

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
MAY 22, 2014**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Jeffrey Cohen, Acting Chair; Jeffrey Dearing, Acting Clerk; Todd Crowley;
Kay Hamilton

ABSENT: Angelo Colasante, Chair; Carol Amick, Clerk; Michelle Puntillo; Arthur
Smith

GUEST: Christopher Laskey, Code Enforcement Director

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

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

PETITION #030-14 – Entegris, Inc., at 9 Crosby Drive, seeks a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to externally illuminate freestanding sign.

Deena Gagnon, of Entegris, introduced herself and explained that a sign had already been permitted and installed for Entegris, but the company now wanted to illuminate the sign. She noted that the application packet included a picture of the sign along with a catalogue cut of the illumination fixtures and a letter from an electrical contractor certifying that the illumination would not exceed the amount allowed by the Sign Bylaw.

Mr. Cohen said that his understanding was that the sign had already been illuminated. Ms. Gagnon stated that there was a misunderstanding on the part of the sign manufacturer, who thought the Sign Permit had given them permission to illuminate the sign as well as install it. She said that Christopher Laskey, the Code Enforcement Director, informed her that the sign could not be lit without a Special Permit from the Zoning Board, and they have not lit the sign since.

Mr. Cohen noted that the Sign By-Law restricts signs from being illuminated between the hours of 11:00 PM and 6:00 AM, and the Board typically placed a condition on the Special Permit stating that the sign may not be lit during those hours. Ms. Gagnon stated that she had no problem with such a condition.

Mr. Cohen opened the hearing to the public.

Mr. Cohen noted that Mr. Laskey was in attendance, and asked him about the sign installation and illumination. Mr. Laskey confirmed that the sign has not been

illuminated since he spoke with Ms. Gagnon. He added that the sign itself is a solid mass, and therefore the illumination doesn't shine past the sign.

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

DELIBERATIONS:

Mr. Cohen stated that this was a Special Permit application, and the two requirements of a Special Permit were that the illumination was not substantially more detrimental or injurious to the neighborhood and was in keeping with the intent and purpose of the By-Law. He said he felt this application met those two requirements, provided that it contained the condition regarding the time of illumination. The other Board members agreed.

MOTION:

Mr. Dearing moved to grant Entegris, Inc., at 9 Crosby Drive, a Special Permit per Article 39.5 Section 1 of the Sign By-Law to externally illuminate freestanding sign, substantially as shown on Exhibits A through D and subject to the condition that the light will be on timer and not illuminated between the hours of 11:00 PM and 6:00 AM.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

Mr. Cohen 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, barring any appeals, the applicant may apply for a Sign Permit at the Code Enforcement Department.

PRESENTATION: Mr. Dearing read the notice of the hearing.

PETITION #031-14 – Richard Batten, for Progress Software, at 11 Oak Park Drive, seeks a Special Permit per Article 39.4 Section 5(A)(2) of the Sign By-Law to allow “starburst” character to exceed four (4) feet in height; and seeks a Special Permit per Article 39.5 Section 1(H) of the Sign By-Law to allow light color other than white.

PETITION #032-14 – Richard Batten, for Progress Software, at 12 Oak Park Drive, seeks a Special Permit per Article 39.4 Section 5(A)(2) of the Sign By-Law to allow “starburst” character to exceed four (4) feet in height; and seeks a Special Permit per Article 39.5 Section 1(H) of the Sign By-Law to allow light color other than white.

PETITION #033-14 – Richard Batten, for Progress Software, at 14 Oak Park Drive, seeks a Special Permit per Article 39.5 Section 1(C) of the Sign By-Law to internally illuminate rear wall sign; seeks a Special Permit per Article 39.4 Section 5(A)(2) of the Sign By-Law to allow letters/characters to exceed four (4) feet in height on rear wall sign; and seeks a Special Permit per Article 39.5 Section 1(H) to allow light color other than white for front entrance sign.

Richard Batten, of Batten Bros., Inc., introduced himself and Louminda Torbett, from Progress Software. He said the proposal tonight was for four different signs on three different buildings, all belonging to Progress Software.

Mr. Batten stated that the buildings at 11 and 12 Oak Park Drive were essentially identical, and the proposed wall sign on each were identical as well. He said that the application packets showed the proposed signs, which consisted of the word “PROGRESS” next to an amber starburst. He said that the proposed signs were mostly conforming, and the only portion of each sign that needed Zoning relief was the starburst logo, for both size and color. He said that the letters of “PROGRESS” were 48 inches high, which was allowed by the Sign Bylaw, but the proposed starburst would be 54.6 inches high; the company would also like the halo illumination of the starburst to be amber, rather than the white allowed by the Bylaw.

Mr. Cohen said that he spent two years on the Sign Bylaw Review Committee, working to change and update the Sign Bylaw, and one thing the Committee never got to was changing external illumination to anything other than white. He said that the Bylaw does not require internal illumination to be white, so that could be an option, but he felt uncomfortable allowing external halo-lit illumination to be a different color than white.

Mr. Batten said that he understood Mr. Cohen’s point of view, but the Board might be able to find that this is an appropriate sign for this particular zone. There was discussion about how much latitude the Board members had in granting relief that the Bylaw did not specifically state that they could grant.

