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# TOWN OF BURLINGTON

## Meeting Minutes

Email minutes to [meetings@burlington.org](mailto:meetings@burlington.org) or Bring to the Clerk's Office. Thank you

Minutes need to be posted within 30 days or 2 meetings of the board – Draft minutes can be posted and revised at a later date

DEPT./BOARD: Town of Burlington, Board of Appeals

DATE: May 2, 2023

TIME: 7:00 P.M.

PLACE: Town Hall Main Hearing Room, 2<sup>nd</sup> Floor, 29 Center Street

MEMBERS IN ATTENDANCE: Chairman, Charles Viveiros, Vice Chairman, Mark Burke, John Sullivan, Joe Currier, Jeremy Harrington, Jeff DiBona, Clerk & Ray Blenkhorn. Absent: none.

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### Minutes of the meeting of the Board of Appeals Burlington, MA

Chairman Charles Viveiros called the meeting to order at 7:30 p.m.

#### **Continued Hearing: (#23-5)**

#### **41 Burlington Mall Road – Jason Parillo**

Applicant Jason Parillo of Polocki Sign Company is seeking a variance for the property located at 41 Burlington Mall Road, Lahey Medical Health Center to install/replace two (2) existing wall signs & three (3) existing monument signs. Proposed signs to measure:

#### Wall Signs:

A-1-a-1: Replace existing w/new wall sign 5'8" (+/-) Height x 48'8" (+/-) Length on the West elevation of the building

A-1-a-2: Replace existing w/new wall sign 3'5" (+/-) Height x 29'2" (+/-) Length on the South elevation of the building.





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### Free Standing/Ground/Monument Signs:

A-2-a-02: Replace existing w/new 10'6" (+/-) Height x 6' Width

D-1-16: Replace existing w/new 7'8" ½ (+/-) Height x 4' ¼" (+/-) Width

D-1-17: Replace existing w/new 7'8" ½ (+/-) Height x 4' ½" (+/-) Width

### Questions from the board:

Mr. Harrington asked the applicant why the square footage was decreasing in size.

Mr. Parillo explained that it was basically just about proportionality because the previous name of the hospital was longer.

Vice-chairman Burke asked the applicant was the new name was of the hospital.

Mr. Parillo explained to the board that the corporate name of the property is still "Beth Israel Lahey Hospital & Medical Center", but now they are just going to call it "Lahey Hospital & Medical Center".

Chairman Viveiros asked the applicant if the monument signs light up.

Mr. Parillo replied, no, they don't light up.

Mr. Parillo asked the board if something can be written up tonight at the meeting that if the size of the signs isn't changed in the future, and they want to replace the existing size, does he still need to come before the board?

Chairman Viveiros stated that he would like them to have to come back before the board because it would be too difficult to condition it.

Mr. Parillo understood Chairman Viveiros' explanation.

Chairman Viveiros opened the meeting to a public hearing.

No public in attendance to oppose.

Chairman Viveiros asked the board for a motion to close the public hearing.

Mr. Blenkhorn motioned to close the public hearing.





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Vice Chairman Burke seconded the motion.

All in favor. (5-0)

Chairman Viveiros asked the board for a motion.

Vice Chairman Burke motioned to approve two (2) wall signs: A-1-a-1 and A-1-a-2 and three (3) monument signs: A-2-a-02, D-1-16, & D-1-17, as submitted on plot plans dated December 6, 2022 for 41 Burlington Mall Road, signs to read “Lahey Hospital & Medical Center” with special conditions of not to exceed 90 lumens per square foot and no other signs even if by-right.

Mr. Sullivan seconded the motion.

All in favor. (5-0)

### **Continued Public Hearing: (#23-8)**

#### **3 Carter Road – Ayyagri Nagarjun & Yadav Patel**

Applicants Ayyagri Nagarjun & Yadav Patel of 3 Carter Road are seeking a variance to build a two (2) car garage to the left of the property. The setback will be 11.6 ft.

Applicants have filed a new/updated building permit to with the building department to install a two-car garage with a room above the garage on the left side of the property.

#### **Questions from the board:**

Chairman Viveiros asked the applicants if the building inspector updated the permit yet?

Mr. Nagarjun replied yes he did.

Applicants submitted an updated plot plan and new renderings to the board for review.

Chairman Viveiros asked the applicants if the proposed addition that's currently permitted on the bottom floor will be without a garage?

Mr. Nagarjun replied that their plan is to have it be a play room.

Chairman Viveiros asked the applicant if they are still going to have garage doors on it?





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Mr. Nagarjun replied no there will not be garage doors on it.

Chairman Viveiros asked the applicant if on the current variance they are applying for now, will they be adding a second level on it?

Mr. Nagarjun replied yes.

