

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
JANUARY 9, 2014**

Town of Bedford  
Bedford Town Hall  
Lower Level Conference Room

**PRESENT:** Angelo Colasante, Chair; Carol Amick, Clerk; Jeffrey Dearing; Todd Crowley; Michelle Puntillo; Donald Drouin

**ABSENT:** Jeffrey Cohen, Vice Chair

Mr. Colasante 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 #017-14** – Richard Fales, for 17 Curve Street, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct second story on non-conforming house.

Richard Fales introduced himself as the contractor for the proposed work at 17 Curve Street and explained that the homeowners proposed a second floor addition to the house. He noted that the current house was non-conforming in its front yard setback, which was about 29 feet to the property line instead of the required 35.

At Ms. Amick's request, the applicant showed the Board photographs of the existing structure and talked about how the proposed addition would be consistent with the current look of the house.

Mr. Colasante said it appeared to him that there was no intensification of the setbacks, save for the two-foot cantilever overhang. Mr. Fales said that was correct.

Ms. Puntillo asked about the houses to the right and left of this one. Mr. Fales said that there was no house to the left, and the house to the right had a similar addition, albeit on the side rather than on top.

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 application was for a Special Permit, and therefore the two requirements for granting it were that the project was not substantially more injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the

By-Law. He said that he believed the application met these two requirements. The other Board members concurred.

**MOTION:**

Ms. Amick moved to grant to Richard Fales, for 17 Curve Street, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct second story on non-conforming house, as substantially shown on Exhibits A, B, and C.

Mr. Dearing seconded the motion.

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

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 could apply for a Building Permit at the Code Enforcement Department.

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

**PETITION # 003-14 – CONTINUATION** – Naomi Dogan and James West, for 4 Hayden Lane, seek a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients to come to premises.

The applicants greeted the Board and explained that they had come up with a more detailed plan to ensure that Ms. Dogan's home occupation business would be, if granted, safe and harmonious for neighbors, clients, and all vehicle and pedestrian traffic on Hayden Lane. Ms. Dogan said that she had emailed a revised letter, dated January 5, 2014, to the ZBA assistant, and it was her understanding that he had in turn forwarded it to the Board members. Mr. Colasante confirmed that they had received the letter, and said that it appeared the applicants had taken a great deal of care to ensure that this business would have minimal impact on the neighborhood.

Mr. Colasante said that, if this Special Permit were granted, it would have several conditions, closely based on what the applicants had proposed in their letter. Ms. Dogan said that was understandable, and added that she planned to do all these tasks anyway, so putting them as a condition was not a problem.

The Board members talked in detail with the applicants about the conditions expressed in the letter and the updated client schedule. Mr. Colasante said he wanted to be sure to keep the condition that the client would see no more than five clients per day and no more than 20 clients per week.

There was conversation about the hours of operation for the business, and how to condition hours around the dismissal of the Lane School.

The Board talked about whether the Special Permit ran with the applicant or with the property. Mr. Colasante said that his understanding was that a Special Use Permit will run with this particular business and this particular homeowner only, so if a new homeowner were to move in at a future date, this permit would not be grandfathered if that new owner wanted to run a business from the home.

There was further discussion about safety concerns, such as number signage to make the house more visible and site lighting. Ms. Dogan noted that they had already added exterior lights.

Mr. Colasante read into the record a letter of opposition from Ann and James Clasby, of 9 Hayden Lane.

Mr. Colasante read into the record a letter of support from Richard Taylor, of 5 Hayden Lane.

Mr. Colasante read into the record a letter of support from Sue and Mike Parenti, of 10 Hayden Lane.

Mr. Colasante read into the record a letter of support from Gennady Linatser, of 7 Hayden Lane.

Mr. Colasante read into the record a letter of support from Gayatri Yadavalli, of 43 Hayden Lane.

Mr. Colasante read into the record a letter of support from Francis Kennedy, of Bedford Charter, Bus #7.

Mr. Colasante read into the record an email of support from Barbara Ardido, of 26 Hayden Lane.

Mr. Colasante read into the record an email of support from Oboe Wu, of 8 Hayden Lane.

Oboe Wu and Liang Ban, of 8 Hayden Lane, and Sue Parenti, of 10 Hayden Lane, appeared and reiterated their support.

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

**DELIBERATIONS:**

Mr. Colasante said that he felt this application now met the requirements of a Special Permit, as he felt the business was not substantially more injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law. The other Board members agreed.

The Board members talked extensively about the conditions that should be placed on the Special Permit in order to ensure safety for all. Ms. Amick pointed out that several of the conditions could be taken directly from the applicant's letter. Mr. Dearing asked whether there was a need for conditions when the letter spelled out everything the applicant intended to do; he suggested marking that letter as an Exhibit. Mr. Colasante said he felt very strongly that the conditions should be included and memorialized in the Special Permit itself.

The Board discussed the conditions in more detail and decided on eight conditions that should be included in the motion and the Special Permit (see below). With these conditions finalized, Mr. Colasante called for a motion.

**MOTION:**

Ms. Amick moved to grant to Naomi Dogan and James West, for 4 Hayden Lane, a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients to come to premises, substantially as identified on Exhibit A and subject to the following eight conditions:

1. No more than one client appointment per hour, with a maximum of no more than five client appointments per weekday, for a total of no more than 20 clients per week.

2. Applicant will eliminate overlap of arriving and departing cars by spacing out appointments.

3. All appointments, year round, will be scheduled Monday through Thursday, from 9:15 AM to 8:30 PM and on Friday to 6:00 PM, and no appointments shall be scheduled 30 minutes before or until 60 minutes after Lane Middle School dismissal.

4. Applicant will offer client appointments at the home office in the evening after 6:00 PM no more than three days per week maximum.

5. All cars (personal or private practice clients) will be parked in the garage or driveway.

6. Applicant will install a suitable barrier along the right side of the driveway to more clearly delineate the edge of the driveway for 3<sup>rd</sup> row parking.

7. The applicant will replace the existing "#4" house number signs already on our mailbox with larger, more reflective "#4" signs.

8. The applicant will maintain the lighting in the front yard and side yard over the office door to ensure client and public safety.

Mr. Dearing seconded the motion.

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

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.

Mr. Colasante thanked the applicants for all they had done to ensure that this business would be safe and stay in harmony with the neighborhood. The applicants thanked the Board for working with them through this process.

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

Jeffrey Cohen, Vice Chair, arrived and joined the Board at the time of this hearing.

**PETITION #016-14** – Pamela Brown, Esq., for Richard D’Augusta, at 169 Concord Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to create a non-conforming lot out of a conforming lot.

Ms. Brown introduced herself and Richard D’Augusta, the property owner. Ms. Brown explained that this application was a Special Permit request to modify two oversized but non-conforming lots in order to create a third conforming lot. She stated that this process would involve re-drawing the property lines of 165 Concord Road (Lot A1) and 169 Concord Road (Lot B1) to create a new, fully conforming lot (Lot C) with the new address of 4 Selfridge Road.

Ms. Brown stated that the purpose of this proposal was to create a fully conforming lot on which to build a new single family home. She said that the two requirements of a Special Permit were that the project was in keeping with the intent and purpose of the By-Law, and was not substantially more injurious or detrimental to the neighborhood. She said she felt this application met both of those requests, especially since she had talked to some of the residents in that area and they said that they would welcome a new home.

Ms. Brown discussed the tables and parcel map in the application packet, and there was extensive discussion about the dimensions and reconfiguration of the lots.

Mr. Colasante opened the hearing to the public.

Mr. Colasante read into the record the synopsis from Christopher Laskey, the Code Enforcement Director, in which Mr. Laskey wrote:

“Please be advised that under **s.6.4** of the Bedford Zoning Bylaws **this would not be allowed** except by an eminent domain taking. Reading from the middle of the first paragraph of **s.6.4**, it states ‘...and no buildable or built-upon lot shall be sub-divided, altered or reduced except by eminent domain

*taking or by conveyance for a public purpose for which eminent domain taking could have been made, so as to result in a violation of the dimensional or other requirements of this bylaw.’ ”*

Ms. Brown said she did not believe that Section 6.4 of the Zoning By-Law applied here, because it was only in reference to the taking of a lot by Eminent Domain; she noted that it also did not apply because the two lots being reconfigured were both non-conforming.

The Board discussed whether Section 6.4 only applied under the scenario which Ms. Brown described, or whether it applied to all lots including those not involving an eminent domain taking. Ultimately, the consensus opinion of the Board was in agreement with Ms. Brown’s rationale.

There was discussion about whether granting a Special Permit to re-configure two lots in this nature would be precedent-setting. Mr. Crowley said he was not concerned about setting precedent, because the Board always took every application on a case-by-case basis, looking at each on its own merits.

Mr. Colasante read into the record an email of support from Brad Hafer, of 1 Selfridge Road, who expressed support for the new home construction as long as it was in proportion to other homes in the neighborhood.

Mr. Colasante read into the record an email of support from Jay Randazzo, of 5 Selfridge Road.

With no one from the public in attendance, Mr. Colasante closed the public hearing.

#### **DELIBERATIONS:**

Mr. Colasante said that, if either of the two existing lots were conforming, he would have a problem with the reconfiguration, as he felt that it was against the intent of the By-Law to turn conforming lots non-conforming; however, as both existing lots were non-conforming, he felt more comfortable. He said that, after reviewing the application, he felt that this project was not substantially more injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law, and therefore met the requirements of a Special Permit. Mr. Dearing agreed, noting that the parcel map was a helpful exhibit, as it helped show the lots in context.

The other Board members agreed that they could support this application as well.

#### **MOTION:**

Ms. Amick moved to grant to Pamela Brown, Esq., for Richard D’Augusta, at 169 Concord Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to create a new conforming lot and reconfigure two non-conforming lots, as substantially shown on Exhibit A, with the following conditions:

1. Only a single family home may be built on lot C;
2. All setbacks and dimensional requirements required under the Zoning By-Law must be followed.

Ms. Puntillo 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.

### **Meeting Minutes**

Mr. Colasante said the Board had not approved any sets of minutes for several months, so he wanted to vote to approve those minutes tonight.

#### **August 8, 2013**

Mr. Cohen moved to approve the minutes of the August 8, 2013 meeting.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: Colasante and Drouin

The motion carried, 4-0-2

#### **September 12, 2013**

Mr. Cohen moved to approve the minutes of the September 12, 2013 meeting.

Ms. Amick seconded the motion.

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

Voting against: None

Abstained: Drouin

The motion carried, 6-0-1.

#### **September 26, 2013**

Mr. Cohen moved to approve the minutes of the September 26, 2013 meeting.

Ms. Amick seconded the motion.

Voting in favor: Cohen, Amick, Crowley, Drouin, and Puntillo

Voting against: None

Abstained: Colasante and Dearing

The motion carried, 5-0-2.

October 10, 2013

Mr. Cohen moved to approve the minutes of the October 10, 2013 meeting.

Ms. Amick seconded the motion.

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

Voting against: None

Abstained: Drouin

The motion carried, 6-0-1.

October 24, 2013

Mr. Cohen moved to approve the minutes of the October 24, 2013 meeting.

Ms. Amick seconded the motion.

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

Voting against: None

Abstained: Drouin

The motion carried, 6-0-1.

November 14, 2013

Mr. Cohen moved to approve the minutes of the November 14, 2013 meeting.

Ms. Amick seconded the motion.

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

Voting against: None

Abstained: Drouin and Puntillo

The motion carried, 5-0-2.

