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**MINUTES OF THE MEETING OF THE BOARD OF APPEALS  
BURLINGTON, MA  
January 18, 2022**

Chairman Vice- Chairman Charles Viveiros called the meeting of the Burlington Board of Appeals to order at 7:30 p.m. The meeting was held in the Main Town Hall Meeting Room, 2nd Floor, and 29 Center Street, Burlington, MA on Webex and in person.

Present: Vice Chairman Charles Viveiros John Sullivan, Mark Burke, Joe Currier, Jeremy Harrington. Jeffrey DiBona was on WebEx. Absent: Michael Murray, Jr.

**20-21**

**Continued Hearing  
35 Mountain Rd**

*The petition of Winn View Heights II, LLC for property located at 35 Mountain Road, Burlington, MA 01803, shown on the Burlington Assessor's records as the following Book-Page# 12319-229 Map and Parcel reference: 49-82-0. The applicant is seeking a Comprehensive Permit through the Massachusetts Local Initiative Program (LIP) pursuant to MGL ch. 40B, Section 21. The proposal is to construct a single building containing 24 condominium units and all units will be age (55+) restricted. All the units will have 2 bedrooms and 2 bathrooms. Six of the 24 units will be reserved for households earnings up to 80% of the median income.*

Vice Chairman, Charles Viveiros, stated the applicant has requested a continuance until Feb 1, 2022 as additional information is being gathered and reviewed.

Motion made and seconded to continue the hearing until February 1, 2022. 5-0 in favor

**21-6**

**Continued Hearing  
Richardson Rd**

*The petition of John Hussey Jr. and Denise Hussey for property located at Richardson Road, Burlington, MA 01803, as shown on Book-Page # 35890-128, Map 43C- 20-35 of the Assessor's Maps of Burlington, to obtain an amendment from the Board of Appeals to amend the site plan and any applicable conditions or restrictions granted or set forth in the 2002 Comprehensive Permit regarding Winnview Heights Condominium.*

*Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (application #21-6).*

Vice Chairman, Charles Viveiros, stated the applicant has requested a continuance until Feb 1, 2022 as additional information is being gathered and reviewed.

Motion made and seconded to continue the hearing until February 1, 2022. 5-0 in favor

**21-31**

**Continued Hearing  
1 Raymond**

*The petition of Ray Wu for property located at 1 Raymond Road, Burlington, MA 01803, as shown on the Burlington Assessor's records, Map and Parcel reference 29-65-0. The applicant is seeking a variance to construct a shed to be thirty-four' by 8'.*

*The shed is in violation of Article V – Section 5.1.3.3- Limitation of area of Accessory uses and Section 5.2.0- density Regulation schedule.*

*Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning*

*Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (application#21-31).*

Mr. Viveiros acknowledged they had received the new plans from the applicant and asked the Board to comment on the plans.

Mr. Sullivan stated he thought the agreement with the applicant was for 120 square feet shed.

Mr. Burke agreed with Mr. Sullivan and asked why they wanted it bigger.

Mr. Wu stated that they are no longer requesting a side setback, they are only asking for rear allowing them a bigger shed. He added he measured his equipment and he needs a bigger shed.

Mr. Viveiros agreed, he thought the 15-x 8 was appropriate and pointed out he is asking for a significant variance. (14 feet).

Mr. Currier stated the fire department is allowing them to be closer than the ten feet required and there are a lot of combustible materials in a shed and he believes the walls need to be fire rated. He added he felt the Board should restrict the height to seven feet.

Diane Lava reminded the Board that there is a retaining wall there and if it is placed on it, it would be over ten feet. Board will condition the decision to say ground.

Motion made and seconded to approve the rear variance to construct a shed to be 15' x 8' and 7.3 feet in height from ground not the retaining wall. 5-0 in favor.

## **New Hearing**

**21-36**

### **Rear of Chandler Road, aka Drake**

*The petition of Litchfield Company, Inc for property located at the rear of Chandler Road, aka Drake Road, Burlington, MA 01803, as shown on the Burlington Assessor's records, Map and Parcel reference: 19-10-0. The applicant is seeking a variance to construct a single-family house within the minimum 100 feet front property line, (63.05 feet). The request is in violation of the Minimum Frontage requirement of Article V, section 5.2.0, and dimensional requirements set out in Section 5.1.2.1-5.1.2.5.*

*Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (application #21-36).*

Legal notice previously read into record.

Mr. Viveiros read Letters from Conservation and Planning Boards into record.

Attorney Tom Murphy re-introduced himself and Gary Litchfield the applicant. He stated he understood the neighbors were against the variance, but reminded everyone it is a vacant private property and there has always been a chance it would be built on. He stated Conservation will have their chance to give their say on the project when it goes to the next step. He reminded them it is a single-family dwelling, and it will be located ½ miles from the reservoir. He said the applicant is looking to place one house on a 4.5-acre parcel of land. Attorney Murphy presented justification for allowing a variance. He pointed out there is a lot of ways to interrupt the public good, but he submits if they went with the Cul-de-sac, they could place three houses on the property and that would be more disruptive than then the one house.

