

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
JULY 25, 2013**

Town of Bedford  
Bedford Town Hall  
Lower Level Conference Room

**PRESENT:** Angelo Colasante, Chair; Kenneth Gordon, Vice Chair; Carol Amick, Acting Clerk; Jeffrey Cohen; Jeffrey Dearing; Todd Crowley; Don Drouin

**ABSENT:** None

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

**PRESENTATION:** Ms. Amick, Acting Clerk, read the notice of the hearing.

**BUSINESS ITEM:** The Board will discuss whether the addition of a fence at 5 Carter Way is a significant change to the Comprehensive Permit.

Frederick and Milissa Durfee greeted the Board and Mr. Durfee explained that they were appearing for a determination about their fence at 5 Carter Way. He stated that they wanted to install a fence around the property, both for privacy and because they hoped to install a pool in the future. He said that the Code Enforcement Director, Christopher Laskey, had informed them that they needed to appear before the ZBA for a determination of whether this was a significant or insignificant change to the Board's original Comprehensive Permit.

Mr. Gordon noted that his son and the Durfees' son are friends, and although he did not believe that affected his ability to judge this application objectively, he wanted it to be on record.

The Board members perused the original Comprehensive Permit. Mr. Cohen said he was surprised that there was no condition in the permit regarding fences, because he recalled fences and sheds being of particular concern to the ZBA at the time, as the neighborhood was small to begin with and the Board wanted it to remain open.

Ms. Amick asked whether there were any other fences in the development. Mr. Durfee replied that there were at least two or three fences dividing the lots.

Mr. Colasante asked whether the pool had already been installed. Mr. Durfee said it had not; they were waiting for permission for the fence before they considered the pool.

Ms. Amick asked whether the applicants would consider putting fencing around the pool area only so the rest of the space would be open. Mr. Durfee said that would be difficult because of the way the lot was sloped.

Mr. Gordon said that all the property owners at Carter Way were most likely given a copy of the Comprehensive Permit when they buy a home there, and that permit lays out all the conditions that the Zoning Board had set forth; the Comprehensive Permit did not, however, include any conditions about fences, and it was not a homeowner's responsibility to know what conditions the Board discussed that did not make it into the final decision. He said he would have a difficult time binding a homeowner to a condition that was not put in the official record.

Pamela Brown, of 12 Sorens Way, said it was important to keep in mind that Carter Way was a Comprehensive Permit that fell under Chapter 40B of the Massachusetts General By-Law, and that Section was very specific in what it should be considered a significant change to the permit: increase in the number of units, a change in use (from condos to apartments, for example), and other major modifications. She said that she had appeared before the Board several times in the past for determinations about significant or insignificant changes to Comprehensive Permits, and in both her personal and professional opinion, the addition of a fence was most certainly insignificant.

Mr. Cohen agreed that he viewed this change as insignificant, especially since there was no condition in the Comprehensive Permit regarding fences. He said that the Board had, at the time, envisioned this development not to have any fences, but that clearly hasn't happened and it seems to be too late to force the issue now.

Mr. Colasante called for a motion, noting that only three votes out of five need to be in the affirmative, as this was a Comprehensive Permit.

**MOTION:**

Ms. Amick move that the Board determine that the addition of a fence at 5 Carter Way is an insignificant change to the Comprehensive Permit.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Amick, Cohen, and Dearing

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

**PRESENTATION:** Ms. Amick, Acting Clerk, read the notice of the meeting.

**PETITION #001-14** – Pamela Brown, Esq., for MITRE, at 30 Middlesex Turnpike, seeks a Special Permit per Article 39.5 Section 1 of the Bedford Sign Bylaw to externally illuminate an existing standing sign at the Middlesex Turnpike entrance.

Ms. Brown greeted the Board and stated that the MITRE Corporation had a new entrance at the Middlesex Turnpike side of the property and had constructed a new monument sign to denote that entrance. She said that this application before the Board was to illuminate that sign with two light fixtures, one on each side.

Mr. Cohen mentioned that he was on the Sign By-Law Review Committee, and one of the concerns of the Committee was overspill and excessive glare. He asked what types of shielding would be used for the fixtures. Ms. Brown said that the fixtures were designed with a lip to angle the light directly onto the sign, so there would be no overspill. Mr. Cohen said he wasn't as concerned with sign overspill in that part of Town as he might be in other sections, but it was something the Board members should always keep in mind.

Mr. Colasante asked about landscaping to shield the fixtures. Ms. Brown noted that the MITRE Corporation had done a wonderful job with all the site landscaping and she had no doubt that the landscaping around the sign would shield the light fixtures as well. There was discussion about whether the Board wanted to make a condition stating that the fixtures would have landscaping to shield them if they were a certain height off the ground, such as 12 or 18 inches.

The Board talked about the aesthetics of sign.

Mr. Cohen asked the applicant whether the illumination would be controlled by a timer. Ms. Brown said she wasn't sure but would be happy to have that added as a condition, if the Board preferred.

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, in his opinion, this application met the requirements of a Special Permit: it was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. The other Board members agreed.

There was further conversation about the landscaping. Mr. Cohen noted that he would not want to pick some arbitrary height above which the fixtures would be screened. For clarification purposes, he asked the applicant whether she had a suggestion on how to word a landscaping condition. Ms. Brown said that she had no problem with a condition that simply stated, "The light fixtures will be screened with appropriate landscaping."

Mr. Colasante called for a motion to approve the sign.

**MOTION:**

Ms. Amick moved to grant a Special Pamela Brown, Esq., for MITRE, at 30 Middlesex Turnpike, a Special Permit per Article 39.5 Section 1 of the Bedford Sign Bylaw to externally illuminate an existing standing sign at the Middlesex Turnpike entrance, as substantially shown on Exhibit A, and subject to the following conditions:

- 1) the fixtures shall be attached to a timer that will control illumination between hours of 11:00 PM and 6:00 AM; and
- 2) that both light fixtures be screened with appropriate landscaping.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Amick, Cohen, and Dearing

Voting against: None

Abstained: None

Recused: Crowley

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds.

**MOTION:**

Ms. Amick moved to adjourn the meeting.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Amick, Cohen, Dearing, Crowley, and Drouin

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

The meeting adjourned at 8:35 PM.

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Angelo Colasante, Chair

Date

Respectfully Submitted,

Scott Gould  
ZBA Assistant