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By Town Clerk's Office at 9:17 am, Jul 28, 2021

To Town Clerk

**MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA
July 6, 2021**

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

Present: Mark Burke, Joe Currier, Jim Sheridan and Adam Tigges

Via Web-ex: Charles Viveiros

Absent: Michael Murray Jr. and John Sullivan

Mr. Burke stated the applicant for Mountain Road and Richardson has asked for a continuance until August 3rd.

Motion made and seconded to continue the hearing for 35 Mountain Road to August 3rd. 5-0 in favor.

Motion made and seconded to continue the hearing for Richardson Road to August 3rd, 5-0 in favor.

Continued 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. Setback of the addition will be less than 25'-0" minimum required setback.

Mr. Burke stated the applicant has requested to withdraw the application.

Motion made and seconded to withdraw the application without prejudice. 5-0 in favor.

New Hearing

21-16

Parm Italian

*The petition of Parm Burling on LLC for property located at 75 Middlesex Turnpike (Burlington Mall), Burlington, MA 01803, as shown on the Burlington Assessor's records as Map 46, Parcel 24-0 and Map 52, Parcel 2-0. The applicant is seeking a Special Sign Permit pursuant to Article XIII, Section 13.2.0 to install three (3) Wall Signs as follows: Sign 1: Proposed Wall Sign 6'-1" x 9'-11 1/2" to be located on the west elevation over the main entry to read "**Parm FAMOUS ITALIAN**" double stacked.*

*Sign 1 is not compliant with Zoning Bylaw Article XIII, Section 13.1.3.2.3 "A wall sign shall be four feet or less in height". Sign 2: Proposed Wall Sign 6'-9" x 11'- 1/2" to be located on the north elevation at the second-floor level, left side of tenant fit up to read "**Parm FAMOUS ITALIAN**" double stacked.*

*Sign 2 is not compliant with Zoning Bylaw Article XIII, Section 13.1.3.2.4 "At the first-floor level a sign may extend across the full width of the wall. At other than the first-floor level, a sign shall be six (6) feet or less in length." Sign 3: Proposed Wall Sign 5'-10" x 9'-6 1/2" to be located on the north elevation right side at corner of building to read '**Parm FAMOUS ITALIAN**' double stacked.*

Sign 1 is not compliant with Zoning Bylaw Article XIII, Section 13.1.3.2.3 "A wall sign shall be four feet or less in height". Sign 2: Proposed Wall Sign 6'-9" x 11'- 1/2" to be located on the north elevation at the second-floor level, left side of tenant fit up to read "Parm FAMOUS ITALIAN" double stacked.

Sign 2 is not compliant with Zoning Bylaw Article XIII, Section 13.1.3.2.4 "At the first-floor level a sign may extend across the full width of the wall. At other than the first-floor level, a sign shall be six (6) feet or less in length." Sign 3: Proposed Wall Sign 5'-10" x 9'-6 1/2" to be located on the north elevation right side at corner of building to read 'Parm FAMOUS ITALIAN' double stacked.

Sign 3 is not compliant with Zoning Bylaw Article XIII, Section 13.1.3.2.3 "A wall sign shall be four feet or less in height" and 13.1.3.2.1 "One wall sign shall be permitted for each business side of a building and direct entrance into a store".

In addition, the applicant is requesting the modification of previous Board of Appeals decisions (2016- 127/Arhaus Furniture and 2017-169/Friendly Toast) which prohibit any new/additional signage on the building, even if by right.

Kristine Hung introduced herself and stated she was representing Parm Italian. She explained the Burlington Mall is currently going through a redevelopment to make it a village like gathering place. There would be shops and restaurants along with the addition of green space, they are also redoing the exterior of the building. She stated the Parm Italian will be located on the corner space of the Sears Building.

Mr. Garrett, gave a presentation and reviewed the proposed signage and explanation of the importance of the signs. He stated the lighting will have a halo effect and it would be less than 90 lumens per square. He explained he took care in designing the signs and the dimensions so the signage goes along with the architectural elements on the building.

Ms. Hung added the sign over the entrance is to be used for the takeout portion of the building.

Mr. Sheridan asked for some clarification on the sign over the main entrance.

Ms. Hung added that there would be an unknown tenant between the Shake Shack and Parm Italian.

Mr. Tigges agrees with the signage.

Mr. Currier asked if it was necessary to have the 2 signs on the front side.

