

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
SEPTEMBER 22, 2016**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Todd Crowley, Chair; Angelo Colasante, Vice Chair; Carol Amick, Clerk; Michelle Puntillo; Kay Hamilton; Robert Kalantari

ABSENT: Jeffrey Dearing

GUEST: Christopher Laskey, Code Enforcement Director

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 #007-17 – Bedford North Road LLC, at 41 North Road, seeks to appeal the Building Inspector’s decision that, per Article 39.4 Section 3(A)(4) of the Sign Bylaw, second floor occupants are only allowed one square foot of signage on first floor.

Attorney Brian DeVellis and building owner Robert Macnamara greeted the Board. Mr. DeVellis reminded the members that there had been discussion at the previous hearing about creating a signage scheme for the building at 41 North Road, and the Board had asked the applicants to come back with a sign proposal that would include sign dimensions, aesthetics, and location. He said that they had done that and handed out hard copies to the members. Mr. DeVellis stated that the proposal was for eight signs, seven on the front of the building and one on the side facing the Volkswagen dealership. The maximum sign area allowed for each sign would be 3’ x 16’, which was approximately the size of the existing Chestnut Dental sign. He added that they would like to keep the “Emerson Medical at Bedford” sign on the second floor, since the building has been branded with that name so it served as an anchor sign for the location.

There was conversation about the materials of the sign and the types of letters that would be mounted on the building. Mr. Macnamara noted that there would be no “box” signs allowed, and all the signs would be individual halo-lit letters attached to the building.

Mr. Crowley asked about the total combined area of all the proposed signs. Mr. DeVellis replied that the total area for all eight signs was 336 square feet.

Mr. Colasante asked about the square footage of the first floor wall area. Mr. DeVellis estimated that it was approximately 3,531 square feet. It was determined that, since 10%

of the first floor wall area was about 353 square feet, the proposed signs were allowed from the ZBA, per the Sign Bylaw.

Ms. Hamilton asked whether overturning the Building Inspector's decision for this location would cause any problems for the ongoing Bedford Marketplace sign hearings. Mr. Colasante said that those hearings involved freestanding signs, and this was all for wall signs, so he felt that they were entirely separate. He said that the only relief being granted from the Zoning Bylaw here involved allowing second floor tenants to be displayed as first floor signs; everything else was allowed.

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

DELIBERATIONS:

Mr. Colasante said he felt the appearance of these signs would be in keeping with the intent of the Bylaw. Ms. Amick agreed and stated that she had no problems with the signs, but her only concern was that this might open the door to other buildings in town wanting to do something similar. Ms. Puntillo said that that might be welcome, as there were some buildings in town whose signs looked terrible and would benefit from a scheme like this. Mr. Crowley said that the Board always looked at each application on a case by case basis so he didn't worry about precedent. He said that he supported this application.

There was further discussion about the dimensions of the building and the signs.

Ms. Amick stated that she had come up with a list of conditions from the discussion and from the handouts provided by the applicants. She read them for the Board's input:

- 1) Seven signs shall be allowed on the front face of the building, to appear no higher than 1 foot above the plane of the second floor.
- 2) Each of the seven signs shall be no larger than 3' x 16'.
- 3) One sign shall be allowed on the south side of the building and shall be located no higher than 1 foot above the plane of the second floor.
- 4) The sign on the south side of the building shall be no larger than 3' x 16'.
- 5) Sign locations in both front and south sides of the building shall be as shown on Exhibits 1 and 2; signs shall be center-justified and top justified.
- 6) If Emerson Hospital discontinues its tenancy, the Emerson Hospital sign shall be removed from the second floor of the building.

The Board members and applicants agreed that these conditions were appropriate. With no further comments or questions, Mr. Crowley called for a motion.

MOTION:

Ms. Amick moved to overturn the Building Inspector's decision that, per Article 39.4

Section 3(A)(4) of the Sign Bylaw, second floor occupants at 41 North Road are allowed signs on first floor of the building at 41 North Road, on the front and south sides of the building, substantially as shown on Exhibit 1 (elevation and sign placement), Exhibit 2 (mock signage), Exhibit 3 (signage dimensions), and Exhibit 4 (sign criteria), and subject to the following conditions:

- 1) Seven signs shall be allowed on the front face of the building, to appear no higher than 1 foot above the plane of the second floor.
- 2) Each of the seven signs shall be no larger than 3' x 16'.
- 3) One sign shall be allowed on the south side of the building and shall be located no higher than 1 foot above the plane of the second floor.
- 4) The sign on the south side of the building shall be no larger than 3' x 16'.
- 5) Sign locations in both front and south sides of the building shall be as shown on Exhibits 1 and 2; signs shall be center-justified and top justified.
- 6) If Emerson Hospital discontinues its tenancy, the Emerson Hospital sign shall be removed from the second floor of the building.

Ms. Puntillo seconded the motion.

Voting in favor: Crowley, Colasante, Amick, Puntillo, and Hamilton

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 move forward with the project.

Mr. DeVellis and Mr. Macnamara thanked the Board members for their time.

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

PETITION #009-17 – Well Effect Company, at 160 Great Road, seeks to overturn the Building Inspector's decision that the business is considered a "Personal Service" business under Section 4.5.3 of the Zoning Bylaw rather than a "Professional Office" business under Section 4.5.9. If the Building Inspector's decision is upheld, the applicant seeks a Variance from Section 4.5.3 of the Zoning Bylaw to allow business to exceed 2,000 square feet.

John Jamesapollos, owner of Well Effect Company, introduced himself and stated that he was before the Board for a determination about the use classification of his business. He said that Mr. Laskey had classified the business as a "Personal Service" use under the Zoning Bylaw, but Mr. Jamesapollos believed it was a "Professional Office" use. He said that, in his opinion, the Bylaw differentiated between these two uses by giving examples of skilled tradespeople for "Personal Service" and people with advanced

degrees for “Professional Office.” He said that he felt his business fit into the latter category because all of his employees required doctorate-level training.

Ms. Amick asked why the distinction in use mattered. Mr. Laskey stated that, in the Limited Business District where Mr. Jamesapollos was moving his business, a “Personal Service” use was limited to 2,000 square feet, but a “Professional Office” had no size limitation.

There was extensive discussion about the type of business the Well Effect is and the kinds of services it offers. Mr. Jamesapollos stressed that all of the employees at the business, with the exception of administrative and clerical staff, were doctorate-level physical therapists who were licensed in Massachusetts, the same way any other specialty doctor’s practice would be.

Mr. Jamesapollos showed the Board an email from Katharine Dagle, of the Bedford Board of Health, that touched upon some of the services the business offered.

Mr. Crowley asked Mr. Laskey if he had any comments on the application. Mr. Laskey stated that he felt that there were aspects of the Well Effect business that could be classified as both “Personal Service” and “Professional Office.” He said that he sent the applicant to the Board because he always had to err on the side of caution since his decision impacted the entire town with respect to how these businesses are classified and where they can be located.

Mr. Colasante asked whether all clients needed to make appointments. Mr. Jamesapollos said that they did; new clients would occasionally be seen on a walk-in basis, but would then need to schedule an appointment to be seen by a licensed therapist. Mr. Colasante asked about hours of operation, and Mr. Jamesapollos replied that they were often open when other people were not, in order to accommodate “9-5” workers; they were open between 5:30 and 9:00 PM, Monday through Saturday.

There was dialogue about whether the services offered by the Well Effect were covered under health insurance. Mr. Colasante said that the payment was not, in his opinion, as important as the type of business and the specifics of the operation.

Mr. Crowley said that he felt this business was clearly a “Professional Office.”

Ms. Puntillo said that this business straddled both types of uses in the Zoning Bylaw, as there were aspects of it that fell under “Professional Office” and others that fell under “Personal Service.” Mr. Colasante said that there were some parts of this business that seemed similar to a gym or fitness center, and more conversation followed about the type of use a gym would be considered.

Ms. Amick said she agreed with Mr. Crowley that this was a “Professional Office” use; she added that the Bylaw needed to be changed in order to accommodate businesses like this.

Ms. Hamilton asked how much the applicant planned to expand the business' ancillary services to dietary and nutritional counseling. Mr. Jamesapollos said that their core business model would remain the same, but they had found over the past five years of doing business that most people do not know how to make proper food selections or understand what foods have certain effects on the body, so they hoped to expand that aspect.

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. Kalantari asked about the possibilities of granting either a Special Permit or a Variance to allow this business to be over 2,000 square feet. Mr. Laskey said that a Special Permit was not an option for this type of business, as the Bylaw only allowed square footage increases up to 4,000 square feet for "Retail" and "Indoor Amusement" uses. Ms. Puntillo said that she felt a Variance could be granted, using the size limitation as a hardship. Ms. Amick stated that she did not agree that they could grant a Variance under the Bylaw.

Ms. Hamilton said she thought the most reasonable option was to overturn the Building Inspector's decision. The other members agreed. There was talk about potential conditions, but it was noted that no conditions could be put on the motion, since no Special Permit or Variance was being granted.

Mr. Crowley called for a motion.

MOTION:

Ms. Amick moved to overturn the Building Inspector's decision that the Well Effect Company, at 160 Great Road, is considered a "Personal Service Shop" use under Section 4.5.3 of the Zoning Bylaw, and instead move that the Well Effect Company is a "Business and Professional Office" use under Section 4.5.9.

Ms. Hamilton seconded the motion.

Voting in favor: Crowley, Amick, Puntillo, and Hamilton

Voting against: Colasante

Abstained: None

The motion carried, 4-1-0.

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 move forward with the project.

BUSINESS MEETING:

August 25 Meeting Minutes

Mr. Crowley called for a motion to approve the minutes of the August 25 meeting.

MOTION:

Ms. Amick moved to approve the minutes of the August 25 meeting, as written.

Ms. Puntillo seconded the motion.

Voting in favor: Crowley, Colasante, Amick, Puntillo, Hamilton, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

Zoning Bylaw Change

Ms. Amick asked Mr. Laskey to start putting together wording for a Zoning Bylaw change for the next Town Meeting that incorporates a professional health services option, whether it is included with an existing category or in a newly created category. She talked more with Mr. Laskey and the Board about what this kind of change would require.

Adjournment

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

MOTION:

Ms. Amick moved to adjourn the meeting.

Ms. Hamilton seconded the motion.

Voting in favor: Crowley, Colasante, Amick, Puntillo, Hamilton, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 9:20 PM.

