

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JANUARY 23, 2014**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Jeffrey Cohen, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Todd Crowley; Michelle Puntillo

ABSENT: Donald Drouin

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

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

PETITION #019-14 – Michell and Steve Chiu, of 24 Notre Dame Road, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct addition within front yard setback.

Michell and Steven Chiu introduced themselves and explained that their existing garage was not safe, as the center post was sinking, so it needed to be replaced. Therefore, they hoped to replace the garage with a new 24'x24' garage and make the new structure flush with the house. Ms. Chiu stated that the new structure was just outside the 100-foot boundary of a wetland, so they had appeared before the Conservation Commission for this project as well and received approval.

Mr. Colasante said it appeared that the current garage was 30 feet from the property line and the proposed garage would be 29 feet from the line. Ms. Chiu said that was correct.

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

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit request, and therefore the two requirements for voting in favor of it were that the project was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. He said he felt this application met those requirements, especially since one corner of the existing house was 28.7 feet from the property line, so this new structure would not be any more non-conforming than the house. Mr. Dearing agreed, noting that change was, in his opinion, de minimis. The other Board members agreed as well.

MOTION:

Ms. Amick moved to grant Michell and Steve Chiu, of 24 Notre Dame Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct addition within front yard setback, substantially as shown on Exhibits A and B.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Crowley

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, barring any appeals, the applicant may apply for a Building Permit at the Code Enforcement Department.

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

PETITION #018-14 – Susan Bernstein, for Great Road Shopping Center, LLC, at 285 Great Road, seeks a Special Permit per Section 7.1.2 of the Zoning By-Law to redevelop the property for retail use.

Susan Bernstein, the attorney representing the Great Road Shopping Center, LLC, located at 285 Great Road, introduced herself and team members from the BSC Group and EBI Consulting. She explained that the applicants intended to redevelop the property where the Bedford Travel Lodge once stood, by placing a 3,636 square foot building on the lot; 2,000 square feet of this would be for a bank with one drive-through window, and 1,636 square feet would be for retail use or professional office use. She noted that the proposed structure and use met all of the requirements of the Zoning By-Law, and the only relief they needed from the ZBA was for lot size; the By-Law requires 80,000 square feet for this General Business zone, and the property is about 28,797 square feet. She stated that the original plan had been to build a restaurant at this site, and the site plan for the restaurant use with a drive-through window had been approved by both the Planning Board and Conservation Commission; however, there had been concern from both Bedford residents and officials about the high impact traffic of a restaurant use, so they had changed to the less traffic-intensive use of a bank and retail space.

John Heshan, a Civil Engineer from EBI Consulting, greeted the Board and talked about the differences between the original Travel Lodge site and this new proposed site. He went through the details of the site plan, noting that the building would have one drive-through window and the site would require one-way circulation, with vehicles entering from Great Road and immediately taking a right onto a drive that goes all the way around

the building. He said that the entrance to the undetermined retail use would be on the west side of the new building, while the entrance to the bank would be on the east side. He stated that the By-Law requires 21 parking spaces and one handicapped space; this plan had 22 parking spaces to accommodate one extra handicapped space, so that there would be one handicapped parking space near each of the two entrances. He noted that a very similar site plan received approval from both the Planning Board and the Conservation Commission approximately two years ago, when it was a proposed restaurant use.

