

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
NOVEMBER 14, 2019**

Town of Bedford  
Bedford Town Hall  
Lower Level Conference Rom

**PRESENT:** Todd Crowley, Chair; Angelo Colasante, Vice Chair; John Hadden, Acting Clerk; Jeffrey Dearing; Kay Hamilton

**ABSENT:** Carol Amick, Clerk; Robert Kalantari

**GUESTS:** Christopher Laskey, Code Enforcement Director; Jeffrey Cohen and Amy Lloyd, Planning Board

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

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

**PETITION #008-20 – CONTINUATION –** Mohamad Alden, at 6 Carter Way, seeks an amendment to Comprehensive Permit #034-07 to construct sunroom at rear of house.

Mr. Crowley stated that Mr. Alden had sent an email to the Board requesting a withdrawal of his application. He called for a motion to withdraw.

**MOTION:**

Mr. Hadden moved to withdraw without prejudice the application of Mohamad Alden, at 6 Carter Way, seeking an amendment to Comprehensive Permit #034-07 to construct sunroom at rear of house.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

**PRESENTATION:** Mr. Hadden read the notice of the hearing.

**PETITION #011-20 – CONTINUATION –** Pamela Brown, Esq., for Denis Mezheriskiy & Jane Karpovsky, at 27 Railroad Avenue, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition over 600 square feet.

The applicants greeted the Board and said their architect and surveyor had made the final changes requested at the last meeting. They noted that both the floor plan and plot plan had been updated to reflect the new design.

The Board talked about the minor details of the plans that had been changed from the last meeting, including the reduction in size of the hallway, mudroom, and garage.

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

**DELIBERATIONS:**

Mr. Crowley said that this was a Special Permit application, for which the two requirements were that the project was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. He said that the applicants had clearly responded to the Board's comments and concerns, and he felt that this final proposal met the two Special Permit requirements. The other Board members agreed, noting that they were appreciative that the applicants had been willing to work with the Board to come up with a solution that was amenable to everyone.

Mr. Crowley called for a motion.

**MOTION:**

Mr. Hadden moved to grant Pamela Brown, Esq., for Denis Mezheriskiy & Jane Karpovsky, at 27 Railroad Avenue, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct addition over 600 square feet, substantially as shown on Exhibit 1 (plot plan) and Exhibit 2 (packet including elevations and floor plans).

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Hadden, 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.

The applicants thanked the Board members for their time. Mr. Crowley wished them luck with the project.

**PRESENTATION:** Mr. Hadden read the notice of the hearing.

**PETITION #012-20 – CONTINUATION** – Don Vinh, at 42 Glenridge Drive, seeks a Variance from Section 6.2.7 of the Zoning Bylaw to erect shed not located ten feet behind rearmost point of the house, and within side yard setback.

Mr. Vinh greeted the Board and explained that he had explored some of the Board's suggestions from the previous meeting. He said he had been before the Conservation Commission (Con/Com) and requested that his proposed shed be placed behind the house in order to meet the zoning requirement, but the Commission members were adamant that they would not allow a structure to be built within the 50-foot buffer zone to wetlands.

Arthur Smith, of the Conservation Commission, made a statement on behalf of the Commission that the shed could not be placed within the 50-foot buffer zone. He said that Con/Com was willing to work with the applicant and therefore would likely approve the shed in the proposed location at the side of the house, provided that it met with ZBA approval.

Mr. Vinh noted that the other suggestion made by the Board was to attach the shed to the primary dwelling. He said he spoke with Christopher Laskey, the Code Enforcement Director, about this possibility. Mr. Laskey, present at the meeting, greeted the Board and stated that the 96-square-foot shed that Mr. Vinh was proposing would not, according to the Building Code need footings or a foundation, so he did not think it was good practice to attach a shed to a different foundation structure. Mr. Crowley asked whether it could, in theory, be attached. Mr. Laskey said it could, but it would be an added expense to the homeowner to create a foundation or even sonotubes for a shed.

Mr. Crowley said that there were four specific conditions the Board must meet for a Variance, including the following: *“Those circumstances [of topography or soils] 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 stated that he struggled with that section, because wetlands affect so many properties in this area, so it was difficult for the Board to say the wetlands restrictions were enough to meet that requirement.

