

City of Malden

Massachusetts

Board of Appeal
110 Pleasant St.
Malden, Massachusetts 02148

RECEIVED
2018 OCT -1 P 12:46
CITY OF MALDEN MASS.

Telephone 781-397-7100
Fax 781-397-7099

BOARD OF APPEAL DECISION

September 19, 2018 Hearing

Petition of:

AT&T, (Anna Haluch, Pro Signs Graphics) for a variance of Section 3.35.9.2.2.1, 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 sign/signs on residential, commercial and/or industrial properties, at the property known as and numbered 321-331 Main Street, Malden, MA and also known by City Assessor's Parcel ID # 075-271-105.

Findings of Fact

Petitioner, a national cellular phone company, seeks a variance of Section 3.35.9.2.2.1 of the Sign Control Ordinance, which only allows two signs in this zoning district. Petitioner's store is on the corner of a major city intersection and has a curved storefront. There are presently three signs on this store: one in the middle of this curve, and two on the outer sides. Petitioner wishes to replace these three signs with new signs representing the company's new logo, which will be approximately the same size as the existing signs.

City Councilor Ryan O'Malley spoke in favor of this proposal. No one spoke in opposition.

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).

A variance of Section 3.35.9.2.2.1 is justified given the structure of Petitioner’s store. The curved storefront is a unique structure that is most suitable for the present, existing signs, given that there is extensive surface area that extends on both sides of this street intersection. Limiting Petitioner to one or two signs would create a storefront that is less aesthetically appealing than the present existing signs. The Board is similarly concerned that the required work to patch the wall after any of these signs’ removal will make this building less visually appealing and out of character with the surrounding, commercial neighborhood. For this reason, Petitioner would suffer a substantial hardship if this relief is not granted, and such relief would not be a substantial detriment to the public good.

The Board similarly finds that such relief does not substantially denigrate the Sign Control Ordinance. While the Ordinance is intended to regulate the number of signs within the City, the Board considers its variance power appropriate when the individual circumstances create a scenario where the outcome of the Sign Ordinance regulations leaves the applicable site in a worse situation than it would be prior to the ordinance.

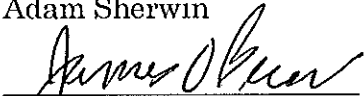
Conclusion

Upon motion by John King, which was seconded by Deano Summers, the Board voted unanimously to grant AT&T’s petition.

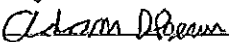
AT&T’s variance request for 321-331 Main Street is GRANTED.

Members of the Board Voting:

James O’Brien
John King
Deano Summers
Adam Sherwin



James O’Brien, Chairman



Adam T. Sherwin, Esq., Legal Member