

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
MARCH 10, 2016**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

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

ABSENT: Michelle Puntillo; Robert Kalantari

Mr. Crowley 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 #029-16 – Art Studio Sign and Neon, for Pro Nails Spa, at 337 Great Road, seek a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate wall sign.

Mary Duong, of Art Studio Sign and Neon, introduced herself and her mother, who owned the company. Ms. Duong explained that they were proposing a halo-lit sign for Pro Nails Spa, a sign that would have LED backlit silver letters, as shown in the application. The Board talked with the applicants about the colors, materials, and dimensions of the sign.

Mr. Crowley commented that the Board typically conditioned all Special Permits for sign illumination to state that the sign would not be lit between the hours of 11:00 PM and 6:00 AM.

There was dialogue about the letter regarding the foot lamberts and whether it met the Bylaw requirement. Mr. Crowley said that it was on the sign manufacturer's letterhead, so he felt it did meet the requirement. Mr. Colasante added that the onus was on the sign manufacturer to ensure that the illumination met the Town's requirements, so he was not concerned.

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

DELIBERATIONS:

Mr. Crowley said that this was a Special Permit application, for which the two requirements were that the sign illumination was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. He said that

he felt this application met those requirements, with the usual condition that the lights not be on overnight. The other Board members agreed.

MOTION:

Ms. Amick moved to grant Art Studio Sign and Neon, for Pro Nails Spa, at 337 Great Road, a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate wall sign, substantially as shown on Exhibit 1 (landlord letter), Exhibit 2 & 3 (sign layout plans), Exhibit 4 (sign specifications), and Exhibit 5 (letter from sign manufacturer), and with the condition that the sign shall be on a timer and shall not be illuminated between the hours of 11:00 PM and 6:00 AM.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Crowley 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 Sign Permit.

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

PETITION #031-16 – Jeffery Scott and Janet Cuttle, at 58 Hancock Street, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct two additions within side yard setbacks.

Jeffery Scott and Janet Cuttle, the homeowners at 58 Hancock Street, introduced themselves and their architect, Paul Mahoney. They explained that they were hoping to add an addition to their house and garage. Mr. Mahoney said that the area of the additions were shown on the plot plan, and noted that, because the roof overhang for the proposed addition to the house was wider than normal overhangs (2.5 feet), the plot plan measured to that overhang rather than the foundation wall; the plan did show the setback from the wall of the garage, as there was no overhang proposed for that structure.

There was discussion about the dimensions and aesthetics of the additions.

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

DELIBERATIONS:

Mr. Crowley said that this was a Special Permit application, and the two requirements 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 Bylaw. He said that he thought this proposal was very reasonable and was consistent with the house and the neighborhood, and he felt the application met the requirements of a Special Permit.

Ms. Amick said that she drove through the neighborhood and agreed that this design was very attractive. She said that she made a notation on the plot plan that the setback line was labeled to the overhang of the house and to the foundation of the garage; Mr. Mahoney initialed this notation.

The other members agreed that it was an attractive addition and met the criteria of a Special Permit. Mr. Dearing noted that he lived down the street from this property and always thought it was a beautiful house, and he believed this would be a lovely addition to it.

MOTION:

Ms. Amick moved to grant Jeffery Scott and Janet Cuttle, at 58 Hancock Street, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct two additions within side yard setbacks, substantially as shown on Exhibit 1 (plot plan with notation regarding overhang dimensions), Exhibit 2 (basement and roof plan), Exhibit 3 (floor plans), Exhibit 4 & 5 (elevation plans), and Exhibit 6 (elevation and section plans).

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Crowley 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.

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

PETITION #030-16 – Marie and Jeff Gayron, at 11 Sunnyfield Road, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct additions within front yard setback, and seek a Special Permit for addition totaling more than 600 square feet.

Marie and Jeff Gayron introduced themselves. Ms. Gayron stated that their neighbors at 29 Curve Street had built an addition that they loved, so they contacted the architect who

designed that addition, and he has designed something very similar for their house at 11 Sunnyfield Road. She said that the proposal involved two additions, one on each side of the primary dwelling; the additions would meet the side and rear yard setbacks and, with front yard setbacks of 31 and 32 feet, respectively, were both set farther back from the existing house, which was 29 feet from the street.

The Board talked about the size and aesthetics of the proposed addition and how it related to the existing dwelling and the other houses on the street. Ms. Gayron said that their house was one of the few houses on the street without an addition, so she felt it would fit in well with the surrounding homes. The Board members agreed.

Ms. Hamilton talked with the applicant about the placement of the driveway on the lot and how it would connect to the garage.

Mr. Crowley opened the hearing to the public.

Mr. Crowley read a letter from Ann Reynolds and Wendell Knicely, of 9 Sunnyfield Road, objecting to this application.

Ms. Gayron said she respectfully disagreed with the neighbors' assertion that other homes did a better job of staying within the setbacks. The other Board members agreed, noting that this house was set back from the street more than most of the other houses in the neighborhood, and the proposed additions were set back even farther still.

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

DELIBERATIONS:

Mr. Crowley said that the 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 that he felt this application met those requirements. Mr. Colasante agreed, noting that the additions would stay within the Cape style of architecture, and he was pleased to see they would not be any taller than the existing structure. Ms. Hamilton agreed stated that it was also nice to see that the proposed additions were located even farther back from the street than the existing house. The other Board members agreed.

For clarification, Mr. Colasante commented that if the applicants ever wanted to put a roof over the front stairs, it would also require ZBA approval. Ms. Gayron said they understood that and had no plans to cover those steps anyway.

Mr. Crowley called for a motion.

MOTION:

Ms. Amick moved to grant Marie and Jeff Gayron, at 11 Sunnyfield Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct additions within front yard setback, and seek a Special Permit for addition totaling more than 600 square feet, substantially as shown on Exhibit 1 (plot plan) and Exhibits 2 through 5 (elevations plans), with the condition that the farmer's porch shall not be enclosed.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Crowley 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.

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

PETITION #029-16 – Sean Tierney, at 29 Hartford Street, seeks a Variance from Table II: Dimensional Regulations and from Section 14.7 of the Zoning Bylaw to construct garage addition within side yard setback, and seeks a Special Permit for addition totaling more than 600 square feet.

Mr. Tierney introduced himself and explained that he and his wife proposed a garage addition to be attached to their house at 29 Hartford Street. He said that there was a detached garage now that they hoped to demolish in order to build this new garage in its place. He noted that the plan was to connect the garage to the house with a mudroom between, with a second floor for storage, as the primary dwelling had extremely little storage space. Mr. Tierney stated that the entire neighborhood was extremely non-conforming, filled with homes that were very close together; he added that their house was less than one foot from the property line. He said that he had spoken with all his neighbors and they all supported the application, and he had provided many letter of support with the application.

There was discussion about the dimensions of the new structure and its placement on the lot. It was noted that the existing garage would be demolished, so that would remove an existing non-conformity, but the proposed structure would still create a new non-conformity.

Mr. Crowley opened the hearing to the public.

Ken Larson, a resident of 79 Pine Hill Road and owner of 34 Hartford Street, said that he felt this proposal should not only be granted but applauded. He said that there are far too

many contractors in Bedford who are building giant McMansions and not nearly enough people trying to do what the Tierneys are doing – adding on to their home in order to stay in the town rather than selling to developers for more money.

Amy Pearson, of 31 Hartford Street, said that both she and her husband had seen the plans and know what it will mean for their property, and they are both in full support of it. She said that the Tierneys lived in one of four houses all in a row with very small lots, and she agreed with them that this was the best option.

Virginia Whitesides, of 25 Hartford Street, said that she lived at one of the other of the four homes with small lots along this street, and she and her husband were also in full support of this project. She said that she, like the Pearsons, needed a Special Permit from this Board several years ago in order to build their addition, and she hoped the Board granted this application as well.

Mr. Crowley read into the record letters/emails of support from Tom and Pat Maxwell, of 106 South Road; Max and Maureen Haviland of 27 Hartford Street; Cheryl Carlson, of 26 Hartford Street; and Daniel Bostwick, of 23 Hartford Street.

Ms. Amick explained to the applicant that, under State law, the Variance test was a much more difficult one than a Special Permit test; she said that the law did not allow the Board much wiggle room in terms of granting a Variance. Mr. Dearing agreed and said that he wished there were a more definitive hardship here.

With no further comments from those in attendance, Mr. Crowley closed the public hearing.

DELIBERATIONS:

Mr. Dearing said that he wondered whether the Board could find any way to grant this as a Special Permit and not a Variance, because he felt it would be very difficult to grant this application as a Variance. It was concluded that the Variance was the only avenue of relief here, because a new non-conformity was being created, even though the lot and structure were both pre-existing non-conforming.