Mr. Dearing asked whether the applicant had talked with his builder about attaching the shed to the house. Mr. Vinh said that he had, and the builder did not recommend it. There was further discussion about the pros and cons of attaching a shed (or shed-like structure) to the primary dwelling.

Mr. Colasante asked whether the applicant would still need Conservation Commission approval if the shed were attached. Mr. Smith replied that Con/Com would still need to approve it, as it would fall within the 100 foot buffer zone to wetlands, but the process would likely be much smoother.

More conversation ensued about attaching the shed in some capacity to the primary dwelling, and the various ways this could be done. It was decided that Mr. Vinh would explore this option further and potentially touch base with Con/Com again at its next meeting.

Mr. Crowley called for a motion to continue the hearing.

**MOTION:**

Mr. Hadden moved to continue Don Vinh, at 42 Glenridge Drive, seeking a Variance from Section 6.2.7 of the Zoning Bylaw to erect shed not located ten feet behind rearmost point of the house, and within side yard setback to December 12, 2019 at 7:30 PM.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

**PRESENTATION:** Mr. Hadden read the notice of the hearing.

**PETITION #013-20** – Barbara Sabran and Linnea Casino, for 41-55 North Road, seek a Special Permit per Article 39.4 Section 3(Q) of the Sign By-Law to allow movable freestanding sign.

Ms. Casino introduced herself and stated that she sought permission to put out a sandwich board to advertise her business, Cleanzing Company, at 41-55 North Road. Mr. Colasante said that the Sign Bylaw had 11 specific conditions to which any freestanding sign must adhere (see Sign Bylaw Article 39.4 Section 3Q). Ms. Casino said she had read the conditions and would comply with all of them.

Mr. Crowley opened the hearing to the public.

Jeffrey Cohen, a resident of 17 Houlton Street and a member of the Planning Board, said he had not seen the application and therefore did not know the location of the sign; however, if it could possibly be impacted by snow removal, it may be advisable to suggest another location so it can still be displayed. It was decided that the proposed location would be far enough away from any snow banks or snow storage to be an issue.

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

**DELIBERATIONS:**

Mr. Crowley stated that this was a Special Permit application, for which the two requirements were that the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. He said that, in his opinion, the sign met those requirements. The other members agreed. Mr. Crowley called for the motion, with the two conditions set forth under the Bylaw.

**MOTION:**

Mr. Hadden moved to grant Barbara Sabran and Linnea Casino, for 41-55 North Road, a Special Permit per Article 39.4 Section 3(Q) of the Sign By-Law to allow movable freestanding sign, substantially as shown on Exhibit 1 (online map showing proposed location), Exhibit 2 (sign dimensions and proposed location), and Exhibit 3 (sign graphic), with the following conditions:

- 1) In the event that the Sign By-Law requirements for movable freestanding signs become more restrictive in the future, this movable freestanding sign shall be brought into compliance with the most recent edition of the By-Law immediately upon its enactment;
- 2) The Special Permit shall run with the particular business, not the property where the business is located.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Hadden, 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:** Mr. Hadden read the notice of the hearing.

**PETITION #014-20** – Tracey Diehl, for McDonald’s Corporation, at 346 Great Road, seeks to appeal the Building Inspector’s decision that, per Article 39.4 Section 1(B)(11) of the Sign Bylaw, an internally illuminated menu board sign is not allowed in the Great Road District.

Tracey Diehl, a permitting specialist contracted by McDonald’s Corporation, greeted the Board and explained that McDonald’s was undergoing a national menu board re-branding project. She said that the old menu boards had become obsolete, so much so that it was impossible to make repairs to them because the parts were no longer replaceable. She stated that the company’s goal was to create energy efficient boards, smaller in size than the old ones, which allowed for a reduction in area and carbon footprint, as they used

LED technology rather than fluorescent lighting. She said the old menu boards used paper copies of menus which had to be thrown out often, whereas these proposed menu boards were digital and could be changed without any waste.

Mr. Colasante said he thought that these new menu boards were clearly an improvement over the old ones, but he did not believe the Sign Bylaw allowed the Board to grant it. He said that the Bylaw stated, "LED luminaires used as the primary means for displaying/conveying the sign message are prohibited."

