

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF: : NO. 2022-03
: :
RPM Signs and Lighting : :
: :
: PREMISES LOCATION:
: 651 West Areba Avenue
: Hershey, Derry Township, PA 17033

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of RPM Signs and Lighting with regard to the property located at 651 West Areba Avenue, Hershey, Derry Township, Pennsylvania, which is owned by Springwood-FHP, LP. A hearing in this matter was held on February 16, 2022, after proper advertising. At the hearing, Justin Shelton, the manager of Springwood-FHP, LP appeared, was sworn, and testified. No members of the public testified.

The application indicates that the subject property is located in the Hershey Mixed Use, Downtown overlay, and Downtown Commercial Sign zoning districts. The property is used as a hotel, and the applicant proposes to continue that use. The applicant obtained relief from the Zoning Hearing Board with respect to signs at the property by decision dated, April 17, 2013. The current application seeks a variance to replace the current sign with a new re-branded sign in its existing location above the lower sill of the upper story window.¹

The 5-story hotel operates as a Fairfield by Marriott hotel, which is re-branding its signage. While all of the signs for the hotel are being re-branded, the only one that requires zoning relief is the wall sign for the north end of the building that is visible from Chocolate Avenue. This existing sign, “Fairfield Inn & Suites Marriott,” is located above the lower sill of

¹ The application also sought a variance for the height of a wall sign. The Ordinance permits 10% of the total sign area to be located outside of the 36 inch height requirement. See Ordinance, §225-1103 (Definitions – Sign Dimension (Measurement)). The applicant’s proposed sign is 8%. Therefore, it is compliant, and no height relief is necessary.

the upper story window pursuant to the April 2013 zoning decision. The new sign will be “Fairfield by Marriott.” The applicant proposes to install the new sign in the same location as the existing sign, above the lower sill of the upper story window.² The existing sign is 54” in height whereas the new sign will be 37.5” in height. The length of both the existing and new signs is about 27’. The existing sign extends about 12” from the building, and the new sign will extend about 3”.

The hotel is located behind the Staples shopping center. It is 25 feet lower in elevation than the Staples shopping center, such that the fourth floor window is not visible over the shopping center. Thus, Mr. Shelton argued that the sign must be above the upper story window so that it is visible to guests traveling on Chocolate Avenue. Further, he argued that the new sign would not have a detrimental impact on the surrounding neighborhood because the location of the sign would be the same as it currently exists and this sign would be smaller. According to Mr. Shelton, the location of the proposed sign would allow guests to see the hotel, which would alleviate traffic concerns.

The Ordinance requires that signs shall not exceed the height of the upper building face, extend above the roof eave, or extend above the lower sill of any upper story window, whichever is lowest. *See* Ordinance, §225-401.4.F.C.1 – Table 38, Special Note #2. The criteria for issuing zoning variances are set forth in §225-1007.9.A of the Derry Township Zoning Ordinance. The Zoning Board may grant a variance provided that all of the following findings are made where relevant:

1. There are unique physical circumstances or conditions of the lot in question, and due to these conditions, an unnecessary hardship results to the property owner;

² The Ordinance provides that “except for changes to bring an existing nonconforming sign into full compliance with this Chapter, a sign in any sign district cannot be enlarged, extended, relocated, structurally reconstructed or altered.” *See* Ordinance, §225-401.4.I.

2. That because of the physical circumstances, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and that the authorization of the variance is necessary to enable the reasonable use of the property;
3. The unnecessary hardship has not been created by the applicant;
4. The variance will not alter the essential character of the neighborhood or otherwise impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and
5. That the variance if authorized will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In this matter, the Board finds that the applicant is entitled to the requested relief.

Initially, the Board finds that the property is unique because of its location, the signs permitted by the Ordinance would not be visible from Chocolate Avenue. There is no evidence on the record that the applicant created the hardship. Most significantly, the Board finds that the proposed relief will not have a detrimental impact on any other property in the area or the public welfare. The Board finds that the proposed relief will not alter the essential character of the neighborhood. There is no testimony in the record to indicate that the requested variance would negatively impact surrounding properties. Indeed, a sign existed in the same location since 2013. No neighbors testified in opposition to the application. Finally, the Board finds that this represents minimum relief necessary as the sign has decreased in size.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania

Municipalities Planning Code, and the Ordinance. *Ordinance*, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

AND NOW, this 16th day of March, 2022:

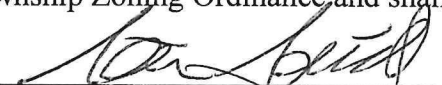
1. The applicant's request for a variance from §225-401.4.F.C.1 – Table 38, Special Note #2, regarding the location of a wall sign is GRANTED.

2. The applicant's request for a variance from §225-401.4.F.C.1 – Table 38, regarding the height of a wall sign is WITHDRAWN.


3. The applicant shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.

4. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicant shall be required to comply with the then existing terms of the Zoning Ordinance.


5. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.




Steven Seidl



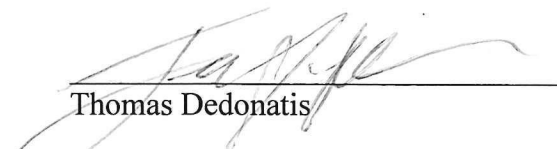
Sandra Ballard



Lindsay Drew



Michael Angello



Thomas Dedonatis