

TOWN OF READING, MASSACHUSETTS

RECEIVED  
TOWN CLERK  
READING, MASS.

DECISION OF THE ZONING BOARD OF APPEALS ON THE PETITION OF  
OF MUTUAL OIL COMPANY FOR THE PROPERTY LOCATED AT

2014 MAY 28 P 4: 28

83 MAIN STREET, READING, MASSACHUSETTS

May 15, 2014

Case No. 14-08

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, May 15, 2014, in the Selectmen's Meeting room at Town Hall, 16 Lowell Street in Reading, Massachusetts, to hear the Petition of Mutual Oil Company (the "Petitioner"), as agent for the owner, who seeks a Variance from Section 6.2 of the Zoning By-Laws in order to install multiple signage, LED lighting and to have a bi-colored canopy over the gasoline pump area, on the property located at 83 Main Street Street in Reading, Massachusetts (the "Property").

The Property is situated on the easterly side of Route 28 (Main Street), contains 36,032 square feet and is located in the Business A zoning district. The Property is currently in use as a gasoline service station and has a history of use as a service station. The existing service station consists of multiple pump islands, a pump canopy over the gasoline pumps and associated single story building. The Petitioner is requesting a Variance(s) from Section 6.2 of the by-laws in order to have multiple signs (a free standing sign, a wall sign, signage at the gasoline pumps and, signs on the canopy), LED lighting for gasoline prices on the free-standing sign and at the gasoline pumps, and to allow the canopy to be bi-colored. The Property is shown on a Certified Plot Plan prepared by B.E.O.M. Incorporated, dated February 11, 2008 and, titled "Tosco Marketing Company, 83 Main Street, Reading, MA.

The Board of Appeals may grant a Variance if it finds that the four following conditions have been met: (1) particular circumstances existing relating to soil conditions, shape or topography of the land or structures that are subject to the petition, but do not generally affect the zoning district in which it is located; (2) a literal enforcement of the zoning ordinance would involve a substantial hardship, financial or otherwise; (3) the desirable relief can be granted without substantial detriment to the public good; and (4) that the Variance does not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

In presenting the Petitioner's case before the Board, Mr. Brad Latham, the Petitioner's attorney stated that Mutual Oil Company is a family owned Massachusetts business based in Brockton and has a history that includes retail gas station operation. Mutual Oil Company is small as compared to its international competitors and does not engage in advertising. This affects its name recognition and prompts the need for signage relief.

Attorney Latham explained the Reading Zoning By-law is very restrictive with reference to signage allowed. The Building Inspector determined that the requested signage is not permissible for reasons stated on the March 27, 2014 Building Permit Review. The Petitioner is requesting from the Building

Inspector's determination so as to be able to have the signage shown on the materials submitted with the application.

Atty. Latham then gave explanations to the four criteria required to be met for a Variance and why the Petitioners' request for a Variance is warranted.

There are circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located. The Property is used as a gas station and as such, requires unique signage and recognition from the motoring public that another retail establishment maybe would not require.

A literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise. If a Variance is not granted, the Petitioner would be at a competitive disadvantage to other gas stations in the area that have distinctive coloration and signage which are easily recognizable by the motoring public.

Desirable relief may be granted without substantial detriment to the public good. Granting the relief requested will not be substantially detrimental to the public good. The Property is located in a business district and has historically been used for commercial purposes. The Petitioner explained that the proposed signage on the building and the pumps cannot be seen from residential property.

Relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning by-law. Because this is commercial property in a business zoned district, granting relief will not nullify or substantially derogate from the intent or purpose of the zoning by-law.

Following the Petitioner's presentation, the hearing was opened to public comment and discussion by the Board. Public comments were received and considered by the Board; the public comment portion of the hearing was subsequently closed by the Chair.

The Board reviewed the four criteria necessary for approval of a variance request and concurred with the arguments presented by the Petitioner's attorney for a Variance but, with modifications made to the request for signage on the canopy and the specific size of the wall mounted sign.

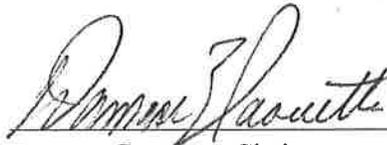
Accordingly, a motion was made and seconded and the Board voted (4-1-0) to grant the Petitioners' request for a Variance from Section 6.2 of the Zoning By-laws for pump signage, a single wall sign on the existing building, for LED or electronic lighting for gasoline pricing on the free-standing sign and at the gas pumps and to have a bi-colored canopy but with no signage on the canopy or illumination of the canopy. The proposed wall sign reading "mutual M mart" shall not exceed 19 inches by 101 inches. All located at 83 Main Street, Reading, MA, as depicted on the sign renderings submitted with the application and prepared by SIGNDESIGN, 170 Liberty Street, Brockton, MA, noted as Version 16, dated April 9, 2014 and numbered Sheets 1 thru 7 of 7 sheets (corrected numbering).

Any person aggrieved by this decision of the Board may appeal to the appropriate court pursuant to M.G. L. c. 40A, §17, within twenty (20) days after the date of filing this Decision with the Town Clerk. Notice

of appeal with a copy of the complaint must also be filed with the Town Clerk within twenty (20) days as provided in §17.

This Variance shall not take effect until a copy of this Decision, bearing certification of the Town Clerk that twenty (20) days have elapsed after the Decision was filed in the Office of the town Clerk and no appeal has been filed, or if an appeal has been filed within such time, that is has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and indexed in the Grantor's index under the name of the owner of record, or is recorded and noted on the Owner's Certificate of Title. The fee for recording or registering shall be paid by the Owner or Petitioner. Any person exercising rights under a duly appealed Variance Permit does so at the risk that a court may reverse the permit and that any construction performed under the permit may be ordered to be undone.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS



Damase Caouette, Chairman

Zoning Board Members Voting on Case # 14-08

Damase Caouette, John Jarema, Robert Redfern, John Miles (all approved the motion)

Erik Hagstrom (opposed the motion)