

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JULY 14, 2016**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Todd Crowley, Chair; Angelo Colasante, Vice Chair; Michelle Puntillo, Acting Clerk; Jeffrey Dearing; Kay Hamilton

ABSENT: Carol Amick, Clerk; Robert Kalantari

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

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

PETITION #044-16 – CONTINUATION – Bedford Housing Authority, at 1 Ashby Place, seeks a modification to the Special Permit dated July 26, 1967 to construct new garage on premises.

Brenda Peacock, of the Bedford Housing Authority (BHA), greeted the Board. She apologized that no one from the BHA was present at the previous meeting, explaining that her representative had an unexpected emergency and could not attend. She thanked the Board for continuing the application instead of withdrawing it.

Ms. Peacock stated that the BHA proposed an amendment to its 1967 Special Permit to add a maintenance garage on the site. She said that the proposed garage was a level, one-story building that would house their trucks, which were currently out in the elements at all times. She commented that there would be some electricity in the structure but no heat or cooling. She added that the building would be built within setbacks and met all other Zoning and Conservation criteria, so they were not here for any specific relief other than a modification to the existing Special Permit.

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

DELIBERATIONS:

The Board members read through the original Special Permit to make sure this new proposal was not in violation of any previous conditions. Mr. Crowley said that this was a modification to the original Special Permit, and as such the two requirements of a Special Permit must be met – that the project must be 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. Mr. Colasante noted that a garage like

this was absolutely necessary and was something that, he was certain, would have been granted with the original Special Permit had it been proposed at the time, so he had no issues with this proposal. The other Board members agreed.

MOTION:

Ms. Puntillo moved to grant to Bedford Housing Authority, at 1 Ashby Place, a modification to the Special Permit dated July 26, 1967 to construct new garage on premises, substantially as shown on Exhibits A through G.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Puntillo, Dearing, 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.

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

PETITION #004-17 – Giannetta R.E. & Construction Corp., for 427 Concord Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to demolish house and construct larger house on non-conforming lot.

Joe Barrila, of Giannetta R.E. & Construction Corp., introduced himself and stated that he and his business partner, David Giannetta, had purchased the house at 427 Concord Road with intent of demolishing the existing one-story house and building a new 3,700 square foot, two floor house in its place. He said that the biggest challenge with the lot was the way that it sloped, so their proposal was a home that, while appearing no taller than the other new houses around it, was over the height currently allowed under the Bylaw.

The Board talked about the details of the house plan, especially in terms of the height. Mr. Colasante said he thought that the Board would struggle with allowing a new house that was outside the allowable height requirement. He said that requirements behind 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, and, in his opinion, allowing a house higher than what the Bylaw allowed automatically went against the second requirement. Mr. Dearing agreed and noted that allowing the height to be greater than allowed under the Bylaw would require a Variance, which was very difficult for the Board to grant under any circumstances.

Mr. Crowley opened the hearing to the public.

Julie Turner, of 431 Concord Road, stated that she had several concerns about the proposal. She said she worried that the applicants were proposing a design that may or may not be built, as the design was not set in stone. She said that another concern involved the access panel for the electrical service, which currently blocked the view coming out of her driveway. Mr. Barilla said that he believed the panel had to be at least 10 feet in from the property line, per the Electrical Code. Ms. Turner said that she would appreciate it if they could push it still farther back, so it wouldn't block her view. She said that her last concern was that work seemed to be ongoing at the site for months, including landscaping and the removing of windows. She noted that she wasn't sure whether these things could be done without obtaining a Demolition Permit, but it was worrisome that so much was being done before the applicants even had ZBA approval, let alone any kind of approval from the Code Enforcement Department.

Mr. Colasante said that he felt that the applicant had two options: he could come back before the Board with a Variance request for height in addition to the Special Permit, or he could continue under the guise of a Special Permit and lower the height so it met the requirements of the Bylaw. Mr. Barilla requested a continuation to the next meeting date.

MOTION:

Ms. Puntillo moved to continue Giannetta R.E. & Construction Corp., for 427 Concord Road, seeking a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to demolish house and construct larger house on non-conforming lot to the July 28, 2016 meeting at 7:30 PM.

Mr. Colasante seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

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

PETITION #001-17 – Pamela Brown, Esq., for Bill and Niesje Marcley, at 27 Maxwell Road, seeks a Variance from Table II: Dimensional Regulations and from Section 14.7 of the Zoning Bylaw, or any other relief the Board deems necessary (including Special Permit per Sections 7.1.2 and 7.1.4) to construct garage and screen porch within rear yard setback.

Ms. Brown greeted the Board and introduced Bill and Niesje Marcley, of 27 Maxell Road. She stated that they were requesting a Variance to allow a screened-in porch at the

back of the house and a garage on the side. She noted that it was an oddly shaped lot with a difficult building envelope, in which the house itself just barely fit. She said that the back of the house abuts Town forest and conservation land and, because of this, the mosquitoes were unbearable in this yard, and therefore the only way the homeowners could possibly enjoy this yard is by having a screened-in porch. She added that one member of the family had gotten Lyme disease because of the conditions of the lot, so they felt that this was a necessity.

Mr. Crowley said that Christopher Laskey, the Code Enforcement Director, had written in his synopsis that he felt the relief for this application could be granted either by a Variance or a Special Permit. The Board talked about whether the application should be viewed as a Special Permit or a Variance. Mr. Colasante said that, in his opinion, the creation of a new structural non-conformity meant that this should be a Variance. After further discussion, it was agreed that this should be treated as a Variance.

There was extensive conversation about the shape of the lot and the house placement on it, along with the layout and placement of the proposed addition. Mr. Dearing noted that it would be possible to relocate the bulkhead to push the porch back. Mr. Marcley said that it was a prefab unit and would be extremely difficult to move, and there was also a storage space along the same line as the bulkhead, so the porch had to be located in this proposed location.

It was noted that the house was built in 2014, and Mr. Crowley said that he was slightly uncomfortable allowing a Variance to build outside the setbacks when only two years ago the builder clearly worked hard to build the structure inside the setbacks. Mr. Colasante commented that the Board did not typically like to see additions that pushed more than halfway into the allowable setback, and the proposed porch was more than two thirds into the setback, at 8.3 feet away from the property line in a 30 feet setback box. There was further discussion about shifting or shrinking the proposed additions and how else they might fit onto the lot, along with conversation about the shape and topography of the lot itself.

Mr. Crowley said that the fact that there was undevelopable Town land behind this house helped ease his concern about the rear setback; he added that if another residential property were behind the lot, he would almost certainly vote against it. It was decided that the Board would be much more amenable to this proposal if the closest point of the porch were 10 feet from the property line, which would make the farthest point 20 feet. Mr. Colasante said that the mean distance between those two points was 15 feet, which ended up meeting the 50% guideline. The applicants agreed to those dimensions and initialed the plot plan to state their agreement.

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, if the Board were to grant this Variance, he felt it should be with the condition that the addition in back remains a three-season porch. The other members agreed. Mr. Crowley suggested that the Board go through the four pieces of the Variance “puzzle” and determine whether they were all met in the affirmative. He said he would like to separate the two requests and first go through the pieces for the porch:

1. *There are circumstances relating to the soil conditions, shape, or topography of such land or structures.* Mr. Crowley said that the topography of the lot, particularly with the ledge, could be used for this condition. There was general agreement.

2. *Those circumstances especially affect the land or structures of the petitioner but do not affect generally the zoning district in which the land or structures are located.*

Mr. Crowley said that this was clearly the case here.

3. *A literal enforcement of the provisions of the by-law would involve substantial hardship, financial or otherwise, to the petitioner.* Mr. Crowley said he agreed that this condition could be met, both because of the ledge and because moving the bulkhead would be very difficult.

4. *That desirable relief may be granted without substantial detriment to the public good and does not nullify or substantially derogate from the intent or purpose of the Bylaw.*

Mr. Crowley said that he did believe this was without detriment to the public good, especially since there was no abutter behind the property where the setback is most being affected.

Mr. Crowley stated that the one piece of the Variance puzzle he wanted to discuss for the garage was the second one: *Those circumstances especially affect the land or structures of the petitioner but do not affect generally the zoning district in which the land or structures are located.* After more discussion, the Board determined that this condition was met as well, along with the other three Variance conditions for the garage.

MOTION:

Ms. Puntillo moved to grant to Pamela Brown, Esq., for Bill and Niesje Marcley, at 27 Maxwell Road, a Variance from Table II: Dimensional Regulations and from Section 14.7 of the Zoning Bylaw, or any other relief the Board deems necessary (including Special Permit per Sections 7.1.2 and 7.1.4) to construct garage and screen porch within rear yard setback, substantially as shown on Exhibits A through I, and with the following condition:

- 1) That porch remain a three-season porch.

Mr. Colasante seconded the motion.

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

Voting against: Crowley

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.

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

PETITION #003-17 – Pamela Brown, Esq., for Brookline Bank, at 168A Great Road, seeks a Special Permit per Article 39.4 Section 3(A) of the Sign Bylaw to split wall sign into two or more signs, and to allow up to 20% of first floor wall area for sign calculation, and also seeks a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate signs.

Ms. Brown introduced Ed Spinney, the sign manufacturer for this petitioner who also created the sign for Comella's, and Andrew Schieffelin, of Brookline Bank. She explained that Brookline Bank was requesting a Special Permit to allow three signs on the building and also to illuminate those signs. She showed exhibits of the signage and commented that the bank was proposing halo illumination on all three. She noted that the signs would be identical in size, each about 26.5 square feet, for a combined total of approximately 80 square feet.

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 therefore the sign must be in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. He said he felt these were handsome signs and met those requirements; he added that the Comella's illumination was quite attractive and if it will be the same manufacturer, he felt comfortable with the illumination. Mr. Dearing said he applauded the size of the signs, noting that they would look very tasteful.

Mr. Colasante pointed out that the signs were not allowed to be illuminated between the hours of 11:00 PM and 6:00 AM, and said that the Board always required signs to be on a timer to ensure that this requirement was met. The applicants said that they had no problem with those conditions.

MOTION:

Ms. Puntillo moved to grant to Pamela Brown, Esq., for Brookline Bank, at 168A Great Road, a Special Permit per Article 39.4 Section 3(A) of the Sign Bylaw to split wall sign into two or more signs, and to allow up to 20% of first floor wall area for sign

calculation, and a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate signs, substantially as shown on Exhibits A through H.

Ms. Hamilton seconded the motion.

Voting in favor: Crowley, Colasante, Puntillo, Dearing, 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.

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

PETITION #002-17 – Pamela Brown, Esq., for Bedford Marketplace, at 170 Great Road, seeks a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate freestanding sign.

Ms. Brown explained that Bedford Marketplace was proposing a freestanding directory sign that would be placed against the side wall of Building C, as shown on the plan she handed out. She said that the proposed sign was 56 square feet in size, which met the size regulations for this district, so the requested Special Permit was solely for illumination. She noted that it would not be a wall sign, but they hoped to place the sign very close to the blank side wall of the building, which, in her opinion, would help break up the monotony of that gray wall.

Mr. Crowley said that Mr. Laskey had explained in his synopsis that only one freestanding sign was allowed per assessor's parcel, and this proposed location was the same parcel as the previously-permitted freestanding directory sign for Bedford Marketplace. Ms. Brown said that she hoped the Board could find a way to grant relief to allow the sign in this location, as it made the most sense and served as a directional sign to this entrance.

There was dialogue about the aesthetics and location of the proposed sign. Ms. Puntillo said that it would make the most sense to put the sign in the median strip. Ms. Brown said that the Town doesn't own that strip – it belonged to the State and was the property of Massachusetts Department of Transportation (MassDOT).

Mr. Dearing agreed that it seemed redundant to have a tenant directory sign at this entrance. He said that a small sign that read "Marketplace Entrance" should be satisfactory. Ms. Brown said this sign was important because it marked the entrance to the Marketplace. Mr. Colasante said that, in his opinion, this was not the entrance to the

Marketplace; the entrance was where the recently-permitted freestanding directory sign was located. Ms. Puntillo added that, if a driver were to miss the turn where this proposed sign was, he or she could just enter at the next curb cut.

Mr. Crowley said he didn't believe the directory sign was necessary, but regardless of his or the other members' opinion of its aesthetics, it was not allowed in this proposed location. Ms. Brown said that the Board could grant relief or make a finding that the location was appropriate. She said that the Bylaw specifically stated that only one freestanding sign was approved per assessor's parcel because each individual business was taxed separately, so she didn't believe it was at all inappropriate to allow two directory signs such as this one on the same large property. Mr. Colasante said he did not agree with that interpretation and didn't feel that the Board had any leverage to allow a sign in this location.

After further conversation, Ms. Brown asked to continue the application to the July 28 meeting date. Mr. Crowley agreed to the continuation and called for a motion.

MOTION:

Ms. Puntillo moved to continue Pamela Brown, Esq., for Bedford Marketplace, at 170 Great Road, seeking a Special Permit per Article 39.5 Section 1 of the Sign Bylaw to illuminate freestanding sign to July 28, 2016 at 7:30 PM.

Mr. Colasante seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

BUSINESS MEETING:

June 16, 2016 Minutes

MOTION:

Ms. Puntillo moved to approve the minutes of the June 16, 2016, as amended.

Ms. Hamilton seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

