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To Town Clerk

**MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA
June 1, 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, Joe Currier, and John Sullivan, Jim Sheridan, and Adam Tigges

Absent: none

Chairman Murray requested to combine Mountain Rd and Richardson Rd together and to present them later in the hearing due to a conflict with the Town Council's schedule.

Motion made and seconded to take the hearing out of order. 5-0 in favor

New Hearing

21-11

3 Forbes St

The petition of Sunil Prajapati for property located at 3 Forbes Ave, Burlington, MA 01803, as shown on the Burlington Assessor's records as shown on Map# 5, Parcel # 23-235-0. The applicant is seeking a variance to convert the existing property of a single-family dwelling with an In-Law area to a two-family structure. Reason for denial is per the Town of Burlington Zoning by Law (4.2.1.1.A) said proposed use is permitted. A condition to permit said use is the need for a 20% buffer with a minimum of 25'-0" (article 8, section 8.5.5.5) between two residential zoned properties (3 Forbes Ave., and 5 Forbes Ave.).

Existing conditions show the existing structured being 13.1 feet, the rear corner of the addition being 22.5 feet and two sheds setting within the required buffer.

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 #21-11).

Legal notice read into record.

Bharati Dalwadi introduced herself and explain they had been in front of the Board previously and their goal is to have their family live together under one roof. She explained all they wanted was to have a door between the 2 units. She added there would be enough parking spaces for everyone and her neighbors have no objections.

Mr. Sheridan asked for clarification, if it was just paperwork or would they have to structurally make changes.

Ms. Dalwadi stated they would not be changing or modifying the structure.

Mr. Murray explained the applicant is looking to change the house from a single family to a two-family structure, requiring them to have a barrier. He added because the house is in the Town Center Overlay, they are required to have a 20% buffer.

He also reminded the applicant they still would need to meet all the other building codes. And if the variance is granted, they still are required to go to the Planning Board.

Hearing open to the Public. No one present to speak for or against the variance. Motion made and seconded to close the public hearing. 5-0 in favor to close the public hearing.

Motion made and seconded to approve the variance to reduce the 20 % required buffer to 13.1 feet as submitted on plans dated 5-24-21.

5-0 in favor.

New Hearing

21-13

209 Middlesex Turnpike

The petition of Andrew Ross located at 209 Middlesex Turnpike, Burlington, MA 01803, as shown on the Burlington Assessor's records as the following Book-Page# 69294-431, Map and Parcel reference: 33-88-0. The applicant is seeking a Special Sign Permit to install a Wall Sign to be 4'-1 1/2" x 16'-11" to be located on the Front (west) elevation over main entry which is at the second-floor level above roof line to read 'Arthur Murray Dance Center (two lines) with a dancing couple silhouette in the center'.

The Wall Sign is denied due to Burlington General by-laws:

13.1.4.2.1 Walls signs shall be the same as for business zones except that sign shall, be six (6) feet or less in height.

13.1.3.2.4 Wall Signs, other than the first floor, a sign shall be six (6) feet or less in length.

13.1.5 A Wall Sign means any sign erected against the wall of a building or structure, or a sign that is a part of the building or structure with the exposed face of the sign in a plane parallel to the plane of said wall, building or structure and shall not project more than one (1) foot from the side of the structure or above the highest line of the roof or extend beyond a corner of the structure.

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 #21-13).

Andrew Ross introduced himself and explained he was looking to replace a sign to advertise the Arthur Murray Dance Center. He stated the building is off the road a little and because of the location he needs a larger sign for visibility.

Mr. Burke asked if it was possible to reduce the sign because it is twice the size of the by-law.

Mr. Ross responded there were similar studios in the area, with comparable signs. And because it is behind the building, below ground level he believes he needs the larger sign to allow people to see his business from the road.

Other members of the Board stated they were fine with the sign.

Mr. Murray asked how it would be illuminated and was informed the lumens would be under 50. He stated the building is in an IG district and if it was in the BG district the sign would be permitted.

Open to the public. No one was present to speak for or against. Motion made and seconded to close the public hearing. 5-0 in favor.

Motion made and seconded to approve the Special sign permit submitted with the application dated 2-9-2021. With the condition lumens are not to exceed 90 lumens per square foot and no other signs on the building, if by right.

New Hearing

21-14

94 Locust

The petition of Nguyet Nguyen for property located at 94 Locust Road Burlington, MA 01803, as shown on the Burlington Assessor's records as Book-Page# 69021-205 Map and Parcel reference: 24-58-1. The applicant is seeking a variance to construct a 24'-0" x 27'-0" 2 story addition (2 car garage with bedroom(s) above) to the right side of the existing dwelling with a proposed set back of 18'-0" off the far-right corner of addition to the front property line.

Denial due to Burlington Zoning By-Law, Article 5, section 5.2.0 - Density Regulation Schedule:

No building or structure shall be constructed, nor shall any existing building or structure be enlarged or altered except in conformance with the D.R.S., as to lot coverage, lot area, land area per dwelling unit, lot width, front, side and rear setbacks, and maximum height of structure except as may otherwise be provided elsewhere.

Legal notice read into record.

Nguyet Nquyen introduced herself and explained she was looking to put in a two-car garage with rooms above it. She stated the house was not parallel to the street therefore she needed a variance. She added that she has a growing family, and they need the extra space.

Mr. Sheridan asked if there was a rendering of the house because it appears the addition can be moved back 7 feet and it would comply. Ms. Nguyen responded there was already an addition with windows, and it would be difficult to put the addition at that spot.

Mr. Viveiros also would like to see floor plans, because it looks like it could be moved back not requiring a variance.

Chairman Murray read a letter written by Sheri Ellis read into record.

Open to the Public

Diane Downs, 12 Richardson Rd stated according to her deed (which she read into record) how they could allow the easement. She stated if this easement were to be granted, it would increase traffic and it would decrease her property value and the noise and traffic would interfere with her enjoyment of the land.

Matt Gaines from introduced himself and stated the Conditional Easement does not grant Hussey/Buttero rights to cross the WinnView I site and even if it does it is a conditional grant and the stated conditions have not been met. He stated he did not understand the amendment because it does not resemble a typical amendment. He stated he believed it is necessary to amend the site plan to declare if easement is valid.

Sheri Ellis, 3 Hickory Lane, responded to the Attorney Murphy's comment that it is beneficial to the town and that it is appropriate development for the town. She stated the Select Board and Housing Partnership did vote in favor, however there was no other input, and a limited number of people were involved with the approval.

Public hearing to remain open.

Mr. Murray commented on the language added, 'hereafter acquired'.

Attorney Mead stated she disagrees with Attorney Murphy, adding you cannot grant the easement rights to a third party.

Mr. Burke stated he agreed with the applicant that it is outside of the purview of the Board. There are a lot of legal issues and questions to be resolved before going forward.

Mr. Vivieros stated he agreed that it will be difficult to go forward.

Mr. Murray questioned if they should move forward. He wondered if more information such as Traffic and safety studies is necessary, because if they cannot access the site, there is only one way in, one way out, so there would be no access to the project. He added we are not taking a vote tonight that it was just for discussion.

Attorney Murphy understood this was just a discussion and would submit a rebuttal prior to the next meeting.

Mr. Viveiros stated he is a member of the Housing Partnership and they voted to approve the project because of the increase need for senior housing.

Motion made and seconded to continue the hearing to June 15th. 5-0 in favor.

Please note:

All documentation is available on the view permit website application 21-6 available through the BOA page on the Burlington website.

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