

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 16, 2022 via Remote Participation.

Members Present: Anupam S. Wali, Chairman, Robert B. Accomando, Vice-Chairman, Michael Parker, Secretary, Richard A. Colantuoni, Sal Dampolo, Ralph J. McKenna and Michael Pendleton.

Chairman Anupam Wali opened the Board of Appeal meeting at 6:05 PM and read the notice of each petition prior to its hearing and swore in those wishing to speak on each petition.

Hearing #1: Marina Minasian

Locus: 14 Latchwood Street

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

The applicant and the publisher did not connect for prepayment in time for the legal advertisements to run in the Billerica Minuteman. The result being, this hearing cannot be opened or heard and has been postponed to March 9, 2022.

Hearing #2: Maged B. Makheal & Amgad Samy Behkt

Locus: 161 Boston Road

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

At the hearing, Attorney Lentine, explained the applicant is seeking a special permit to operate a fast-food establishment by means of a Food Truck. He explained that the applicant is currently negotiating terms of a lease to occupy the former Subway Restaurant located inside the premises. The inventory to be sold are cold items such as salads, wraps and cold sandwiches. The food

truck would serve grilled items such as chicken, steak and lamb and is described as a standard size truck similar to that of an Ice-Cream Truck. The truck would be positioned behind the guardrails by the Richdale store sign in the front left side of the parking lot and would be permanently placed for business purposes. It was stated that this type of business is expensive and requires by state regulation, a state issued Peddler's Code – Hockers's and Peddlar's License in order to operate. This state license allows for a food truck to travel from place to place, however, the applicant's plan is to permanently place the truck in the parking lot. The Building Commissioner, Mark LaLumiere, stated that if the food truck is permanently placed, it would be held to the same standards of non-moving fast-food establishments and would have to comply with the zoning setbacks. Parking and traffic was discussed and the possible need for the Traffic Safety Officer to verify the lines and possibly making this a condition if granted, to include traffic enforcement. It was also mentioned that visibility in the area would be impeded.

The applicant's stated they are targeting the breakfast crowd and the hours of operation would be 6:00 to 10:00 AM, seven days a week.

The Board discussed the possibility of placing the truck elsewhere on the property and again, it would be held to the same standards and setbacks as any fast-food establishment.

Abutters Dean & Margaret Bulpett, 164 Boston Road, expressed their disappointment with the property owner and felt that they were not "good neighbors." Richdale is a 24-hr. convenience store business and they stated that there are string spot lights covering the property thereby shining on the neighboring homes 24/7. They feel their privacy has been removed with the bright lights constantly shining in their windows. They are concerned with the owner's use of the parking lot and stated that at one time, was selling trailers in a corner of the back lot illegally. They have traffic concerns as well, as people use the front parking lot as a cut-through for both streets: Boston Road and Rt. 129. They feel that it's become a public right of way and expressed concerns for public safety as it is a dangerous intersection and subject to numerous accidents. They inquired if the food truck would be allowed to have picnic tables and it was confirmed that there would be no outdoor seating.

Tom Coyle, 5 Sheppard's Way, expressed his opposition to the permit request and cited many similar reasons as stated above. He asked if past conditions have been rescinded as the property has been the subject of past discrepancies.

If granted, the Board ordered the following conditions be included in the Decision of the Special Permit:

1. No box trucks will be parked and/or housed behind the building or on the property as a whole;
2. There will be no used trailers for sale on the property;

3. There will be no picnic tables in the parking lot for patrons use, and the guardrail is to be repaired;
4. Site lines of truck location will be demarcated by the Traffic Enforcement Officer;
5. Allow for additional trash availability.

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

Richard Colantuoni made a motion to grant the petitioner a special permit pursuant to the legal ad, plan submitted, testimony given and special conditions as outlined above, seconded by Bob Accomando. In Favor: M. Parker. Opposed: D. Colantuoni, R. Accomando, S. Dampolo and A. Wali. The vote was 4-1. Petition denied.

Hearing #3: Robert J. & Lisa M. McIntyre

Locus: 5 Webster Lane

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

Attorney Nelson explained that the applicants are seeking relief from the front setbacks which would allow them to construct a garage on the northwest corner of the lot by which it is short by 15'. The lot itself is situation on the corner of a cul-de-sac. The garage would be used to store a recreational motorhome and boat only.

Richard Colantuoni 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 variance pursuant to the legal ad, plan submitted, testimony given and the ordered condition that the garage shall not be used to store/house any commercial vehicles, seconded by Sal Dampolo. All in favor. Petition granted.

Hearing #4: Ronald J. McNulty Realty, LLC

Locus: 626 Boston Road

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

At the hearing, Attorney Dangora, Jr. explained the applicant is seeking to repurchase the current automotive repair business and is requesting a Special Permit to continue the business operations under his title. He also is the owner of the building. The current business owner is Steve Robinson who purchased the business in 2012 has stated that he seeks to sell the business back to the former owner and move on from the industry. The hours of operation will remain the same; 8-6:00 PM Monday through Friday and 8-4:00 PM on Saturday's.

Richard Colantuoni 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 as requested pursuant to the legal ad, plan submitted and testimony given, seconded by Michael Parker. All in Favor. Petition granted.

Hearing #5: John Gioiosa

Locus: 15 Bayberry Road

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

Attorney McKenna represented the applicant and submitted a written request to continue this hearing to March 9, 2022 pending the submission of a revised plan.

Richard Colantuoni made a motion to accept the continuance request to March 9, 2022, seconded by Robert Accomando. All in favor. Motion granted.

Hearing #6: Ken Murnane

Locus: 86 Andover Road

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

Attorney McKenna explained the applicants are seeking relief from the front and side setbacks in order to demolish the existing home and build a new single-family home with a new driveway and associated utilities. The new house must also adhere to the Conservation Commissions Wetland By-Law for the 50' No Alteration Zone. The new house complies with that variance as it will be built further away from the 50' No Alteration Zone. The current "horseshoe" driveway was present when the home was purchased and will be removed. He stated that there would be no business operations on the property.

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

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

Hearing #7: Nicole A. & Robert B. Catherwood

Locus: **48 Little John Drive**


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

Attorney McKenna explained the applicants are seeking relief from the front setbacks in order to build an attached garage on a corner lot. The garage must also observe the Conservation Commission's 25' No Alteration Zone. It was clarified that the house supports an in-law apartment that was present when purchased by the Catherwood's but is not currently being occupied. The original Special Permit to construct the in-law apartment was not transferred at the time of sale as the current owner utilizes the extra kitchen.

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 variance as requested pursuant to the legal ad, plan submitted and testimony given, seconded by Michael Parker. All in favor. Petition granted.

Robert Accomando made a motion to adjourn at 7:48 PM, seconded by Michael Parker. All in Favor. Meeting adjourned.



Michael Parker,
Secretary