Mr. Garrett responded they had looked at the placement of the other signs and if this sign was deleted and you were driving by, the architectural shaft would look like it was missing something and he feels the other sign anchors the building.

Ms. Hung stated the redevelopment is going to be pedestrian friendly and the second sign is at eye level with the pedestrians.

Mr. Burke stated he agreed the 3rd sign wasn't necessary, but feels it works with identifying the restaurant and the façade of the building

Mr. Viveiros commented the signs look good, and feels the three signs work.

Open to the public. No one present to speak for or against.

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

Motion made and seconded to grant a Sign Permit to Parm Italian to install 3 Wall sign as shown on plans submitted with the application with conditions lumens are not to exceed 90 lumens per square foot, and no other signs even if by right.

5-0 in favor.

21-17

New Hearing

Francis Wyman

The petition of Shane Manfred d/b/s A.D. Manfred LLC. for property located at 54 Francis Wyman Road, Burlington, Ma as shown on the Burlington Assessor's records as Map# 15, Parcel # 12-1. The applicant is seeking a variance from the Minimum Frontage requirements of Burlington's Zoning Bylaw, Article V, Section 5.2.0 and dimensional requirements in Section 5.1.2.1-5.1.2.5 to divide the property into two buildable lots.

Parcel A will consist of 20,038 square feet, with 40 feet of frontage on Francis Wyman Road and Parcel B will consist of 31,133 square feet, with 39.98 feet of frontage on Francis Wyman Road.

Legal notice read into record.

Attorney Thomas Murphy introduced himself and his client Shane Manfred and provided a little back ground to the lot. He stated the lot is currently under agreement based on the lot split. He described the dimensions of the two lots and explained the lots didn't meet the 100 feet frontage. He stated the zoning regulations will prevent the lots to be split. Other options would be the applicant could be to add a cul-de-sac off Francis Wyman Road, allowing them in to meet the setback by-law. He explained the hardship in this case is the shape of the lot, because it narrows. In order to create a cul-de-sac it would be expensive for his client and there would be disruption to the neighborhood and there would be more pavement.

He also stated it would not derogate from intent, because there is plenty of room for the two houses and that it would not cause a detriment to the public good. In fact, he believes it would benefit because eliminating the Cul-de-sac, there would be less disruption and less pavement.

Mr. Burke asked if part of the land was in Billerica. Attorney Murphy stated part of it was although the structure will be built in Burlington.

Mr. Currier questioned how much of the lot would be in Billerica. Attorney Murphy replied he was unsure, but he thought about 20% of the 31,000 total of the land.

Mr. Viveiros stated he disagreed with Attorney Murphy, he felt it does derogate from the by-law and the cul de sac would meet the guidelines.

Open to the public:

Dan Hanley from 52 Francis Wyman expressed concerns because the second house would be in his back yard and there would be direct views into his house. He stated he felt the 2nd house would impact the value of his house.

Mr. Burke asked if there was a buffer and Mr. Hanley stated there are birch trees, however the buffer is only there when there are leaves. He also pointed out there was a stream that goes into his land and the pond is not shown on the plans. He stated he had a concern with the drainage and how it would impact his yard. He stated there was many different types of wild life that live there and is concerned with how they will be affected.

Attorney Murphy explained that if the variance was granted, this was the first level. They would have to go in front of the Planning Board and that will include, Conservation and Board of Health and any other departments needed to address some of these concerns. He also mentions the house would have to be placed 100 feet of wetlands.

Mr. Burke asked what could be done to alleviate the neighbors' concerns.

Attorney Murphy responded the applicant is willing to put screening in between the lots and they can design the house so there would be no direct view into the windows. He added if the Board put conditions on the variance an Occupancy will not be issued until the conditions were met.

Mr. Currier stated he would like additional information and was provided with a topography map.

Mr. Burke would also like to see location of Mr. Haney's house to the new houses and the pond.

Motion made and seconded to continue the hearing until July 20, 2021. 5-0 in favor.

New Hearing

21-18

38 Harriet Lane

The petition of Aswin Guntupalli for property located at 38 Harriett Avenue, as shown on the Burlington Assessor's records as Map# 43, Parcel # 188-0. The applicant is seeking a variance to construct a garage with a second floor above. The proposed addition is to be located 11.7 feet off the left side of the house.

The Town of Burlington's Zoning by Law, Article 5, section 5.2.0 requires a side setback of 15 feet, requiring a variance relief of 3.3 feet.

Legal notice read into record.

