

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
NOVEMBER 12, 2015**

Town of Bedford  
Bedford Town Hall  
Second Floor Conference Room

**PRESENT:** Todd Crowley, Chair; Angelo Colasante, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Michelle Puntillo; Kay Hamilton; Robert Kalantari

**ABSENT:** Arthur Smith

**GUESTS:** Christopher Laskey, Code Enforcement Director; Amy Lloyd, Planning Board Chair

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 #010-16** – Frank and Lindsey Giunta, at 3 Warren Avenue, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct roof overhang within front yard setback.

The applicants introduced themselves and explained that they hoped to build a small roof over the front entry steps of their home. Mr. Giunta stated that they thought it would look nicer than just the existing steps, and added that the company installing their new front door would not warranty it if there were not an overhang.

Mr. Colasante said that the Board typically placed a condition on Special Permits for these kinds of roof overhangs that they would not be enclosed in the future. He asked whether the applicants would be amenable to such a condition. Ms. Giunta said that would not be a problem, as they never planned to enclose it.

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. Colasante said that this was a very straightforward application, and he felt that the project, with the condition set forth, met the two requirements of a Special Permit: it was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. The other Board members agreed.

**MOTION:**

Ms. Amick moved to grant Frank and Lindsey Giunta, at 3 Warren Avenue, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct roof overhang within front yard setback, with the condition that the roof shall not be enclosed, and substantially as shown on Exhibit 1 (plot plan), Exhibit 2 (proposed porch plan), Exhibit 3 (porch elevations), and Exhibit 4 (porch details).

Mr. Dearing seconded the motion.

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

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.

The applicants thanked the Board members for their time.

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

**PETITION #011-16** – Lincoln Liquors, at 156 The Great Road, seeks a Special Permit per Article 39.5 Section 1 to illuminate wall sign.

Julie Glencoe, the attorney for Lincoln Liquors, introduced herself and explained that the by-right sign for the company had already been installed, and this application was before the Board solely for halo-lit illumination. She said that the application contained all the documentation that the Board needed, specifically the letter from the sign manufacturer certifying that the illumination would not exceed 75 foot lamberts.

Mr. Colasante noted that, when he drove by the site on the way to the meeting, the sign was already illuminated. Ms. Glencoe said she was not aware of that, adding that the only reason she could think that the sign might have been illuminated was that the electrician was testing it because he had been having a problem with the girders around the sign. She apologized and said it was not the company's intention to illuminate the sign before obtaining the ZBA's Special Permit.

Mr. Colasante said that he thought the sign blended in nicely with the Marshalls and Red Heat Tavern signs around it, and he thought they would look attractive when all were backlit with the halo illumination.

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 commented that this was a Special Permit application, and the two conditions of a Special Permit were that the sign illumination was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. He said that he felt this application met those requirements. Mr. Colasante agreed, noting that he would like to see the usual condition on the sign that it not be illuminated between the hours of 11:00 PM and 6:00 AM. Ms. Glencoe asked whether the Board would consider extending the illumination hours, as it was good advertisement when people were driving by. Mr. Colasante said that the Board did not typically allow those hours to be extended unless a business was open past 11:00 PM.

With the agreement that the Special Permit met the two requirements and would not be illuminated during the restricted hours, Mr. Crowley called for a motion.

**MOTION:**

Ms. Amick moved to grant to Lincoln Liquors, at 156 The Great Road, a Special Permit per Article 39.5 Section 1 to illuminate wall sign, with the condition that the sign not be illuminated between the hours of 11:00 PM and 6:00 AM, and substantially as shown on Exhibit 1 (sign layout), Exhibit 2 (letter from shopping center owner), and Exhibit 3 (letter from sign manufacturer pledging that the illumination shall not exceed 75 foot lamberts).

Mr. Dearing seconded the motion.

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

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 illuminate the sign.

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

**PETITION #012-16** – Lake Realty Trust, for 268-270 South Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct second floor addition on non-conforming house.

John Jay, of Lake Realty Trust, introduced himself and stated that he was in the process of purchasing this house at 268-270 South Road, but the sale was contingent upon his ability to add a second story to the house, as it was not financially feasible to buy the house and simply renovate it the way it is. He said that, because it was a non-conforming house on a non-conforming lot, any intensification of it required the Board's approval. He said that he proposed to make this two townhouse style condominiums, and he felt it would be in keeping with the character of the neighborhood, not only because it would remain a two-family dwelling but also because several other homes in the area – especially behind it on Neillian Street – had second stories added within the last decade.

Ms. Puntillo asked about the existing and proposed square footage of the dwelling. Mr. Jay replied that it would be about double, going from approximately 2,000 square feet to 4,000 square feet.

Mr. Crowley opened the hearing to the public.

Amy Lloyd, of 17 Fayette Road, said that she was speaking here as a private citizen and not as a member of the Planning Board. She said that she had strong concerns about this application, because this area was one of the last working class neighborhoods in Bedford. She said that, in her opinion, the only affordable rentals in the town were here, and these rentals were an important first step for many young families or working class people to get a start in Bedford. She stated that she was very worried that this neighborhood would go the same way as so many other neighborhoods in town and become affordable only to wealthy professionals.

Mr. Jay said that, with all due respect to Ms. Lloyd's concern, he did not believe that it was possible to make this house work as the single-story dwelling that it is now. He stated that the only way to make it financially viable to any developer was to add another floor to it to maximize the square footage.

Ms. Puntillo asked what one of these condos would sell for on the market. Mr. Jay replied that it would probably be in the range of \$500,000 to \$550,000. Ms. Puntillo said that was a lot of money for a working class neighborhood of rentals and starter homes.

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

#### **DELIBERATIONS:**

There was conversation about the character of the neighborhood and whether this proposal was in keeping with that character. Ms. Hamilton said that this proposal did not increase the footprint of the house but it did increase the density; she added that, if every house in the neighborhood put on such an addition, it would be extremely dense and feel more like a city than a residential area in Bedford. Ms. Puntillo agreed, noting that Ms. Lloyd's concerns were very valid, and she worried that just one addition like this could start changing the character of the area. Mr. Colasante said that this house was a unique

case, as it was run-down and abandoned, so he didn't feel that this kind of addition would become the "norm" in the neighborhood. He commented that this proposal was good for the area and for the town, as it allowed two families to move in at a more reasonable price than many of the bigger homes. He noted that he agreed with the applicant's assessment that this was not an economically feasible home to renovate and sell without adding an addition.

After further discussion, Mr. Crowley called for a motion.

**MOTION:**

Ms. Amick moved to grant Lake Realty Trust, for 268-270 South Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct second floor addition on non-conforming house, substantially as shown on Exhibit 1 (plot plan) and Exhibit 2 (proposed second floor addition).

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Colasante, Amick, and Dearing

Voting against: Puntillo

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 Building Permit.

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

**PETITION #015-16** – Michael and Karen Arsenault, for 56-58 South Road, seek to overturn the Building Inspector's decision that the structure is not a legal three-family dwelling.

Michael Arsenault introduced himself and introduced Dzidra Knecht, the current owner of the property, and Ann Eiselein, Ms. Knecht's attorney. Mr. Arsenault stated that he was interested in purchasing the house at 56-58 South Road, but only if he could purchase it as the three-family dwelling that it had been advertised as. He said that, in doing his due diligence on the property, he learned that the house was never legally classified as a three-family dwelling in the Code Enforcement Records, even though it was classified as a three-family by the Assessors Department and every other source he referenced. He explained that the application packet included the Assessors' records of the property, along with census data prior to 1945, when the Zoning Bylaw went into effect, stating that three families lived in the house, and he felt confident that this was enough evidence to authorize the Board to rule that the home was indeed a three-family

dwelling.

Mr. Arsenault noted that the house currently had four electric meters and three gas meters. He noted that the house also had address numbers on it reading “54 – 56 – 58,” which indicated to him that it had been considered a three-family for a long time. There was further conversation with the applicant and owner about the layout and use of the house.

Mr. Crowley opened the hearing to the public, and asked Mr. Laskey his opinion on the layout of the house and why he sent Mr. Arsenault to the Board. Mr. Laskey stated that he performed a site inspection of the premises and found the layout to be somewhat choppy: the front door led to a small common foyer and a set of stairs to the second floor; at the top of the stairs there were two doors leading to two separate dwelling units. He said that, for the most part, one unit took up a substantial portion of the first floor but then there was a corridor and then another door that opened into another, much smaller dwelling unit. He added that the second floor had two units, but these were also choppy, leading him to believe it was not the original floor layout. He pointed out that the unit on the left had a second egress that leads downstairs into the first floor dwelling unit, and the other unit on the right had the same layout issues with the exception that its second egress actually terminates at a common breezeway shared by the first floor unit and then to an exterior door leading outside.

Mr. Laskey said that the evidence provided, particularly from the census records, led him to believe that the house was a three-family dwelling before the Zoning Bylaw went into effect, but he always left that determination to the Board, so they technically needed to overturn his decision to make this official and legal.

After further discussion with Mr. Arsenault, Ms. Knecht, Ms. Eiselein, and Mr. Laskey regarding the history and layout of the house, Mr. Crowley closed the public hearing.

#### **DELIBERATIONS:**

Mr. Crowley stated that the Board was being asked to overrule the Building Inspector’s decision, which meant that it had to find that there was enough evidence to support that the house in question was used as a three-family dwelling prior to the Zoning Bylaw being created in 1945. He said that he felt the evidence presented, from the floor plan to the census records to the three meters to the three address numbers on the house, was enough, in his opinion, to overturn the decision and rule in favor of the applicant, and he was, therefore, in favor of this application. The other members agreed. It was noted that the motion should include some language reiterating that the Board was only allowing for a three-family house, *not* a four-family.

#### **MOTION:**

Ms. Amick moved that the Board overturn the Building Inspector's decision that the structure at 56-58 South Road is not a legal three-family dwelling, and further moved that the Board find that the house is a three-family dwelling only, and not a four-family.

Mr. Dearing seconded the motion.

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

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.

## **BUSINESS MEETING:**

### **Great Road Zoning Changes**

The Board talked about the recent Town Meeting, at which there was a warrant article proposing to expand the General Business District in order to allow businesses larger than 2,000 square feet. Mr. Crowley noted that the Planning Board inquired to Town Counsel about the possibility of granting Variances to allow business over 2,000 square feet, and Town Counsel replied that this would require a Use Variance, which was not allowed. Ms. Amick said that she felt it would be worthwhile for the Board to bring a warrant before Town Meeting that would allow an increase in square footage for certain business uses, to be allowed by Special Permit. She suggested that two or three members of the Board create a subcommittee to work on proposed amended language for the Zoning Bylaw. It was determined that the small subcommittee would include Ms. Amick, Mr. Kalantari, and Ms. Hamilton; they would work on these draft changes and send them to Rick Reed, Town Manager, who would then forward them to Town Counsel.

There was discussion with the Board members, Mr. Laskey, and Ms. Lloyd about the possibility of allowing select businesses to increase their square footage by Special Permit from the ZBA.

## **MOTION:**

Ms. Amick moved that the Board establish a subcommittee to work on draft changes to the Limited Business section of the Zoning Bylaw.

Ms. Hamilton seconded the motion.

