

CITY OF WALTHAM
ZONING BOARD OF APPEALS

April 15, 2014

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, April 15, 2014, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando, and members Glenna Gelineau, Mark Hickernell, Gordon LaSane and John Sergi.

The Chair called the meeting to order at 7 P.M.

Mrs. Rando: Tonight we have two new cases before us: Case 2014-06, it is called Party City and it is for a sign variance and the address is 1030 Main Street; and Case No. 2014-07, Gary Cunningham, Sunshine/Sign Company, Inc. for Citizens Disability, 1075 Main Street and that's also for a sign variance.

I would like a motion to accept the minutes of April 8, 2014.

On motion of Mr. Sergi, seconded by Ms. Gelineau, the board voted to accept the minutes of April 8, 2014.

Would the clerk please read the petition in Case No. 2014-06?

The clerk then read the Petition of Shawn Smith, Agent on behalf of Party City for a Sign Variance to allow for a 28.66 square foot wall sign on the right elevation of the building. Location and Zoning District: 1030 Main Street, Business B Zoning District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative please, and if you have a brief would you pass it out to the board members, please.

Mr. Smith: Is that the Proposed Decision or, did you get a copy of that?

Mr. Hickernell: Do you have a separate brief?

Mr. Smith submitted a copy of the Proposed Findings of Fact and Decision.

Mrs. Rando: Oh, I have a copy of the Proposed Findings of Fact and the Decision. Do you have a copy of the brief for every member of the board?

Mr. Smith: No, I haven't.

Mrs. Rando: They didn't tell you that you required a brief?

Mr. Smith: No, not that I was aware of.

(Mr. Smith submitted a rendition of the proposed sign.)

Mrs. Rando: Did you speak to Pam or was it Shane?

Mr. Smith: I spoke to Shane quite often.

My name is Shawn Smith: We are located in 6001 Nims Parkway, South Bend Indiana. We are here before the board to respectfully request a variance request for a 10.66 square foot sign over code on the right elevation of this particular site.

Party City has acquired I Party, so this is a national rebranding initiative for this particular location. What we have proposed before you today is a minor deviation from the ordinance to allow for an additional wall sign which was currently at that location on the right elevation a slight increase of 10.66 square feet over the code allowance. It gives us a 24 letterset. It will be flush

mounted. The reason for that particular sign is to have advance notification way finding for pedestrians along Main Street that are trying to access the area. It's really comparable with what we are proposing and is in line with Panera on the opposite side of this particular strip center. They also have a chain letter type sign on their left elevation and this will be consistent with that. It would balance out with what the center has. It looks like it is slightly over code. If you look at Page 3 of 8, on the front elevation. what we propose, based on the code allowance it's 75 lineal feet. We've got six times the square footage allowance of that, so that gives us 450 square feet in an allowable area. The proposed sign to replace the "I Party" with "Party City The Discount Superstore" is 260.36 square feet less than what code would be allowed. So we are not trying to be excessive in nature by any stretch. What we are trying to do is go through a national rebranding initiative and the original sign, was on page 5, on the right side was 30 inches in nature. That was counting the background. And what we are proposing to do is put a lineal letterset of 24 inches so the background does increase but the contents is no longer "I Party," You have a longer trade name with Party City. That's why we are asking for the additional space. We are reducing the letter height size but we are giving it a longer length in being able to read and have advanced notification of the sign prior to entering the center. And it is allowed per

code, and we are just asking for a minimal increase, but we are decreasing the letterhead but we are increasing the length and we are increasing the name. So due to that, we are seeking a variance request for the additional square footage to allow for that and it will be flush mounted and, as I said, it will be comparable to the center. It's internally illuminated LED letterset, so there's no light bleed

"J" boxes behind the facade itself and that's how it will be illuminated.

If you have any questions I will be happy to answer them.

Mrs. Rando: Do you have a picture of the sign that Panera has on the side of their building?

Mr. Smith: No, I don't.

Mrs. Rando: That's funny because you use that as a comparison but you don't have a picture of it.

