



**Halifax Planning Board  
Meeting Minutes  
December 20, 2018**

**OFFICIAL**

**A meeting of the Halifax Planning Board was held on Thursday, December 20, 2018, at 6:30 p.m. at the Halifax Town Hall, Meeting Room #1, 499 Plymouth Street, Halifax, Massachusetts.**

**Members Present:** Gordon Andrews, Mark Millias, Karlis Skulte, Jonathan Soroko **Absent:** Larry Belcher,

The meeting was called to order at 6:33 p.m. and the agenda was read into the minutes by Gordon Andrews  
Motion to accept the agenda as read

MOTION: Mark Millias

SECOND: Karlis Skulte

AIF

Public Hearing: Special Permit #884 Joseph Murray for Dunkin Donuts illuminated sign

Motion to suspend the regular Planning Board meeting and open the Public Hearing.

MOTION: Mark Millias

SECOND: Karlis Skulte

AIF

Chairman Andrews read the Public hearing notice into record;

The Halifax Planning Board will hold a public hearing on December 20, 2018 at 6:35 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Joseph Murray, Hingham, MA 02043 to seek a special permit and or variance to have "halo" lighting for the existing Dunkin Donuts wall sign and any potential tenant wall sign installed hereinafter on the Commercial Building located at 355 Plymouth Street, Halifax, MA 02338. Said property is owned by Bike Realty LLC, 72 Sharp St. Unit A7, Hingham, MA 02043 as shown on Assessors Map #63, Lot 13. The applicant seeks a special permit and/or variance for Halo Illumination [for the sign(s)] in accordance with the Zoning By-laws of the Town of Halifax under Section 167-13 D(5)(a) Exterior Signs; Illumination standards, and Internally lite [lighting] section 167-13 D(2)(b) in accordance with section 167-13 C (d). Area is zoned Commercial/Business.

Petition #884

Present: Joseph Murry; Dunkin Donuts

Mr. Murray presented to the board pictures of what the illuminated sign will look like. It is called "halo lighting". He recounted that he did not apply for a special permit prior as it was a discussion before the board back in May (2018). The board at that time decided to vote on the signage and approved the lighting. It was then determined by the Zoning Enforcement Officer that the lighting is considered "internally lite" which is prohibited. Now he is back before the board, formally for approvals. He stated that the would like to light up the sign in terms of having the light reflect off the back of the building, how the halo lighting works it faces the building hits a backer and that's how it puts a halo affect on the letters. The light does not penetrate the letter(s) themselves. The sign will stay the same size and did put in regarding [new] tenants from last meeting put in as a condition that they have to come to you [the board] for any other signs, [should you agree].

Open for discussion.

Mr. Soroko: the one thing the sign guy, when you first come in described the halo illumination, which way is LED's facing, are they facing towards the letters or towards the backer.

Mr. Murray: towards the building

Mr. Soroko: Towards the backer, so it's nothing more than lights on the back of letters and technically the only thing those lights are hitting is a backer of the sign, they are not internally illuminating the letters which would consist of that sign.

Mr. Murray: that's correct

Mr. Soroko: do you know how far the backer is away from the building itself, I see three (3) inch letters

Mr. Murray: not entirely sure, from the scale, less than 2 inches.

Mr. Soroko: In our bylaws, we have exterior signs that do allow signs to be lite up if they are within 2 inches away from a wall, doesn't say in our bylaws whether its exterior or interior. Technically speaking from a wall or a facing structure.

Mr. Millias asked if we would be granting special permit under 167-13 C 1(d)?

Mr. Skulte: Yes, as a lighted sign

Mr. Millias: The Building Inspector has 167-13 c 1 d

Members went over the by-law sections and what each one is referring to and what the Board is authorized to approve. If the Board considers that the lighting signs, illuminated signs and internally illuminated signs are the same 167-13. Mr. Skulte added that illuminated signs are allowed by right in the business district.

Chairman Andrews asked the attendee in the audience, as a resident, if she had any input. Mrs. Alger is an abutter and she stated she has no objections to it, she was concerned with the "neon" signs, which she does not like. Mr. Murray then stated that they had talked about options, if he could not get some type of lighting, he would have to do the goose neck, which lights up more of an area. Some businesses have put lighting in the windows, which he prefers not to, but needs something to light the sign.

