

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
AUGUST 13, 2015**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Vice Chair; Jeffrey Dearing; Michelle Puntillo; Kay Hamilton; Robert Kalantari

ABSENT: Todd Crowley, Chair; Carol Amick, Clerk; Arthur Smith

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

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

PRESENTATION: Mr. Dearing, Acting Clerk, read the notice of the hearing.

PETITION #004-16 – James Garabedian, for Bella Maria's Cucina, at 80 Great Road, seeks a Special Permit per Article 39.4 Section 3(Q) of the Sign By-Law to allow movable freestanding sign.

Mr. Garabedian greeted the Board and explained that he was applying for a Special Permit to allow an A-frame sandwich board sign outside Ken's NY Deli and Bella Maria's Cucina, both of which he owned. He stated that a photograph of the sign was included in the application packet, and noted that it would be out each day to announce the day's specials.

The Board examined the plot plan showing the location of the Blake Block building in relation to the street and the sidewalk, and there was extensive discussion about the location of the sign on the property. Mr. Garabedian said that the sign would be located behind the patio area, under one of the awnings, so it would be close to the building and would not be in the way of anyone walking.

Ms. Hamilton asked whether the sign would be anchored in any way to keep it from falling down. Mr. Garabedian replied that he didn't think that was necessary, as the sign was made of heavy wood. He added that he had no plans to put the sign out during inclement weather anyway, so he did not foresee any problems.

Mr. Colasante explained that the Board was required, under the Sign Bylaw, to place two conditions on this Special Permit, if it were granted:

1) In the event that the Sign Bylaw requirements for movable freestanding signs become more restrictive in the future, this movable freestanding sign shall be brought into compliance with the most recent edition of the Bylaw immediately upon its enactment.

2) The Special Permit shall run with the particular business, not the property where the business is located.

Mr. Colasante asked whether the applicant had any problems with these conditions, and Mr. Garabedian responded that he did not.

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

DELIBERATIONS:

Mr. Colasante said 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 that this sign met those conditions, especially since the location of the sign had been memorialized in the Exhibits and the applicant had been made aware of the Bylaws conditions for the sign. The other Board members agreed.

MOTION:

Mr. Dearing moved to grant to James Garabedian, for Bella Maria's Cucina, at 80 Great Road, a Special Permit per Article 39.4 Section 3(Q) of the Sign By-Law to allow movable freestanding sign, substantially as shown on Exhibits A through D and subject to the following conditions:

1) In the event that the Sign Bylaw requirements for movable freestanding signs become more restrictive in the future, this movable freestanding sign shall be brought into compliance with the most recent edition of the Bylaw immediately upon its enactment.

2) The Special Permit shall run with the particular business, not the property where the business is located.

Ms. Hamilton seconded the motion.

Voting in favor: Colasante, Dearing, Hamilton, and Kalantari

Voting against: None

Abstained: Puntillo

The motion carried, 4-0-1.

Mr. Colasante 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: Mr. Dearing, Acting Clerk, read the notice of the hearing.

PETITION #003-16 – Sunshine Sign Co., Inc., for 4-18 Crosby Drive, seeks a Special Permit per Article 39.5 Section 1(C) to place internally illuminated address numbers on buildings.

Gary Cunningham, of Sunshine Sign Co., Inc., introduced himself and explained that the owners of the office park at 4-18 Crosby Drive wanted to internally illuminate the address number signs on four of the buildings: 4, 6, 14, and 16 Crosby Drive. He said that the number signs themselves had already been installed, but they needed a Special Permit from the ZBA to illuminate them. Mr. Cunningham walked the Board through a site plan of the property and explained that the proposed address signs were chosen for these particular buildings because of the poor visibility when one drives into and around the site.

Ms. Puntillo asked why the owners were only proposing address signs on these four buildings. Mr. Cunningham stated that the other buildings, such as the ones that contained iRobot and Joule, already had tenant signs, so they did not feel the need to add address signs as well.

Mr. Cunningham noted that the signs would be red acrylic, lit by LED lights, so the faces would project red. There was further discussion about the details of the illumination. Mr. Kalantari said he was disappointed that the applicants included a data sheet about various types of illumination but did not mark which data piece referred to the proposed signs, so the information did not help the Board.

Mr. Dearing noted that the Board usually placed a condition on Special Permits for illuminated signs stating that the illumination would not be on between the hours of 11:00 PM and 6:00 AM, per the Sign Bylaw; he asked whether this would be a problem. The applicant said it would not.

Mr. Colasante said that, also per the Sign Bylaw, the Board needed to have calculations signed and sealed by an engineer certifying that the sign was below 50 foot lamberts and 15,000 initial rated lamp lumens. He said he would be amenable to placing a condition on the Special Permit that the Code Enforcement Department could not issue a Sign Permit until such a certification was received, so long as the applicant were amenable as well. Mr. Cunningham said he would have no issues with such a condition.

Mr. Colasante opened the hearing to the public. With no one from the public in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit application, and the two conditions 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 section of Bedford was its own unique area, and he always felt more leniency towards applications there because it was so remote and not close to any residences. He stated that he supported the application, with the conditions mentioned during the public hearing. The other Board members agreed.

MOTION:

Mr. Dearing moved to grant to Sunshine Sign Co., Inc., for 4-18 Crosby Drive, a Special Permit per Article 39.5 Section 1(C) to place internally illuminated address numbers on buildings, substantially as shown on Exhibits A through C, and subject to the following conditions:

- 1) Before a sign permit can be issued, the Code Enforcement Department shall receive calculations signed and sealed by an engineer licensed in the Commonwealth of Massachusetts certifying compliance with the 50-foot lambert and 15,000 lamp lumens requirement;
- 2) In the event that the Sign Bylaw requirements for internally illuminated signs become 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 of its enactment.

Ms. Puntillo seconded the motion.

Voting in favor: Colasante, Dearing, Puntillo, Hamilton, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante 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.

BUSINESS MEETING:

Memorandum Regarding Modifications to Existing Freestanding Signs

Christopher Laskey, the Code Enforcement Director, referenced a memorandum he had provided for the board regarding freestanding signs (see attached). He stated that he wanted the Board's opinion on improvements to pre-existing, non-conforming freestanding signs and to what extent, if any, a developer or owner can alter an existing non-conforming free-standing sign on an aesthetic level. He said that some property owners were conflicted over wanting to update their signs to make them more aesthetically pleasing but also being hesitant to make any changes because the signs were grandfathered. He mentioned that this issue will be coming up in the coming months

with both the Great Road Shopping Center and Bedford Market Place, so he thought it was important to get the Board's take on the situation.

There was conversation about whether to make property owners come to the Board for any cosmetic changes to their signs. Ms. Puntillo said that perhaps the Board could set a percentage requirement, and if an owner wants to change more than a certain percentage of the sign face, it would need ZBA approval. Mr. Colasante said he felt the Board members could be reasonable about small cosmetic changes, and that they could work with property owners to come up with a tenable solution.

Memorandum Regarding Demolition of Homes on Non-Conforming Lots

Mr. Laskey referred to his second memorandum, regarding the demolition of homes on non-conforming lots (see attachment). He explained that Town Counsel has recently introduced case law that not only allows but actually encourages any re-built home on a non-conforming lot to be sent to the Board if it will be larger than the footprint of the original dwelling. He said that it was important, then, to come up with a set of criteria by which the Board will measure new proposed homes on non-conforming lots.

Mr. Dearing asked whether Zoning Boards in other towns were reviewing these types of applications. Jeffrey Cohen, a resident of 17 Houlton Street and a member of the Planning Board, said that he and Ms. Lloyd recently attended a zoning and planning seminar where teardowns was the primary topic, and he spoke with an attorney who was extremely surprised that Bedford didn't already review such teardowns. Mr. Laksey added that Town Counsel was surprised as well, and it has become clear that the Board should have been reviewing these cases for several years. Mr. Cohen noted that case law was passed in 2008 that encouraged towns to review teardowns on non-conforming lots, but that information was never passed on to the Town; he said he wished that Town Counsel could be more proactive in the future about making the Town departments aware of such case law.

Mr. Laskey said he had been trying to get the word out to contractors in town so they are aware that this change would be coming by the end of the year. Amy Lloyd, a resident of 17 Fayette Road and the Chair of the Planning Board, asked what the response from contractors had been. Mr. Laskey said that they were naturally hesitant, and most of them stressed that they worried about how subjective such a process could be and asked whether the Board would follow a set of guidelines. Mr. Colasante said that was further proof that the Board needed to set forth criteria, to make the process more objective.

There was discussion about Floor Area Ratio (FAR) and whether that could be used. Glenn Garber, Planning Director, said that there is a section in Massachusetts General Laws that, in effect, prohibits FAR, so it was probably wise to consider other means. He said that perhaps a lot coverage percentage would be better.

There was extensive discussion about potential ways of measuring the massing of teardowns. Mr. Dearing pointed out that the Board must also consider height in addition

to footprint; he said that most other surrounding towns have a height restriction of 30 feet but Bedford's restriction was 37 feet, which in his opinion was very high. The other Board members agreed that both height and footprint needed to be considered.

Mr. Garber stated that, with every Special Permit, the Board had to determine that the project was "not substantially more detrimental to the neighborhood" than the existing conditions, which was a frustratingly vague requirement. He said the Board will have to consider what a neighborhood consists of and what kinds of things are a substantial detriment to it. Mr. Dearing noted that neighborhood context must also be taken into account with each case, and the other members agreed.

Mr. Laskey suggested that the Board members come up with a list of requirements they thought would be fair to measure these new homes, and at a future meeting they could mold those ideas into a potential "draft" list. Mr. Colasante agreed. He said this would be a learning process for both the Board and the builders in Bedford, and it would take a lot of discussion and tweaking, but he was confident that a fair balance could be reached.

Adjournment

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

MOTION:

Mr. Dearing moved to adjourn the meeting.

Ms. Puntillo seconded the motion.

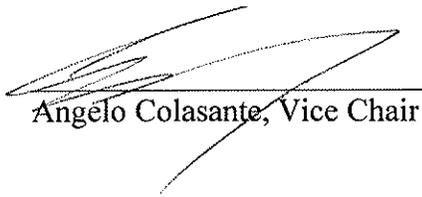
Voting in favor: Colasante, Dearing, Puntillo, Hamilton, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

The meeting adjourned at 9:42 PM.


Angelo Colasante, Vice Chair

8-13-15
Date

Respectfully Submitted,

Scott Gould
ZBA Assistant