Mr. Sullivan commented that he has an issue with the addition of the two-car garage on the left side of the house because it's going to be within feet of the arborvitaes, and that it's going to change the whole density of the property and the neighborhood. Mr. Sullivan further commented that he doesn't see any "hardship" for the variance.

Mr. Nagarjun asked Mr. Sullivan what he meant by "change the density of the property?"

Mr. Sullivan explained to Mr. Nagarjun that the property is only so big and that you are planning to build to almost the edge on both sides of the property, and that there's very little room on both sides of the property and that in itself changes the density in the neighborhood. Mr. Sullivan further commented that the applicant already has a one-car garage and now by installing a two-car garage that it's "eating up" too much of the property and that it's going to change the look of the neighborhood. Mr. Sullivan also explained to the applicants that you still need to prove a hardship in order for the board to grant any type of variance.

Ms. Payal argued that the hardship was in trying to clean the area of snow and that they have two kids at home and that it's difficult now to clear/clean the driveway.

Clerk DiBona commented to the applicant that having two driveways isn't going to make it easier to clean the driveways.

Chairman Viveiros explained to the applicants that in Massachusetts, there are statutes (Ch. 40a, Section 10) that requires the following to qualify for a "hardship":

1. The topography of the land or the hardship on the structure
2. To not derogate from the intent of the by-law
3. To not derogate from the public good

Chairman Viveiros explained that in his opinion this falls under the 2<sup>nd</sup> which is to not derogate from the intent of the by-law. He further explained to the applicant the reason we have fifteen (15) feet between each house is to reduce the density in the area.





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The applicants further argued that they had tried to build the addition (garage) in the back but because of the shape/size of the land they couldn't because the way the house was built and that having a two-car garage is a necessity for them.

Vice Chairman Burke tried to further explain to the applicant in conjunction with the board that they could argue that their hardship could be because of the shape of the land and how the home was originally built on the land and that you can't build the addition in the back because of the turning radius to get into the back of the property and into the previously proposed two-car garage. However, the other issue is how the addition would impact the density of the property and the neighborhood.

Ms. Payal further argued that the only option they had left was to build the two-car garage on the left side of the property, and that they've notified their abutters and gave them proper notice about the proposed addition.

Mr. Currier asked the applicants if their abutters were notified by certified mail?

Both applicants replied yes they were notified.

Mr. Currier asked the applicants about their square footage in their permit being a total of 34.6 square feet and that the plot plan doesn't match up to what their renderings show. He further explained that the renderings appear to be going deeper than what they have submitted on the updated plot plan.

The applicants explained to Mr. Currier and the rest of the board that the total sq. footage is 34.6. (23 ft. + 11.6 ft. = 34.6 sq. ft.) This is for the variance on the right side of the garage.

Mr. Currier asked the applicant about the plot plan showing a deck in the back? He also asked the applicants if there are two (2) additions in the back?

Mr. Nagarjun replied, yes, and explained that one is the addition and one is the garage, not a deck.

Mr. Sullivan asked the applicant that if their only goal was to get both cars into the garage, then why not cut your addition in half, minimize it and have a large one-car garage on the right and their existing one-car garage on the left? Mr. Sullivan also explained to the applicants, if they did this then they wouldn't even need a variance from the board.

Mr. Nagarjun explained to Mr. Sullivan that it wouldn't look esthetically appealing.

Mr. Sullivan responded that he doesn't think it looks esthetically appealing now as proposed.

Clerk DiBona asked the applicants if they've considered going "double deep" and parking their two cars tandemly (One in front/back of the other.) and only having one garage door?





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Mr. Nagarjun replied to Mr. DiBona that this idea just doesn't work for them and it wouldn't be the best investment financially for their home.

Mr. Sullivan commented that he doesn't think he will support it.

Clerk DiBona suggested that the board move for a continuance because he can't find the updated permit from the building department and so it can be accessible to everyone to review it. (Updated permit hasn't been uploaded to Viewpoint yet.) Mr. DiBona further explained to the applicants that it may still be "in processing" with the Building Department and that they should follow up with them.

Mr. Nagarjun agreed that he would follow up with the building department.

Mr. Harrington asked the applicants if they had any one-car garage renderings to compare to the two-car garage to show "visually" how much the density would be affected going down the street?

Mr. Nagarjun replied No, because they never considered it to begin with.

Mr. Harrington further explained to the applicants that if the board had something to compare it to that it might help their case as far as it affecting the density of the neighborhood and property.

Mr. Nagarjun explained to Mr. Harrington that the cost benefit of not having a two-car garage isn't worth it for them.

Ms. Payal further explained that having the two-car garage with the unfinished room above, you are 2/3 there.

Mr. Nagarjun also explained that it still wouldn't look esthetically appealing.

Mr. Currier commented that it looks like a two-family unit as is currently designed/proposed.

Mr. Nagarjun further argued that they wouldn't be in this position if the home was designed differently. He further stated that they have two kids in the Burlington Schools and that they are "priced out" of this Town for purchasing another home and that only three (3) feet is preventing them from having what they could have in their home.

Mr. Currier asked the applicant about installing just a wide door such as a 20 ft garage with one big door? (14 ft. wide door) Then they wouldn't need a variance.

Mr. Nagarjun explained to Mr. Currier that it would still be too tight for them and that a one-car garage would be inefficient in regards to "usability".





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Mr. Blenkhorn asked the applicants if they did away with the two-car garage on the left side with the updated building permit?

Mr. Nagarjun replied yes they did.

Mr. Blenkhorn asked the applicants if they were still keeping the single garage in the front?

Mr. Nagarjun replied yes, but the driveway going around to the back in the rendering will no longer be there once they receive the updated permit from the building dept.

Mr. DiBona also asked the applicants about the renderings showing the driveway going around to the back?

Mr. Nagarjun explained to Mr. DiBona that these renderings were drawn up quickly last night just to show the addition, however, the new renderings will no longer depict the driveway going around to the back of the property.

Mr. Sullivan asked the applicants if they were planning on eliminating the garage door on the right side of the property?

Mr. Nagarjun replied, no, it wouldn't be worth the investment to spend the money.

Chairman Viveiros asked the applicants what they are building on top of the two-car garage?

Mr. Nagarjun explained that right now it's just an unfinished room and that they are already at their max end of their budget, so they are just going to leave it as an unfinished room.

Mr. Currier suggested that if they only had a one-story garage, they wouldn't have to join the two roofs together and just have a full shed dormer in the back?

Ms. Payal reiterated that the cost of having a one-car garage to having a two-car garage, you are already 2/3 their cost-wise so it doesn't make sense for them to not invest fully into it and for the appreciation of the home.

Mr. Harrington explained to the applicants that he understands the "incremental" costs for building the additions, and this is why he is suggesting a single "double-wide" door to help with those costs.

Ms. Payal reiterated that it would just be too tight for them and that they still want to be able to use the other garage too because they have a son who will be driving soon and will have a car that they want to be able to park his car in that garage.

Mr. Nagarjun reminded the board that there is also a chimney on that garage as well.





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Chairman Viveiros commented that he also likes the single garage door idea. He further commented that before he can make any decision he would like to see the updated plan from the building department.

Vice Chairman Burke explained to the applicants that it's their obligation to follow up with the building department to check on the status of the updated permit before coming to the board.

Mr. Nagarjun stated that he will bring the updated permit to the next meeting.

Mr. Currier asked the applicants if there were any floor plans yet?

Mr. Nagarjun replied that the floor plans haven't been drawn up yet.

Chairman Viveiros advised the applicants that he wanted to wait until he's had a chance to see the updated plan from the building department and that in the meantime, the applicants should look into the MA statues (Ch. 40a, Section 10) to try and find a "hardship" for their addition before they come back to the board. Chairman Viveiros also stated he wants to make sure the garage doors aren't in the permit as well.

Vice Chairman Burke explained to the applicants that certain criteria have to be met for the hardship, such as the "shape of the land" and that they should make a presentation to the board the next time they return.

Mr. Nagarjun asked the board what the Chapter and Section of the MA statue was again?

Chairman Viveiros replied, it's MA. Chapter 40A, Section 10.

Chairman Viveiros informed the applicant to make sure the new/revised renderings have the driveway removed that goes around to the back.

Chairman Viveiros also asked the applicant if they've reached out to a contractor about getting a curb cut?

Clerk DiBona informed the applicants that they can apply for a curb cut at the DPW.

MR. DiBona also informed the client about new stormwater guidelines that went into effect last year for any property that goes over the 1,000 sq. ft. that they may have to comply with the stormwater drainage requirements and it could be a severe additional cost to them and to check with the building department on it as well.

Mr. DiBona asked the applicants when they would like to continue their hearing until?

Mr. Nagarjun replied the next meeting if possible?







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Chairman Viveiros informed the applicants that they don't have to appear at the next ZBA meeting for their hearing.

Chairman Viveiros asked the board for a motion to continue the hearing to the May 16, 2023 ZBA meeting.

Vice Chairman Burke motioned to continue 3 Carter Road until May 16, 2023 at 7:30 p.m.

Mr. Currier seconded the motion.

All in favor. (5-0)

### **Approval of minutes: April 18, 2023.**

Vice Chairman Burke motioned to approve the minutes of the meeting from April 18, 2023.

Mr. Currier seconded the motion.

All in favor. (5-0)

### **Motion to adjourn:**

Chairman Viveiros asked the board for a motion to adjourn.

Mr. DiBona motioned to adjourn. (@ 8:15 p.m.)

Vice Chairman Burke seconded the motion.

All in favor. (5-0)

