

CITY of MALDEN
BOARD OF APPEALS

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**Minutes of the Board of Appeals Public Hearing
February 21, 2018 at 6:30 PM**

**John and Christina Markey Malden Senior Community Center, 7 Washington Street,
Malden, MA 02148**

The Board of Appeal meeting duly called in accordance with the City of Malden Ordinance and its by-laws was held in the John and Christina Markey Malden Senior Community Center, 7 Washington Street, Malden, MA on Wednesday evening, February 21, 2018 at 7:10 p.m. Chairperson O'Brien made an apology to those present for the delayed starting time necessitated by the lack of a Board quorum until 7:10 pm.

Members Present: Chairperson James O'Brien, William Sullivan, John King and Deano Summers

The meeting was called to order by Chairperson James O'Brien at 7:10 p.m. Mr. O'Brien announced that there are 5 petitions before the Board this evening. Mr. O'Brien announced to all the petitioners present that there are four voting members of the Board of Appeal this evening and as a result, each petitioner would need to receive all four votes from the Board to approve a variance request this evening. All petitioners were informed that they can postpone their hearing without prejudice to next month should they choose to. All petitioners indicated that they want to go forward with their hearing this evening with, one exception, the property located at 114 Broadway, a/k/a McDonald's restaurant.

PETITION OF:

Paul T. Murphy Insurance Agency, Inc. for a variance of Section 3.35.6.2 and Section 3.35.9.3.4.2 Chapter 3, of the Revised Ordinances of 1991 as Amended of the City of Malden, Sign Design Control Ordinances regulating the appearance, size, placement and/or location of sign/signs located on residential, commercial and/or industrial properties, at the property known as and numbered 628 Broadway, Malden MA, and also known by City Assessor's Parcel ID #160-625-510.

The property is described in the Assessor's records as a comm/res with 6,750 sf of land.

All statutory notices have been met and this petition is properly before the Board.

Attorney Chris Fallon, 15 Ferry Street, Malden, MA appeared before the Board representing the petitioner. Mr. Fallon presented the Board with both oral argument and photo exhibits arguing that this property, and this variance request, if approved, would make the petitioners property compatible with other improved properties within this immediate neighborhood. Mr. Fallon acknowledged the zoning article regarding electronic signs and assured the Board that approval of this variance request would not be precedent setting. Finally, Mr. Fallon stated the petitioner has long established roots in the community.

Member King stated he did not see a way around the prohibition that the zoning article states, i.e. electronic signs prohibited.

Chairperson O'Brien stated that Mr. Fallon stated that he didn't feel the granting of a variance would be precedent setting yet, his companion argument has talked about compatibility within the immediate neighborhood given the presence, already, of some electronic signs.

Chairperson O'Brien opened the meeting for public comment.

There was no one present to speak in favor of the variance being granted.

City Councilor Barbara Murphy, 28 Forest Street, Malden, MA and current member of the City's Sign Design Review Committee rose to speak in opposition to the granting of the variance. Ms. Murphy stated her committee spent the last 1 ½ years reviewing the City's Sign Ordinances and feels strongly about the prohibition of electronic signage

No one else appeared to speak in opposition to the variance being granted.

Attorney Fallon asked to be heard again. Mr. Fallon indicated that there is a legal hearing scheduled within the next two months with the Superior Court regarding this issue being the subject of this same petitioner and thus, he asked the Board if they would entertain the thought of allowing his client to withdraw, without prejudice, this petition given the pending court hearing.

Chairperson O'Brien made a motion to allow the petitioner to withdraw his application, without prejudice. Second by Member King.

Vote: O'Brien yes, King yes, Sullivan yes, Summers yes.

Motion carried – 4 in favor 0 opposed

PETITION OF:

Ken Ricci, (Ricci's Liquors) for a variance of Section 3.35.9.1, Chapter 3, of the Revised Ordinances of 1991 as amended of the City of Malden, Sign Design Control Ordinances regulating the appearance, size, placement, and/or location of signs located on residential and/or commercial properties, at the location known as 834-838 Main Street, Malden, MA and also known by City Assessor's Parcel ID 047-860-007.

The property is described in the Assessor's records as a store building built about 1930 and with 8,003 sf of land.

All statutory notices have been met and this petition is properly before the Board.

The petitioner, Ken Ricci, was present and introduced his vendor, Ed Batten of Batten Signs, 893 Main Street, Wakefield, MA 01880 who will be doing the work associated with this petition request namely, to relocate an existing sign from left side of building exterior wall to a location on the right side of building exterior wall. Petitioner stated his plan would result, in his opinion, in better visibility for said sign.

Member King asked if the same sign, with the same size, was to be the one relocated on right side of building.

Both petitioner Ricci and vendor Batten acknowledged that was, in fact, the case.

After determining no other Board Members had questions or comments Chairperson O'Brien opened public comment section of meeting.

Councilor Barbara Murphy stated her support as well as the Sign Design Committee's support for variance request.

No one else appeared to speak in support of this variance request.

No one appeared to speak in opposition.

Chairperson O'Brien asked if there was a motion by any board member.

Member King made a motion that the board grant the variance sought, seconded by member Summers.

Final vote was 4 – 0 in favor of granting the variance.

Vote: O'Brien yes, Sullivan yes, Summers yes, King yes

Motion carried – 4 in favor 0 opposed

PETITION OF:

Malden Storage, LLC (Extra Space Storage, Rick Henry) for a variance of Section 3.35.9.3.2.1, Chapter 3, of the Revised Ordinances of 1991 as Amended of the City of Malden, Sign Design Control Ordinances regulating the appearance, size, placement and/or location of signs/signs located on residential, commercial or industrial properties at the location known as 490 Eastern Ave., Malden, MA and also known by City Assessor's Parcel ID 095-428-801.

The property is described in the Assessor's records as an Ind Whs-Mini Building built about 2017 and with 125,106 sf of land.

All statutory notices have been met and this petition is properly before the board.

Adam Elias of 6 Norman Street, Everett, MA appeared and stated he represented the petitioner and his company is the vendor who has been hired to perform the work. The work was characterized as the installation of a sign to be mounted on the Eastern Ave side of the building for advertising purposes. The building, now under construction, is very large and is situated on an entire city block between two streets (Bryant Street and Faulkner Street). Thus, the petitioner's proposed sign exceeds the zoning allowable size. Petitioner's proposed sign is requesting relief through issuance of a variance.

Chairperson O'Brien opened the public comment portion of the hearing and asked if there was anyone present to speak in favor of the board granting this variance request.

Councilor Barbara Murphy spoke to board and stated her committee is supportive of a variance being issued for this petitioner.

O'Brien asked if anyone present choose to speak in opposition to the variance request.

No one appeared

O'Brien asked board members if anyone choose to make a motion.

Member Summers made a motion to grant the variance.

Motion was seconded by Member King.

Vote: O'Brien yes, Sullivan yes, Summers yes, King yes

Motion carried by vote of 4 yes and 0 no

PETITION OF:

Angel Rodriguez (Metro PCS) for a variance of Section 3.35.9.1, Chapter 3 of the Revised Ordinances of 1991 as Amended of the City of Malden, Sign Design Control Ordinances regulating the appearance, size, placement and/or location of sign/signs located on residential, commercial and/or industrial properties, at the location known as 4 Cross Street (aka 105 Main Street), Malden, MA and also known by City Assessors's Parcel ID 078-369-901.

The property is described in City Assessor records as a Res/Comm with a Multi-Conver Building built about 1950 and having 3,624 sf of land.

No one appeared on behalf of the petitioner. Chairperson O'Brien stated he visited the property earlier today and no one was on site to present and/or discuss the proposal.

Chairperson O'Brien asked if any member was prepared to make a motion.

Motion was made by member King to deny the variance.

Motion was seconded by member Summers.

Vote: O'Brien yes, Sullivan yes, Summers yes, Steene yes

Motion carried by vote of 4 yes and 0 no

PETITION OF:

McDonald's USA LLC (Archland Property I LLC) for a variance of Section 3.35.5.7, Chapter 3, of the Revised Ordinances of 1991 as Amended of the City of Malden, Sign Design Control Ordinances regulating the appearance, size, placement and/or location of signs/signs located on residential, commercial and/or industrial properties, at the property known as and numbered 114 Broadway, Malden, MA and also known by City Assessor's Parcel ID 125-481-118.

Chairperson O'Brien reminded board members that this petitioner had indicated, at the start of tonight's meeting, they are requesting to postpone, without prejudice, their hearing to next month's (March 21, 2018) Board of Appeal hearing date given, the lack of a five member board this evening.

Chairperson O'Brien asked if any member who choose to make a motion.

Member Summers made a motion that the board approve the petitioners request to have their hearing re-scheduled to the next month's scheduled hearing date of March 21, 2018.

Second by member King

Vote: O'Brien yes, Sullivan yes, Summers yes, King yes

Motion carried by a vote of 4 yes and 0 no

Other Business

None stated.

Next scheduled hearing date March 21, 2018

Motion to adjourn the meeting by member Summers

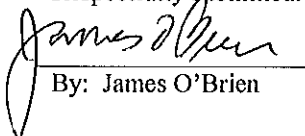
Seconded by member King

Vote: O'Brien yes, Sullivan yes, Summers yes, King yes

Motion carried by vote of 4 yes 0 no

Adjourned at 8:20 p.m.

Respectfully submitted:


By: James O'Brien