



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 APR 26 P 2:34

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. S16-01

PETITION OF KOBEISSI REALTY CORP/COLBEA ENTERPRISES

DATE OF DECISION: APRIL 12, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) acting as the Sign Appeals Board on the Application of KOBEISSI REALTY CORP/COLBEA ENTERPRISES (hereinafter the Applicant), for property located at 228 WAVERLY STREET (hereinafter the Site). This Decision is in response to a Petition for a Variance to the Sign Bylaw to install a new canopy sign which does not conform to the Sign Bylaw (hereinafter the Application).

2. Applicant & Property Owner

Kobeissi Realty Corp
43 Nanigian Rd
Paxton, MA 01612

3. Location

Property is located at 228 Waverly Street and is identified by Assessors' Parcel ID 128-06-7378-000 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on APRIL 12, 2016, the Board voted on the requested VARIANCE for an illuminated stripe on the canopy with a split vote of the three (3) members sitting on the Application. The record of the vote is stated as follows and the Application is hereby DENIED:

EDWARD COSGROVE	NO
KEVIN GATLIN	YES
JOSEPH NORTON	YES

5. Proceedings

The Application was received by the Board on January 25, 2016 pursuant to the Town of Framingham's Sign Bylaw, Article VII of the General Bylaws. A duly-noticed public hearing was held by the Board on the Application on March 8, 2016 at 7:30 P.M. in the Blumer Community Room of the Memorial Building. The hearing was continued to the following April 12 meeting. Board Members Edward Cosgrove, Kevin Gatlin, Joseph Norton, and Philip Ottaviani, alternate, were present throughout the proceedings. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

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The Applicant explained that the fascia around the canopies of both this location and 846 Concord St. have been updated and the new design includes an illuminated red band, with LED lighting, along the perimeter. The Board expressed concerns about light spillage from the LEDs especially for the Concord St. location since it neighbors residential properties. The Applicant explained that historically the canopies were illuminated. After learning that the canopy lighting was functional at the Concord St. location, the Board requested that the lights be illuminated until the April 12 meeting to allow for site visits and continued the application until that date.

At the April 12th meeting, Mr. Cosgrove commented that he appreciated having the lights on for the trial run, however, the bylaw was drafted to exclude this type of illumination for a valid reason and expressed concerns about setting a precedent. He stated that he sees no justification for a variance at either location but wouldn't be opposed to a future change in the bylaw. Mr. Meltzer agreed with Mr. Cosgrove adding that he frequently travels near the Concord St. location, which, due to the volume of nearby residences is very different from the Waverly St. location. While the Concord St. location is near an already busy intersection, he believes the addition of the canopy lighting increases the brightness within his vehicle making it more difficult to safely navigate the area. Mr. Meltzer stated, if voting, he would approve Waverly St. but deny Concord St.

Mr. Gatlin stated that after the trial run at Concord St., he is of the opposite opinion; the canopy lighting was not offensive, which eases concerns about negative impact to the nearby residences. He added that the Concord St. location is a busy intersection regardless of the canopy lighting and the additional lighting impact is minimal. He is not opposed to the Waverly St. location since there are no residences near the station. Mr. Ottaviani agreed with Mr. Gatlin adding the Concord St. location is at the intersection of two busy streets, neighbors would have commented if they had a problem with the lighting, and he's not worried about setting a precedent since applications are viewed on a case-by-case basis. Mr. Norton expressed agreement with both Mr. Gatlin and Mr. Ottaviani adding that the Waverly St. location is even less of a concern since it is surrounded by businesses and there are no residences nearby.

The Applicant explained that the Concord St. location had a permitted, lit canopy for approximately 15 years and they hoped to simply continue it with the new design. He added that they wouldn't have upgraded the canopy if they knew they would lose the right to light it. The Applicant reminded the Board that the Concord St. location is also requesting a variance for a 3rd Shell logo since there are two canopies on that triangular site.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1 Letter from the Building Official denying an application to install a new canopy sign with lighted portion greater than area allowed, dated January 22, 2016.
- 6.2 Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on February 16, 2016.
- 6.3 Filing fee in the amount of \$250.00.

- 6.4 Sign rendering detailing proposed new sign/lighting plus site plan, entitled “Signage Plan”, prepared by Ayoub Engineering, 414 Benefit St, Pawtucket, RI 02861, dated 1/14/2016.

Exhibit 6.4 shall hereinafter be referred to as “the Plan”.

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

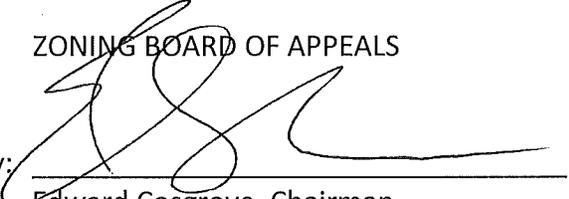
- 7.1 The property is located within the Business (B) zoning district.
- 7.2 On January 22, 2016, the Building Official denied a permit to install a new canopy sign under §1.10.3.4(d) of the Sign Bylaw.
- 7.3 On February 16, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Variance from the Sign Bylaw.
- 7.4 Notice of the public hearing was duly published in “THE METROWEST DAILY NEWS” on February 21 and 28, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. No Town Meeting Members attended the hearing.
- 7.5 The Applicant is seeking approval of a Variance to the Sign Bylaw to install a new canopy sign with lighted portion in excess of the area allowed per the bylaw. Section 1.10.3.4(d) states the “lighted portion of the canopy/marquee/portico must be limited to the area of the lettered sign and logo only”. The proposed sign has an illuminated strip that runs the perimeter of the canopy.
- 7.6 The Variance standard established by the Town of Framingham’s Sign Bylaw, §1.12.2(b) is a demanding criterion. A Variance may be granted from the limitations imposed by the Sign Bylaw if it is determined that the nature of the use of the premises, the architecture of the building or its location with reference to the street, or the topography of the land are such that said Variance may be permitted without being contrary to the public good. The Applicant must demonstrate that compliance with the Bylaw presents a hardship to the Applicant. The hardship must relate exclusively to the specific and unique circumstance of the situation faced by the Applicant, and not apply generally to other land, buildings or structures in the same zoning district.
- 7.7 A majority of the Board did not agree that there was a basis for granting a variance, and the motion to approve as presented failed. The application is therefore DENIED.

8.0 Appeals

Appeals, if any, shall be made pursuant to Sign Bylaw, §1.12.6(f) and shall be filed within sixty (60) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By: _____


Edward Cosgrove, Chairman
Sign Appeals Board