Mr. Andrews read the by law section, "under 167-13 (D) (5) illuminations standards, a sign may be illuminated only by a white, steady, stationary light of reasonable intensity shielded and directed solely at the sign and shall not be permitted to shine on residential properties or travel ways." If your shining it on the building, you're not shining it on anybody else, and your looking for a steady white light?

Mr. Murray: steady white light, yes.

Mr. Skulte: the letters are made of aluminum? Mr. Murray: yes. Mr. Skulte: so, there's no way it can shine thru aluminum. Mr. Murray: we recognize that no light can penetrate the letter.

Mr. Soroko: You have to look at it this way too, its not a fully enclosed cabinet either. Where the lighting source isn't enclosed all within the sign. The back is still open. So, if you were to think of a normal cabinet style lighting, where everything is enclosed and its illuminating permeable thru it, signage. This is a little bit different, this is nothing more than if you were to have a steel plate that's etched with letters and lights shining on top of it, and a light going to the back. Right thru the letters.

Mr. Murray: what we've seen, its less disrupting than lighting up the tower, the alternative, goose neck, its LED and now all of a sudden, your lighting up the whole building. This is just a footprint around the light if you will

Mr. Millias: It makes a greater impact with less light. As far as it goes, we went over the details on it, I am for it, I just want to make sure we get it right, so it satisfies everyone. Mr. Murray: fair enough

Mr. Soroko: Does this LED, give you a figure of how many lums the LED lights would be.

Mr. Murray did not have that information, unless it is on the plans provided by the sign company.

MR. Soroko: As the by-laws do say, reasonable light, steady light. I know LED can be quite bright at times, especially if it is going off a backer, aluminum faced backer, maybe just ask what, make sure its not a high lum LED light, then you'll get a lot of reflective glare, on the street.

Mr. Murray: Once its up we can come down, and take a look at it, make sure your happy with it to. It is small, so it will help in a way, there is not much light up there when you look at it, its less than putting one light on the wall.

Mr. Millias: You don't need a variance for the size, I'm satisfied.

Mr. Andrews: One of the determinations we need to make is, we need to clarify exactly what the sign is. I really don't think it comes under the thinking of an internally lite sign, because it doesn't shine thru the sign. It's more like the lights are mounted to the back of the sign.

Mr. Skulte: I would entirely agree with it.

Mr. Andrews: Internally lite sign to me, means that light projects thru the sign

Mr. Millias: So, if we're of the belief that this doesn't come (under internally lite). I just want to make sure that us granting the special permit is the right route, if that's what he needs.

Mr. Skulte: I think that would be a belt and suspenders approach. Granting a special permit, in case it wore to be considered by others as a luminated sign.

Mr. Millias: I don't think he needs a variance. I don't think he's asking for anything that we prohibit.

Mr. Skulte: The definition in the building code isn't a definition as much as it is standards for an internally lite sign. So, I don't even know if that would apply as a definition per say.

Mr. Andrews: I think that something in the state building code pertains to a definition in our zoning by-laws, if we have a definition in the zoning by laws, it would be here, it maybe something we need to take a look at and change, but, we cant go outside to find a definition and bring them in and this is not the definition.

Mr. Skulte: I would agree, my point is that it's not a definition even in the building code, that wouldn't apply. The intent of the by law would be to have that outward facing light that would project the, through the face of the sign. So, I think this meets the intent of a lighted sign. Mr. Andrews: illuminated sign.

Mr. Skulte: I think the light effect behind the sign would be essentially part of the sign itself as well. So as a matter of clarification, if we were to approve something under a special permit, would that then also still be subject to the building inspectors review and approval of said special permit? (secretary: I don't know)

Mr. Murray: From my understanding was, from coming to the meeting and granting the special permit, then we could proceed, because that would (not to use the wrong words) that would give the variance in the existing situation. We, the first time we came, everyone said yes, go forward, so I ordered the sign, I was a little aggressive because of opening, but then came the enforcement situation.

Mr. Millias: My problem is I don't think we need to give you a special permit, I think what your asking for is fine. That's the thing I make sure I get right, if you'd asked me and you did before, we went over every little aspect of it and I thought was pretty thorough in that, I was satisfied that you didn't need anything. So that's why I want to make sure, we're doing the right thing by giving you the permit and that you're not asking for a variance because if you needed a variance then you'd be talking to someone else. I just want to make sure that, like I said I don't think he needs one.

