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**MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA
January 4, 2022**

Chairman Michael Murray called the meeting of the Burlington Board of Appeals to order at 7:30 p.m. The meeting was held in the Main Town Hall Meeting Room, 2nd Floor, and 29 Center Street, Burlington, MA on Webex. Present: Vice Chairman Charles Viveiros John Sullivan, Mark Burke, Joe Currier, Jeremy Harrington. Jeffrey DiBona was on WebEx. Absent: Michael Murray, Jr.

21-33

Continued

Kimball Towers

Amendment to Decision reached on December 21, 2021

Mr. Viveiros explained the Board had previously granted a Special Sign Permit to Kimball Towers; however, it had come to the Board's attention, it was approved as 'sunrise to 9:00 PM' instead of 'Sunset to 9PM'.

Mr. Sullivan asked if it would delay the time for the applicant and was told only by 1 day.

Motion made and seconded to approve the amendment to the previous decision made on December 21st to say "Sunset until 9:00PM". 5-0 in favor.

21-31

Continued Hearing

1 Raymond

The petition of Ray Wu for property located at 1 Raymond Road, Burlington, MA 01803, as shown on the Burlington Assessor's records, Map and Parcel reference 29-65-0. The applicant is seeking a variance to construct a shed to be thirty-four' by 8'.

The shed is in violation of Article V – Section 5.1.3.3- Limitation of area of Accessory uses and Section 5.2.0- density Regulation schedule.

Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (application#21-31).

Legal notice previously read into record.

Ms. Wu stated she felt the safety of her children is the most important factor and that they are in front of the Board to receive a variance for a shed and not anything else.

Mr. Viveiros stated the Building Inspector clarified that all structures 120 feet or less needs a permit and every accessory needs to obey by the setbacks no matter what the size is. He continued by saying the shed, despite the size decided will need to meet the rear and side variances, however would not need relief from the density regulations.

Mr. Wu stated he had three points. 1) he feels the location is the most appropriate placement and be the least destructive 2) size- 8 feet by 20 feet 3) setbacks -there is no way he can met the requirements because of the lot.

Mr. Sullivan stated he agreed the existing location is the best to put there.

Mr. Currier responded to the previous remarks of Ms. Wu and added the fire department has agreed to make an exception on the distance for the propane tanks.

Mr. Viveiros agreed the location was the most appropriate.

Open to the Public.

Diane Lava stated her issue was with the height, not the location. She stated the shed would be built on a 4-foot platform and adding more than 7 feet to the height would be intrusive.

Mr. Wu asked what the height limit was and Mr. Viveiros replied the Board can put a height condition on the decision.

Shari Ellis stated she was looking for clarification on the fire separation code. She commented the by-law for accessory use structure is not spelled out and there were many sheds in town that are in violation and feels this shed is a reasonable request.

Ms. Ellis also commented there is a 20-foot maximum on the height of a shed. She added it would be in the best interest for the town to clarify by-law.

Ms. Angelo, Town Meeting representative stated the setback is 15 feet and just because there are many that are not in compliance, doesn't make it right and feels this should not be approved. They are looking for too large of a variance.

Mr. Viveiros stated that each variance requested is taking on its own merit and needs to meet the criteria for a hardship.

Motion made and seconded to close the public hearing. 5-0 in favor.

Mr. Wu stated he didn't feel 7 ft height was suitable because he is tall and the by-law allows 20 feet.

Mr. Currier commented that the height of 7 feet / 7 ½ feet is the average height.

Mr. Wu stated he was looking for a 15' x 8' (120 square feet) with the door on the longest side.

Mr. Viveiros and Mr. Currier assisted Mr. Wu with how the plot plan needs to be updated.

Motion made and seconded to continue the hearing until January 18th. 5-0 in favor.

New Hearing

21-36

Rear of Chandler Road, aka Drake

The petition of Litchfield Company, Inc for property located at the rear of Chandler Road, aka Drake Road, Burlington, MA 01803, as shown on the Burlington Assessor's records, Map and Parcel reference: 19-10-0. The applicant is seeking a variance to construct a single-family house within the minimum 100 feet front property line, (63.05 feet). The request is in violation of the Minimum Frontage requirement of Article V, section 5.2.0, and dimensional requirements set out in Section 5.1.2.1-5.1.2.5.

Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (application #21-36).

Legal noticed read into record.

Attorney Thomas Murphy introduced himself as representative for the applicant and Christopher Mello from Eastern Land Survey Associates. Attorney Murphy provided an overview of the project and background of the property. He explained the lot consisted of 4.421 acres with 63.05 feet of frontage on Drake Street. He stated the applicant is seeking to construct a single-family house on the parcel. He said that there is a minimum frontage of 100 feet, requiring a variance from the Board. He pointed out if this was not approved the applicant can build a cul-de-sac in order to fully utilize the lot. He added reducing the frontage would not cause a substantial detriment to the public good, if he put in a cul-de-sac, it would be more disruptive. He also explained there is plenty of land, therefore it would not cause congestion.

Attorney Murphy stated this was the first step in the process and there are several permits and approvals needed and that there would be a wetland expert at those meeting to talk to. He stated the BOA doesn't deal with the wetlands and he feels this is a classic variance given the topography of the property. Shaped like a triangle.

Mr. Burke asked about the Building Inspector's comment about the location of the wetlands and Attorney Murphy provided an ariel view and pointed out there is only about 200-300 feet of wetland along the edge of the driveway.

Mr. Viveiros asked how many homes could be put on the land. Attorney Murphy stated they were only looking to put a single family however if they put a cul-de-sac in it could be up to 3 houses.

Open to the Public:

A letter read by Larry Cohen expressed opposition to the development that mirrored several abutters and residents' concerns. Some of the concerns conveyed by abutters and residents included

- 1) Frontage consists mostly of wetlands
- 2) Substantial determinant to the community
- 3) Importance of wetlands because they provide filtration of water, storage for stormwater and resources for wildlife
- 4) Importance of Mill Pond Conservation Area to the community
- 5) Tree cutting destroys the habitat
- 6) The limited number of conservation areas in Burlington
- 7) Disruption of existing walking trails
- 8) Wetland require a buffer zone of 100 feet and if it is filled in, replication has to be similar in size feed by same source
- 9) Safety concerns and snow removal
- 10) 37 feet is a large variance request

Also discussed was a request for the Board to continue the hearing until after the Conservation Meeting due to the number of concerns. Also, mention was the possibility of the town purchasing the land.

Public hearing to remain open.

Attorney Murphy responded to concerns explaining that this is the first step of a long process. He stated there were no plans to subdivide and that could be a condition on the approval. He corrected a comment made, pointing out taxes have been paid. He also stated he didn't feel it was a detriment to the public good because putting a cul-de-sac would be more disruptive.

He also wanted to remind everyone it is not town property and the owner wants to maximize his asset.

Mr. Currier commented wetlands can be manmade and the wetland is only 1% of the land. The Board discussed continuing the hearing until after the Conservation meeting.

Motion made and seconded to continued the hearing until January 18, 2021 5-0 in favor.

Minutes from December 21, 2021 Motion made and seconded to accept the minutes. 5-0 in favor

Adjourn Motion made and seconded to adjourn. 5-0 in favor