Steven Martorano, of BSC Group, talked more about the traffic at the site and stated that the Massachusetts Department of Transportation (MassDOT) issued an access permit for this site in April of 2013, based on the restaurant use. He said that the plan, dubbed "Plan A," was the plan that the applicants ultimately hoped to use, but they had to go back to MassDOT for an amendment to the plan because the use has changed, so they had provided a "Plan B" with a modification to the site work in the street. He said he felt that "Plan A" would, however, still be approved as is. After further discussion, Mr. Cohen said he would prefer to condition any approvals on "Plan A" being used for two primary reasons: 1) It allows westbound vehicles wishing to turn into 285 Great Road to be one lane closer to the property and not cross three lanes to enter the site; and 2) It will allow westbound through-traffic to continue traveling past the site if vehicles are in a queue waiting to take a left turn into 285 Great Road. He asked what would happen if MassDOT decided that the applicants did not need the shared left turn lane if the use was no longer for a restaurant. Mr. Martorano said that he saw no reason that MassDOT would not use the plan, especially if it were the plan that the ZBA favored as most appropriate. Ms. Amick said that it had been her experience in government that the wishes of a municipality were often considered.

The Board talked with Mr. Heshan about the details of the drive-through window. Mr. Heshan pointed out that the queue for the drive-through was four cars.

Mr. Dearing asked why the applicants were proposing one-way circulation. He said that it had been proven in Bedford, with sites such as the Blue Ribbon Plaza, that one way circulation did not work. He commented that the one-way plan as proposed was unsafe, as cars would ignore turning right and instead drive straight ahead towards the entrance. Mr. Martorano replied that the developer originally wanted two-way circulation but input from the Planning Board and other town departments indicated that one-way was preferred. Mr. Heshan replied that they had considered every possible option, including shifting the location of the building, but due to wetlands and floodplain constraints, along with comparisons to other sites like this one, they decided that this was ultimately the best possible site design.

Mr. Colasante asked whether the applicants had ever considered keeping the parcel to one use only. Jerry Drucker, one of the owners of the property, replied that they would have been happy to let the bank use the entire space, but the bank only wanted 2,000 square feet of the building.

The Board talked in detail with the applicants about the proposed site plan, including parking, drive aisles, and traffic circulation, and signage within the site, particularly in regard to how this plan differed from the original Travel Lodge site. Mr. Dearing suggested some improved signage within the site to draw attention to cars to make the right turn once in the site. The applicant noted that there was already a one-way sign facing vehicles that enter the site. Mr. Cohen asked whether a "Do Not Enter" sign could be added, but the traffic engineers said they believed this would confuse motorists.

Mr. Dearing asked whether he was correct in believing that the applicants would have to come back before the Zoning Board if they ever wanted to change the use to a restaurant use. Ms. Bernstein confirmed he was correct, noting that they were not before the Board tonight for the use because they are allowed by-right under the Zoning By-Law, but any use that was not by-right would need ZBA approval.

Mr. Dearing asked whether the applicants had tried to negotiate with the tenants at the Great Road Shopping Center to direct the traffic at this site back through the shopping center. Jerry Drucker replied that they had tried on multiple occasions and the tenants absolutely refused to negotiate a lease with such a condition. Jeffrey Drucker, another co-owner of both parcels, added that there were other reasons that such a redirection of traffic would not work, particularly because cars bottleneck a great deal at the light at the exit to that site and diverted traffic from the new site would only add more. He noted that another reason was that there were numerous trucks that travel around to the rear of the Great Road Shopping Center to make deliveries, which pass by the location where the driveway to the site would be located, and more vehicles exiting would add too much traffic and possibly make conditions unsafe, which concerned them.

Sam Offei-Addo, of BSC Group, talked in more detail about the traffic at the site, and the traffic study that had been performed in December of 2011. Ms. Amick asked him for the morning and afternoon traffic counts comparing the Travel Lodge use with the projected bank/retail use. Mr. Offei-Addo said that, for the Travel Lodge, the morning use was 18, while the morning use for the proposed bank/retail space would be 27. He said that, for the Travel Lodge, the afternoon count was 20 cars, versus 55 proposed for the bank/retail space.

Mr. Crowley asked whether there was room for two parallel cars at the exit, one car going right and the other going left. Mr. Heshan said there was not; it was a single vehicle wide in each direction.

Mr. Colasante opened the hearing to the public.