Mr. Andrews: What he's asking for is illuminated sign and an illuminated sign is a self-supporting sign not attached to any building, or wall or fence but a fixed location, this does not include portable or trailer signs. Sorry read the wrong thing> Illuminated sign: any sign lite by electrical bulbs, fluorescent lights or neon tubes. Neon tubes used as abstract, graphic, decorative or architectural elements shall be considered to constitute an "illuminated sign". So, illuminated sign is lite by electric bulbs.

Mr. Skulte: the problem is that illuminated signs are allowed by right in the business district, you don't need a special permit for that.

Mr. Andrews: I don't think you need a special permit. The problem is when somebody looks at it a says that it becomes under the exceptions its not allowed, it is internally lite, and I think where we have to get this straight is what we're calling it.

Mr. Millias: I don't think its internally lite, so I think he's fine without a special permit, I don't think its required, that's why I gave the leeway.

Mr. Skulte: So that would mean a variance from the zoning board

Mr. Andrews: No, you don't need it

Mr. Skulte: If we do nothing, there's already been a determination from another town department that has classified it otherwise.

Mr. Murray stated that is his concern, but know we have to go thru the process.

Mr. Soroko stated that they [bylaws] go the extent of defining or thru saying electric bulbs, fluorescent lights and neon tubes, but would you classify LED's as electric bulbs, they are diodes, not technically bulbs.

Mr. Millias: We discussed the technology and terminology, these terms that were set in place reflect or have anything to do with what your proposing. That's why I don't think you need a special permit I think its just OK. If we're of the opinion, that is ok. Where do we go from there?

Mr. Skulte: the language for the authority for a special permit, says we can grant a special permit for a lighted sign. It can be construed as a generally lighted sign, because there is no definition [of course] for lighted signs So, there is little leeway there for granting a special permit for these kinds of things. Since I don't believe it is an internally lite sign, which is prohibited, theoretically we can grant a special permit it seems like for a lighted sign.

Mr. Andrews: but a special permit for a lighted sign, signs which are larger than those allowed by right.

Mr. Millias: but it's not larger? Mr. Skulte: but these are the options, if you wanted to build a larger sign, we can grant special permit for a larger sign. But this is not larger, this would be a special permit for a lighted sign Which seems there's some leeway for the special permit granting authority for lighted sign of all types whether or not, there otherwise identified in the regulations. This could fall into a category that is neither internally lite or otherwise, the other lighted sign category.

Mr. Andrews: It's just a lighted sign.

Mr. Murray asked if it could be granted for some kind of wording that says, Halo lite wording, worth putting in. You'll have to think of what will happen down the line,

Mr. Millias wants to set in now, so even in the future, anyone proposing this, doesn't have to go thru the special permit process, does not think it is necessary.

Mr. Skulte asserted that if the [board] says it is a certain type of light, that they believe is correct, and if there is a conflicting opinion from another town department that has a different opinion, where at a stale mate.

Mr. Andrews: One thing is the Planning Board is a five-member board elected by the people. We make a decision, that is the way we read the law. If someone wants to challenge that they can challenge it, but that's our decision. Other people are appointed.

Mr. Murray, if you do leave it as a special permit if you feel that's the way to go, then other people have to come back to you, in the future if this happens, it gives you another piece of control over the situation so people don't change what goes on in the town. They have to come to you. I'm doing that and asking permission.

Again Mr. Millias stated that when he [Mr. Murray] was here and discussed this before, it was ok, and it is his right to put up a sign and everyone else's right to put up a similar style sign. I'd like to protect everyone's right, so they don't have to come forward [to us].

Mr. Andrews stated we [Planning Board] need to write the decision up so it's plain and in a way, everyone can understand it. Understand what is being said, and if someone appeals it, have to come back, but will

Mr. Skulte: I would argue that this is a lighted sign that is not otherwise defined in zoning under any other category and because its not specifically identified in the table of allowed uses, conservatively granting a special permit would be the way to address this particular type of sign. Because it's not otherwise identified it's Not internally lite, and the determination that it needs no other approval might not be the most effective way of supporting the proposal. If we all believe it falls within the regulations, I think that would be a way of addressing the application in a way that makes sense and be defensible.

Mr. Soroko: I'm going from the angle of an "illuminated sign" that's in the business district, with the right for the sign to be up there, and it does fall within the standards of the definition of what an illuminated sign is, and it's not internally illuminated, so I feel there is no need for a special permit.

Mr. Skulte: I think the problem with that one is that the sign will never go up. I don't know if you can get a variance for something that is not allowed if it's been determined a certain type of sign that's not allowed.

Mr. Andrews: What I'm saying, is if we have a board here that decides that's what the definition of the sign is, then, if someone else challenges it, then we'll challenge it. That's where we need to take the stand. If we're going to vote it, I just want to make sure we write it up so there's no...

Mr. Skulte asked what his position is, illuminated sign allowed by right.

Mr. Andrews: yes, the only difference is it's not illuminated by a light shining from the front, it shines from the back. Not reflecting light off the front of the sign, the building is reflecting light, you see the outline. No light hitting the front of the sign, still illuminated.

Mr. Skulte: but the illumination standards talks about light being directed solely at the sign.

Mr. Millias: it is the back of it. Mr. Soroko: the backer is still technically part of the sign, a piece and accessory. Mr. Millias: the light actually only hits the sign, the backer.

Mr. Andrews: if that's part of the building the only thing, your showing light on the building and you put the sign in front of it and needs no permit.

Mr. Millias again stated it would require illuminating a larger area to do the traditional lighting, you're actually illuminating a smaller area with higher impact.

[secretary asked for clarification if the light shines towards the back of the sign or shines towards the building and bouncing back]

Mr. Murray showed a panel on the drawing that you can see called the Dibond panel, it hits that panel.

Mr. Andrews: all you are doing is lighting panel on the building and the letters are in front of it.

Mr. Murray: the only thing I can be clear on, like I said before the light doesn't come thru the letter, so my thinking, internally illuminated to me means its penetrating the letter, or it's a sign faces, canned with the old florescent bulbs inside, not what we're doing.

Mr. Millias: There's also a definition about, the light can only hit the sign, so the fact that the reflective part is part of the sign by design, it's not even actually the building, your not using the building for reflection, your using part of the built sign, so I think that also, that might have been misinterpreted before where people thought, maybe thought it was hitting the building and bouncing backwards, it's not, its hitting, you're not hitting the clapboard, your putting something reflective the reflective, to reflect the light back. Again, I don't think you need a permit, and I don't want you leaving here tonight not being able to turn on your sign.

[secretary advised of the 20-day waiting/appeal permit if it's a special permit - process]

Members also discussed briefly that he could withdraw if need be. Mr. Skulte asked if he could install the wiring outside the sign itself, to the back, instead of within the enclosure. Mr. Murray advised that it is already built, and because of weather protection. He would rather turn it on, they look at it and say "ok". He would have to get an electrician to finish anything that needs to be done. Could put a strip light, similar to the pylon sign, but the whole tower would be lite up. Also discussed other options. Trying to do something

Mr. Millias also stated that if people saw it, the opinions would be favorable, and it isn't what the bylaws were trying to prohibit, the old balloon plastic signs, etc.

Mr. Murry said they can turn it on and the board can go look at it. Mr. Millias reiterated that the board had been over this before in detail. Mr. Skulte stated at that time they determined that he didn't need a permit. However, the Zoning Enforcement Officer denied it.

[secretary stated no matter the outcome, they will still have to adhere to the sign bylaw on when the sign cane be on]

Mr. Millias stated that if more business' in town see that they can put something like that they probably would prefer it. My opinion still is that you have the right to do that.

If we take no action tonight, how does it help him?

Mr. Skulte: appeal a building determination. (if it's a variance have to go to zoning)

Members briefly discussed the process of special permits, variances, Mr. Murray was advised it was a planning board decision, as the bylaw references signs, so have authority over special permits, but maybe not variances. Mr. Andrews asked for the determination from the building inspector. [determinations to the ViewPoint Sign given to each member] He would like the board to set it fit the special permit, so he can proceed, and if they want to condition that, go out to see it. Other than that, we may be at a standstill.

Member discussed who has authority, if the ZEO comes back and says no, were wrong, playing, isn't it ultimately our decision at the current moment? Then he would have to come to us, appeal their decision. Only if the board grants a special permit. If he appeals, we justify our case and if he doesn't agree, what are the next steps.