There was extensive discussion about the size and illumination of the proposed sign with the starburst. Ms. Hamilton said that she worried about setting a precedent by allowing a light color other than white. Mr. Cohen agreed, noting that the Sign Bylaw gives the Board clearer authority to grant dimensional relief than relief for illumination color. He said that this was a difficult situation because the proposed sign with the starburst was attractive, and he had no problem with the aesthetics of it. Mr. Dearing agreed that the sign was attractive and fit in well with this zoning district, but he understood the difficulty in granting relief that the Bylaw didn’t specifically allow the Board to grant.

Mr. Cohen asked about the signs at 14 Oak Park Drive. Mr. Batten said that there were two proposed signs for that property, one over the front entrance doorway and one along the top floor of the building. He noted that the relief requested for the front entry sign was the same – to allow the amber lighting for the starburst and to allow the starburst to be larger than 48 inches high. He stated that the other proposed sign was internally

illuminated, and in this case the whole sign – not just the starburst – was oversized. He said that the reason for this was that this sign faced Route 3, and the company wanted to ensure that it would be seen from the highway.

Mr. Cohen asked whether both of the proposed signs could be seen from a public way. Ms. Torbett replied that the front entrance sign at 14 Oak Park Drive could not be seen from any public way, and was only visible from the parking lot. Mr. Cohen said that an addendum was made to the definition of “Sign” in the new Sign Bylaw; the definition now stated that a sign only fell under the purview of the Bylaw when it “is placed out of doors or affixed on or in any part of a building for the purpose of being visible from the exterior of the building from an adjacent or public way.” He said that the front entrance sign at 14 Oak Park Drive did not, therefore, fall under the purview of the Bylaw, and that portion of the application could be withdrawn, if the applicant wished to do so. Mr. Batten thanked Mr. Cohen for bringing that to his attention and said he would like to withdraw that sign from the application.

MOTION:

Mr. Dearing moved to accept the applicant’s request to withdraw without prejudice the application for the front entrance sign at 14 Oak Park Drive, since the sign is not visible from an adjacent public way.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

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

DELIBERATIONS (14 OAK PARK DRIVE):

There was further discussion about the height and color of the starburst logos on the three buildings. It was decided that allowing the height of the starburst to be more than 48 inches was not substantially more detrimental to the neighborhood and was in keeping with the intent of the Bylaw, especially because it was appropriate to the commercial environment in which it would be displayed; however, the Board members felt uncomfortable allowing a halo illumination color other than white, as they felt it would not be in keeping with the intent and purpose of the Bylaw. Mr. Cohen noted that he felt the oversized sign on 14 Oak Park Drive, facing Route 3, was also in keeping with the intent and purpose of the Bylaw, and he could support it. The other members agreed.

For clarification, Mr. Cohen asked whether the applicants would have a problem with a condition stating that any sign illumination be on a timer to ensure that the signs were not illuminated between the hours of 11:00 PM and 6:00 AM. Mr. Batten and Ms. Torbett said they had no problem with such a condition.

Mr. Cohen called for a motion.

MOTION:

Mr. Dearing moved to grant to Richard Batten, for Progress Software, at 14 Oak Park Drive, a Special Permit per Article 39.5 Section 1(C) of the Sign By-Law to internally illuminate rear wall sign and per Article 39.4 Section 5(A)(2) of the Sign By-Law to allow letters/characters to exceed four (4) feet in height on rear wall sign, contingent upon lights being on a timer and not illuminated between the hours of 11:00 PM and 6:00 AM, substantially as shown on Exhibits A through E.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Mr. Cohen 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, barring any appeals, the applicant may apply for a Sign Permit at the Code Enforcement Department.

DELIBERATIONS (11 OAK PARK DRIVE):

Mr. Cohen reiterated that allowing the height of the starburst to be more than 48 inches was not substantially more detrimental to the neighborhood and was in keeping with the intent of the Bylaw.

MOTION:

Mr. Dearing moved to grant to Richard Batten, for Progress Software, at 11 Oak Park Drive, a Special Permit per Article 39.4 Section 5(A)(2) of the Sign By-Law to allow “starburst” character to exceed four (4) feet in height, substantially as shown on Exhibits A through C.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Mr. Cohen 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, barring any appeals, the applicant may apply for a Sign Permit at the Code Enforcement Department.

DELIBERATIONS (12 OAK PARK DRIVE):

Mr. Cohen reiterated that allowing the height of the starburst to be more than 48 inches was not substantially more detrimental to the neighborhood and was in keeping with the intent of the Bylaw.

MOTION:

Mr. Dearing moved to grant to Richard Batten, for Progress Software, at 12 Oak Park Drive, a Special Permit per Article 39.4 Section 5(A)(2) of the Sign By-Law to allow “starburst” character to exceed four (4) feet in height, substantially as shown on Exhibits A through C.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Mr. Cohen 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, barring any appeals, the applicant may apply for a Sign Permit at the Code Enforcement Department.

The applicants thanked the Board members for their time.

BUSINESS MEETING:

Minutes

Mr. Cohen asked whether any of the Board members had any comments regarding the minutes of the May 8 meeting. With no comments, Mr. Cohen called for a motion to approve the minutes.

MOTION:

Mr. Dearing moved to accept the minutes of the May 8, 2014 meeting, as amended.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Adjournment

MOTION:

Mr. Dearing moved to adjourn the meeting.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

The meeting adjourned at 9:00 PM.

Jeffrey Cohen, Acting Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant