



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 NOV 29 P 3: 26

TOWN CLERK

BOARD OF APPEALS CASE NO. S16-13

PETITION OF ROBERT MARINO

DATE OF DECISION: NOVEMBER 15, 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 ROBERT MARINO (hereinafter the Applicant), for property located at 263 HOLLIS STREET (hereinafter the Site). This Decision is in response to an APPEAL of the Building Commissioner's determination that the proposed sign is visually obstructive and improperly located (hereinafter the Application).

2. Appellant & Property Owner

Robert Marino
15 Charles Street
Framingham, MA 01702

3. Location

Property is located at 263 Hollis Street and is identified by Assessors' Parcel ID 135-84-0056-000 (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 NOVEMBER 15, 2016 the Board voted by a unanimous vote of three (3) members sitting on the Application to UPHOLD the Building Commissioner's determination and GRANT a VARIANCE . The record of the vote is stated as follows:

EDWARD COSGROVE	YES
JOSEPH NORTON	YES
PHILIP R. OTTAVIANI, JR.	YES

5. Proceedings

The Application was received by the Board on October 14, 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 November 15, 2016 at 8:00 P.M. in the Blumer Community Room of the Memorial Building. Board Members Edward "Ted" Cosgrove, Joe Norton, Philip R. Ottaviani, Jr., and Alternate Stephen 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:

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- 6.1 Correspondence from the Building Department, addressed to the Appellant, dated October 5, 2016, stating the reasons the sign is not compliant with the Sign Bylaw.
- 6.2 Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on October 21, 2016.
- 6.3 Filing fee in the amount of \$250.00.
- 6.4 Department of Public Works comments dated October 28, 2016.
- 6.5 Treasurer/Collector comments dated October 31, 2016.
- 6.6 Sign Officer comments dated November 8, 2016.
- 6.7 ZBA Decision for case number 12-28, filed with the Town Clerk on September 21, 2016.
- 6.8 Photographs depicting proposed sign location, stamped "Received" by ZBA staff on October 14, 2016.
- 6.9 Sign drawing detailing proposed new sign, entitled "Layout", prepared by D-Signs, 94 Main St. Northboro, Mass., dated September 1, 2016.
- 6.10 Site plan entitled "Existing Conditions Plot Plan in Framingham, Mass", prepared by Metrowest Engineering, Inc., 75 Franklin Street, Framingham, MA 01701, dated August 22, 2012.

Exhibit 6.10 shall be hereinafter 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 October 5, 2016, the Building Official denied the Application to install a free standing sign under §1.10.3.1 (f)(2) and §1.10.3.1 (f)(4) of the Sign Bylaw.
- 7.3 On October 21, 2016, the Appellant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of Appealing the determination of the Building Official.
- 7.4 Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on October 31, and November 7, 2016, and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.
- 7.5 The property in question has a two-unit residence fronting on Hollis St. The Appellant's business is located to the rear of the house. The ZBA previously granted a Special Permit and Variance in case no. 12-28 for the storage and repair of construction vehicles and equipment. The driveway also services two homes to the rear, also owned by the Appellant.
- 7.6 The Appellant is before the Board to Appeal the Building Commissioner's determination that the proposed sign is not entirely on the same premises as the business it identifies (§1.10.3.1 (f)(2)), and that the proposed sign would obstruct the vision of drivers entering or exiting the site (§1.10.3.1 (f)(4)).

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- 7.7 The proposed sign would be located adjacent to a two-unit residential structure along Hollis Street; but the business the sign identifies is to the rear of the house. The business is also located on adjacent property owned by the Appellant. The Board finds that the proposed location of the sign, directly adjacent to a residence, is incompatible with such a large sign, and that the proposed sign is not entirely on the same premises as the business as required by the Bylaw. Furthermore, the sign may potentially obstruct the vision of turning vehicles. The determination of the Building Commissioner is UPHELD.
- 7.8 Mr. Cosgrove suggested that a smaller sign would be appropriate at the proposed location. The Appellant was willing to accept a sign meeting the required dimensions of a freestanding sign in the Office & Professional (P) zoning district, limited to 18 square feet and 6 feet in height, 5 feet between support poles, and 14 inches in depth. Therefore, the Board voted to approve a Variance to allow a sign at the location requested.
- 7.9 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.
- 7.10 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. There are residential and commercial uses on the property, and the proposed sign will be placed adjacent to a two-unit residence. The Appellant has agreed to reduce the size of the sign to reduce the potential for conflict.*
- 7.11 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 Appellant has agreed to a smaller sign that will reduce the potential to obstruct the sight lines of vehicles entering and exiting, and will be more harmonious with adjacent residential uses.*
- 7.12 The Board moved to approve a VARIANCE for the requested sign, subject to the following condition:
- 7.12.1 The sign shall be located as shown on the Plan.
- 7.12.2 The proposed sign is approved but shall be reduced in size to comply with the dimensional requirements of the Office & Professional zoning district, which allow for 18 square feet in sign face area; 6 feet in overall height, 5 feet between support posts, and 14 inches in depth.

8. Appeals

Appeals, if any, shall be made pursuant to Sign Bylaw, section 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