The opinion from the attorney indicated that he would have to get relief from the zoning board of appeals. For a variance. Bylaws references signs from the Planning Board, makes the rulings, etc. The board only makes rulings if the signs do not fall into the allowed uses, sizes. Etc. Or those prohibited. The ZEO determined the sign that is specifically prohibited. Do we create a special permit on the idea that it is a gray area where it doesn't quantify as an internally lite sign but want to protect the idea that it still passes. It goes extensively, but still speaking, our special permit can be appealed too. Can still end with the same result.

Mr. Skulte read from the by law, anyone can go to the board of appeals if they are aggrieved by their decision. As this board gave you the authority to do it, you could have appealed before.

Mr. Murray believed and was directed to come back to the planning board for a special permit. There was some confusion in the beginning as to which board he needed to appeal to or get authorization.

Mr. Millias: In this matter it seemed that we ok'ed the sign then the Enforcement officer of the sign disagreed with our decision. Mr. Skulte: Even if we supported it, I think there would still a bit of a conflict.

Going thru an appeal through the zoning board would be a way get a definitive determination that would be able to overrule any other determination and that would be the mechanism for defining what design might be and whether or not it complies with the zoning ordinance. My personal take based on what I've seen I think we would be fully supportive of the application.

Mr. Andrews: What we need to do, we need to make a motion to approve it, based on the fact that our determination is it is not internally lite, it is illuminated sign and it happens by right in a commercial district.

Mr. Skulte: Do we need to approve a special permit for something.

Mr. Andrews: It's not a special permit, we're approving the sign.

Mr. Skulte: Ok, so not the application, because the application is for a special permit.

Mr. Andrews: Nothing in the special permit that we need to grant. What we're saying is the determination is that it fits.

Mr. Millias: I agree, I will make a motion to determine that the Halo lighting proposed at Dunkin Donuts

[do we have to close the public hearing first?] Mr. Andrews then stated that we can talk once we figure it out, we don't want to close the hearing until we figure that out. We can postpone the public hearing to the next meeting and make a determination on this and it's still open. Thru this public hearing and taped meeting, anyone interested is on notice that the public hearing will be continued, anyone that has an interest or calls can be told. The notice has already been out ant that would keep it open. We can continue the hearing until the next meeting and then we can make this determination and let it go forward. Members agreed/

Mr. Skulte: That seems to make sense. Mr. Soroko: That's fine. Mr. Millis: yes.

Mr. Andrews: I need a motion to continue the hearing.

Motion to suspend the public hearing until our next scheduled planning Board Meeting. Close the public hearing and reopen the scheduled Planning Board meeting. January 3, 2019

MOTION: Mark Millias

Chairman: There's a motion to continue the hearing, close the hearing and open the planning board back up

SECOND: Karlis Skulte

All those in favor: G. Andrews: I K. Skulte: I Millias: I J. Soroko: I

Public Hearing continued to January 3, 2019

Regular Planning board meeting re-opened.

M. Millias: Motion to approve the proposed lighting sign at Dunkin Donuts at 355 Plymouth St. Halifax,

K. Skulte added: how about we approve it as an illuminated sign as opposed to an internally lite illuminated sign just to make that distinction.

G. Andrews: As a determination by the planning board. M. Millias: As determined by right by the Planning Board K. Skulte: Which is allowed by right in the business district. G. Andrews: as there is no definition in our bylaws and that is what we determine it to be.

Mr. Andrews: There is a motion, is there a second?

Mr. Skulte: Second the motion

All those in favor? G. Andrews: I K. Skulte: I M. Millias: I J. Soroko: I

### Meeting Minutes

Motion to approve meeting minutes as entered for December 6, 2018, members present Gordon, Mark & Karlis.

MOTION: Karlis Skulte

SECOND: Mark Millias

AIF (J. Soroko abstained)

Motion to approve meeting minutes for November 1, 2018, members, Gordon, Mark, Jonathan  
Absent Larry & Karlis

MOTION: Jonathan Soroko

SECOND: Mark Millias

AIF (K. Skulte abstained)

Motion to approve meeting minutes from November 15, 2018 members present, Gordon, Jonathan, Larry & Karlis

MOTION: Karlis Skulte

SECOND: Jonathan Soroko

AIF (M. Millias abstained)

Motion to adjourn

MOTION: Jonathan Soroko

SECOND: Larry Belcher

AIF

It was unanimously voted to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

**Date Approved:** \_\_\_\_\_

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Terri Renaud

Planning Board Secretary

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