Margot Fleischman, a resident of 145 Page Road and a member of the Board of Selectmen, talked about an email from Terry Gleason, Chair of the Bicycle Advisory Committee (see attached). Mr. Colasante read into the record the email from Mr. Gleason. In response to this email, Mr. Heshan said that the originally-approved plan had not changed, and the bicycle racks would also be installed as first proposed. Ms. Fleischman asked whether there were bicycle lanes as part of the traffic plan that had

been approved by MassDOT. Mr. Heshan stated that the bicycle lanes were included and he showed on the plan where they were marked.

Amy Lloyd, a resident of 17 Fayette Road and a member of the Planning Board, said she wondered whether any of the leaseholders of the Great Road Shopping Center had been approached about diverting traffic from the 285 Great Road parcel out through the shopping center. Jerry Drucker replied that all of the leaseholders had been approached and all of them adamantly refused to renegotiate the terms of their lease to have traffic diverted into the already busy shopping center parking lot. Ms. Lloyd also suggested that the developer install a raised cobblestone strip running from the northwest corner of the building out into the driving lane, to enhance the safety of the site, so that cars turning into the site would be less apt to drive straight. The applicant expressed concern for any raised pavement due to snow plowing. Mr. Cohen asked whether the applicants would be willing to provide additional painted striping to differentiate the one-way traffic pattern to help vehicles avoid going the wrong way against the traffic at the bank entrance. Mr. Drucker said they would be provide the additional "painted island."

Ms. Lloyd requested that, when the time came to install bicycle racks, the applicants check with the Bicycle Advisory Committee (BAC), because the BAC had a list of types and models of bicycle racks they prefer.

Mr. Dearing asked whether the Fire and Police Departments had weighed in on this application. Jerry Drucker replied that they had, and had approved the site plan as proposed.

Scott Towne, the design architect for the project, talked about the design elements of the building and noted that it would stay consistent with other businesses along Great Road.

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

DELIBERATIONS:

Mr. Colasante noted that the development concept had gone through several changes in the last two years, and he was grateful that the applicants had moved away from the concept of a restaurant. He said he believed the applicants had made the best of a difficult site, and although it would have been nice to have an exit out the back of the property, he understood why it may not be possible. He stated that he believed this proposal met the requirements of a Special Permit, in that it was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law.

Ms. Amick said that she had very strong concerns about the traffic and the one-way circulation of the cars in the lot from a safety perspective. She said she was also concerned that the traffic involved with these uses, while not creating the same impact as a fast food restaurant, would be substantially greater than the use of the Travel Lodge and

she believed the application was substantially more injurious and detrimental to the neighborhood. She noted that this was one of the worst traffic areas of Bedford and, therefore, she could not support this application as presented.

Mr. Dearing said that, because the owner of the Great Road Shopping Center was the same owner as this parcel, he thought that there was a great opportunity here to divert traffic out the back of this site into the shopping center. He said he felt very uncomfortable with the amount of traffic in this area, and he also felt uncomfortable with the one-way circulation of the site. He said he would have a hard time supporting this application because of those two concerns. Mr. Colasante said he thought the middle turning lane would help a great deal, and he thought that the developer was doing the best with what he had.

Mr. Crowley said he was in full support of this application. He said this was a difficult area of town but the applicants had made the best of what they had. He added that the Board had to take the applicants at their word that they could not negotiate a way to divert traffic through the shopping center, and if that were true, then this was the next best option. He said he agreed that it was a difficult site, and therefore no proposal was perfect, but he felt this proposal nonetheless met the two requirements of a Special Permit.

Mr. Cohen said that he also supported this application. He said the traffic is already bad and he felt that the impact to traffic was at best deminimous and at worst not substantially more detrimental or injurious to the neighborhood than the Travel Lodge site had been. He felt that constructing this non-conforming building with these by-right uses was in keeping with the intent and purpose of the By-Law. He said he did not believe that the Board had the authority to force the owner to make off-site improvements in the shopping center, and he understood the owners' reasons for not being able to divert traffic through the shopping center.

