

**BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD**

IN THE MATTER OF:

: NO. 2024 - 14

Kenneth Bolinger

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: PREMISES LOCATION:

: 749 East Chocolate Avenue

: Hershey, Derry Township, PA

**MEMORANDUM, FINDINGS, OPINION AND ORDER**

This is the application of Kenneth Bolinger, with regard to the property owned by IHM Hershey, LLC, located at 749 East Chocolate Avenue, Hershey, Derry Township. A hearing on this matter was held on June 18, 2024, after proper advertising. At that time, the applicant appeared, was sworn, and testified at the hearing. No members from the public testified at the hearing.

The application indicates that the subject property is located in the Palmdale Mixed Use and East Chocolate Avenue (010) zoning districts. The property is improved with a hotel, and the applicant proposes to continue that use. The application seeks a special exception to increase the sign area greater than is permitted under the Ordinance. In addition, the application seeks a variance to allow interior illumination.

Kenneth Bolinger of Bolinger Group, on behalf of the property owner, IHM Hershey, LLC, testified that his company was hired to install new signs at the Hampton Inn & Suites. Recently, the hotel was renovated, including the drive-through canopy. The proposed sign, "Hampton Inn Suites" is 2 feet high and 18 feet wide, comprising 36 square feet. The applicant wishes to install the new sign on the front of the canopy, facing the road. In addition, the applicant proposes to

illuminate the new sign internally. Before the renovations, a street-facing sign was installed on the old canopy. No other street-facing sign is installed on the building. Mr. Bolinger noted that if this was a wall sign, no relief would be necessary to install it. There is a compliant sign on the side of the canopy facing the access lane. In addition, there is a pylon sign to identify the hotel. According to Mr. Bolinger, if a driver misses the pylon sign, the canopy sign will help identify the hotel. Mr. Bolinger argued that the new sign would enhance the visibility to aid drivers to locate the hotel safely.

The Ordinance limits the allowable sign area to one square foot for each linear foot of building front. *See* Derry Township Zoning Ordinance, §225-401.4.F.B.2.a. However, the Ordinance permits the Board to allow larger signs than otherwise permitted in a given district when the applicant can demonstrate compliance with the specific criteria applicable to the special exception. *See* Ordinance, §225-502-10. Those criteria include:

1. Demonstrating that unique conditions exist on the property or in the immediate area of the property which would cause signs of the normally prescribed areas, size, or location to be of lower communication value than that which would exist on another property in the same Sign District.
2. The modification of the sign regulations must be the least necessary to afford the relief.
3. The proposed signage must not be of a type of a sign that would otherwise be permitted in non-street fronting conditions.

*See* Ordinance, §225-502-10.

In this matter, the Board finds that the applicant is entitled to the relief requested. Initially, this Board has often held that special exceptions are neither special, nor exceptions, but are instead permitted uses so long as the applicant can demonstrate compliance with the specific criteria associated with the special exception request. Here, the Board finds that the applicant is entitled to the special exception. The drive-through canopy and long hotel name create unique conditions that reduce the communicative value of signage that might be sufficient on another property lacking these characteristics. The Board finds that proposed modification is the minimum relief necessary to afford relief. In addition, the Board finds that the proposed relief will not alter the essential character of the neighborhood.

The Ordinance requires “a steady white external light.” *See* Ordinance, §225-401.4.F.B.1 – Table 36. 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. 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, as noted above, the Board finds that the property has unique conditions. 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. No neighbors testified in opposition to the application. Finally, the Board finds that this represents the minimum relief necessary.

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 and 1007.10.A. Based on the Board's findings and conclusions, the Board adopts the following:

#### **ORDER**

AND NOW, this 17<sup>th</sup> day of July, 2024:

1. The applicant's request for a special exception pursuant to §225-502.10 regarding the sign area of the proposed sign is GRANTED. The applicant may install the proposed sign with a sign area of 36 square feet.

2. The applicant's request for a variance from §225-401.4.F.B.1 – Table 36 regarding the illumination of the proposed canopy sign is GRANTED. The applicant may internally light the proposed sign.

3. The applicant shall meet all other sign requirements, including dimensional requirements, imposed by the Ordinance.

4. The applicant shall construct the proposed signage 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.

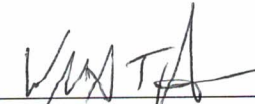
5. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, 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.

6. 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.

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Steven Seidl

  
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Michael Angello

  
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Thomas DeDonatis

  
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William Tafuto