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By Town Clerk's Office at 6:10 pm, Feb 17, 2021

To Town Clerk

**MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA
February 2, 2021**

Chairman Michael Murray called the meeting of the Burlington Board of Appeals to order at 7:30 p.m. The meeting was held Via Cisco Webex Link and on the bcattv Facebook page. The voting will be conducted by roll call.

Present: Chairman: Michael Murray, Jr., Charles Viveiros, Mark Burke, Adam Tigges and Joe Currier

Absent: Jim Sheridan and John Sullivan

**New Hearing
3 Forbes Ave
20-24**

The petition of Sunil Prajapati located at 3 Forbes Ave, Burlington, MA 01803, shown on the Burlington Assessor's records as Map and Parcel reference: 23-253. The applicant is seeking to change the description of work approved under building permit #39607(issued October 18, 2017) for constructing a main dwelling (26'-6" x 64'-0") and to use / convert the existing dwelling to an in-Law Area, to construct a main dwelling and converting the existing to an Accessory Apartment.

Denial is due to Section 11.2.0, Article 11, section 11.2.2, 11.2.2b, 11.2.2.1(5). Accessory Residential uses in one-family Dwellings: Accessory Apartments

Legal ad read into record

Sunil Prajapati introduced himself and gave an overview of what he is looking for. He explained he wants to change the existing in-law area.

to an accessory apartment, however the building department informed him if he wanted to keep the door it will make it an accessory apartment. He stated it is within the 30% requirement and he was willing to add a fireproof door. Mr. Prajapati shared a presentation on the town's by-laws.

Mr. Viveiros stated after reviewing the plot plan, it looks like a single-family dwelling, therefore it is considered an in-law.

Mr. Burke reviewed the sequence of events and stated there is a difference between an accessory and in-law apartment, the by-law states there can be no enlargements or extensions and the by-laws are clear.

Mr. Prajapati disagreed and believes the by-laws are not clear.

Mr. Currier reported there has been issues from the beginning, there was a violation of the height requirements, it was not completed as the original plans showed. He added there is a difference between in-law and accessor and by adding the door, it will make it a rentable unit.

Mr. Prajapati stated it has been 3 years and he acknowledges there has been issues, but he just wants to move forward.

Mr. Murray explained that in 2017 the house was approved as an in-law. The requirement is 30% of the net floor area of the total for the in-law and not be internally separated. He stated an accessory apartment has different rules. The gross floor area does include the basement. He added there can not be any significant increase to the building. He explained it cannot be calling an in-law and it has to do with the door. The board must grant relief based on the requirements for an accessory apartment. He explained it is more than a fire rated door to meet all the requirements, such as the walls, and he would have to meet

all applicable code requirements. He said that the legal ad was not advertised to grant relief for that and would have to be corrected. He also would like to see the plans of the original structure. Mr. Murray added there is another possibility because the house sits in the Town Center Business Center, which allows 2 family homes, but he would need to look into the buffer requirements.

Public hearing Open.

Mr. Prajapati sister spoke about the need for the change and Mr. Prajapati from Beacon Village added the family is very close and the change would allow the family to remain close as they age.

Hearing to remain open.

Mr. Burke stated he would like additional information and confirmation that there are only 2 bedrooms. Mr. Viveiros stated if they can do it without requiring a variance, he prefers to do it by right.

Mr. Murray explained the options available to him.

He can remove the door between the units and move forward with the unit as an “in-law apartment”.

He can continue to appeal of the Building Inspector’s decision or go to the Planning Board for a 2-Family Dwelling.

He stated he felt the best route for him is to Planning and go with the duplex.

Motion made and second to continue the hearing until February 16. 5-0 in favor.

Minutes were not completed. Will approve at next meeting.

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