

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
APRIL 9, 2015**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Todd Crowley, Vice Chair; Carol Amick, Clerk; Michelle Puntillo; Kay Hamilton; Arthur Smith; Robert Kalantari

ABSENT: Jeffrey Dearing

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members introduced themselves.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #020-15 – Christopher Cronin, at 13 Bonnievale Drive, seeks a Special Permit per Section 7.2.3.1 of the Zoning Bylaw to reconstruct new house within the floodplain.

Mr. Cronin introduced himself and his engineer, Rich Kirby. Mr. Kirby explained that this project was before the Board to allow the demolition and reconstruction of a house within the floodplain. He said that they had their third and final public hearing with the Conservation Commission (Con/Com) the night before, and received an Order of Conditions allowing the rebuild. He said that, as part of Con/Com's approval process, there were many stipulations made about the site, with certain conditions regarding an infiltration trench, regrading, and flood openings for flood storage compensation. Mr. Cronin said that the project was an improvement to what was originally there because the proposed house would be higher off the ground and because the footprint of all impervious areas was being reduced by over 750 square feet.

Ms. Amick talked with the applicants about the height of the original house and the proposed house. Mr. Kirby stated that the original house was built at a 115' elevation and the proposed house will be built at a 119.5' elevation. Ms. Amick talked with the applicant about the height of the first and second floors of the new house and how high above the floodplain those levels would be. She said that she was worried that the proposed house was still not high enough to avoid major damage during another major flood.

Mr. Kalantari said it appeared that the proposed garage would be at a lower level than the house. Mr. Kirby replied that it would, acknowledging that the garage would be flooded during a bad storm but the habitable space would not.

Mr. Smith asked whether Con/Com had stipulated site visits as part of the Order of Conditions. Mr. Kirby said that they did, and they would monitor the process as it went forward.

Mr. Kalantari asked whether Mr. Cronin bought the house with the intention of living in it or selling it. Mr. Cronin said that he planned to sell the house when it was complete.

Mr. Colasante opened the hearing to the public.

William Byam, of 1 Bonnievale Drive, asked whether this new house will be clear of the floodplain entirely. Mr. Kirby said that the the floodplain at that elevation was 119.5 feet and this house would be at 121.5. Mr. Smith added that the house would geographically be within floodplain, but would be above it.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante commented that this was a Special Permit application, and the two requirements of a Special Permit were that the project was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. He said he thought this new house met both requirements, as it met the State's mandates for building within the floodplain and had been approved by the Conservation Commission, who were experts in this type of application.

Ms. Amick said that there have been two significant flood events in the past in which the water at this property came halfway up the picture windows on the second floor. She said that this was one of the worst houses, if not the worst house, in Bedford in terms of flooding, and she was extremely worried that it would flood again. She noted that several families have been driven out of this house due to flooding, and that in the most recent case, the bank had the house cleaned and painted, and sold it to a family who had no idea about the house's history.

Ms. Amick also said that, in the case of one of these storms, she viewed this property in a small motorboat because the water was so high that the current house was surrounded by water. She stated her belief that, even if the proposed house were built two feet above the height shown on the most recent floodplain map, she still did not feel that it was high enough; she said she would have trouble voting in favor of this application the way it was proposed. She added that she was also concerned that the next owner who bought the property would not be made aware of this flooding issue and would lose his or her home, the way that the previous homeowners lost their home.

Mr. Colasante said he didn't dispute what Ms. Amick saw, but he felt comfortable that Con/Com had taken enough care to ensure such a tragedy didn't happen again. Ms. Amick suggested that the ZBA continue the hearing so that the members could get some

more history or photographs of the property during flood events; she said she did not object to someone building a house on this lot, but she was worried that the proposed house wasn't high enough and would flood again. Mr. Colasante stated that the State's guidelines had been followed and met, so he felt that it was appropriate for the Board to grant this application.

Mr. Smith said that he would be in favor of granting this application because it went before Con/Com, a Board he trusted a great deal, and it would also be monitored by the bank, so he didn't believe that a future home buyer would purchase this property without being aware of its flooding issues.

Mr. Kalantari asked whether the new house would have a basement. Mr. Kirby said it would not; it would simply be a gravel-based crawl space with flow through vents.

Ms. Amick reiterated that she was still uncomfortable with this application as proposed, and felt that it was simply not high enough to avoid another flood.