Mr. Smith: I apologize. I got in late today and I drove by the site and I didn't get an opportunity to photograph it. I will be happy to admit it though. After today, I could go this evening and take a picture of it and admit it.

Mrs. Rando: Where your store is located, you have Prospect Hill Road; you have going west or coming east the sign there that says "Party City", the main one is quite large. I don't understand why you feel you need something, is it 10 feet .66 larger than what's allowed by code?

Mr. Smith: Yes.

Mrs. Rando: I don't understand why you feel you need larger. I don't see the hardship there. I don't think they have had any accidents or any concerns with the I Party sign that was there that's smaller.

Mr. Smith: Well, what we are doing, the sign itself if you did Party City, you condense it. So its 30 inches that's currently there and we are going down to 24 inches. It's the length of the name which causes us, instead of having it bunched in there, it causes us to have a longer letterset and that's just the length. So we are looking at 12.5 feet, I believe, in length and 24 inches in overall height. So, you're right, the hardship, it's consistent with what was currently there. The names are a little longer. We would like essentially replacing what was currently there, reducing it in the height a little but due to the length of the name, the number of letters in our name and the changeover, the corporately registered

trademark identity, we are asking to have a slight increase in square footage based on the length of the sign not the overall height.

Mrs. Rando: And it will be illuminated?

Mr. Smith: Yes, mam.

Mrs. Rando: Every night, weekends too?

Mr. Smith: Well we would adhere to, if we needed to turn the illumination off after store hours, we would be happy to do that.

Mrs. Rando: Any other questions from board members?

Mr. LaSane: So is this request in keeping with your corporate logo, scaling and letters, so if I looked at your letterhead and that sign on the wall it would look the same except for the size?

Mr. Smith: That is correct. The only thing that may be different is the "Discount Party Super Store" as the tag line underneath it. We are not proposing that on the side location. It doesn't warrant it for this particular location.

Mrs. Rando: Are there any other questions? Is there anyone in the audience that is in favor of this petition? Seeing none, is there anyone in opposition? Seeing none, is there anyone seeking information? Seeing none, you may continue with your Proposed Findings of Fact.

Mr. Sergi: Madam Chair, since this has been on file, I propose that we waive the reading of the findings of fact.

Mr. Hickernell seconded the motion and the board agreed to waive the reading of the Proposed Findings of Fact.

Mrs. Rando: There's a couple of things that I don't consider facts, though. I think it's opinion. I don't think, "The proposed wall sign square footage increase would minimize hazards to vehicular and pedestrian traffic." It doesn't make it any better. I think that's your opinion. I don't think its needed. You're probably thinking because of the size like Mr. LaSane said, the corporate logo. Is that what you said, Mr. LaSane?

Mr. LaSane: Yes, to keep it in scale with the corporate logo.

Mr. Smith: But we feel that due to the amount of traffic that is out in that area - - -

Mrs. Rando: Well, you can see the main sign, believe me. I drive by there constantly from every direction. You can even see it from Weston Street, from 117 which is a heavily travelled route, also.

Mr. Smith: I would argue that twenty percent of the population is usually in transit. They are either moving in or moving out; passing through; coming into the area. Identifying that and if you have quality way finding signage, people that aren't familiar with the area, that's the kind of people we would like to be able to identify to. When they are traveling to the area, they are not used to this location. It's not a destination place for them. They're trying to locate it for an impulse purchase, so to speak. They're in town visiting. The square footage allowance would allow us to capture that visibility thus reducing U turns, sudden stops and erratic driving behavior.

Mrs. Rando: You may continue with your Proposed Decision.

Mr. Sergi: In a similar fashion, Madam Chair, I would like to propose that we waive the Proposed Decision since its been on file.

Mr. Hickernell seconded the motion and the board voted to waive the reading of the Proposed Decision.

Mrs. Rando: Any other questions or concerns from the board?

Mr. Hickernell: I would propose deleting Condition (c) to the Proposed Decision regarding illumination. Illumination is already covered in the code. We don't need to make that a separate condition.

Mrs. Rando: Carol, at the bottom of (b) put the date of the plan which is dated 2/25/14.