Mr. Dearing said it was possible that the Board could simply not look at this menu board as a sign, as it was not meant to lure anyone from the street or advertise to passersby. Mr. Crowley said that was his thought as well. There was discussion about the Sign Bylaw and its intent for illumination, both internal and external.

Ms. Hamilton said it should be kept in mind that the property adjacent to McDonald's may be redeveloped in the very near future, so any changes to the McDonald's site should be made with that redevelopment in mind.

Mr. Dearing said that technology existed that allowed screens like this proposed one to go dark when no cars were in the line and then come on when a car pulled up; he asked whether that was a possibility here. Ms. Diehl said that the screens were fully programmable so that was certainly an option, but that brought up a concern that some municipalities had that the screens might flash on and off too often.

Mr. Crowley opened the hearing to the public.

Herbert Aumann, of 46 Concord Road, said he learned during his time on the Board that the ZBA had very little discretionary latitude when it came to the Sign Bylaw; if the Bylaw did not give the Board specific authority to grant something, there usually was little way to do so.

Jeffrey Cohen, a resident of 17 Houlton Street and a member of the Planning Board, commented that he was deeply involved in writing the updates to the Sign Bylaw, and he could state with certainty that the "no LED" section of the Bylaw was to prevent businesses from putting LED bulbs in their windows. He said that LED lighting was often used in signage and was allowed by the Board, and from an illumination perspective was far less obtrusive than many other lighting options. Mr. Cohen said he believed the ZBA had the latitude within the Sign Bylaw to grant this permit. He added that, in response to Ms. Hamilton's comment about a possible redevelopment near the McDonald's site, he personally did not think it was fair to weigh the application based on what may or may be there in the future.

The Board members talked more about the application and its possible precedence. Mr. Crowley noted that he was not terribly concerned with precedence about an internally illuminated menu board, since McDonald's was, to his knowledge, the only restaurant in Bedford other than Dunkin' Donuts with a drive-through. Mr. Cohen added that the

Town now restricted drive-throughs for restaurants, so he agreed that there was little concern about precedence.

Mr. Hadden suggested the Board make a finding that the menu board does not use LED luminaires as the primary means of conveying the sign message, and then list any appropriate conditions along with it.

Mr. Laskey noted that his only concern about the menu board was the means in which the Board's wishes and conditions were conveyed to the store manager, especially if a manager leaves and another one takes over. Ms. Diehl said that the boards were not controlled by the store; they were controlled entirely by corporate, so there was no concern about conditions not being understood or followed.

Mr. Hadden asked what would happen if the menu board malfunctioned. Ms. Diehl responded that they were programmed to shut down automatically with any technical error.

The Board worked in detail with the applicant to create a list of appropriate conditions.

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

#### **DELIBERATIONS:**

Mr. Crowley said the Board was being tasked with overturning the Building Inspector's decision. He stated that he was amenable to doing this with the conditions the Board had listed and with the understanding that McDonald's Corporation could be contacted directly if there were any problems with the screens. Ms. Diehl assured him that McDonald's could be contacted at any time and would be willing to adhere to any conditions that would make the Board and the Town comfortable.

There was further discussion about the proposal and the conditions. The other Board members all agreed they were comfortable with the application, given the conditions. Mr. Crowley called for a motion.

#### **MOTION:**

Mr. Hadden moved to overturn the Building Inspector's decision not to allow Tracey Diehl, for McDonald's Corporation, at 346 Great Road that, per Article 39.4 Section 1(B)(11) of the Sign Bylaw, an internally illuminated menu board sign in the Great Road District, based on the finding that it is not an LED luminaire used as primary means of conveying a sign message but is an outdoor menu board for a drive-through fast food restaurant, substantially as shown on Exhibit 1 (letter from McDonald's Corp.), Exhibit 2 (affidavit of permit authorization), Exhibit 3 (letter of authorization), and Exhibit 4 (packet of information for menu boards, 26 pages inclusive), and subject to the following conditions:

- 1) The Board may view the menu post-installation and reserve the right to impose additional stipulations;
- 2) Menu shall have a black background and white text;
- 3) Menu shall be static, with no animation or scrolling or flashing;
- 4) Boards will change only three times a day, in accordance with breakfast, lunch, and dinner
- 5) Canopy lights shall be dimmed to an appropriate light level, without causing safety issues;
- 6) In the event that the Bylaw changes in regards to signs, the menu boards will be brought into compliance;
- 7) The menu boards shall only show menu items for sale, with no other animation or advertisements;
- 8) After the hours of operation, the boards shall be dimmed to black;
- 9) Menus shall be dual panels, one for each lane.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Hadden, 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:** Mr. Hadden read the notice of the hearing.