Aswin Guntupalli introduced himself as the resident and stated he was looking to add a two-car garage to the right side and a second floor across the house. He explained they were only 3.3 feet difference and this would allow them to have full potential of the house.

Mr. Viveiros questioned if there were floor plans and Mr. Guntupalli stated no, but he could describe it stating there were 3 rooms and an additional bathroom. Mr. Viveiros clarified that it was going to be across the whole house.

Mr. Sheridan questioned if the house could be moved to meet the by-law and was informed, they had tried to reposition it, but they weren't able to. He stated there is a basement under the sunroom, and it wouldn't work.

Mr. Tigges questioned the advertised notice doesn't mention front set back and wondered if that needed to be readvertised. Mr. Guntupalli responded that the original plot plan was incorrect and that there was a new site plan, and it meets the setback.

Mr. Viveiros advised applicant he would need a new plot plan for the building department.

Mr. Currier commented he thought the addition would be a great addition to the neighborhood.

Open to the Public:

Bob Sullivan, 40 Harriet Ave, stating he was his neighbor on the right side and he had no problems with the addition. He stated that there was only 3 feet he needed. He explained there is 50 plus feet between his house and the applicants, so there would be significant distance between the two houses.

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

Motion made and seconded to approve a variance for the construction of a garage and a second floor above. The variance reduces the minimum 15' side property line setback to 11-7' at the left side of the house, As shown on plot plan filed with the application dated 4/1/2021. 5-0 in favor.

New Hearing

21-19

130 Middlesex Turnpike

The petition of Pretorius Electric and Signs Co for Sonesta Simply Suites for property located at 130 Middlesex Turnpike, Burlington, MA 01803, as shown on the Burlington Assessor's maps as Map and Parcel reference: 45-12-1.

The applicant is seeking a Special Sign Permit to install three (3) Signs:

Sign A is proposed to be a Wall Sign 3'-4 3/8" x 13'-11" to be located on the East Elevation (parallel to Middlesex Turnpike) above the first floor along the roof level, to read "SONESTA Simply suites (double stacked) with a bird silhouette on the right". The sign violates Article 13.1.4.2, Section 13.1.4.2.1- Wall signs shall be the same as for business zones except those signs be six (6) feet or less in height. Section 13.1.4.2.4 – At the first-floor level a sign may extend across the full length of the wall. At other than the first-floor level, a sign shall be six (6) feet or less in length. Additionally, wall sign does not comply with previous BOA approval (#11532 approved July 2000).

Sign B is proposed to be a Free-Standing Sign, to reface of existing at entry point off Second Ave. to read 'SONESTA Simply Suites (doubled stacked) with a bird silhouette on the right'. Change of color scheme and name, no changes in dimensions. The sign violates Free Standing Sign is not in compliance with the previous BOA approval of July 2000, #11532.

Sign C is proposed to be a Marquee Sign to be larger than six (6) square feet to be located on the East elevation (above main entry) parallel to Middlesex Turnpike to read 'SONESTA Simply Suites (doubled Stacked) with a bird silhouette on the right'. The sign violates Zoning By-law Article 13.1.4.5, section 13.1.3.4.2 – Marquee signs shall be six (6) square feet or less and an individual letter sign shall be two (2) feet or less in height.

Richard Pretorius introduced himself, stating he was representing Sonesta Simply Suites. He began by explaining the applicant was changing their name from Candlewood Suites to Sonesta and they are looking for new signage to go with the new name. He explained the signs are similar in size to the existing signs. He reviewed the signs stating the canopy

over the entrance will have the new logo. He stated the wall sign needed to be larger than the by-law allows, because of the elevation and being setback, making it difficult to see it from Middlesex Turnpike.

Mr. Viveiros stated he didn't have any questions. He commented the signs are similar in size as existing and he feels they are appropriate.

Mr. Sheridan asked if the sign over the entrance will be illuminated and was informed no it wouldn't be. There would be lights over the canopy to light the entrance way.

Mr. Tigges, Mr. Currier and Mr. Burke felt the signs were straight forward.

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 grant a Special Sign Permit to Sonesta Simply Suites to install 3 signs as shown on renderings #277189-Burlington, MA dated 6-01-2021 submitted with the application.

Minutes from June 1st and 5th

Motion made and seconded to approve the minutes from June 1st. 5-0 in favor

Motion made and seconded to approve the minutes from June 15th. 5-0 in favor

Adjourn

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