



# Town of Boylston – Zoning Board of Appeals

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## MEETING MINUTES Monday, November 27, 2023

CHAIR:	William Filsinger
MEMBERS PRESENT:	Janet Lombardi, Rob Cotter, Arlene Murphy
MEMBERS ABSENT:	Brad Wyatt
OTHER ATTENDEES:	Paul Dell'Aquila, Land Use and Inspectional Services Director/Town Planner
RECORDER:	Nina Gardner

Mr. Filsinger called the meeting to order at 6:06 p.m. The Board reviewed the minutes of the February 13, 2023 meeting. There was brief mention of the bylaw that is noted in the minutes and marked up. Ms. Lombardi motioned to approve as amended and Mr. Cotter seconded; all voted in favor.

**Reorganize Board** – Ms. Lombardi nominated Mr. Filsinger to remain Chair of the Zoning Board. Mr. Cotter seconded; all voted in favor. Mr. Filsinger nominated Ms. Lombardi to remain on the Affordable Housing Committee and the Earth Removal Board. Mr. Cotter seconded; all voted in favor.

**Town Planner Report** – Mr. Dell'Aquila stated that he had discussed application forms and submittal procedures with Mr. Filsinger. He will work on new procedures and forms. The Board does not need to approve them, per the Chair. The application forms will be separated into three, not just one form as it is now. Fees were briefly discussed, and Boylston is lower than most surrounding Towns. The Board agreed they would like the average fee to be imposed and for Boylston to be consistent with other Towns. The Board of Selectmen will need to approve the new fees.

**211 Mile Hill Road** – Jim Pavlik of Outback Engineering was present on behalf of Attorney Antonellis and the applicant, Shalin Liu. They are looking to preserve open space on the 55-acre property. The walking path has been completed and the gravel parking area was redone. The original homestead dates from the late 1770's and is set back 7.4 feet from the road. It is located in the Rural Residential zoning district. They are looking to setting back the new structure 26 feet and to reduce the structure in area. Mr. Pavlik showed the Board renderings of the structure. It is currently two stories, and they will make it a single-story with a loft. It will be used as a visitor's center. The other structure will depict living conditions in the 1770's. The request is for a Finding that proposed modifications are not more substantially detrimental to the neighborhood. The setback is the only non-conformity.

Scott Steeves and Nick O'Hara, part of the construction team, were also present.

Ms. Murphy stated she had been by the site and asked about the opening on the front part of the existing building. Mr. Steeves stated they had obtained a permit from the Building Inspector to demolish. They have paused the demolition. They have preserved original beams and whatever other pieces they can use in the replica. They are seeking to change the use from residential to educational.

There were no questions from the public regarding this application for the Finding. Mr. Dell'Aquila informed the Board that this project will also go before the Planning Board at its next meeting for Site Plan Approval. Abutters were notified about the upcoming hearing. The Conservation Commission will issue an Order of Conditions.

The hearing was closed and approved. There was a brief conversation about the property and Ms. Murphy stated that it is a nice addition to the neighborhood.

Ms. Lombardi motioned to approve the Finding for 211 Mile Hill Road: The Board finds that the change in non-conformity from a large residential structure located 7.4 feet from the road to a 25-foot setback requirement to a smaller educational structure now having a 50-foot setback, is not more detrimental to the neighborhood.

Ms. Murphy seconded; all voted in favor by roll call vote:

Ms. Murphy-yes  
Ms. Lombardi-yes  
Mr. Filsinger-yes  
Mr. Cotter-yes

**26 Boulder Way** – Adam Costa, Esq. was present along with the applicants, Ken and Betty Sydow seeking to modify a Variance approved in 2013 with regards to division of multiple lots. There is a detached garage with an apartment over it - 26A Boulder Way. The other building is a residence. There were multiple lots divided under the original variance - three lots on right and four on left (seven total lots). The only difference between the original plan and the new plan is a line dividing one lot into a 35,000 square foot parcel and a remaining nine-acre parcel. There are separate septs. The garage/apartment has its own septic. The difference would be the Accessory Apartment would now be considered as a single primary residence.

There cannot be two primary structures on a single lot. If you divide the lot, they both become primary lots. There will be no changes to either structure. Mr. Sydow is not planning to sell either structure. They are just doing estate planning. If down the road, his children wish to sell, the buyer field would be greater if the lots are separate. The Board can issue a Decision with conditions. A future owner can only keep it as it is. Mr. Dell'Aquila suggested a condition could be added that specifies that the lot is limited to one unit.

Mr. Sydow stated the garage has 1,300 square feet of living space and cannot be extended right now and he has no intention of doing so. The unfinished part brings the total to 3,000 square feet. There is a 3-car garage that houses a pontoon boat and a backhoe. The properties

are operating independently and are on opposite sides of the road. The 3-car garage is on the 9-acre parcel. Dividing the lots would make it available to people with different incomes. It would be more flexible for them to sell if it were a single-family lot according to Attorney Costa.

Mr. and Mrs. Keegan, 24 Pendell Circle, were present and asked for some clarification. Their property backs up to this property. They were confused regarding the easement for the septic. If the variance is approved, what is to prevent them from building on the nine acres? Ms. Lombardi stated language can be in the Decision stating Parcel 30 can no longer be subdivided. It will be single family home with three garages, 2 bedrooms and 1 ½ baths. There was further discussion regarding whether Mr. Sydow could move houses if lots are divided. Mr. Sydow stated the road will remain private and he has no intention of making any changes. The Deed can be restricted.

Attorney Costa reviewed the special conditions listed in the application on page 2 of 3 affecting the land with the Board:

- a. The historic configuration of the petitioner's property is unique, as previously recognized by the Board. The 26 Boulder Way residence is physically and practically independent of the apartment/garage, and vice versa.
- b. Severing the residence from the apartment/garage will eliminate the financial hardship conveying physically distinct properties together, and will simplify financing or refinancing them, separately.
- c. Modification of the Variance alters nothing on the ground. There will be no detriment, and surely no "substantial" detriment to the public good.
- d. The Zoning-By-Law encourages different housing types to suit persons of differing incomes; and further, seeks to conserve the value of land and buildings. Modification of the Variance will further these objectives.

Mr. Filsinger motioned that the Board accept the proposed findings of fact and Ms. Lombardi seconded; all voted in favor by roll call vote:

Ms. Murphy - yes  
Ms. Lombardi - yes  
Mr. Filsinger - yes  
Mr. Cotter – yes

Attorney Costa stated the Board could accept the Variance with a condition to restrict the lot from being further subdivided.

Mr. Filsinger motioned, based on the findings of fact, to grant a Variance for Parcel 26 to split into 26A and Parcel 30 on condition Parcel 30 can no further be subdivided and may contain no more than one residence. Ms. Murphy seconded; all voted in favor by roll call vote:

Ms. Murphy - yes  
Ms. Lombardi - yes  
Mr. Filsinger - yes  
Mr. Cotter – yes

Attorney Costa stated he will submit an ANR on behalf of his client for this property for the January Planning Board meeting.

**New Business** – Mr. Dell'Aquila informed the Board that CMRPC had sent an informational flyer regarding a presentation at their meeting on solid waste. If any board member wishes to attend, they can let Mr. Dell'Aquila know.

Mr. Filsinger motioned to close the meeting at 7:50 p.m. and Ms. Murphy seconded; all voted in favor.

**Meeting Materials:**

Variance 26 Boulder Way (on file in PB Office)

211 Mile Hill Finding (on file in PB Office)