Mr. LaSane: Are you proposing to use a local sign guy or are you flying in that sign?

Mr. Smith: We plan on using a local installer.

Mrs. Rando: Do I have a motion on the Proposed Findings of Fact?

On motion of Mr. Sergi, seconded by Mr. LaSane, the board voted that the Proposed Findings of Fact become the Board's Finding of Facts. The roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, no. The vote was 4-1 in favor.

Mrs. Rando: Do I have a motion on the Proposed Decision.

On motion of Mr. Sergi, seconded by Ms. Gelineau that the amended Proposed Decision becomes the Board's Decision. The roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, no. The vote was 4-1 in favor.

Mrs. Rando: Would the clerk please read the petition in Case 2014-07, Gary Cunningham/Sunshine Sign Company, Inc.

The clerk then read Case No. 2014-07, Gary Cunningham/Sunshine Sign Company, Inc. for a sign variance to install a second ground sign measuring 92" x 96" and having an overall height of 92". Location and Zoning District: Location and Zoning District: 1075 Main Street, Business B Zoning District. 1075 Main Street, Business B Zoning District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative, please?

Gary Cunningham: I represent the Sunshine Sign Company on behalf of the Citizens Disability in the matter of a

second ground sign at their location of 1075 Main Street. They are a national organization currently occupying the fourth floor and part of the third floor of a fairly large building. The lot has an extensive frontage and the bottom line is they have no signage whatsoever on the lot. Currently there are two free standing signs for Bank of America one of which is going to be removed.

Mrs. Rando: Do you have a brief?

Mr. Cunningham: I do not have a brief, no. I assume you have all the packets. It essentially boils down to the fact that there is no sign and the by law does not allow for ground signs. We are appealing to the board for relief from that.

Mrs. Rando: Are you taking down those signs, did I hear?

Mr. Cunningham: The one to the far left of the lot is going to be removed. The proposed sign as indicated on your drawing would be to the right of the remaining Bank America sign.

Mrs. Rando: Actually you are representing the Citizens Disability?

Mr. Cunningham: Yes.

Mrs. Rando: And they are renters of a couple of floors in the Bank of America Building.

Mr. Cunningham: Yes. For specific questions, it might be helpful if Matt Donaghey comes here.

Mrs. Rando: I did want to say, Matt, that there's no 1075 Main Street on the map. Now if you google it, it does come up Citizens Disability but according to the water department, the assessors, there's no 1075. I believe you are in the 1025 building and you might use 1075 as your mailing address. I know that Bank of America owns four pieces of property there. They own 1025, 1055, 1037 and 1013. So that might be an address that you people use for your mailing but you're actually in the 1025 building.

Matthew Donaghey, Citizens Disability: I can't speak to that because I haven't seen it. It's my understanding and what we've been going off of in regards to our sub lease with Bank America is that when you look at the building, the larger rounder building where the parking garage is, is 1075. That's been attached by a walkway corridor and that the 1025, if you look is on the right, we are in fact on the left. That's always been 1075 to us. We use that as our mailing address. We know that on the other

side of the building that is 1025 from my understanding. Since we have been in the building for the last year and a half we have been using 1075 as our mailing address.

Mr. Hickernell: So the United States Postal Service delivers mail at 1075?

Mr. Donaghey: Absolutely. We have pallets of mail coming through on a weekly basis and that's been our address all along.

Mrs. Rando: I believe that First Aid Investors owns the entire complex, Bay Bank and - - -

Mr. Donaghey: I am not positive. Everything we have dealt with is directly from BMA. So BMA manages the building. They have a management company and they in turn have started to sub lease a good portion of both buildings. We currently occupy about a third of 1075 which is about 2000 square feet. I know they have a variety of smaller tenants in the 1025 building. But again, I can't comment. The address has always been 1075 Main Street.

Mrs. Rando: Carol, just make sure that it states that they are in the Bank of America complex there and that they own four or five different lots because one of the councillors had a problem with the mailing address.

Mr. Cunningham: If I may interject, when I was discussing the issues with the building commissioner, he led me to believe that the four lots were consolidated into a single lot and now the entire lot is on record as being a single lot as opposed to previously being broken up into four lots.