Ms. Puntillo said she agreed with Ms. Amick and Mr. Dearing that this was an extremely busy area of town and she worried about adding more traffic to it. She said she would be fully in support of the application if the plan included a way to send exiting cars back into the Great Road Shopping Center. She said that, if she were a voting member of this petition, she would vote against it.

Mr. Cohen said that if the Board denied this application, they had to uphold their claim that the project was "substantially more detrimental or injurious to the neighborhood" than the Travel Lodge, and he believed the minor increase in the traffic count presented tonight was not enough to do so. He said that a bank and retail or professional office were both by-right uses, and this application was the lowest impact use that they could hope to find in this location. He added that if the Board denied this Special Permit, they were essentially rendering this site non-developable. Mr. Cohen stated that he would support this application, provided that it had the following two conditions:

1. *Conditioned upon MassDOT approved/permitted plan indicating shared turning lane providing left hand turns into project site and lots to the north side of Great Road noted on Exhibit C.*
2. *The applicants will provide pavement markings/striping “island” at entrance to project site in order to highlight the one-way circulation on site, directing traffic entering the site around the building, and to clarify the oncoming one-way direction of exiting traffic.*

At this time, Ms. Puntillo apologized to the Board members and to the applicants and explained that she had to leave because of family obligations.

Mr. Dearing said that one of his major concerns was the phrase “retail use,” because he did not know what that use implied. Mr. Heshan clarified that the By-Law allowed several uses by-right in this zone, including retail, business/professional office, and research facility; he said that retail use-shopping center generated the highest traffic count, so the applicants chose to include that use so the Board would see the worst-case scenario of traffic.

After further discussion about the application, Mr. Colasante called for a motion.

MOTION:

Mr. Cohen moved to grant to Susan Bernstein, for Great Road Shopping Center, LLC, at 285 Great Road, a Special Permit per Section 7.1.2 of the Zoning By-Law to redevelop the property for retail use, substantially as shown on Exhibits A (application packet), Exhibit B (set of plans marked “Proposed Bank & Retail,” sheets C-0 through SV-1), and Exhibit C (site plan titled “Bedford The Great Road Roadway Improvements”), and subject to the following conditions:

1. Conditioned upon MassDOT approved/permitted plan indicating shared turning lane providing left hand turns into project site and lots to the north side of Great Road noted on Exhibit C.
2. The applicants will provide pavement markings/striping “island” at entrance to project site in order to highlight the one-way circulation on site, directing traffic entering the site around the building, and to clarify the oncoming one-way direction of exiting traffic.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Dearing, and Crowley

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, barring any appeals, the applicant may apply for a Building Permit at the Code Enforcement Department.

Mr. Colasante thanked the applicants for all they had done to mitigate the traffic and public safety concerns, and wished them luck with the project. The applicants thanked the Board members for their time.

Ms. Amick left the meeting at this time.

BUSINESS MEETING:

Meeting Minutes

Mr. Cohen said he had a few minor proposed changes for the minutes of the December 12 meeting. He went through his edits and the other Board members agreed that the minutes should be amended to include the changes.

Mr. Colasante called for a motion to approve the amended minutes.

MOTION:

Mr. Cohen moved to accept the minutes of the December 12, 2013 meeting, as amended.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Adjournment

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

MOTION:

Mr. Cohen moved to adjourn the meeting.

Mr. Dearing seconded the motion.

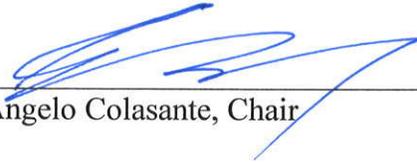
Voting in favor: Colasante, Cohen, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

The meeting adjourned at 10:25 PM.



Angelo Colasante, Chair 2-27-14
Date

Respectfully Submitted,

Scott Gould
ZBA Assistant