

CITY OF FRAMINGHAM  
ZONING BOARD OF APPEALS

150 Concord Street B2  
Framingham, MA 01702

CITY OF FRAMINGHAM  
CITY CLERK'S OFFICE

2018 OCT 23 P 1:37

BOARD OF APPEALS CASE NO. S18-09

PETITION OF 517 FRAM CO., LLC D/B/A DUNKIN DONUTS, and M.A.N.Y, LLC

DATE OF DECISION: OCTOBER 9, 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 517 FRAM CO., LLC D/B/A DUNKIN DONUTS, and M.A.N.Y, LLC (hereinafter the Applicant), for property located at 517 WORCESTER ROAD (hereinafter the Site). This Decision is in response to a request for Variances from the Sign Bylaw for number of signs per driveway and sign size (hereinafter the Application).

2. **Applicant and**

517 Fram Co. LLC d/b/a Dunkin Donuts  
3 Pluff Avenue  
North Reading, MA 01864

**Property Owner**

M.A.N.Y LLC  
1371 Concord Street  
Framingham, MA

3. **Location**

Property is located at 517 Worcester Road and is identified by Assessors' Parcel ID 102-83-4653-000 (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 9, 2018 the Board voted to GRANT the VARIANCES 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 September 14, 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 October 9, 2018 at 8:00 P.M. in the Ablondi Room of the Memorial Building. Board Members Edward "Ted" Cosgrove, Joseph Norton, Rick McKenna, 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.

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The Applicant, Mr. Jim Clifford introduced himself and Mr. Jeff Kwass, of Viewpoint Sign and Awning. Mr. Clifford explained that historically, issues have existed because of the Dunkin Donuts drive thru lane. In attempt to improve these site conditions, Dunkin Donuts has limited the drive thru menu and hired an on-site attendant; but the issue continued to exist. The proposal before the Board seeks to improve site conditions by redirecting traffic away from the Route 9 entrance and onto Lockland Avenue, allowing more room for queuing without obstructing traffic. He mentioned that the plan was before the Planning Board and not yet finalized.

Mr. Cosgrove commented, and the board agreed, proposed sign D (depicted on "Site Map" in Exhibit 6.6) plays a significant role in directing drive thru traffic and needs to be large enough to be spotted when traveling westbound on Route 9.

Mr. Kwass clarified that the Sign Bylaw allows only one directional sign at the entrance of the site. The Applicant proposes two, one entrance and one exit to keep traffic flowing. Mr. Norton commented that if approved by the Planning Board, proposed signs A and E (depicted on "Site Map" in Exhibit 6.6) would be necessary to direct traffic. Mr. Clifford added that the Worcester Road/Route 9 entrance is currently only a one way and changes to this entrance require approval from the Massachusetts Department of Transportation (DOT). Proposed signs B and C reflect possible future permitting from the DOT. He explained, sign C would not exist if the Worcester Road/Route 9 were to remain only an entrance.

Ms. Kathleen McCarthy (25 Westgate Road) voiced concern regarding traffic on a residential road and spoke in opposition.

Mr. Norton commented and the board agreed, the Planning Board's decision on site plan review would determine whether the sign proposal was moot. The board voted to approve, contingent on the access and egress plan ultimately approved by the Planning Board.

## **6. Exhibits**

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

- 6.1 Sign Permit Applications filed with the Building Official, denied on September 12, 2018.
- 6.2 Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on September 14, 2018.
- 6.3 Filing fee in the amount of \$250.00.
- 6.4 Department of Public Works comments, dated October 2, 2018.
- 6.5 Photographs depicting existing signage, submitted with the application.
- 6.6 Plan set depicting Illuminating Directional Double Sided elevations; Single Sided Wayfinding Sign Elevation; and Site Map, prepared by ViewPoint Sign and Awning and dated September 4, 2018.
- 6.7 Site plan entitled "Site Plan", prepared by Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, and dated August 24, 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:

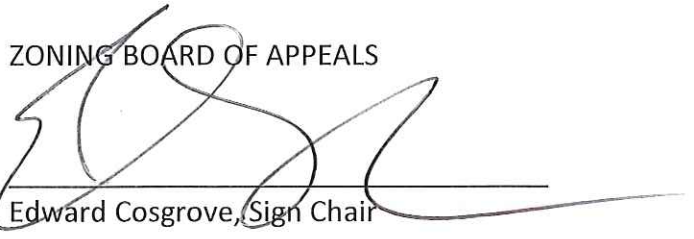
- 7.1 The property is located within the Business (B) zoning district and Highway Corridor (HC) overlay district.
- 7.2 On September 12, 2018, the Building Official denied five directional signs not compliant under §1.9.8(a1) and §1.9.8(b2) of the Sign Bylaw.
- 7.3 On September 14, 2018, the Applicant filed with the City Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining Variances from the Sign Bylaw.
- 7.4 Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on September 24 and October 1, 2018 and mailed to all parties-in-interest, as defined in §1.12.4.b of the Sign Bylaw.
- 7.5 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.
- 7.6 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. *The nature of the use of the premises is such that queuing onto Route 9 causes a public safety hazard. A larger directional sign is necessary to direct traffic onto Lockland Ave. as vehicles approach in the westbound direction, allowing drivers to see it at enough distance to slow down and make the turn. The additional entrance/exit signs are necessary to keep provide unambiguous direction and keep traffic moving.*
- 7.7 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 reconfigured drive-thru will be an improvement to public safety and the public good, provided that the proposed signage is allowed. It will not substantially impact the visual environment.*
- 7.8 The Board therefore APPROVE the Variance Application, subject to the following conditions:
  - 7.8.1 The sign shall be located and constructed as shown on the Plans.

**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