Mr. Crowley said he had no issues with the application and thought the house would be an improvement to the area. Ms. Puntillo and Ms. Hamilton agreed.

At this time, Mr. Colasante called for a motion.

MOTION:

Ms. Amick moved to grant Christopher Cronin, at 13 Bonnievale Drive, a Special Permit per Section 7.2.3.1 of the Zoning Bylaw to reconstruct new house within the floodplain, substantially as shown on Exhibit 1 (site plan) and Exhibit 2 (elevation plan).

Mr. Crowley seconded the motion.

Voting in favor: Colasante, Crowley, Puntillo, and Hamilton

Voting against: Amick

Abstained: None

The motion carried, 4-1-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Building Permit.

Mr. Colasante wished the applicant luck and told him to keep Ms. Amick's remarks in mind when moving forward with construction.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #025-15 – Michael Garber, for 2 Pond Circle, seeks a Special Permit per Section 5.1.3 of the Zoning Bylaw to place one additional boat on property.

Ms. Amick recused herself from the hearing. Mr. Colasante stated that the voting members would, therefore, be himself, Mr. Crowley, Ms. Puntillo, Ms. Hamilton, and Mr. Smith.

Mr. Garber introduced himself and stated that he had lived at this property since 1995. He said he has had two boats on his property for nine years, and it had never been an issue until recently when a neighbor, Lise Singer, wrote a complaint about them to the Code Enforcement Officer, Christopher Laskey. Mr. Garber said that ~~himself~~ he and Ms. Singer had recently worked out an agreement that the boats could remain on the property, in a location allowed under the Bylaw, so long as he erected a fence to shield them from Ms. Singer's view, and that Mr. Laskey was comfortable with that compromise as well.

Mr. Colasante noted that a fence shielding the boats from Ms. Singer's property might not shield them from the rest of the neighborhood. He stated that the Board had been seeing more and more of these types of applications recently, dealing with storage of extra vehicles on residential properties, and he felt that the Board must set up some ground rules for future applications.

Christine Greaney, of 4 Pond Circle, said that she lived closer to Mr. Garber than Ms. Singer did, and she had no problem with the boats. She said that it was unnecessary to erect a fence and felt that Ms. Singer's condition was onerous to Mr. Garber.

Ms. Puntillo said it was clear under the Bylaw that even one boat had to be placed to the side of the house, not in the front. Mr. Garber said he understood that and would place both boats to the side of the house.

There was extensive discussion about screening of the boats and whether a fence blocking Ms. Singer's view would do enough to shield the boats from the rest of the neighborhood. Mr. Garber stressed that the reason this application was before the Board was because Mr. Laskey received a complaint letter from a neighbor who has now stated that she would be satisfied if the boats were screened by a fence facing her property. Mr. Crowley said that how it came to Mr. Laskey was immaterial; the Board now had to weigh the application like any other, taking input from neighbors but also determining whether it met the requirements of a Special Permit, and in his opinion, the only way to meet those requirements was to shield the boats from the view of the neighborhood. Ms. Puntillo and Ms. Hamilton said that they agreed.

Ms. Puntillo asked whether there was room to build some sort of storage area on the property to house the boats. Mr. Garber said that might be possible, but it seemed to be an extreme measure considering the neighbor complaining about the boats only asked that they be screened with a fence. Mr. Colasante emphasized that this was not only a dispute between neighbors; this was a violation of the Zoning Bylaw, and it had to be rectified.

Ms. Hamilton asked what was behind the existing fence. Mr. Garber replied that there was a pool and a propane tank behind the fence.

Mr. Colasante opened the hearing to the public.

Mr. Colasante read a letter from Christine and Bob Greaney, of 4 Pond Circle, supporting the application.

Mr. Colasante read a letter from Lise Singer, at 3 Pond Circle, stating that she supported the application only with the stipulation that a fence block the boats from her view.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit application, and the Board had to weigh two requirements with a Special Permit: that the application was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. He said that, in his opinion, the only way that the Board could grant a Special Permit for a second boat was to require some sort of screening. He noted that installing some sections of stockade fence would be much less onerous on the homeowner than requiring him to rent a space offsite for the extra boat.

Mr. Crowley said it looked very awkward having two boats on the property. He said he was disappointed that it took Mr. Garber so long to respond to Mr. Laskey's initial letter. Mr. Garber pointed out that he did respond immediately to the letter, and Mr. Laskey told him that, if he filed an appeal with the Zoning Board by the end of February, the matter would be considered temporarily closed. Mr. Crowley said that was reassuring to hear, but he still thought the boats looked ungainly and he would like to see some sort of screening.

