

City of Malden

Massachusetts

Board of Appeal
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Malden, Massachusetts 02148

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BOARD OF APPEAL DECISION

December 18, 2019 Hearing

Petition of:

Petition 19-014 by Ed Spinney of Sign Art, Inc. on behalf of WS Development 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. Namely, Dimensional Controls for sign size, as per plans SGER-031199-2019 at the property known as 38 Broadway, Malden, MA and also known by City Assessor's Parcel ID #125-481-103.

Findings of Fact

Petitioner intends to open a fitness gym in a commercial shopping plaza on Broadway and wishes to construct a sign with its business name and logo. This shopping plaza has a large parking lot, and the gym will be located at the rear of this lot, adjacent to several other retail businesses. Petitioner represents that, due to the location of the gym and size of the parking lot, it would be difficult to view any sign from Broadway under the present sign ordinance requirements. For this reason, Petitioner seeks to construct a slightly larger sign than the ordinance allows. No one spoke in favor of in opposition of this request.

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).

The Board finds that Petitioner satisfies the first element for a variance: the shopping plaza has an unusually large parking lot, which makes it difficult to observe any businesses located at the rear of this lot. For this reason, Petitioner will suffer hardship if not granted this variance, as the present sign requirement make it impossible for Petitioner—a commercial business—to display its name and logo for vehicles traveling on Broadway. As this is only a minor deviation from the sign ordinance, the Board finds that this request will not be a substantial detriment to the public good, nor does it substantially derogate the intent and purpose of this ordinance.

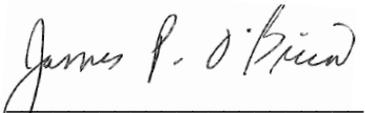
Conclusion

Upon motion by Kibbler, which was seconded by Sullivan, the Board voted 4-1 to ALLOW Petitioner’s request, with Sherwin voting in opposition.

Petitioner’s variance is ALLOWED.

Members of the Board Voting:

James O’Brien
William Sullivan
Emily Kibbler
Kathryn Bilgen
Adam Sherwin



James O’Brien, Chairman



Adam T. Sherwin, Esq.
Legal Member

PURSUANT TO G.L. C. 40A, § 11, A COPY OF THIS DECISION SHALL BE RECORDED
IN THE MIDDLESEX SOUTH REGISTRY OF DEEDS