**PETITION #015-20** – Richard’s Auto Service and Sales, at 50 Concord Road, seeks to appeal the Building Inspector’s decision per Article 39.3 Section 2 of the Sign Bylaw not to issue a wall sign or movable freestanding sign for commercial business in residential district.

Albert Shi and Richard Wu, owners of Richard’s Auto Service and Sales, at 50 Concord Road, greeted the Board. Mr. Shi stated that they were here to request permission for a sign because, although they were a grandfathered business in a residential zone, Mr. Laskey had informed them that the Sign Bylaw did not specifically allow a sign larger than six square feet in a residential zone. Mr. Shi explained that the proposed sign would be 9 inches tall and 191 inches long, for a total of approximately 19 square feet.

Mr. Colasante asked whether the proposed sign would be illuminated. Mr. Wu replied that it would not.



The Board talked about whether this sign would or should be allowed. Mr. Colasante said that, in his opinion, this was an allowed business and therefore it should be allowed to have a sign. The other members agreed.

Mr. Crowley asked whether there had been a wall sign on the building previously. David Lynch, of 52 Concord Road, stated that there had been a sign for the old Bieren's Garage. Mr. Colasante said it would be helpful for the Board members to know the dimensions of that sign, which would give them a comparison and perhaps a maximum size for the new one. Mr. Dearing agreed, noting that he would be comfortable allowing a sign that did not exceed the size of the original one. He added that the wording of the new sign could, if necessary, be shortened to "Richard's Auto Service" to make the sign smaller. Mr. Shi said he believed the full business name would fit within the same confines as the old sign, and he would check with the Code Enforcement office to find the dimensions of that sign.

There was discussion about the sandwich board sign. Mr. Crowley noted that, although the application requested two, only one sandwich board sign was allowed per business. The applicants agreed that one A-frame sign was sufficient. Mr. Colasante said the Board would like to have a better idea of the proposed content of the sign and what kinds of wording might be included on it.

Mr. Crowley said it appeared that the Board was amenable to allowing the applicants the proposed signs, but they needed more specific details on the previous wall sign and the contents of the A-frame sign, along with a more accurate dimensional drawing of the proposed wall sign. He noted that the next meeting was December 12, and the applicants agreed to a continuation to that date. Mr. Crowley called for a motion to continue.

**MOTION:**

Mr. Hadden moved to continue Richard's Auto Service and Sales, at 50 Concord Road, seeking to appeal the Building Inspector's decision per Article 39.3 Section 2 of the Sign Bylaw not to issue a wall sign or movable freestanding sign for commercial business in residential district to December 12, 2019 at 7:30 PM.

Mr. Dearing seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

**BUSINESS MEETING:**

**October 24 Meeting Minutes**

Mr. Crowley called for a motion to approve the minutes of the October 24 meeting.

**MOTION:**

Mr. Colasante moved to approve the minutes of the October 24 meeting, as amended.

Ms. Hamilton seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

**Zoning Bylaw Changes**

Mr. Cohen said that the Town was in the process of editing and updating the Zoning Bylaw, and each Board was being asked for a representative to work towards making these changes. Mr. Crowley said that Ms. Amick was the ZBA representative, and she had already made several comments for the Board's review.

The Board members touched on several items that could or should be changed in the Zoning Bylaw, such as leash laws and the possibility of putting the Sign Bylaw under the Zoning Bylaw instead of the General Bylaw.

There was extensive discussion with Mr. Cohen and Ms. Lloyd about the accessory dwelling unit Bylaw proposed at Town Meeting, and how changes to that proposal may be brought to a future Town Meeting.

Mr. Crowley suggested that this discussion be continued at the next meeting, at which time Ms. Amick could talk in further detail about her comments.

**Adjournment**

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

**MOTION:**

Mr. Colasante moved to adjourn the meeting.

Mr. Hadden seconded the motion.

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

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

