

TOWN OF BILLERICA

Zoning Board of Appeal
365 Boston Road
Billerica, Massachusetts 01862
Telephone: 978-671-0964

Minutes pertaining to the Board of Appeal Meeting held on Wednesday, February 9, 2022 via Remote Participation.

Members Present: Anupam S. Wali, Chairman, Robert B. Accomando, Vice-Chairman, Michael Parker, Secretary, Richard A. Colantuoni, Sal Dampolo and Ralph J. McKenna. Alternative member Michael Pendleton joined the meeting at 6:11 p.m.

Chairman Anupam Wali opened the Board of Appeal meeting at 6:01 PM and read the notice of each petition prior to its hearing and swore in those wishing to speak on each petition.

Hearing #1: Paul & Mary Ferrari

Locus: 17 Rosewood Avenue

The following members were present and voting on this petition: Anupam S. Wali, Richard Colantuoni, Robert Accomando, Michael Parker, and Ralph McKenna.

The applicant explained that he is seeking relief from the front and side setbacks in order to construct a farmer's porch. The Board approved the porch to be 17.5' at a minimum from the front lot setback, and no less than 8'9" on the side setback.

Robert Accomando made a motion to close the hearing, seconded by Michael Parker. All in favor. Motion granted.

Richard Colantuoni made a motion to grant the petitioner a variance pursuant to the legal ad, plan submitted, and testimony given, seconded by Michael Parker. All in favor. Petition granted.

Hearing #2: Bozhidar Malevski

Locus: 420 Boston Road

The following members were present and voting on this petition: Anupam S. Wali, Robert Accomando, Richard Colantuoni, Michael Parker and Ralph McKenna.

The applicant is seeking a special permit to operate a fast-food establishment to include 2 to 3 tables with chairs for customers waiting for their orders. The Board noted and informed the applicant that a Common Victualler License from the Select Board is required for this business.

Gordon Brainard, a business abutter, expressed his concern over safety and increased traffic in the narrow alley way between the buildings. Mr. Malevski stated that they are a small operation specializing in healthy smoothies and teas and does not anticipate large crowds of people or vehicles. The back parking lot is sufficient for their customers.

Michael Parker made a motion to close the hearing, seconded by Bob Accomando. All in favor. Motion granted.

Richard Colantuoni made a motion to grant the petitioner a special permit pursuant to the legal ad, plan submitted and testimony given, seconded by Bob Accomando. All in favor. Petition granted.

Hearing #3: Ricardo Verissimo dos Reis

Locus: 401 Middlesex Turnpike

The following members were present and voting on this petition: Anupam S. Wali, Robert Accomando, Richard Colantuoni, Michael Parker, and Ralph McKenna.

The applicant is seeking a special permit to construct an in-law apartment on the basement level of his split level home for his elderly mother. They will also be using the garage portion of the lower level to build out for the in-law apartment.

Lauren Goguen, 154 Concord Road, joined the meeting in support of the requested special permit for an in-law to be built.

Michael Parker made a motion to close the hearing, seconded by Robert Accomando. All in favor. Motion granted.

Richard Colantuoni made a motion to grant the petitioner a special permit pursuant to the legal ad, plan submitted and testimony given, seconded by Michael Parker. All in favor. Petition granted.

Hearing #4: 0 Arcadia Road CBC, LLC.

Locus: 219 Allen Road

The following members were present and voting on this petition: Anupam S. Wali, Richard Colantuoni, Robert Accomando, Michael Parker, and Ralph McKenna.

At the hearing, Attorney Dangora waived the original request to divide the lot and move forward with request for relief of the front and side yard setbacks. He stated that the property is already split and stubbed for water and sewer connections and the house to be built is a modest 28x36 Gabriel with a garage underneath. This relief request is driven by the property's soil conditions and they are requesting to reduce the front setback from 35' to 20' and the side setback from 15' to 10'. The lot has been deemed a buildable lot but certainly faces challenges due to wetlands and the slope of the property. There was discussion regarding the Conservation Commission's 50' No Alteration Zone and the applicant is willing to put the 50' No Alteration Zone in perpetuity if granted the variance from the Zoning Board of Appeals.

There were several abutters present at the meeting and expressed their following concerns:

Patricia Membrino, 1 Marshbrook Road, stated she is opposed to this new development due to her concerns regarding wetlands preservation and wildlife habitat.

Cheryl Kelley, 15 Arcadia Road, stated she is opposed to the project due to flooding concerns.

John Morris, 224 Allen Road, expressed his support of the project based on his extensive knowledge of the area and the floodplains. Mr. Morris is also familiar with the property as he served as the Director of the Board of Health for Billerica for 15 years.

Lisa Foley, 3 Marshbrook Road, is opposed to the project citing concerns over increased traffic flows, construction vehicles, tree removal, wetlands, and wildlife. She further stated her concerns regarding the traffic as the area does not support sidewalks and there are children in the neighborhood and the street is already narrow.

Kelly Stairs, 16 Arcadia Road, is opposed citing greenspace and wildlife concerns. She also expressed concern regarding encroachment to surrounding neighbors and it's proximity to the street.

Cathy Marshall, 2 Heavenly Way, is opposed citing similar reasons as the previous abutters.

Vincent Cangiamila, 23 Riverdale Road, is opposed due to flooding issues in the area as the undeveloped lot supports a steep slope with runoff into the neighborhoods below them.

Dennis Carsno, 14 Arcadia Way, has lived in the neighborhood for 40 years and stated the area floods every time it rains and the undeveloped lot is a swamp. He feels the new house would be too close to the street and is opposed to the new development.

