moved by Member Colantuoni, seconded by Vice-Chairman Accomando. The Board voted 4-1 to **Grant** the Variance requested. Voting in Favor: Vice Chairman Accomando, Members R. Colantuoni, M. Pendleton and A. Wali. Voting in opposition: Member R. McKenna. **Petition Granted.**

VIII. 7:35 PM – Robert Boulanger by David Kinsella – Special Permit Request to construct an In-Law apartment in a Rural Residence Zone located at 42 Chatham Road (Case #22-20)

David Kinsella presented the special permit request to construct an in-law apartment and stated that Mr. & Mrs. Boulanger plan to occupy the in-law and their daughter and her family will occupy the existing main house. A second means of egress with stairs off the back deck is required and a second driveway will be installed. The project also consists of constructing two additions to the main house which are a mudroom with a half bath, storage space and laundry and a family room.

Anthony Trunfio of 8 Shawnee Circle is opposed to the project due to the length of the existing house and feels that adding a garage, breezeway and in-law apartment will be too big for the neighborhood.

The submitted Certified Plot Plan of Land prepared by Joseph M. Massone, dated March 11, 2022 as well as the Design plans prepared by D.A. Kinsella Company, dated March 10, 2022 shall be filed as part of this decision.

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

MOTION: TO grant the Variance requested. Moved by Vice-Chairman Accomando, seconded by Member Colantuoni. The Board voted 4-1 to grant the Special Permit requested. Voting in Favor: Vice Chairman Accomando, Members R. Colantuoni, R. McKenna and A. Wali. Voting in opposition: Member M. Pendleton. **Petition Granted.**

IX 7:56 PM - Robert Taylor – Variance Request to reduce side setback to construct a garage in a Rural Residence Zone located at 14 Cynthia Road (Case #22-27)

The applicant, Robert Taylor, presented his variance request to reduce the side setback from 15' to 7.5' to construct a 24x24 garage. The existing shed appears to be placed directly on the property line and will be removed in order to build the garage. It was determined that an updated plot plan with dimensions would be required for this project and the Board suggested the applicant request to continue the hearing pending submission of a revised plot plan.

There were no abutters present at this hearing.

MOTION: TO continue the hearing per the applicant's request, pending submission of a revised plot plan with dimensions. Moved by Vice-Chairman Accomando, seconded by Member Colantuoni. All in Favor. Motion carried.

X. 8:19 PM - Takayuki Iida – Variance Request to reduce front setbacks to construct a porch and portico in a Rural Residence Zone located at 25 Lindsay Road (Case #22-28)

The applicant, Takayuki Iida, presented his variance request to reduce the front setbacks in order to construct an open porch with a portico. The open porch would be 8x8 and he is requesting to reduce the front setback to 26'.

There were no abutters present at the hearing.

The submitted Certified Site Plan of Land prepared by ESS, dated February 4, 2020 and the Design plan prepared by Custom Building Systems, LLC, dated February 9, 2021 shall be filed as part of this decision.

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

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

XI. 8:25 PM - Arber Zegaj and Pronvero Hoxha – Variance Request to divide the premises into two lots in a Rural Residence Zone located at 161 Salem Road (Case # 22-32)

The applicants Arber and Pronvero presented their variance request to divide the property into two lots to allow family members to develop a single family house. They feel the lot is too big for them to maintain. There is a paper road next to the existing home. It was determined that an updated plot plan with dimensions would be required for this project and the Board suggested the applicant request to continue the hearing pending submission of a revised plot plan.

There were no abutters present at the hearing.

MOTION: TO continue the hearing per the applicant's request, pending submission of a revised plot plan with dimensions. The new hearing date is not yet determined. Moved by Vice-Chairman Accomando, seconded by Member Pendleton. All in Favor. Motion carried.

XI. 8:39 PM - Patrick McGarry – Variance Request to reduce the front setbacks to construct a farmer's porch in a Village Residence Zone located at 21 Keyes Road (Case # 22-33)

The applicant, Patrick McGarry, presented his variance request to reduce the front setback to 24' in order to construct a farmer's porch.

There were no abutters present at the hearing.

The submitted Certified Plot Plan of Land prepared by McDonald Land Surveying, Inc., dated April 14, 2022 and the Design plan prepared by Custom Home Designs, shall be filed as part of this decision.

MOTION: TO close the public hearing. Moved by Member Pendleton, seconded by Vice-Chairman Accomando. 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.**

XI. 8:43 PM - Fang Liao – Variance Request to increase the green space to 36% in order to construct an addition in a Village Residence Zone located at 33 Beech Street (Case #22-37)

Due to a language barrier, the applicant, Fang Liao, stated that her husband, Jeff Cook, would present the variance request to construct a 32x28 addition to their home for storage purposes. The lot is grandfathered for side setbacks and they are requesting relief for lot coverage. The proposed project

consists of adding a 2-car garage with storage space above. The Board requested that the plot plan be revised to reflect more detailed dimensions of the structure size and details. It was suggested that the applicant continue the hearing to August 17, 2022.

Stephen Guisti, 29 Beech Street, expressed concerns regarding the height of the addition and blocking the view from his home.

Rick Campbell, 19 Lakeview Drive, also expressed concerns that the entire lot would be covered.

Ramsahoye Khemraj, 74 Marshall also expressed concerns that the entire lot would be covered. He further expressed concerns that the applicant removed a railroad ties retaining wall bordering their properties and now there is a slope.

All attending abutters also expressed that this was the first time they heard of it being two levels and have concerns regarding their respective views.

MOTION: TO continue the hearing per the applicant's request, to August 17, 2022 pending submission of a revised plot plan with dimensions. Moved by Vice-Chairman Accomando, seconded by Member Pendleton. All in Favor. Motion carried.

Administrative Matters:

1. Approve the Minutes of the May 18, 2022 Board of Appeals Meeting

MOTION: TO approve the minutes of the May 18, 2022 Board of Appeals Meeting. Moved by Vice-Chairman Accomando, seconded by Member Colantuoni. The Board voted 5-0 to approve the minutes as presented. Minutes accepted.

9:16 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