

I hereby certify that no appeal has been filed with
the Office of the Town Clerk within the twenty
day appeal period.

Amylee M. Mall
Town Clerk

Oct 20, 2014
Date

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TOWN OF STOUGHTON
ZONING BOARD OF APPEALS

Case No. 4123

DECISION ON PETITION OF DIDEROT JOSEPH, JR., PRESIDENT OF JNJ
ENTERPRISE CORPORATION

MARGINAL REFERENCE RELIEF FROM SIGNAGE REQUIREMENTS

BOOK 13927 PAGE 425

187 PAGE STREET

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
DEDHAM, MA

CERTIFY

William P. O'Donnell
WILLIAM P. O'DONNELL, REGISTER

A duly noticed and advertised public hearing was conducted on June 19, 2014 and August 14, 2014 on the petition of Diderot Joseph, Jr., President of JNJ Enterprise Corporation Case No. 4123, for a Variance under the Town of Stoughton Zoning By-Law of 1970, as amended, Section VII(D)(2) and (3), relative to size, height and location of a proposed erection of a pole with a two-sided digital sign, overhanging Route 24 as done in neighboring Towns of Randolph and Canton, located at 187 Page Street (further identified on Assessors Plan 94, Lot 45) in an Industrial (I) Zone in said Stoughton. The case was deliberated on August 14, 2014 and September 18, 2014. Present from the Board for the public hearing and for deliberations were: Sherman Epro, Chairman, Gary Ilacqua, Vice Chairman, Marguerite M. Mitchell, Secretary, Daniel Pessia, and Steven R. Argentieri.

Also present: Thomas McGrath, Building Commissioner/Zoning Officer for both dates of the public hearing and Town Counsel Ilana Quirk, Esquire (June 19, 2014 only).

The Petitioner was represented by Attorney Ethan Schaff, Esquire.

FINDINGS

All requirements for notice and advertising of the public hearing as required by law and the General Rules of the Board having been satisfied, the Board makes the following findings as a result of information and materials presented during the public hearings and based upon the Board's understanding and knowledge of local conditions.

The petitioner seeks a variance to allow for the construction of a proposed billboard at 187 Page Street to overhang Route 24 as shown on certain plans submitted with the application, consisting of five (5) undated, unsigned sheets entitled as follows: "187 Page Street Stoughton, MA Overall Site Plan Scale: 1/64" = 1'; 187 Page Street Stoughton, MA Pylon Location, Scale: 1/16" = 1'; 187 Page Street Stoughton, MA Site Section #1 Scale: 1/32" = 1'; 187 Page Street

Stoughton, MA Site Section #2, Scale: 1/16" = 1'; 187 Page Street, Stoughton MA; Display Faces, Scale: NTS" (hereinafter "Plans"). In addition the Petitioner submitted five (5) photographs consisting of an aerial view of existing conditions, a proposed "View from Route 24 North", a proposed "View from Route 24 South", an existing "View on 187 Page Street Before Photo" and a proposed "View on 187 Page Street After Photo". Specifically, the petitioner is seeking permission to construct a two-sided digital pole sign 672 square feet on each face, located 94' above ground, to advertise "off premises" goods and services, which thereby requires a variance from the provisions of Section VII(D)(2) and (3) of the Town of Stoughton Zoning By-Law of 1970 as amended.

In addition to the Plans and photographs listed above, and the variance application, with attached 1) Statement of Reasons with attachments; 2) proposed Lease; and 3) Letter of Permission, the Petitioner also submitted into the record a copy of the documentation that must be filed with the Massachusetts Department of Transportation, an Information Packet consisting of information about the Qualifications of the Petitioner, proposed guidelines that will govern the Petitioner's advertising, a proposal as to providing the Town of Stoughton with a total of twenty-eight (28) hours per month of display time beyond the time otherwise provided monthly for necessary Amber Alerts and other Federal Government required notifications, executive summaries of both the Massachusetts Department of Transportation and the Federal Highway Administration's 2011 Traffic Studies on the safety impacts of digital advertising billboards, information about the structural integrity of the proposed billboard (hereinafter "July 18, 2014 Proposal") and a proposed end-user prototype contract. Additionally, the Town of Avon submitted two letters to the Board. All documents submitted by the Petitioner and the Town of Avon were included in the record and fully considered by the Board in issuing this decision.

After due consideration of the Petition, the Plans and the other documents included in the record of the Board, along with the testimony given, the Board finds that the Petitioner has met all requirements for variances under the Town of Stoughton Zoning By-Law of 1970, as amended, in order to construct the proposed 94' high two-sided (672 square feet on each face) digital pole sign advertising off-site products and services. Specifically, the Board finds as follows:

1. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or building in the same district. **Answer:** Based upon MassDOT regulations, this is the only lot in Stoughton which abuts Route 24 that can accommodate a pole sign of this nature and meet all dimensional and zoning requirements the state has with regards to the type of zoned property a pole sign can be located in (Industrial/Commercial) and the distance from other pole signs (500' radius). The lot on which the proposed sign is to be located is unique both in its proximity to Route 24 and the relative topography and shape of the lot in relation to Route 24. The lot topography and shape allows for the proposed sign to be located in such a way that, should the requested variances be granted, it can be safely constructed on the lot in accordance with all setback dimensional requirements of the Town of Stoughton Zoning By-Law, above the tree-line for Route 24 so that it can be appropriately observed by drivers along Route 24.

2. Strict application of the provisions of the by-law would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same district.
Answer: This is a unique use proposed for the structure and is not subject to duplication in the immediate vicinity or anywhere else in Stoughton along Route 24 based upon the dimensional constraints imposed by the State and the lot configurations of other lots in Stoughton along Route 24. Moreover, other businesses in the area have been granted variances to construct signs that exceed the maximum height and surface area requirements of the by-law, particularly for businesses located along Route 24. Further, the proposed signage is intended to display digital advertising for off-site products to drivers along Route 24 and thus without the requested variances, the application of the Town of Stoughton Zoning By-Law would prohibit the proposed sign from being located and appropriately sized high enough above the existing tree-line to be seen and read by drivers along Route 24.
3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this by-law. **Answer:** The Applicant has not taken any action to exacerbate the current conditions or circumstances that are unique to the proposal but merely seeks to take advantage of the unique topography and dimensions of the lot on which the proposed sign is to be located, with that owner's assent. The lot's proximity to Route 24 and its topography in relation to Route 24 are not the result of any actions taken subsequent to the adoption of the by-law.
4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this by-law. **Answer:** The proposal will actually provide benefit to the Town of Stoughton in the form of tax revenue and Town advertising that will promote the Town of Stoughton's image to approximately 5 million motorists per month. The proposed pole sign will be constructed in a manner which promotes public safety to the traveling public.

ORDER AND CONDITIONS

A variance from the provisions of Section VII(D) (2) and (3) of the Town of Stoughton Zoning By-Laws is hereby approved to allow for the construction of a 94' high two-sided (672 square feet on each face) digital pole sign advertising off-site products and services, and subject to the following conditions:

- a. The approved sign allowed by this variance is only the sign referenced in this decision and is to be constructed in accordance with the Plans submitted with the application and the July 18, 2014 Proposal, as it was amended during the public hearing, or by the terms of this decision.
- b. The Applicant shall hire an independent third party entity to conduct a penetration test of the approved sign. A copy of the results of the test shall be submitted to the Building Inspector for approval, with a copy to the Zoning Board of Appeals, prior to the Building Inspector issuing his approval for operation of the sign.

- c. The following advertising guidelines, which were proposed by the Developer, and accepted by the Board (and included in the July 18, 2014 Proposal, as amended during the public hearing), will pertain to all advertisements displayed by the approved sign:
 - a. No advertisement of products or services that are illegal for sale in the Commonwealth
 - b. No advertisement of products that are illegal for sale to minors, especially cigarettes, guns or alcohol
 - c. No advertisement of prurient content or foul language
 - d. Public Service announcements to promote worthy statewide or community causes like Amber Alerts and Stoughton traffic emergencies shall be displayed
 - e. There will be a broad diversification of advertisers
 - f. The Applicant shall maintain the right to reject any advertising that is misleading, offensive or otherwise incompatible with its high standards.
- d. The Applicant shall allow the Town of Stoughton advertising hours (totaling 28 hours per month of display time beyond the time otherwise provided monthly for necessary Amber Alerts and other Federal Government required notifications) in accordance with the provisions set forth in the July 18, 2014 Proposal.
- e. The Applicant shall provide free unlimited graphic design services to the Town of Stoughton as described in the July 18, 2014 Proposal.
- f. To the extent required by the provisions of M.G.L. c. 183 § 4, the Applicant shall record a Notice of Lease or a Notice of Assignment of Rents or Profits with the Norfolk County Registry of Deeds of all advertising leases the Applicant enters into which are for a term of seven or more years (inclusive of all available renewal periods).
- g. The variances granted are those variances approved as set forth in this decision only. Any change to or additional variances sought by the applicant in the application filed with this case which differ from the variances granted in this written decision are denied.
- h. Any modification/alteration or change to the approved variances must be approved in advance by the Zoning Board of Appeals.
- i. This decision shall not be interpreted to grant relief that was not specifically granted in Case No. 4123 or stated in the text of the decision, or in a manner inconsistent with the by-laws of the Town of Stoughton.
- j. No building, occupancy or other permit (including approval to operate) shall issue based on this variance unless and until the Petitioner has filed proof with the Board of recording the decision at the Norfolk County Registry of Deeds, which shall include the date of recording with the book and page references thereof.

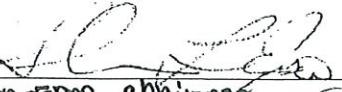
town of Shaghtan ZBA board.

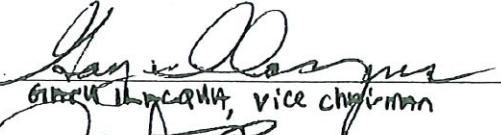
So voted this 18th day of September, 2014.

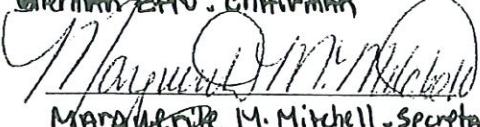
Variance, Case No. 4123

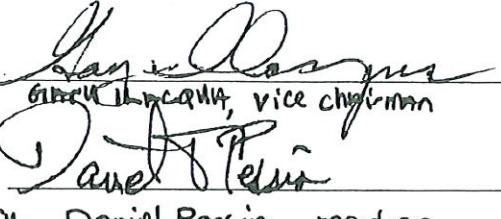
187 Page Street

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Herman Epro, chairman


Gina Iacopita, vice chairman


Marguerite M. Mitchell - Secretary


Daniel Pessia - member


Steven R. Argentieri - member