Sean Deacy, the new owner of the lot, stated that he has signed the Purchase and Sale Agreement for the property and wishes to develop it and build a new home.

Ralph McKenna made a motion to close the hearing, seconded by Bob Accomando. All in favor. Motion granted.

Michael Parker made a motion to grant the petitioner a variance as requested with the footage modification to reduce the front and side setbacks, pursuant to the legal ad, plan submitted and testimony given, seconded by Robert Accomando. All members voted against this variance request. Petition denied.

Hearing #5: TSP Group, Inc. d/b/a Bang Na Thai Kitchen

Locus: 95 Boston Road -Unit 2

The following members were present and voting on this petition: Anupam S. Wali, Richard Colantuoni, Robert Accomando, Michael Parker, Sal Dampolo and Ralph McKenna.

Attorney Lentine explained that the applicant is seeking a special permit to utilize the space as a fast-food order establishment selling primarily Thai/Asian/Sushi cuisine and other related fast food products under the name of Bang Na Thai Kitchen. This space had previously been utilized as a fast-food establishment.

Michael Parker made a motion to close the hearing, seconded by Richard Colantuoni. All in favor. Motion granted.

Robert Accomando made a motion to grant the petitioner a special permit pursuant to the legal ad, plan submitted and testimony given, seconded by Sal Dampolo. All in favor. Petition granted.

Hearing #6: George E. Brown

Locus: 68 Mallard Street

The following members were present and voting on this petition: Anupam S. Wali, Richard Colantuoni, Robert Accomando, Michael Parker, and Sal Dampolo.

Attorney Lentine represented the applicant and explained that he wants to divide his property and create a 5,000 sq. ft. lot for his son and family to build a new house and reside in. Attorney Lentine stated that the applicant(s) are willing to agree to a deed restriction for a one level home to be built if lot split is granted.

Jia Wang, 66 Mallard Street, directly abuts this property and she expressed her opposition to this lot split. She feels that the new development would be too close to her home and she would lose her privacy and view of the lake.

Alex Knight, 77 Mallard Street, expressed concerns about the home height level and the overall effect on the neighborhood.

Bob Accomando made a motion to close the hearing, seconded by Sal Dampolo. All voted against the variance. All in favor. Petition denied.

Dick Colantuoni made a motion to grant the variance with the condition for an inclusive one level deed restriction pursuant to the legal ad, plan submitted and testimony given, seconded by Sal Dampolo. In Favor: S. Dampolo. Opposed: A. Wali, R. Colantuoni, R. Accomando & M. Parker. The vote was 4-1. Petition denied.

Hearing #7: William Cooke

Locus: Keystone Lane

The following members were present and voting on this petition: Anupam S. Wali, Richard Colantuoni, Robert Accomando, Michael Parker, and Sal Dampolo.

The applicant's representative, Attorney John J. McKenna submitted a written request to continue this hearing to March 9, 2022, pending a revised submitted plan.

Dick Colantuoni made a motion to accept the continuance request to March 9, 2022, seconded by Mike Parker. All in favor. Continuance request accepted.

Hearing #8: Dale D. Crandall, Sandra E. Crandall & Dale D. Crandall, Jr., Trustees of The Crandall Realty Trust

Locus: 143 Pollard Street

The applicant's representative, Attorney John J. McKenna, requested a formal withdrawal in writing for this project hearing. He stated that they will come before the Zoning Board in the future pending resolution of Conservation Commission issues with the property and a submission of a revised plan.

Dick Colantuoni made a motion to accept the withdrawal as requested by the applicant, seconded by Mike Parker. All in favor. Withdrawal request accepted without prejudice.

Hearing #9: John J. Trovato & Jacquelyn K. Trovato

Locus: 19 Kazimer Drive

The following members were present and voting on this petition: Anupam S. Wali, Richard Colantuoni, Robert Accomando, Michael Parker, and Sal Dampolo.

The applicants are requesting a further decrease in the original side setback variance granted on November 18, 2020. The variance request is to decrease the setback from the granted 11' to 10.5' in order to complete the project. They applicants have further submitted documentation that they are willing to proceed with the work at their own risk pending the Zoning Board's review.

Dick Colantuoni made a motion to close the hearing, seconded by Mike Parker. All in Favor. Motion carried.

Dick Colantuoni made a motion to further grant the reduction of the original variance from 11' to 10.5', pursuant to the legal ad, plan submitted and testimony given, seconded by Bob Accomando. All in favor. Petition granted

Other Business:

1. Vote to release the Surety Bond on Aspen Apartments, 147 Rangeway Road.

Dick Colantuoni made a motion to release the Surety Bond on Aspen Apartments for \$250,000.00, per Kelly Conway's recommendation based on the results of the traffic study, seconded by Mike Parker. All in favor. Motion granted.

2. Appointment to the Zoning By-Law Review Committee

Dick Colantuoni volunteered to participate as a member of the Zoning By-Law Review Committee and the Board accepted his offer to participate.

3. Approve the Minutes of the December 8, 2021 Board of Appeals Meeting.

Bob Accomando made a motion to accept the minutes of the December 8, 2021 meeting, seconded by Mike Parker. All in favor. Motion granted.

Mike Parker announced his candidacy for the Planning Board open position.

Dick Colantuoni made a motion to adjourn at 8:47 PM, seconded by Bob Accomando. All in favor. Motion granted.

A handwritten signature in black ink, appearing to read "M. Parker", written over a horizontal line.

Michael Parker,
Secretary