Mr. DiBona asked about subdivision and Mr. Litchfield stated he would not subdivide and that could be part of the condition. He confirmed the Walking trails go over private property.

Mr. Currier talked about the elevation

Mr. Burke questioned the issue of a subdivision, what it would look like.

Attorney Murphy stated they did not want to go that route, but it would need to go in front of the Planning Board approval.

Mr. Sullivan stated the Board should be focused on just the variance and there can be a buffer zone for privacy.

Mr. Litchfield agree to a row of arborvitaes as a natural buffer.

Mr. Burke asked about the grade and if the house would be higher than other houses.

Attorney Murphy responded the elevation will be same as Chandler Road.

Mr. Viveiros asked if they would be clearing the whole lot.

Mr. Murphy responded no, because of the wetlands amount of tree removal will be limited.

Mr. DiBona pointed out the location of the house may need to be moved back closer to Drake Road

Mr. Viveiros re-stated we are only looking at a variance before he opened it to the public.

Open to the Public.

Abutters along with conservation members shared their concerns:

- 1) Water flow will be disrupted
- 2) Impact of the forest as a whole
- 3) The parcel of land was deemed as unbuildable by the town resulting in a lower tax rate.
- 4) Abutters were led to believe it was conservation land.
- 5) Loss of privacy
- 6) Negative impact on the public good
- 7) Approval will set a precedent for allowing large variances.

Mr. Viveiros explained each case is different and stands on its own merit

Attorney Murphy addressed the concerns stating he would work with the abutters on creating a buffer zone.

Mr. Viveiros read a letter signed by from abutters into record from abutters the Board had not received.

Mr. Sullivan stated it was a practical request, and delaying it would be unreasonable.

Mr. DiBona stated the applicant was only going for a front property variance.

Mr. Viveiros confirmed the driveway would be twelve feet

Attorney Murphy reminded the Board, he would have an Engineer weigh in on concerns about wetlands when it goes to the next step.

Motion made and seconded to close the public hearing 5-0 in favor

Motion made and seconded to approve the front setback variance to 63.5 as shown on the plot plan submitted with the application, with the condition the applicant will work with the abutters to provide a buffer zone for privacy. 5-0 in favor.

## **New Hearing**

**21-35**

### **Wegman's**

*The petition of Volta Charging, LLC (Volta) in care of Wegman's Food Market, Inc for property located at 53 Third Avenue, Burlington, MA 01803, as shown on the Burlington Assessor's records, Map and Parcel reference: 45-11-0.*

*The application is seeking a Special Sign Permit pursuant to Article 7 Section 3 of the Town of Burlington, Northwest Park*

*Planned Development District Zoning Provisions (the “Provisions”) for the installation of three electric vehicle charging stations with digital advertising signs. The Special Sign Permit is being requested because the Provisions require that signs in the district must comply with Article XIV Section 3.2 of the General Bylaws, and in this case the proposed Volta signs may violate the following:*

*3.2.4.2 Flashing and computerized electronic signs are prohibited*

*3.2.4.6 No moving signs are permitted*

*Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk’s office and on the Board of Appeals website (Application #21-35).*

Vice Chairman, Charles Viveiros, stated the applicant has requested a continuance until Feb 1, 2022.

Motion made and seconded to continue the hearing until February 1, 2022. 5-0 in favor

## **New Hearing**

**21-37**

### **Butterfly Network**

*The petition of Batten Bros., Inc. in care of Butterfly Network for property located at 1600 District Ave, Burlington, MA 01803, as shown on the Burlington Assessor’s records, Map and Parcel reference: 46-53-0. The application is seeking a Special Sign Permit pursuant to Article 7 of the Town of Burlington, Northwest Park Planned Development District Zoning Provisions (the “Provisions”) for the installation of a Wall Sign to be 4’-8” high x 21’-6” long to be located on the west elevation to read “Butterfly” within the logo.*

*The Special Sign Permit is being requested because the Provisions require that signs in the district must comply with Article 7, Section 4i – any signage above the first floor Wall Signs shall not exceed six (6) feet in height by ten (10) feet in length.*

Jeff Sarra introduced himself and explained he was in front of the Board for signage for Butterfly Network. He described the signage requested, adding the sign would be the only sign on the building.

Mr. Harrington asked if he had any other options, because this is double the length of what is allowed.

Mr. Sarra explained that if it was going to be placed on the first floor it would be allowed, however it would not be visible. He explained they are looking to place it above the 3<sup>rd</sup> floor window, and it will be in line with the window, allowing visibility for the business.

Mr. Sullivan asked if there would be any other signs on the building and reminded him there is ninety lumens per square foot requirement.

Mr. Sarra stated the total will be seventy-two and it was not facing residents so therefore he felt it did not need a timer, but was willing to add one if wanted.

Public Hearing: no one present to speak for or against. Motion made and seconded to close the public hearing.

Motion made and seconded to approve the Special Sign Permit to Butterfly Network for a Wall Sign to be 4’8” in height by 21’-6” in length as shown on renderings submitted with the application. 5-0 in favor.

**Minutes from January 4, 2022** Motion made and seconded to accept the minutes. 5-0 in favor

**Adjourn** Motion made and seconded to adjourn. 5-0 in favor