Mr. Crowley said that the difficult part of granting a Variance was proving a hardship on the land; he noted that they also must find that “there are circumstances relating to the soil conditions, shape, or topography of such land or structures” and that “those circumstances especially affect the land or structures of the petitioner but do not affect generally the zoning district in which the land or structures are located.” Mr. Crowley said that he had trouble with the last requirement, because it was clear that there are several lots with similar shapes and sizes near this one. Mr. Dearing agreed, commenting that a Variance was always very difficult to grant, and even though he wished he could grant this application – especially because of all the neighborhood support – he was concerned that there was simply not enough of a hardship on the land to support a Variance.

After more conversation about the application and whether it met the criteria of a Variance, Ms. Amick suggested that the applicant request a continuation to the next meeting in order to rethink the design and perhaps find a way to better meet the Variance requirements. The other members agreed. Mr. Tierney agreed to continue to the next meeting.

Mr. Crowley called for a motion to re-open the public hearing in order to continue it.

MOTION:

Ms. Amick moved to re-open the public hearing for Sean Tierney, at 29 Hartford Street.

Mr. Colasante seconded the motion.

Voting in favor: Crowley, Colasante, Amick, Dearing, and Hamilton
Voting against: None
Abstained: None

The motion carried unanimously, 5-0-0.

MOTION:

Ms. Amick moved to continue to Sean Tierney, at 29 Hartford Street, seeks a Variance from Table II: Dimensional Regulations and from Section 14.7 of the Zoning Bylaw to construct garage addition within side yard setback, and seeks a Special Permit for addition totaling more than 600 square feet to March 24, 2016 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Amick, Dearing, and Hamilton
Voting against: None
Abstained: None

The motion carried unanimously, 5-0-0.

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

PETITION #032-16 – Pamela Brown, Esq., for Robert and Nataliya Wood, at 39 Hancock Street, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct new dwelling on non-conforming lot, and a Variance from Section 14.6 of the Zoning Bylaw to construct new dwelling within front yard setback.

Ms. Brown greeted the Board and introduced Robert and Nataliya Wood, who wanted to move to Bedford so that their two special needs children could be enrolled in the school systems. She said that they found this lot in an area they thought would be suit their needs, and had originally planned to renovate it, but it became clear that the house had

too many structural and rotting issues to be renovated without great financial hardship, so they now proposed to demolish the 765 square foot house on the property and build a 2,500 square foot home in its place. She said that, because this is a teardown and rebuild, the project falls under the new Teardown Policy, thereby requiring a Special Permit. She stated that the project also required a Variance because a new non-conformity would be created along Anthony Road.

Ms. Brown talked about the conditions for the Variance, noting that the hardship for the came from the small lot with two front yards, one of which was oddly angled. She said that it would be almost impossible to place the house on the lot in any other position without creating many other non-conformities.

There was broad discussion about the size and shape of the lot and the placement of the proposed house on it. The Board also talked about whether the non-conforming setback on Hancock Street would need a Variance as well as the setback on Anthony Road, but it was concluded that, because that setback was the same as the existing house, the only part of the application that needed a Variance was the new non-conforming setback on Anthony Road.

Mr. Crowley opened the hearing to the public.

Deborah Edinger, of 37 Hancock Street, said that she was the direct abutter to this property and was concerned that the new structure would block the view out her dining room window. Ms. Brown noted that that view was actually fully conforming. This led to more dialogue about the massing of the house on the lot.

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

DELIBERATIONS (ON VARIANCE)

Mr. Crowley suggested that the Board first deliberate on the Variance and then discuss the Special Permit. He said that the Board should go through the four conditions of a Variance and determine whether this application met them. The other members agreed.

1. *There are circumstances relating to the soil conditions, shape, or topography of such land or structures.* Mr. Crowley said he felt that this requirement was met because of the awkward angle of the lot line along Anthony Road which prevented the structure from being able to meet the conforming setback. The other members agreed.

2. *Those circumstances especially affect the land or structures of the petitioner but do not affect generally the zoning district in which the land or structures are located.* The Board agreed that this was the case here, as this was the only lot in the area that was shaped in such a way.

3. *A literal enforcement of the provisions of the by-law would involve substantial*

hardship, financial or otherwise, to the petitioner. The Board agreed that this was also the case here, because of the shape and angle of the lot.

