



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 SEP 27 P 3:30

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. S16-08

PETITION OF VIRGIN PULSE

DATE OF DECISION: SEPTEMBER 13, 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 VIRGIN PULSE (hereinafter the Applicant), for property located at 492 OLD CONNECTICUT PATH (hereinafter the Site). This Decision is in response to a Petition for a Variance to the Sign Bylaw to install a second wall sign facing the Turnpike which does not conform to the Sign Bylaw (hereinafter the Application).

2. Applicant

Virgin Pulse
492 Old Connecticut Path
Framingham, MA 01702

Property Owner

Alison Morgan- Lincoln Property Co.
161 Worcester Road
Framingham, MA 01702

3. Location

Property is located at 492 Old Connecticut Path and is identified by Assessors' Parcel ID 072-59-1180-000 (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 SEPTEMBER 13, 2016 the Board voted to GRANT the requested VARIANCE to install a second wall sign by a unanimous vote of three (3) members sitting on the Application. The record of the vote is stated as follows:

EDWARD COSGROVE	YES
ROBERT SNIDER	YES
JOSEPH NORTON	YES

5. Proceedings

The Application was received by the Board on July 13, 2016 pursuant to the Town of Framingham's Sign Bylaw, Article VII of the General Bylaws. A duly-noticed public hearing

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was held by the Board on the Application on August 9, 2016 at 8:30 P.M. in the Blumer Community Room of the Memorial Building. Board Members Edward Cosgrove, Robert Snider, and Joseph Norton, and alternate Steve Meltzer 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.

6. Exhibits

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

- 6.1 Application filed with the Building Official for a permit to install a second wall sign on the premises, dated May 26, 2016.
- 6.2 Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on July 15, 2016.
- 6.3 Filing fee in the amount of \$250.00.
- 6.4 Letter of support from Paul Joseph, President and CEO MetroWest Chamber of Commerce, dated September 13, 2016.
- 6.5 Sign rendering detailing proposed new sign, entitled "Virgin Pulse", prepared by Viewpoint Sign and Awning, 35 Lyman St., Northborough, MA 01532, dated March 25, 2016.
- 6.6 Sign renderings and context day/night images, dated March 1, 2016.
- 6.7 Site plan packet, entitled "Virgin Pulse" included Figure 1, prepared by Gale Associates Inc., 163 Libbey Parkway, Weymouth, MA 02189. Figure 2 and 3, prepared by Shaw Environmental Inc., 88c Elm St., Hopkinton, MA.

Exhibits 6.5, 6.6 and 6.7 shall hereinafter be referred to as "the Plans".

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 General Manufacturing (M) zoning district.
- 7.2 On May 26, 2016, the Building Official denied the Application to install an additional wall sign under §1.10.2.1 (f) of the Sign Bylaw. On July 13, 2016, the Building Official sent a supplemental denial letter.
- 7.3 On July 15, 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 July 25 and August 1, 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 second wall sign facing the Turnpike. Section 1.10.2 (f) allows one wall sign to be viewed from

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Interstate 90. The proposed sign would be the second wall sign viewed from Interstate 90.

- 7.6 Mr. Cosgrove stated that Virgin Pulse has a significant presence in the building completely occupying the 5th and 6th floors as well as expansion plans to occupy a portion of the first floor satisfying a requirement in the by-law. Mr. Cosgrove noted the corner location of the building between Sealtest Street and Old Connecticut Path which offers the tenant the ability to install two wall signs according to his reading of the by-law and further stated that he felt the tenant and building owner were essentially exchanging their right to the two in favor of the sign facing I-90. Mr. Snider referred to the language of Section 1.10.2.1, subparagraph (f), which references the Massachusetts Turnpike specifically stating, "Buildings Facing Interstate 90." As a matter of fact, Mr. Snider pointed out, all parties agreed that 492 Old Connecticut Path is in one of the applicable Zoning Districts specified in the By-Law, the sign would face the Turnpike, the company is used for office and research and development uses, the letters were below the six foot maximum permitted and that the sign would be primarily viewed from the Turnpike. Because 492 Old Connecticut Path had a preexisting sign on the building from another tenant in the building there was a discussion of the significance of the language of the By-Law as to whether or not a second sign identifying a second tenant is permitted. Mr. Snider stated that he read the language that one additional; that is, a second sign, is permitted facing the Turnpike and stated that from his view only one sign as a matter of fact could be viewed from the Turnpike and that is why he would vote in favor of it.
- 7.7 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.
- 7.8 The Board finds that the nature of the use of the premises is such that a variance may be permitted without being contrary to the public good. *The property is zoned and used for business on a heavily traveled roadway.*
- 7.9 The Board finds that relief from the Sign Bylaw can be granted without substantial detriment to the public good and surrounding properties, and without degradation of the neighborhood's visual environment. *The additional sign does not disturb the neighborhood.*
- 7.10 The Board therefore moved to APPROVE the Variance Application, subject to the following condition:
- 7.10.1 The sign shall be constructed and installed as shown on the Plan.

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