



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 NOV - 7 P 4: 32

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. S16-10

PETITION OF BERTUCCI'S RESTAURANT CORPORATION

DATE OF DECISION: OCTOBER 24, 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 BERTUCCI'S RESTAURANT CORPORATION (hereinafter the Applicant), for property located at 150 WORCESTER ROAD (hereinafter the Site). This Decision is in response to a Petition for a Variance for a second wall sign (hereinafter the Application).

2. Applicant

Bertucci's Restaurant Corp.
155 Otis Street
Northborough, MA 01532

Property Owner

Framingham – 150 FR Realty Limited Partnership
1051 Reservoir Avenue
Cranston, RI 02910

3. Location

Property is located at 150 Worcester Road and is identified by Assessors' Parcel ID 103-33-1635-000 (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 October 24, 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 September 30, 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 October 24, 2016 at 7:00 P.M. in the Ablondi Room of the Memorial Building. Board Members Edward Cosgrove, Robert Snider, and Joseph Norton, and alternate Philip R. Ottaviani, Jr. 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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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 August 02, 2016.
- 6.2 Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on September 30, 2016.
- 6.3 Filing fee in the amount of \$250.00.
- 6.4 Comments from Building Official dated October 13, 2016.
- 6.5 "Site Plan", prepared by Louis A. Scibelli, A.E., 33 Mount Hood Terrace, Melrose, MA, dated September 1, 1983, revised September 8, December 13, January 16, 1984, January 19, 1984, and February 8, 1984.
- 6.6 Plan displaying alterations of Massachusetts highway, Worcester Road (Route 9), dated September 17, 1996, prepared by Jack Hagerman, Registered Land Surveyor.
- 6.7 Sign rendering detailing proposed new sign, entitled "Front Lit Channel Letters on Tagbox Raceway", prepared by National Sign Corporation, 780 Four Rod Road, Berlin, CT, dated July 19, 2016.
- 6.8 Sign renderings displaying perspective 3D images and elevation detail, stamped "Received" by Zoning Board staff September 30, 2016.

Exhibits 6.5 to 6.8 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 Business (B) zoning district and Regional Center (RC) overlay district.
- 7.2 On August 17, 2016, the Building Official denied the Application to install an additional wall sign under §1.10.2.1 (b) of the Sign Bylaw.
- 7.3 On September 30, 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 October 9, and October 16, 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. §1.10.2.1 (b) allows businesses in a corner position of a building two (2) wall signs provided the lot on which it is located is at the intersection of and extends to the right of way of two public streets. Bertucci's is not on the corner of two (2) public streets.

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- 7.6 Attorney Galvani stated that the property fits into the definition of being on a corner lot. He mentioned the signalized Route 9 intersection and explained that the intersecting road is private with a portion being part of the Route 9 state highway layout. He explained that the site lines and invisibility justify a Variance. Mr. Snider explained that Bertucci's location within the lot is really not on the corner. Mr. Snider emphasized that although the street has all aspects and functions of a public street, it is not. Mr. Ottaviani commented that the corner street is considered a right of way because of lights at the intersection. Attorney Galvani mentioned that the right of way extends to 70 feet from Route 9. Mr. Cosgrove stated that a sign is necessary, since otherwise there is a long blank wall that makes the building appear vacant. Members of the public shared comments in favor of the proposed sign addition.
- 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 business suffers from visibility issues due to it being located at the far end of the L-shaped building. The private road intersecting Route 9 fulfills important aspects of a public street, is wide enough, and is signaled properly. Functionally, the property is on the corner of two streets open to the public.*
- 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