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BOARD OF APPEALS CASE NO. S18-04

PETITION OF GATEWAY ALTA DYLAN OWNER, LLC

DATE OF DECISION: MAY 15, 2018

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 GATEWAY ALTA DYLAN OWNER, LLC (hereinafter the Applicant), for property located at 75 CONCORD STREET (hereinafter the Site). This Decision is in response to an Appeal of the Building Commissioner's determination and a Petition for a Variance to the Sign Bylaw for banner size and quantity (hereinafter the Application).

2. **Applicant and Property Owner**

Gateway Alta Dylan Owner, LLC  
3715 Northside Parkway NW, Suite 4-600  
Atlanta, GA 3027

3. **Location**

Property is located at 75 Concord Street and is identified by Assessors' Parcel ID 128-86-9365-000 (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 May 15, 2018 the Board voted to GRANT a VARIANCE and UPHOLD the Building Commissioner's determination by a unanimous vote of three (3) members sitting on the Application. The record of the vote is stated as follows:

EDWARD COSGROVE	YES
JOSEPH NORTON	YES
RICK MCKENNA	YES

5. **Proceedings**

The Application was received by the Board on March 15, 2018 pursuant to the City 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 May 15, 2018 at 8:15 P.M. in the Ablondi Room of the Memorial Building. Board Members Edward "Ted" Cosgrove, Joseph Norton, Rick McKenna, and Alternates Susan Craighead and Stephen Meltzer were present throughout the proceedings. Due to potential imminent changes to the makeup of the Board, Mr. Cosgrove appointed Ms. Craighead and Mr. Meltzer as alternates. 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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Ms. Moira Cronin of Wood Partners, introduced herself and explained the proposal to add temporary construction fence banners on the property. She explained that the banners would depict information regarding the development as well as serve as a mask to the construction. She explained that the banners would be removed once construction is complete and fencing is removed. Mr. Norton commented that these types of banners are common in development projects. Board members felt comfortable that the signage would be removed upon the completion of construction.

## **6. Exhibits**

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

- 6.1 Sign Permit Applications filed with the Building Official, denied on April 6, 2018.
- 6.2 Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on April 20, 2018.
- 6.3 Filing fee in the amount of \$250.00.
- 6.4 Planning Board comments dated April 24, 2018.
- 6.5 Memorandum submitted by the Applicant dated April 30, 2018.
- 6.6 Photographs depicting existing site conditions and proposed banner design entitled "Urban Superb, Alta Union House", submitted with the application, April 20, 2018.
- 6.7 Plan set entitled "75 Concord Street" Traffic Management Plan – Phase 1, depicting chain link fencing (C0.05), dated November 6, 2017; Approval Not Required Plan prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01801, dated January 8, 2018; ALTA/NSPS Land Title Survey, prepared by Allen & Major Associates, Inc., dated January 5, 2018.

Exhibit 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 Central Business (CB) zoning district.
- 7.2 On April 6, 2018, the Building Official denied a sign permit applications for banner/fence wrap under §1.9.1(a) and §1.9.1(b) of the Sign Bylaw.
- 7.3 On April 20, 2018, the Applicant filed with the City Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of appealing the Building Commissioner's denial and obtaining Variance from the Sign Bylaw.
- 7.4 Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on April 30 and May 7, 2018 and mailed to all parties-in-interest, as defined in §1.12.4.b of the Sign Bylaw.
- 7.5 The Applicant is seeking approval to place temporary banner signage on a construction fence. The Sign Bylaw allows banner/wrap signage so long that the banner does not exceed 30 square feet and may be attached only to building surfaces. Per the Sign



Bylaw, a business or institutional/civic organization may display only one banner at any time. Banners may be used twice for up to 30-days in a twelve month period, each use separated by at least 30 days.

- 7.6 The Variance standard established by the City 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 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, and that compliance with the Bylaw would present a hardship to the Applicant.
- 7.8 The Board finds that relief from the Sign Bylaw may be granted without substantial detriment to the public good and surrounding properties, and without degradation of the neighborhood's visual environment, or causing a traffic or pedestrian hazard. *The signage would provide information about the development to the community and simultaneously mask construction from the sidewalk.*
- 7.9 The Board therefore moved to UPHOLD the Building Commissioner's determination and APPROVE the Variance Application, subject to the following conditions:
  - 7.9.1 The sign shall be located and constructed as shown on the Plans.
  - 7.9.2 The banner shall be removed upon the completion of construction.

## 8. 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 City Clerk.

ZONING BOARD OF APPEALS

By: \_\_\_\_\_

Edward Cosgrove, Sign Chair