Ms. Hamilton said her biggest concern was that, if the applicant screened the boats from Ms. Singer's property, it still did not shield them from the neighborhood.

Ms. Puntillo agreed, commenting that she was glad that Mr. Garber came to an understanding with Ms. Singer, but the Board did not work on behalf of Ms. Singer; it worked on behalf of the Town. She said that there could be a future neighbor there who did not want to look at the boats, which was another reason that the Board could not try to appease only one person.

Mr. Garber said that he was allowed one boat in his side yard by right under the Bylaw, and he did not believe it was an eyesore to have two boats there instead. Mr. Colasante said that was a matter of opinion, and he felt that, if the Board were to allow an extra boat, it would have to be either shielded by a fence or put in the back yard. He stressed

that this case could set a precedent with the way the Board handled other similar applications in the future.

Mr. Smith said it was not the Board's function to write Bylaw amendments or legislate the aesthetics of a neighborhood. He said he felt it was the Board's task to simply determine whether one extra boat was a detriment to the neighborhood and rule on it, without conditions. Mr. Colasante said he respectfully disagreed, because a second boat might not be injurious or detrimental to the neighborhood if it were fenced in, but it might be detrimental if it were not.

Mr. Crowley said that the applicant might want to consider a continuation so he could consider his options and perhaps decide on some screening for the boats. After further conversation, Mr. Garber agreed to continue the hearing.

MOTION:

Mr. Crowley moved to continue Michael Garber, for 2 Pond Circle, seeking a Special Permit per Section 5.1.3 of the Zoning Bylaw to place one additional boat on property to May 14, 2015 at 7:30 PM.

Voting in favor: Colasante, Crowley, Puntillo, Hamilton, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #027-15 – Kevin Johnson, at 79 Hancock Street, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct garage addition within front and side yard setbacks.

Mr. Johnson introduced himself and explained that he was proposing to build a one-car garage with a mudroom behind it, which would all attach to the existing house. He said that he was before the Board because the house was slightly angled towards the property line, so in order to construct a garage with the necessary 12-foot width, it would have to encroach slightly into the front and side yard setbacks. He noted that the builder probably only needed an extra three inches to make the structure work, but wanted permission for six inches to allow for some "wiggle room."

The Board talked with the applicant about the construction of the garage and its dimensions and location as shown on the plot plan. Mr. Colasante pointed out that the neighborhood was fairly dense, so he understood that it was difficult finding a conforming section of the lot in which to build a structure like a garage.

Mr. Colasante opened the hearing to the public.

Gabriel Reznick, of 75 Hancock Street, said that he was the direct abutter to this property and asked whether anyone would check to ensure that the six-inch extension would be adhered to. Mr. Smith explained that the foundation is pinned and marked when the footings were installed, and the Building Inspector would measure to ensure that the measurement was accurate before the foundation was even poured. Mr. Reznick said that, as long as the addition didn't extend any farther than six inches into the setbacks, he supported the applications.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that the two requirements of a Special Permit were that the project was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. He said he felt this application met those two requirements and he had no problems supporting it.

Ms. Amick said that this was a reasonable plan, and she was happy to see that the applicant had requested a single-car garage so that he would not push too far into the setbacks. The other Board members agreed.

MOTION:

Ms. Amick moved to grant Kevin Johnson, at 79 Hancock Street, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct garage addition within front and side yard setbacks, substantially as shown on Exhibit 1 (plot plan), Exhibit 2 (first floor plan), Exhibit 3 (front and side elevation) and Exhibit 4 (rear elevation).

Mr. Crowley seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Puntillo, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Building Permit.

Mr. Johnson thanked the Board members for their time.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #020-15 – CONTINUATION – Sean Pickett, at 5 Meadowbrook Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to replace shed in the same non-conforming location.

Mr. Crowley noted that Mr. Colasante was not present for the first half of this hearing at the last meeting in March, so he would continue to act as Chair for this hearing. He stated that the voting members tonight would be himself, Ms. Amick, Ms. Hamilton, Mr. Smith, and Mr. Kalantari.

Mr. Crowley stated that, at the last meeting, the public hearing had been closed, and he called for a motion to reopen the hearing to allow for more public comment.