4. *That desirable relief may be granted without substantial detriment to the public good and does not nullify or substantially derogate from the intent or purpose of the Bylaw.* Mr. Crowley said he believed this requirement was met, and the other members agreed.

Once the Board agreed that the conditions of a Variance had been met, Mr. Crowley called for a motion.

MOTION:

Ms. Amick moved to grant to Pamela Brown, Esq., for Robert and Nataliya Wood, at 39 Hancock Street, a Variance from Section 14.6 of the Zoning Bylaw to construct new dwelling within front yard setback on Anthony Road, substantially as shown on Exhibit 1 (plot plan), Exhibit 2 (floor plan, including identification of porch as uncovered), Exhibit 3 (artist's rendition of the house), and Exhibit 4 (rear elevation drawing).

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

DELIBERATIONS (ON SPECIAL PERMIT)

Mr. Colasante said that he was having a more difficult time granting a Special Permit for this application than he was for granting the Variance. He said that he felt uncomfortable allowing a home to be demolished and then put back in a non-conforming location.

Mr. Crowley said that he could support the Special Permit for the same reason that he supported the Variance – because of the shape and size of the lot. He said that he thought this application met the two requirements of a Special Permit, as he believed it was in keeping with the intent and purpose of the Bylaw and it was not injurious or detrimental to the neighborhood. After more conversation, the other members agreed.

MOTION:

Ms. Amick moved to grant Pamela Brown, Esq., for Robert and Nataliya Wood, at 39 Hancock Street, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct new dwelling on non-conforming lot, substantially as shown on Exhibit 1 (plot plan) and Exhibit 2 (house floor plan, as amended), with the condition that the porch shall remain uncovered, and with the note that the Special Permit applies to the setback on Hancock Street only.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Amick, Dearing, and Hamilton
Voting against: Colasante
Abstained: None

The motion carried, 4-1-0.

Mr. Crowley 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.

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

PETITION #028-16 – CONTINUATION – Pamela Brown, Esq., for Bruegger’s Bagels, at 158K Great Road, seeks a modification to Special Permit #018-16 to add patio seating.

Ms. Brown requested to continue this hearing to the March 24 meeting date.

MOTION:

Ms. Amick moved to continue Pamela Brown, Esq., for Bruegger’s Bagels, at 158K Great Road, seeking a modification to Special Permit #018-16 to add patio seating to March 24, 2016 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Amick, Dearing, and Hamilton
Voting against: None
Abstained: None

The motion carried unanimously, 5-0-0.

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

PETITION #026-16 – CONTINUATION – Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, for First Parish Church, at 75 Great Road, seeks a Special Permit per Section 4.4.5 of the Zoning Bylaw to install six antennas, equipment room, and emergency generator.

Mr. Crowley read a letter from Daniel Klasnick, dated February 22, 2016, requesting to withdraw the application without prejudice. Mr. Crowley called for a motion to withdraw the application.

MOTION:

Ms. Amick moved to withdraw without prejudice Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, for First Parish Church, at 75 Great Road, seeking a Special Permit per Section 4.4.5 of the Zoning Bylaw to install six antennas, equipment room, and emergency generator.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

BUSINESS MEETING:

January 7 Meeting Minutes

MOTION:

Mr. Colasante moved to approve the minutes of the January 7, 2016 meeting, as written.

Ms. Hamilton seconded the motion.

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

Voting against: None

Abstained: Amick and Smith

The motion carried, 4-0-2.

February 4 Meeting Minutes

MOTION:

Ms. Amick moved to approve the minutes of the February 4, 2016 meeting, as amended.

Mr. Colasante seconded the motion.

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

Voting against: None

Abstained: Smith

The motion carried, 5-0-1.

February 11 Meeting Minutes

MOTION:

Ms. Amick moved to approve the minutes of the February 11 meeting, as written.

Mr. Smith seconded the motion.

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

Voting against: None

Abstained: Colasante and Hamilton

The motion carried, 4-0-2.

Proposed Bylaw Amendment

Mr. Crowley stated that he would be presenting the proposed amendment to the Zoning Bylaw at Town Meeting on behalf of the ZBA. There was general discussion about this process and the wording of the amendment.

Adjournment

MOTION:

Mr. Dearing moved to adjourn the meeting.

Mr. Smith seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 10:20 PM.

Todd Crowley, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant