Town of Burlington
Meeting Posting

DEPT. Burlington Board of Appeals
DATE: Tuesday, July 2, 2019
TIME: 7:30P.M.
PLACE: Town Hall Main Meeting Room, 2nd floor

Continued Hearing
2019-236
Wheeler
the petition of Yu 66 Corporation for property located at 1 Wheeler Road as shown on Map #56, Parcel #22-0 of the Burlington Assessor’s Map. The Applicant is seeking to demolish the existing mixed-use structure/building located at 1 Wheeler Road on a 79,260 s.f. parcel and construct a 22,000 s.f. mixed structure/building. The new building height is proposed to be 40.4 feet with an architectural tower detail feature at 73.4 ft. The proposed Impervious area of 54,910 s.f. and landscape/wooded area of 24,350 s.f or 31% of lot/parcel. The Proposed project is in violation of Burlington Zoning By Law Article 5, section 5.2.0, Density Regulations requires maximum building structure height within a B-G zone is 30’-0”. Burlington Zoning By Law Article 8, section 8.3.8.4, Impervious Surfaces within the Aquifer & Water Resource Districts not to be less than 40% of the lot shall be landscaped or if wooded may be left in a natural state.
As Shown on plans filed on April 9, 2019 and a copy is on file with the Town Clerk’s Office.

New Hearing
2019-25

The petition of Robert Murray for property at 17 Sears Street as shown on Map # 29, Parcel # 107-0 of the Burlington Assessor’s Map. The applicant is seeking a variance to sub-divide an existing Single Family house lot (32,970 sq.ft. of land area with 172 feet of frontage) into two (2) buildable lots. The proposed lots are:
Lot 1 would be 16,245.2 square feet of land area with 86 feet of frontage. The existing house is set 10.2 feet from the southerly side boundary line and no closer than 21.0 feet from the street.
Lot 2 would be 16,724.7 square feet of land area with 86 feet of frontage.

The Town of Burlington requires lot area within Residential One Family (R-O) zone is 20,000 sq. ft. and the required minimum lot frontage within the R-O zone is 100 ft. Article V, Section 5.2.0 (Density Regulation Schedule)

As Shown on plans filed on May 30, 2019 and a copy is on file with the Town Clerk’s Office.

Minutes
Adjourn
MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA
July 2, 2019

Chairman Michael Murray, Jr. 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.

Present: Chairman: Michael Murray Jr., Charles Viveiros, Mark Burke, John Sullivan and Brenda Rappaport, Alternate Adam Tigges and Jim Sheridan

Continued Hearing
Wheeler
2019-236
Previous read into record
Legal notice previously read into record.

Attorney Thomas Murphy introduced himself, representing the applicant, along with John White, the engineer and John Russo, the architect and Dan Yu the owner of the property.

Attorney Murphy stated they have made changes from the last hearing and they feel they have met the requests from the Board. 1) Reduction of the size of the tower and 2) four (4) signs to be placed on the tower and 3) and a rendering of the towers without the signage there

Mr. Russo described the recent changes made to the plan reflecting the Board’s comments from the last meeting. It stated the towers were down to 4 tower signs which brings it to 18 feet above the parapet and 120 feet back from the road. He described the materials that could be used such as a mixing of metal panels and fiber cement boards.

Mr. Burke asked for clarification on the Cap and was informed it was smaller.

Mr. Murray stated he would like to see the condition of the materials placed on the decision and no signage would be approved without the Boards approval.

Public Hearing Opened.

Mr. Iler- Town meeting Representative. He asked for clarification on the grade, the dimension and the impervious surface. It was explained there have been several hearings and the dimensions have changed since the legal ad was published.

Mr. Iler stated he felt the building should be built within the by-laws because they are there for a reason. He recommended denial of the application and if they want to change the by-laws, they should go in front of Town Meeting.

Mr. Murphy responded the site is difficult and unique and in order for them to build a competitive building requires them to go beyond the by-laws. He added the BOA uses their discretion to stretch the by-laws.

Mr. Dave Miller, Town Meeting Representative stated he agreed the rules should not be broken, but he was concern about the impervious surface. Mr. White explained there was a drainage plan in place creating the
nature of the site will allow the water to go into the wetlands and will recharge the ground water. He stated he was against the building.

Mr. Murray stated the Board has been working with the applicant and the hardship has been explained.

Motion made and seconded to close the public hearing. 5-0 in favor.
Motion made and seconded to separate the variance into three (3) variances. All members in favor.

Motion made and seconded to approve the height of the tower to 56.4 feet above mean finished grade as depicted on Page 4 as shown on revised plans titled Yu66 Corporation, dated July 2, 2019. With the conditions the materials used are as shown on page 5 of the revised plans and the variance does not include the signage. 4-1 (Mr. Sullivan) to approve.

Motion made and seconded to approve the height of the building to be no greater than 38.4 feet above mean finished grade as depicted on page 4 as shown on revised plans titled Yu 66 Corporation, dated July 2, with the conditions the materials used as shown on page 5 of the revised plans.