I spoke to the assessor who gave me all these different addresses.

Mr. Donaghey: I can say we renovated our part of the building last year. That was something we took on and everyone in the building department had it as 1075.

Mrs. Rando: When I googled 1075, it came up as the Citizens Disability.

Mr. Donaghey: That's why we are here. That's actually part of our problem is that we actually have had clients and employees and we have 250 employees right now and we are hiring on average about twenty a month and often times they are going into the 1025 or what we are referring as the 1025 building. So that we have been trying to work with Bank of America, given by the end of the year, we are going to be in over half of that building.

Mrs. Rando: Really. Right now you only have the fourth floor and part of the third.

Mr. Donaghey: Right now we are in about a third of the building. So we are in the entire fourth floor. We are in about 40 percent of the third floor with the rest of the third floor being vacant. Bank of America takes up a little over half of the second floor and part of the first floor. The first floor is not a full floor. There's a cafe down there which we also own and operate, so we have over the last few months taken on more and more space from them.

Mrs. Rando: The second sign at the parking garage, was that a permitted sign?

Mr. Cunningham: Yes, it was by virtue of a variance. I think I had in the application the date when that occurred. I'm not sure that the details of the proposal, well, we can go through the details. Ultimately it boils down to a case of a business trying to do business without identification, so the proposal before the board is for allowing that 40 square foot sign. The free standing signs are allowed in the district. Our sign would not derogate from the intent of the by law. But, again, the bottom line is, there is no sign and no provision in the by law for Citizens Disability.

Mrs. Rando: And this sign will not be illuminated?

Mr. Cunningham: No.

Mrs. Rando: Are there any questions?

Mr. Hickernell: What is Citizens Disability?

Mr. Donaghey: We are the largest disability in the United States at this point. So in essence, we help people going through the refusal process of receiving their Social Security benefits.

Mr. LaSane: Are there no banking activities at that location anymore?

Mr. Donaghey: Bank of American still has back office operations on part of the first floor and part of the second floor. There's no retail banking there.

Mr. LaSane: So why are they removing some - - -

Mr. Donaghey: They agreed to allow us to take down their sign so we could put up our sign. They have plenty of signs there already.

Mrs. Rando: How many clients do you see in a day?

Mr. Donaghey: I am probably the wrong person to ask that question to, but I would guess about thirty, and we probably have another potential ten or so employees coming in for interviews in a day. So it's a busy firm and we took the space about a year ago. We are rapidly growing.

Mrs. Rando: Is there anyone in the audience in favor of this petition? Seeing none, is there anyone in opposition? Seeing none, is there anyone seeking information? Again seeing none, if there are no more questions from board members, you may continue with your Proposed Findings of Fact.

Mr. Sergi: Madam Chair, I will make a motion that we waive the reading since its been on file. Mr. Hickernell seconded the motion and the board voted to waive the reading of the Proposed Findings of fact.

Mrs. Rando: You may continue with your Proposed Decision?

Mr. Sergi: In a similar fashion, Madam Chair, I propose that we waive the reading of the Proposed Decision since its been on file.

Mr. Hickernell seconded the motion and the board voted to waive the reading of the Proposed Decision.

Mrs. Rando: Are there any changes or additions to the Proposed Findings or Proposed Decision?

Mr. Hickernell: I think the decision ought to have added that the work shall commence within one year and completed in two years, etc.

Mrs. Rando: We also have a letter from Bank of America stating that they give you the right to come before us for this sign. It should be noted here.

Do I have a motion on the Proposed Findings of Fact?

On motion of Mr. Sergi, seconded by Mr. Hickernell the board voted to accept the proposed Findings of Fact. The roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Proposed Decision as amended?

On motion of Mr. Sergi, seconded by Mr. Hickernell, the board voted to accept the Proposed Decision, as amended, to be the Board's Decision. The roll being called: Mr. Sergi,

yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

There being no further business, on motion of Mr. Sergi, seconded by Mr. LaSane, the board voted to adjourn at 7:30 P.M.

Barbara Rando Chair 5/6/14