MOTION:

Ms. Amick moved to reopen the public hearing.

Mr. Crowley seconded the motion.

Voting in favor: Crowley, Amick, Hamilton, Smith, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Cynthia Sherman, the applicant's representative, greeted the Board and said that Mr. Pickett apologized that he could not be present tonight. She said that she had taken photographs of the site and it was her understanding that the Board members had done site visits as well. She said that the backyard was quite wooded and it would be nearly impossible to construct a shed ten feet behind it.

Ms. Amick said that she saw during her site visit that the backyard was quite large and seemed to have ample room to allow a shed. Ms. Sherman said that the backyard was quite sloped and very wooded, so to install a shed there would most likely require the removal of some attractive trees. Ms. Amick disagreed with Ms. Sherman's contention that the backyard was too sloped to install a shed or that trees would have to be cut down, and pointed to the fact that one part of the backyard already has a jungle-gym on it and that there was a sizable tree-less area between the back of the house and the trees on the very back of the lot. Mr. Colasante said that he didn't think that tree removal would be necessary to place the shed. The other Board members agreed.

Ms. Sherman said that it was very convenient to Mr. Pickett to have the shed in its current location, and it would be a great inconvenience to place a shed in the backyard. Ms. Amick pointed out that there are many residents in Town who follow the Bylaws and place their sheds in conforming location, regardless of whether it was convenient or not.

Mr. Crowley said he still had concerns about allowing a shed to be rebuilt in a pre-existing non-conforming location when it could easily be built in a conforming location. Ms. Amick agreed.

Ms. Sherman said that she understood the Board wanting to follow the “letter of the law” but in this case it defeated the purpose of what Mr. Pickett wanted, which was a shed close enough to the house that he wouldn’t have to trudge through the snow into the backyard to retrieve his snow blower. She said that if the application weren’t granted, he would just keep the old ugly shed in the same place and it would continue to be a blight on the neighborhood, as opposed to placing an attractive new shed in that same location.

Mr. Smith said he agreed with Mr. Crowley that it seemed reasonable to take advantage of any opportunity to make a non-conforming structure conforming.

Ms. Sherman asked whether it would change the Board’s interpretation of the request if one wall of the shed was left standing and added on to, so it therefore would no longer considered a full demo. Ms. Amick said she would feel uncomfortable with that idea. Mr. Colasante agreed.

At this time, Mr. Crowley closed the public hearing.

DELIBERATIONS:

Mr. Crowley said he had trouble supporting this application, as he did not feel it met the requirements of a Special Permit. He said the Board always tried to work with applicants that had limited space, but this lot clearly had plenty of space in which to build a conforming shed. He asked the other Board members their thoughts.

Ms. Amick said that she had trouble with the application as well, especially since she had visited the property and had seen firsthand that there was ample room to place a shed behind the house. She said she saw no problems with moving the shed and didn’t believe it would be expensive. Ms. Puntillo and Mr. Kalantari agreed.

Ms. Hamilton said that two wrongs do not make a right, and it seemed counterproductive to grant a shed in a non-conforming location just because it had been placed, illegally, in a non-conforming location at the start.

Ms. Sherman said that it seemed clear to her that this application would not be granted, so she asked to withdraw the application without prejudice.

Mr. Crowley said he had no issues with that request, and called for a motion.

MOTION:

Ms. Amick moved to grant the applicant’s request to withdraw without prejudice the

application for Sean Pickett, at 5 Meadowbrook Road, seeking a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to replace shed in the same non-conforming location.

Ms. Hamilton seconded the motion.

Voting in favor: Crowley, Amick, Hamilton, Smith, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Ms. Amick said she hoped the homeowner would come around and perhaps place the shed in a conforming location. Ms. Sherman said that he would never do that and would instead let the shed stand where it was until it fell down.

Adjournment

Mr. Colasante called for a motion to adjourn the meeting.

MOTION:

Ms. Amick moved to adjourn the meeting.

Ms. Puntillo seconded the motion.

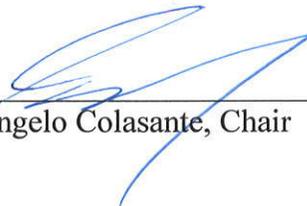
Voting in favor: Colasante, Crowley, Amick, Puntillo, Hamilton, Smith, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

The meeting adjourned at 10:00 PM.



Angelo Colasante, Chair

5-14-15

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant