

City of Malden

Massachusetts

Board of Appeal
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Malden, Massachusetts 02148

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BOARD OF APPEAL DECISION

August 15, 2018 Hearing

Petition of:

Petition, The Potter's House, requests a variance of Section 3.35.9 (for 2 separate signs/1 wall and 1 portable) 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 on residential, commercial and/or industrial properties, at the property known as 37 Florence Street, Malden, MA and also known by City Assessors's Parcel ID # 021-253-324.

Findings of Fact

Petitioner is a Christian church that moved to Malden last year and is using 37 Florence Street for its religious services, which occur in the evenings and on weekends. Petitioner is located in a two-story commercial building located in the City's Residence B zoning district, and directly across the street from the Neighborhood Business district. The area in the direct vicinity of 37 Florence Street largely consists of commercial buildings.

37 Florence Street has limited window frontage, which is obstructed by the brick walls that encompass the building's entrance. The building has a small front yard that presently consists of hedges and other vegetation.

Petitioner desires to install an illuminated sign of thirty-two square feet on the side of the building facing the parking lot. This is in violation of Section 3.35.9.1, which does not permit signs of this size and of illumination. Petitioner represented that the size of this sign and illumination are necessary for visitors to find the church, which is otherwise difficult to locate.

The owner of 37 Florence Street submitted a letter in support of this wall sign. No one spoke in favor or against this petition.

Petitioner also desires to use a portable sign outside the front of the church, for the purposes of advertising the church's community services.

The City of Malden's Sign Design Review Committee submitted a letter in support of both signs.

Findings of Law

Section 3.35.12 of the City of Malden's Sign Control Ordinance permits the Board of Appeal, by variance, to allow deviation from the sign control requirements.

To grant a variance, the Board must find that (1) owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, (2) a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that (3) desirable relief may be granted without substantial detriment to the public good and (4) without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. G.L. c. 40A, § 10A. "[A] decision of the board of appeals granting a variance cannot stand unless the board specifically finds that each statutory requirement has been met." *Planning Bd. of Springfield v. Bd. of Appeals of Springfield*, 355 Mass. 460, 462 (1969).

By motion of Adam Sherwin, which John King seconded, the Board voted unanimously to decide upon Petitioner's requests separately.

Wall Sign

37 Florence Street has unique circumstances that justify a variance. Namely, the building is a structure that would prevent Petitioner from being able to construct a sign for the purposes of promoting its meetings and services. The building has insufficient window space in the front of the building for Petitioner's desired sign, and the surrounding building walls would make such a sign difficult to view. Although the building has a small front yard that could possibly support a free-standing sign, doing so would require the elimination of this area's vegetation.

The Board is not convinced that any hardship justifies an illuminated sign. Petitioner has not identified any steps taken to determine if other, less obtrusive options are available for making the sign visible at night. The Board recognizes that, although the sign would be located among mostly commercial buildings, there are residential homes in the vicinity of 37 Florence Street.

Without a variance, Petitioner would be largely precluded from promoting its religious services, which is a central purpose of this institution. The Board finds that this sign will not cause substantial detriment to the public good; 37 Florence Street is a commercial building located near other businesses and directly across the street from a portion of the City in the Neighborhood Business district.¹ For this reason, the Board finds that the sign size will similarly not denigrate the purpose of the Sign Control Ordinance.

¹ Under Section 3.35.9.2, Petitioner's sign would be allowed in full if it was in the Neighborhood District, and not the Residence B zoning district.

The Board does not find the same for the proposed illumination. Although the sign is located near other businesses and the Neighborhood Business district, permitting such illumination would denigrate the purpose of the Sign Control Ordinance, which is intended to limit such signs to only specific portions of the City.

Portable Sign

As discussed above, the unique structure of 37 Florence Street prevents Petitioner from being able to easily advertise to the community. Based on the limited and obscured window frontage, Petitioner has no other options for promoting its services. The Board finds that permitting this sign will not cause substantial detriment to the public good, as Petitioner has represented that they will only use it for the days needed to promote the particular meetings and services, and will otherwise comply with the portable sign regulations. ~~This is in keeping with this ordinance's intent and purpose.~~

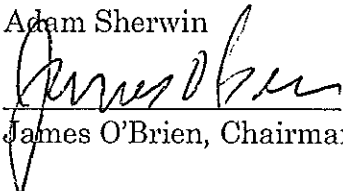
Conclusion

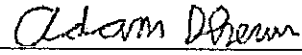
The Board finds the following:

1. Wall Sign: Upon motion by Adam Sherwin, which John King seconded, the Board voted unanimously to GRANT Petitioner a non-illuminated sign of thirty-two square feet.
2. Portable Sign: Upon motion by Adam Sherwin, which John King seconded, the Board voted unanimously to GRANT Petitioner a portable sign, subject to the regulations of Section 3.35.8.5. Petitioner must have the permission of 37 Florence Street's owner for this sign.² This variance is allowed for a maximum of one year (commencing on the date this decision is filed with the City Clerk).³ Petitioner shall be entitled to reapply for a variance at the end of this year.

Members of the Board Voting⁴:

James O'Brien
John King
William Sullivan
Adam Sherwin


James O'Brien, Chairman


Adam T. Sherwin, Esq., Legal Member

² The letter from 37 Florence Street's owner only stated it supported the wall sign, and not a portable sign.

³ Section 3.35.8.5.5 permits portable signs for a minimum of thirty days and a maximum of one year.

⁴ Only four members of the Board participated in the August 15, 2018 meeting. Petitioner consented to have his appeal heard without five Board members in attendance.