

**ZONING BOARD OF APPEALS  
MEETING MINUTES  
FEBRUARY 6, 2012**

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BELMONT, MA.

APR 11 8 28 AM '12

Attendance: William Chin (Chair), Nicholas Iannuzzi, James Ryan-Fagan, Eric Smith, Jim Zarkadas, Craig White (Associate), David Iaia (Associate), and Jay Szklut, Staff

Absent: Christopher Henry

**7:00 p.m.** Meeting called to order.

Chairman William Chin welcomed everyone to the February meeting of the Zoning Board of Appeals. He gave a brief outline of the process followed by the Board during the Public Hearing portion of the meeting and encouraged audience participation before the Board's deliberations at the end of the meeting. He stated that whenever possible, the Board deliberates and reaches an oral decision the same evening that the case is heard.

**CONTINUED PUBLIC HEARINGS:**

**CASE NO. 11-31 – 82 SOUTH COTTAGE ROAD :** Variance to increase the number of units from 7 to 11.

William Chin reported that this case will not be heard tonight, as the Applicant requested another continuance. This case will be continued to March 5, 2012 at 7:00 PM in the Homer Building, 3<sup>rd</sup> Floor Art Gallery.

**NEW PUBLIC HEARINGS:**

**Case 12-02 - 57 Lexington Street:** Special Permit to operate a large family day care

Mr. Chin explained that because this case was required to be re-noticed, it has been assigned a new case number. However, because all the previous testimony had been memorialized, there was no need to repeat the previous comments.

Monoshini Gordon, applicant and owner of the Day Care at 57 Lexington Street presents information she had been unable to present at the first meeting:

- She is the mother of two young boys, and she holds a Masters Degree in English and a Masters Degree in Education.
- She is certified in Massachusetts as an Elementary Daycare Teacher and opened her daycare at her home in 2011. Her daycare is registered by the state.
- Her daycare offers safe, quality, and affordable care. She further states that her daycare has given many low income families the opportunity to become self sufficient by allowing parents to get back into the work force.
- Children between the ages of 7 months and 18 months are at the home daycare on Lexington Street, while the older children attend the daycare she owns and operates on Belmont Street (Waverly Square Day Care).
- In response to neighbors' complaint's of a lot of toys in the yard and that the children are outside all the time making noise, she states that the toys are for the children to play with and the children are only outside between 10:30 am and 11:30 am.

- Pickup and drop-off times for the children are staggered to avoid backups.

Mr. Chin explained to the applicant that while the Town's Zoning By-Law allows a home day care use at her location, the condominium documents likely would supersede the zoning. Additionally, Ms. Gordon needs to understand that the Condo backyard is a common area and she did not have exclusive use of the place.

Mrs. Gordon stated that she and her husband wanted to discontinue the family day care from their home, but were not prepared to relocate until a suitable location was found.

William Chin noted that her license expires in June 2012 and asked her whether or not she would be renewing her license to continue to operate from her home. She responded that she hasn't found adequate space in another location.

Nick Iannuzzi reiterated that the applicant was looking to move and that the home daycare will be discontinued. He ascertained from Mrs. Gordon that the "drop dead" move date was December 2012.

Several people from the audience addressed the Board and noted their opposition. Concerns raised ranged from a prohibited use of the residence (a residential use only condominium unit) to concerns with noise, safety, and cleanliness.

Mr. Iannuzzi again informed those in attendance that while someone certainly had every right to seek an injunction to stop a prohibited activity, it was not within the Board's purview.

Mr. Chin asked if Mrs. Gordon wished to try to satisfy the issues that still needed to be addressed, or close the case and have the Board deliberate.. Mrs. Gordon responded that the hearing should be closed, as she felt there was nothing she could do to satisfy her neighbors.

Nick Iannuzzi suggested that the Board deviate slightly from the agenda and deliberate now, so that the audience who came to hear this case could leave.

William Chin then closed the public hearing and stated that the Board will take the matter under advisement and deliberations will be held now.

Board deliberations focused on the concerns raised by the neighbors, the owner of the other condominium unit and the prohibitions noted in the condo documents. However, the Board was also concerned with the operation of the home daycare on the third floor of the condominiumized two-family house. Members were not in support of granting a temporary permit.

Mr. Iannuzzi moves to grant the applicants request for a Special Permit.

Mr. Chin seconds the motion.

The motion fails unanimously.

**CASE NO. 12-03 – 24 NEWCASTLE ROAD:** Special Permit to construct a 2<sup>nd</sup> story addition.

Parul Aneja, applicant, states that he and his wife have signed an agreement to purchase the property. Due to medical issues with their daughter, they require a larger area and would therefore like to add a second story addition to the existing structure. They are before the Board to see whether an addition could be approved prior to closing on the property. A signed statement from the neighbors stating that they do not object to the addition of the second floor is delivered to the Board. Mr. Aneja notes that the footprint of the house would not be changed, the addition would be in character with the other Colonial homes in the neighborhood, the addition would add value to the neighborhood, and the addition would be environmentally friendly.

Elizabeth O’Neil, 18 Newcastle Road speaking in favor of the application, states that she is the neighbor on his left, and that she had no objection to the addition.

Mr. Chin questioned why the elevation shown in the drawings presented was marked 27 feet, verify in field. He asked whether or not 27 feet was the height proposed. The applicant confirmed that it was.

Mr. Chin then closed the public hearing and stated that the Board will take the matter under advisement.

**CASE NO. 12-04 – 11 BRIGHTON STREET** - Special Permit to renovate an existing convenience market and deli in order to operate a fast food restaurant.

The applicant, Fuad Mukarker, and his attorney, Joe Noone, appeared before the Board. Mr. Noone stated that the convenience market and deli has been in operation for the past 6 years and that the store has improved the quality of services provided to the community. The convenience store is located in a building that has been divided into several commercial condominium units. The applicant has purchased the unit that currently houses the convenience market and has also purchased the adjacent unit. Mr. Mukarker would like to transform the store to a sort of “mini” Wholefoods Market, and would like to sell organic and home cooked natural foods. He also requests seating for 18. There currently are 10 parking spaces and there are 10 on street (Brighton Street) parking spaces.

Mr. Chin stated that the two separate areas of the restaurant and convenient store will need to be color coded or clearly delineated in order to determine the required number of parking spaces. The number of parking spaces is not just determined by those required for the restaurant as the convenience market is a continuing use.

Several audience members spoke in support of the applicant noting that parking did not appear to be a problem and the restaurant use would be a welcome addition to the neighborhood.

William Chin asked that this case be continued to March 5 so that the applicant would have time to get the Board the additional information for the parking to support his application and whether Applicant would need some form of a parking waiver .

### **DELIBERATIONS AND VOTES**

24 NEWCASTLE ROAD, CASE NUMBER 12-03 – No objections to the project were raised.

**Motion** – Bill Chin moved that the special permit be approved with the condition that the roof ridge not exceed 27 feet. Seconded by Nick Iannuzzi. Motion passed unanimously.

**Meeting Adjourned – 8:50 pm**