Motion made and seconded to approve the Impervious surface 31% lot parcel

Chairman Murray Recused himself. Vice-Chair Charles Viveiros chaired the meeting.
Attorney

New Hearing
2019-26

The petition of Robert Murray for property at 17 Sears Street as shown on Map # 29, Parcel # 107-0 of the Burlington Assessor’s Map. The applicant is seeking a variance to sub-divide an existing Single-Family house lot (32,970 sq. ft. of land area with 172 feet of frontage) into two (2) buildable lots. The proposed lots are:
Lot 1 would be 16,245.2 square feet of land area with 86 feet of frontage. The existing house is set 10.2 feet from the southerly side boundary line and no closer than 21.0 feet from the street.
Lot 2 would be 16,724.7 square feet of land area with 86 feet of frontage.

The Town of Burlington requires lot area within Residential One Family (R-O) zone is 20,000 sq. ft. and the required minimum lot frontage within the R-O zone is 100 ft. Article V, Section 5.2.0 (Density Regulation Schedule)
Chairman Michael Murray recused himself and Vice-chairman conducted the hearing.

Legal notice read into record.

Attorney Thomas Murphy introduced himself and stated the applicant was seeking a variance to subdivide an existing lot into 2 buildable lots. He gave some background information regarding the prior owner who had lived there for 20 years. When they decided to sell, they were approached by a daycare center to purchase the property because of the favorable location and the lot would provide them with enough space for parking etc. The sellers sold it to the Murray’s after the neighborhood rallied against the daycare center coming into a
residential property. He stated his client is now looking to sub-divide the property into two lots to help recoup some on the financial loss they have incurred. Attorney Murphy describe the hardship as following:

1) There is enough frontage space for privacy (intent)
2) It will not be a detriment of the neighborhood
3) Size of the lot makes it a prime target for other uses.
4) The unusual size and shape of lot

He added that they are not removing the existing historical house but will add a house on the other lot.

Mr. Sheridan confirmed the existing house will remain and was informed yes. Ms. Rappaport commented it is not the BOA’s job to decide on the daycare center. Mr. Tigges asked if the diagram shown was directly across from Briarwood and was informed yes. Mr. Burke agreed the size, shape and location makes the lot a target for other uses. He stated he feels it meets the required criteria.

Mr. Viveiros questioned if the lot could be used as a daycare allowed by right and was informed yes. He also stated it would be possible to knock the existing house down and build a bigger house on the lot.

Open to the Public
David Miller, Town Meeting Representative, made the point that there are many home daycares in the neighborhood therefore it isn’t necessary to have a big lot to have one. Attorney Murphy stated there is a difference between a home day care and a commercial day center.

John Ilner, Town Meeting Representative stated he isn’t following the hardship. Attorney Murphy explained why it was a hardship. Ms. Rappaport stated all the Board is doing is preventing a daycare on that one site, nothing prevents purchasing adjacent lots.

Mr. Ilner stated he feels the alternative would be to build a bigger house on the lot to maximize profit for owner. He added they knew what they were getting into and feels this is black mail for them to get what they want. He stated the applicant should keep the lot and respect the zoning by-laws.

Attorney Murphy responded by pointing out his client overpaid for the house to save the neighborhood from having the Daycare Center with additional traffic traveling Sears St. He stated he didn’t appreciate the comment about being blackmailed and the reason they would like to keep the existing house is because it adds character to the neighborhood.

Mr. Cannizzaro from 13 Sears Street, stated splitting the lot is the lesser of two evils. He questioned if they knocked the house down and built a house within the by-law would he be able to recoup his investment. Attorney Murphy responded his client paid twice of what knockdowns are going for and the he feels the house add character.

Mr. Burke reminded that at the time the daycare was looking to go in at this location, the Historical Society was adamant to save the house.
Sean Conners from 14 Sears stated he believes 2 houses is better than 1 daycare. He added we needed to “Save one neighborhood at a time.”

Motion made and seconded to close the public Hearing. 5-0 in favor.
Mr. Viverios stated they can’t say what may happen to the property but feels the best option is to split the lot. He likes the idea of keeping the old houses intact.
Motion made and seconded to approve the area variance to subdivide an existing Single-Family house lot into two (2) buildable lots. Lot 1 is to be 16,245.2 square feet of land area with 86 feet of frontage with a 10.2 feet sideline. Lot 2 is to be 16,724.7 square feet of land area with 86 feet of frontage. As depicted on plot plan dated May 22, 2019 submitted with the application dated May 30, 2019.

The decision is on file with the Town Clerk and may be reviewed in the Town Clerk’s Office.

The Town of Burlington requires lot area within Residential One Family (R-O) zone is 20,000 sq. ft. and the required minimum lot frontage within the R-O zone is 100 ft. Article V, Section 5.2.0 (Density Regulation Schedule).

Minutes – motion made and seconded minutes. All members in favor.
Adjourn  motion made and seconded to adjourn. All members in favor.