

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
FEBRUARY 11, 2016**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Todd Crowley, Chair; Carol Amick, Clerk; Jeffrey Dearing; Michelle Puntillo; Arthur Smith

ABSENT: Angelo Colasante, Vice Chair; Kay Hamilton; Robert Kalantari

GUESTS: Christopher Laskey, Code Enforcement Director; Jeffrey Cohen and Amy Lloyd, Planning Board

Mr. Crowley introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and assistant introduced themselves.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #025-16 – Chestnut Dental Associates, at 41 North Road, seeks a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate wall sign.

Jay Kahn and Jenni Crowell, of The Sign Center, introduced themselves, and also introduced Peter McNicholas, of Chestnut Dental Associates. Mr. Kahn said that they were here representing Chestnut Dental for sign illumination of halo-lit reverse channel letters. He said that the sign was 48 square feet, which was allowed by right under the Sign Bylaw, so the only relief needed was for the halo lighting.

Ms. Amick commented that the application packet included two options for the sign placement on the building: one on the second floor and one on the first. Mr. Kahn said that they were informed by Mr. Laskey that signs in this district were not allowed to be placed above the first floor of the building, so “Option 1” was off the table and “Option 2” was being proposed. He added that they had originally proposed the first option solely because the Sign Bylaw encouraged signs to be on the same elevation on a building.

Mr. Dearing noted that the Board always put a condition on Special Permits for illumination stating that the lighting must comply with the Bylaw’s requirements not to be illuminated between the hours of 11:00 PM and 6:00 AM. Mr. Kahn said they had no problem with such a condition.

Mr. Crowley opened the hearing to the public. With no comments or questions from those in attendance, Mr. Crowley closed the public hearing.

DELIBERATIONS:

Mr. Crowley stated that this was a Special Permit application, and the two requirements of a Special Permit were that the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. He said that he felt this proposed sign illumination met those requirements, as long as the usual condition regarding the hours of illumination were included. The other Board members agreed.

MOTION:

Ms. Amick moved to grant Chestnut Dental Associates, at 41 North Road, a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate wall sign, substantially as shown on Exhibit 1 (sign size and location), Exhibit 2 (sign and installation specifications), Exhibit 3 (property owner authorization letter), Exhibit 4 (letter designating The Sign Center as representative for application), and Exhibit 5 (letter certifying foot lamberts), and subject to the condition that the sign shall not be illuminated between the hours of 11:00 PM and 6:00 AM.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Crowley explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may illuminate the sign.

Mr. Kahn and Ms. Crowley thanked the Board members for their time.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #026-16 – Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, for First Parish Church, at 75 Great Road, seeks a Special Permit per Section 4.4.5 of the Zoning Bylaw to install six antennas, equipment room, and emergency generator.

Mr. Crowley read a letter from the applicant, dated February 9, 2016, requesting a continuation to the March 10 hearing date.

MOTION:

Ms. Amick moved to continue Bell Atlantic Mobile of Massachusetts Corporation, Ltd.,

d/b/a Verizon Wireless, for First Parish Church, at 75 Great Road, seeking a Special Permit per Section 4.4.5 of the Zoning Bylaw to install six antennas, equipment room, and emergency generator to March 10, 2016 at 7:30 PM.

Mr. Smith seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #027-16 – Pamela Brown, Esq., for Taylor Pond, LLC, at Taylor Pond Drive, seeks a Special Permit per Article 39.5 Section 1C of the Sign Bylaw to illuminate freestanding sign, and seeks relief from Article 39.4 Section 5(B) of the Sign Bylaw to allow sign to be located closer than 10 feet from property line.

Ms. Brown greeted the Board and stated that Taylor Pond, LLC sought relief for internal illumination and setback for a proposed sign. She explained that the Board granted a Special Permit in 2008 to allow a large illuminated sign located approximately 2.5 feet from the property line; the purpose of the sign at that time was to list the tenants at the site, but unfortunately the commercial side of the property never took off and the site is solely residential now. She said that the site was located on the very fast and busy Middlesex Turnpike, and this sign was necessary for way finding, especially at night. She added that the Conservation Commission had approved the location of this sign at the previous night's meeting, as the sign was near wetlands, so the only relief now needed was from the ZBA.

