

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
NOVEMBER 13, 2014**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

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

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

ABSENT: Michelle Puntillo

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

PETITION #008-15 – Andrew Changelian, at 26 Gray Terrace, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct garage addition within front and rear yard setbacks.

Mr. Dearing said that he had to recuse himself for this hearing. Mr. Colasante noted that the voting members for this application would therefore be himself, Mr. Crowley, Ms. Amick, Ms. Hamilton, and Mr. Smith.

Mr. Changelian introduced himself and explained that he needed a Special Permit in order to construct a 28' x 28' garage within the front and rear yard setbacks. He said that the Code Enforcement Director, Christopher Laskey, had told him that the Board typically did not like to see any addition proposed in a Special Permit application extend more than 50% into the allowed setback, so he tried to stay under 50% of the 30-foot rear yard setback by proposing that the structure be located 16.8 feet from the back property line. He stated that the garage would also be set 32.06 feet from the front property line, although the house itself already stood 31.96 feet from that line. Mr. Changelian commented that this proposed location was the best place that he could find to set the garage, both because of the awkward shape of the lot and because of flood plain at the back corner of the lot.

Mr. Crowley asked whether there were any abutters in the lot to the rear of this property. Mr. Changelian said that there were not; Shawsheen Cemetery abutted this property at the rear.

Ms. Amick stated that it appeared the applicant had no better location for a garage than the location proposed here. She noted that if he tried to move farther outside of the rear yard setback, it would push the structure closer to the front setback. Mr. Colasante said

that was a good point, and noted that he would rather have the front setback respected in this case than the rear, especially since there were no abutters to the rear of the house.

Mr. Smith asked whether the applicant had filed with the Conservation Commission. Mr. Changelian said he had not yet but was aware that he would have to.

Mr. Colasante opened the hearing to the public.

Carline Fedele, at 27 Gray Terrace, said she was an abutter of Mr. Changelian and was in full support of his application.

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

DELIBERATIONS:

Mr. Colasante said that this was a Special Permit application, and the two conditions of a Special Permit were that the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Zoning Bylaw. He stated that there was a neighbor present in support of the application and no neighbors were opposed to it, so that eased his mind about the neighborhood condition. He said that he felt that any addition would be difficult to fit onto this triangular lot, and the applicant has done the best job he could in finding a suitable location. The other members agreed.

MOTION:

Ms. Amick moved to grant Andrew Changelian, at 26 Gray Terrace, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct garage addition within front and rear yard setbacks, substantially as shown on Exhibit 1 (plot plan) and Exhibit 2 (elevation plans).

Ms. Hamilton seconded the motion.

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

Voting against: None

Abstained: None

Recused: Dearing

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 #011-15 – Migen Stroni, at 2 Short Street, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition within front yard setback.

Mr. Stroni introduced himself and explained that he wanted to build a 6'x12' front entrance/mudroom addition within the front yard setback. He said that the current house stood 27 feet from the front property line, and this mudroom would stay flush with the façade so that it would not extend any farther into the setback; he noted that, the way the house is angled, the mudroom would be 29.3 feet from the setback, so it would be slightly farther from the setback than the existing house.

There was discussion about whether the setback line was measured from the roofline or from the portico itself.

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 noted 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 Zoning Bylaw and was not injurious or detrimental to the neighborhood. He said that he felt this addition met those requirements, and that the intensification of the pre-existing non-conformity was minimal. The other Board members agreed.

MOTION:

Ms. Amick moved to grant Migen Stroni, at 2 Short Street, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition within front yard setback, substantially as shown on Exhibit 1 (plot plan), Exhibit 2 (elevation drawings), and Exhibit 3 (floor plan).

Mr. Crowley seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Dearing, 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, 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 #009-15 – Peter and Virginia Kyvelos, at 6 Sheridan Road, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition and deck within side yard setback, and to construct farmer's porch within front yard setback.

Virginia Kyvelos introduced herself, her son Nicholas, and her site engineer, Peter Blaisdell, Jr., of Williams & Sparages, LLC. Ms. Kyvelos explained that her husband was very sick and often needs a wheelchair, so they were here tonight requesting a Special Permit to build handicapped accessible ramps on the front and side of their house and an addition with a deck, all outside the allowed setbacks. Mr. Blaisdell stated that the house sat 28.2 feet from the front property line at its closest point and, along the side lot line, the house sat 8.6' from the property line. He noted that there was already an accessory apartment at the house now, but with Mr. Kyvelos being permanently disabled, they have designed a new plan to allow a new accessory apartment all on the first floor. He said that this will involve adding handicapped accessible ramps along the front farmers porch and along the side, and a new addition that would stay within the pre-existing non-conforming 8.6' side yard setback.

The Board talked at length with the applicants about the setup and layout of the proposed addition and ramps.

There was extensive discussion about whether the ramp was necessary and whether the apartment could simply lead down to a walkway. Ms. Amick agreed that the walkway would be far less overwhelming for the property and the neighbors, especially since the ramp is a structure and is considered part of the setback but a walkway is not considered a structure. The Board talked with the applicants about the slope of the land on the side of the house and whether it would be feasible to push a wheelchair on pavers.

Mr. Dearing noted that it appeared that there was a roof shown over the proposed side ramp. After further conversation, it was decided that the Board would not vote in favor of the proposal if the roof remained, as it created too massive a structure; Mr. Blaisdell said he had no problem taking the roof off the plan. Ms. Amick noted that she would like to see that as a condition. She added that another potential condition could be that the wheelchair ramp would only remain on the structure as long as it was needed or as long as Peter Kyvelos was living at the house. It was decided that such a condition made the Special Permit a bit more amenable, although Mr. Crowley noted that he was not sure whether such a condition was enforceable. Ms. Amick pointed out that the condition would, at the very least, make the Board member's point of view clear that they were willing to allow the ramps under these circumstances and no others.

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 said 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 Zoning Bylaw and was not injurious or detrimental to the neighborhood. He said one could probably argue either way for both conditions, but he felt comfortable with the application given the conditions discussed and given the fact that no neighbors had brought up any concerns.

Mr. Smith said that he considered this a quality of life problem for the applicants, and as such the application should be considered differently than a traditional application; it was a unique application for a unique situation.

Mr. Colasante said he tended to agree with Mr. Smith's assertion that this was an application brought to the Board out of necessity, not out of desire for extravagance or a bigger home.

Mr. Dearing said he fully understood the reason for this plan, but the density of the structure was very high, and it was extremely close to the property line. Ms. Amick asked whether the conditions she mentioned helped to alleviate his concern. Mr. Dearing said they did.

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

MOTION:

Ms. Amick moved to grant Peter and Virginia Kyvelos, at 6 Sheridan Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition and deck within side yard setback, and to construct farmer's porch within front yard setback, substantially as shown on Exhibit 1 (topographical plan), Exhibit 2 (proposed plot plan), and Exhibit 3 (proposed site plan and amended elevation drawings), and subject to the following two conditions:

1. The front farmers' porch shall not be enclosed
2. The side lot ramp will be removed when the existing owner, Peter S. Kyvelos, is no longer living at the home.

Mr. Crowley seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Dearing, 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, 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 #010-15 – Instrumentation Laboratory, at 180 Hartwell Road, seeks a Special Permit per Section 7.2.2.5 of the Zoning Bylaw to reconstruct an existing building bordered by Flood Plain, and per Section 7.4.3 of the Zoning Bylaw to reduce the number of parking spaces.

Curtis Quitzau, P.E., introduced himself as the project manager for the Instrumentation Laboratory (I.L.) project and also introduced Ruth Silman, Kyle Smith, and David Evers, all company representatives. He explained that I.L. was here tonight for a Special Permit under two sections of the Zoning Bylaw – first under Section 7.2.2.5 to reconstruct an existing building with some impacts on floodplain and then under Section 7.4.3 for relief from minimum parking requirements. He went over the scope of work, noting that the company planned to demolish and reconstruct the existing building, taking it down to the foundation and putting it back in same footprint; as part of that effort, they would add truck docks and new ramps for accessible entrance into egress doors.

Mr. Quitzau stated that the floodplain impact was minimum, consisting mostly of the additional docks and ramps being added to the footprint. He stated that this project had already gone before the Conservation Commission (Con/Com) and had received an Order of Conditions, which has been included as part of the ZBA packet. There was discussion about floodplain in terms of compensatory storage and landscaping.

Mr. Quitzau went on to discuss parking. He said that the site currently had 881 parking spaces; given the uses within the buildings on the site – professional office and industrial uses – the minimum number of parking spaces required under the Zoning Bylaw was 866. He said that I.L. has calculated the actual demand for parking at 742 parking spaces, taking into account current employees, new employees, and visitors; the actual number of proposed parking spaces will be 831 – which, although higher than the demand, does fall short of the required minimum number of 866.

There was further discussion about parking and floodplain at the site.

Mr. Colasante said he was initially worried about the floodplain portion of the application, since he had never seen a floodplain appeal during his tenure, but after reading Mr. Laskey's synopsis and perusing the Conservation Commission's Order of Conditions, he realized that the impact to the floodplain was minor and Con/Com had already well ensured that any impact was compensated. He said that the parking reduction appeared quite minimal as well.

Mr. Kalantari asked what would happen if the company had more cars than they could feasibly park. Mr. Evers replied that the first option would be to approach Massport to try to lease space. Mr. Kalantari asked whether the parking plan included space for snow removal. Mr. Quitzau replied that it did, adding that snow storage was an issue covered by both the Planning Board and the Conservation Commission.

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 reiterated that the conditions 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 project met both of those conditions, both in terms of parking and the impact to the floodplain. He noted that the Planning Board and Con/Com had both already examined this application in great detail, and he felt comfortable with their approvals. The other members agreed.

Mr. Colasante suggested that the Board vote on the two Special Permit requests as two separate motions.

MOTION:

Ms. Amick moved to grant to Instrumentation Laboratory, at 180 Hartwell Road, a Special Permit per Section 7.2.2.5 of the Zoning Bylaw to reconstruct an existing building bordered by Flood Plain, substantially as shown on Exhibit 1 (site plan), Exhibit 2 (existing conditions plan of land), and Exhibit 3 (Bedford Conservation Commission's Order of Conditions).

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

MOTION:

Ms. Amick moved to grant to Instrumentation Laboratory, at 180 Hartwell Road, a Special Permit per Section 7.4.3 of the Zoning Bylaw to reduce the number of parking spaces, as referenced on Exhibit 1 (letter from Curtis Quitzau, P.E.) and Exhibit 2 (memorandum to Christopher Laskey, dated October 13).

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Dearing, 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, barring any appeals, the applicant may move forward with the project.

The applicants thanked the Board for its time. Mr. Colasante wished them luck with the project.

BUSINESS MEETING:

285 Great Road Sign

Pamela Brown, Esq., greeted the Board and explained that the ZBA had issued a Special Permit in October for a freestanding sign and two wall signs for Salem Five Bank, at 285 Great Road. She said that the wall sign was put up and it was decided that the letters were too small, so she was here tonight requesting a minor modification to the original Special Permit. She stated that the S.P. that the Board had issued allowed 14" letters and one gooseneck light above; Salem Five would now like 18" letters and two lights. She added that the illumination would still fall within the approved lighting calculations.

Mr. Colasante said that he felt this modification was indeed very minor and had no problems with it. The other Board members agreed.

MOTION:

Ms. Amick moved to incorporate the updated sign sheet as an Exhibit with the Salem Five Bank Special Permit, and that the Board find that this was a minor modification to said permit.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: Amick

The motion carried, 4-0-1.

October 30 Meeting Minutes

After confirming that all of the members had read, and had the chance to comment on, the minutes of the last meeting, he called for a motion to approve them.

MOTION:

Ms. Amick moved to accept the minutes of the October 30, 2014 meeting, as amended.

Ms. Hamilton seconded the motion.

Voting in favor: Colasante, Crowley, Dearing, Hamilton, and Kalantari

Voting against: None

Abstained: Amick and Smith

The motion carried, 5-0-2.

Adjournment

MOTION:

Ms. Amick moved to adjourn the meeting.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

The meeting adjourned at 9:35 PM.

Angelo Colasante, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant