

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
SEPTEMBER 24, 2015**

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

**ABSENT:** Jeffrey Dearing; Arthur Smith; Robert Kalantari

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 #006-15** – John Finnerty, at 97 Hartwell Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw, or a Variance from Table II: Dimensional Regulations, whichever the Board deems necessary, to construct addition within side yard setback.

John Finnerty introduced himself and his wife, Laura, and explained that they hoped to build an addition at the side of their house for an accessory apartment for his elderly mother. He talked about the layout and floor plan of the proposed addition, noting that a handicapped accessible ramp would be added outside so she could enter more easily when the time comes in the near future that she needs a wheelchair. He stated that they had talked with their abutters about the project, and all were in support.

Mr. Colasante asked whether the driveway would be expanded. Mr. Finnerty replied that it would not.

Ms. Amick noted that the plot plan showed a proposed addition and asked whether that was part of this application. Mr. Finnerty responded that it was part of this project, but it was not extending into any setbacks and therefore did not require Zoning Board relief. There was conversation about the floor plan and layout of the proposed addition in relation to the existing house.

Ms. Puntillo talked with the applicant about the mechanics of the chairlift and how it accessed the stairwells in the garage and house.

Mr. Colasante said that he felt it was important to note that the Board would be allowing a structure that was 12 feet from the property line, as opposed to allowing a structure that was 12 feet from the house, because the latter could vary in its location from the side lot line. Mr. Finnerty agreed, and initialed the plot plan.

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 said that the first item the Board needed to tackle was to decide whether this project should be voted on as a Special Permit or as a Variance. He noted that Town Counsel has said that any new non-conformity created on a structure that is conforming requires a Variance, but the Code Enforcement Director, Christopher Laskey, believes that a Special Permit could be granted as long as there was some non-conformity on the property, whether it be on the lot itself or the structure. He said that he agreed with Mr. Laskey and felt that this could be granted as a Special Permit. The other members agreed.

Ms. Amick asked whether the Board wanted to condition the Special Permit to state that the house would not be used as a two-family in the future. After examining the Zoning Bylaw, it was determined that it could not be used as a two-family without Zoning Board approval, so such a condition was ultimately unnecessary. The Board talked more about the use of the property, and the differences between a single-family home with an in-law apartment and a two-family home.

Mr. Crowley said he thought this application met the two criteria of a Special Permit, in that it was not detrimental or injurious to the neighborhood and was in keeping with the intent and purpose of the Bylaw. Ms. Amick agreed, noting that the use of the addition added to her belief that it was a good project. The other members agreed.

**MOTION:**

Ms. Amick moved to grant John Finnerty, at 97 Hartwell Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition within side yard setback, substantially as shown on Exhibit 1 (plot plan with 12 foot setback, initialed by applicant) and Exhibit 2 (front elevation plan).

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 apply for a Building Permit.

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

**PETITION #007-15** – Pretorius Electric & Sign Co., LLC, for Red Heat Tavern, at 152 Great Road, seeks a Special Permit per Article 39.4 Section 3(A) to increase first floor wall area to 20% and divide wall signs into two or more signs; and per Article 39.5 Section 1 to illuminate sign(s).

Richard Pretorius, of Pretorius Electric & Sign Co., introduced himself and introduced David Chriss and Michael Tynan, both representing Red Heat Tavern. He said that Red Heat was proposing its main wall sign, over the front door, to be larger than what was allowed by right under the Bylaw, but was allowed by Special Permit. He said they were also hoping to allow two awning signs, which would require the Board to “split” the wall signs into two or more signs; and, finally, to illuminate the main wall sign. Mr. Pretorius stated that the first floor front wall is approximately 1,275 sq.ft. (57’-7” x 22’-6”), and 20% of that area was approximately 255 square feet. He said that the wall sign they proposed was much smaller than that, at 102.3 square feet. He added that the total proposal, which included both the main sign and the two awning signs, was 131.5 square feet.

Ms. Amick pointed out that the Article 39.4 Section 3(C) of the Sign Bylaw stated that “letters, numbers and/or logos...may not be larger than one (1) foot high.” She said that she was not aware of any way that this could be altered. The other Board members agreed. Mr. Crowley said that he did not feel that the proposed awnings were unreasonable but he agreed that the Board simply could not allow them. Mr. Chriss said he understood and respected the Board’s decision on the matter.

Mr. Crowley opened the hearing to the public.

Jim O’Neil, of 21 Clark Road, said that the Board members were correct in their determination that the awning logo could not, under the Bylaw, allow the awning logo to be taller than 12 inches. He said that the Board members should also keep in mind that every time they issue a Special Permit for a sign at the new shopping center, the criteria will have to be the same, and what they decided tonight would set a precedent for all the other businesses requesting signs in the future.

Jeffrey Cohen, a member of the Planning Board and a resident of 17 Houlton Street, said that, when the Sign Bylaw Review Committee made changes to the Sign Bylaw, no one had envisioned awnings like this on a larger building scaled so far back from the road; they were instead picturing smaller awnings on storefronts such as the ones seen at the Blake Block. He said that, although he agreed that an increase in the logo on the awning was benign, he agreed that the Bylaw did not give the Board any leniency to allow it. He said that the main wall sign was, in his opinion, reasonable and attractive.

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

**DELIBERATIONS:**

Ms. Amick said that she did not agree with Mr. Laskey's interpretation of the size of the first floor front wall area. She said she measured the back of the building herself and came to a size smaller than Mr. Laskey has stated, although the signs still remained under the 20% increase requirement. She said that her primary concern, however, was not the size of the sign but the placement, because Article 39.4 Section 3(A) of the Sign Bylaw stated that "no signs shall be mounted above the first floor of a building" and she felt this sign was technically located above the first floor, as a portion of it was placed on a parapet that was above the roofline.

The Board talked extensively about the placement of the sign and whether the location should be considered "above the roofline." Mr. Crowley said he did not recall the Board ever in the past judging a sign like this as being considered above the roofline.

Mr. Colasante agreed. Ms. Hamilton commented that it was unfortunate how unclear the Bylaw was in this regard. Mr. Cohen said that, traditionally, when applicants seek relief from this section of the Bylaw, it is for a sign on a multi-story building. He said that the intent was not, in his understanding, to restrict signs such as this, and as long as a sign didn't project above the fascia or cornice line, he believed it met the intent of the Bylaw. He added that Firebox had a sign similar to this that was allowed. Ms. Amick said that, in her opinion, it shouldn't have been allowed, and she agreed with Ms. Hamilton that the Bylaw was very unclear in this regard, because the literal interpretation would prohibit this proposed Red Heat Tavern sign.

Ms. Puntillo said that the sign was clearly under the allowable 20% increase, but she wondered how the sign compared to the signs of Marshalls and Whole Foods.

Mr. Colasante said it was easily smaller than those two signs. Ms. Amick said that she didn't feel it was a fair comparison, since the Marshalls and Whole Foods signs were grandfathered and the Red Heat sign was new.

There was extensive conversation about the dimensions and aesthetics of the sign, along with its placement on the building. Mr. Colasante asked whether the applicants would be amenable to a condition stating that the sign shall be centered over the front door.

Mr. Chriss said he had no problem with such a condition.

Mr. Crowley said that the building was placed quite far off the street, so he understood the need for a sign that could be visible from the road. Ms. Puntillo said she wasn't entirely convinced that the sign needed to be visible from the street, especially if the restaurant name was on the tenant sign.

Ms. Hamilton said that her only concern about the size of the sign was that the tenants from the front building might also request signs of the same size and, although those signs wouldn't need to be as large, the Board will have set a precedent with this one.

Mr. Crowley said he didn't believe it would be a precedent, because they were entirely different buildings and the Board did not, in his opinion, have to apply the same "rules" to the front building that it did with the back.

Mr. Colasante noted that the Board should make the usual condition that the sign be turned off between the hours of 11:00 PM and 6:00 AM, per the Bylaw. Mr. Crowley noted that the restaurant was open until midnight on Saturdays and inquired whether the sign could be illuminated for that extra hour. Mr. Colasante said he was not sure whether that could be done, since that relief was not specifically requested in the application. Ms. Amick agreed. Mr. Crowley said he thought it would be a deterrent to the applicants to have to come back before the Board in order to have the sign illuminated for one extra hour on weekends; he said he felt strongly that the Special Permit should grant the illumination for all hours of operation. Ms. Hamilton said she felt the same way.

Mr. Crowley called for a motion.

**MOTION:**

Ms. Amick moved to grant Pretorius Electric & Sign Co., LLC, for Red Heat Tavern, at 152 Great Road, a Special Permit per Article 39.4 Section 3(A) of the Sign Bylaw to allow one wall sign, and to illuminate sign per Article 39.5 Section 1 of the Sign Bylaw, substantially as shown on Exhibit A (sign dimension and specs, initial ed by the applicant, showing that the sign shall be centered over the door), Exhibit B (letter from owner of shopping center ), Exhibit C (letter from United Sign Systems), Exhibit D (power supply specifications), and Exhibit E (front and side elevations of building), with the condition that the sign only be illuminated during the restaurant's hours of operation.

Ms. Hamilton seconded the motion.

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

Voting against: Amick

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 apply for a Sign Permit.

**BUSINESS MEETING:**

**127 North Road**

In his synopsis, Christopher Laskey stated that the Board had, last year, allowed the conversion of a single-family home to a two-family home, which would ultimately allow the dwelling to be demolished and rebuilt. There were two plans proposed to the Board that night, and both kind of gave the appearance of a single-family dwelling and maintained the single-family character of the neighborhood as is the intent behind s.4.2.2.2, sub-section (e) and (f). His synopsis went on to state that a new architect recently submitted a plan that, in Mr. Laskey's opinion, did not meet the intent behind s.4.2.2.2, sub-section (e) and (f). Therefore, instead of formally appealing his determination to the Board to have it potentially overturned, the architect agreed to first put it before the Board on an informal basis to get the Board's point of view.

The Board agreed with Mr. Laskey that the plan did not meet the intent of the original Special Permit, specifically for the following reasons:

- 1) The layout essentially shows two separate dwellings that are attached simply by two accessory utility buildings;
- 2) The plan clearly showed a Lot 1 and a Lot 2, which was not in keeping with the intent of the Special Permit;
- 3) There is a second driveway proposed for the dwelling on Lot 1 in addition to the proposed common driveway, which gives the appearance of two dwelling units with two separate driveways.

Mr. Crowley called for a motion for a finding.

**MOTION:**

Ms. Amick moved that the Board make a finding that the proposed plan for 127 North Road was not in keeping with the intent of the original Special Permit (SP #036-14).

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.

**June 25 Meeting Minutes**

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

**MOTION:**

Ms. Amick moved to approve the minutes of the June 25 meeting, as amended.

Ms. Puntillo seconded the motion.

Voting in favor: Crowley, Colasante, Amick, and Hamilton  
Voting against: None  
Abstained: Puntillo

The motion carried, 4-0-1.

**July 9 Meeting Minutes**

Mr. Crowley called for a motion to approve the minutes of the July 9 meeting.

**MOTION:**

Mr. Colasante moved to approve the minutes of the July 9 meeting, as amended.

Ms. Amick seconded the motion.

Voting in favor: Crowley, Colasante, Amick, and Hamilton  
Voting against: None  
Abstained: Puntillo

The motion carried, 4-0-1.

**August 13 Meeting Minutes**

Mr. Crowley called for a motion to approve the minutes of the August 13 meeting.

**MOTION:**

Ms. Amick moved to approve the minutes of the August 13 meeting, as written.

Ms. Hamilton seconded the motion.

Voting in favor: Crowley, Colasante, Puntillo, and Hamilton  
Voting against: None  
Abstained: Amick

The motion carried, 4-0-1.

**August 27 Meeting Minutes**

Mr. Crowley called for a motion to approve the minutes of the August 27 meeting.

**MOTION:**

Ms. Amick moved to approve the minutes of the August 27 meeting, as written.