There was discussion about the placement and illumination of the sign.

Mr. Crowley noted that the Bylaw required calculations "signed and sealed by an engineer" as part of the application, but the letter provided to the Board did not have a seal and was written by the sign company's "designer and account manager." After further conversation about the letter, Ms. Brown agreed to a condition that a letter with stamped calculations would be provided before the Sign Permit was issued.

Mr. Crowley opened the hearing to the public. With no comments or questions from those in attendance, Mr. Crowley closed the public hearing.

DELIBERATIONS:

Mr. Crowley stated that this application could be treated as a new Special Permit or as a modification to the existing Special Permit. It was decided that a new Special Permit would be issued, with conditions and findings. Mr. Crowley said that the conditions of a

Special Permit were that the sign would not be injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. He said he felt that this sign met those requirements, especially since Middlesex Turnpike was a very fast and busy road and way finding could be quite difficult, especially at night. The other Board members agreed.

MOTION:

Ms. Amick moved to grant to Pamela Brown, Esq., for Taylor Pond, LLC, at Taylor Pond Drive, a Special Permit per Article 39.5 Section 1C of the Sign Bylaw to illuminate freestanding sign, and relief from Article 39.4 Section 5(B) of the Sign Bylaw to allow sign to be located closer than 10 feet from property line, substantially as shown on Exhibit 1 (sign description), Exhibit 2 (sign specifications), Exhibit 3 (sign view, day and night), Exhibit 4 (sign location), Exhibit 5 (certification of lighting specifications), Exhibit 6 (site plan), Exhibit 7 (photo rendering of sign location), and subject to the following conditions and findings:

- 1) The sign shall not encroach on the street right-of-way;
- 2) Consistent with Special Permit #001-09, the Board finds that illuminating the sign throughout the night to be a matter of public safety and therefore the declares that the sign may be illuminated between the hours of 11:00 PM and 6:00 AM;
- 3) A signed and sealed certificate letter shall be submitted;
- 4) In the event that the Sign Bylaw requirements for internally illuminated signs becomes more restrictive in the future, this internally illuminated sign shall be brought into compliance with the most recent edition of the Bylaw within a period of one year from its enactment.
- 5) The sign, when installed, will be located behind the existing guardrail on Middlesex Turnpike and Taylor Pond Road.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Crowley explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Sign Permit.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #028-16 – Pamela Brown, Esq., for Bruegger’s Bagels, at 158K Great Road, seeks a Special Permit per Article 39.4 Section 3(A) of the Sign By-Law to split wall sign

into two or more signs, and per Article 39.5 Section 1 to illuminate signs; and seeks a modification to Special Permit #018-16 to add patio seating.

Ms. Brown stated that Bruegger's Bagels was before the Board for signage and also for patio seating. Mr. Crowley suggested that the Board first rule on the signage and then move on to the patio seating.

Signs

She said that the restaurant was proposing four signs: a wall sign on each wall of their corner tenant space, and a window sign in two of the windows, bringing the total to four signs. She said they would like to illuminate the two window signs as well.

There was discussion about the placement and illumination of the signs. Ms. Brown noted that the proposed wall signs would be halo-lit, with white L.E.D. lights shining out the back of the sign.

Mr. Crowley noted that the application did not include a letter from an engineer or sign manufacturer certifying that the illumination would be under 75 foot lamberts. After discussing the matter further, the Board concluded that a condition could be placed on the Special Permit requiring that the letter must be submitted to the Code Enforcement Department before the Sign Permit could be issued.

Mr. Crowley opened the hearing to the public.

Mr. Laskey pointed out that the two window signs did not need relief from the Board, as they were non-illuminated and totaled less than 25% of the total window area, so the Board only had to rule on the two wall signs. Ms. Brown thanked him for the clarification.

With no further comments or questions from those in attendance, Mr. Crowley closed the sign portion of the public hearing.

DELIBERATIONS (ON SIGN):

Mr. Crowley said that the two requirements of a Special Permit were that the project was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. He said that he felt this proposal met those requirements, both in terms of splitting the wall signs, which was appropriate given the location, and the illumination. The other members agreed. Ms. Amick said that the two conditions she had were that the sign not be illuminated between the hours of 11:00 PM and 6:00 AM and that the letter certifying the foot lamberts must be provided before the Sign Permit could be issued. The Board members and applicant all agreed that these conditions were appropriate.

MOTION:

Ms. Amick moved to grant Pamela Brown, Esq., for Bruegger's Bagels, at 158K Great Road, a Special Permit per Article 39.4 Section 3(A) of the Sign By-Law to split wall sign into two or more signs, and per Article 39.5 Section 1 to illuminate signs, substantially as shown on Exhibit 1 (sign size and specifications), Exhibit 2 (signage specifications and size), Exhibit 3 (sign elevations), and Exhibit 4 (end view detail), and subject to the following conditions:

- 1) The sign shall not be illuminated between the hours of 11:00 PM and 6:00 AM;
- 2) The Sign Permit is conditioned upon receipt of a certification letter from a licensed electrician, sign manufacturer, or a qualified lighting or engineering consultant that the brightness of the signs shall not exceed the requirements of the Bylaw.

Ms. Puntillo seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Crowley explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Sign Permit.

Patio Seating

Ms. Brown said that the second part of the application involved patio seating behind the Bruegger's tenant space. She said that the proposal was with twelve seats Mr. Crowley asked whether this seating would solely be for Bruegger's customers. Ms. Brown said it would not.

Ms. Amick said that the proposed location was directly adjacent to a parking space and it did not appear to be an appropriate place for seats. Mr. Laskey agreed, stating that he had made a note of this in his synopsis to the Board.

Mr. Cohen said that he felt that this proposed seating change should also come before the Planning Board, as it was part of the Site Plan Review.

Mr. Smith said he thought this was a very poorly thought-out design and he felt the applicant should withdraw this section of the application. The other members agreed. Ms. Brown requested a continuation, noting that she at least wanted to talk about the seating with the tenant and property owner before withdrawing, and if they wanted to work on redesigning the seating, this would give them the chance to come back to the

Board without having to re-file. Mr. Crowley said he had no problem continuing the application.

MOTION:

Ms. Amick moved to continue Pamela Brown, Esq., for Bruegger's Bagels, at 158K Great Road, seeking a modification to Special Permit #018-16 to add patio seating, to March 10, 2016 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

BUSINESS MEETING:

Proposed Zoning Bylaw Amedment

Mr. Crowley said that Catherine Perry, of the Planning Department, had emailed the Board regarding a possible problem with the wording of the new Bylaw amendment; the issue, Ms. Perry had noted, is the rewording of Section 4.5.13 (Retail or Wholesale of New or Rebuilt Auto Parts), which could accidentally suggest that the installation of auto parts only affects the Limited Business District. The use in question is allowed in three districts – Limited Business, General Business and Commercial – and therefore it might appear that the change affects all of them.

Mr. Crowley stated that, with this in mind, it made sense to him simply to strike that entire section of the amendment. The other Board members agreed.

MOTION:

Ms. Amick moved to strike the third section of the proposed Zoning Bylaw amendment, so that the rewording of Section 4.5.13 remains as currently written, and moved that the description of the article be amended to reflect this change.

Mr. Smith seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Adjournment

Mr. Crowley called for a motion to adjourn the meeting.

MOTION:

Ms. Amick moved to adjourn the meeting.

Ms. Puntillo seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

The meeting adjourned at 9:20 PM.

Todd Crowley, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant