

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0444R

AS AMENDED

RESOLUTION REVERSING THE DECISION OF THE BOARD OF ZONING APPEALS TO DENY A REQUEST TO INCREASE THE AREA OF AN OVERSIZED OFF-PREMISE SIGN IN A SCENIC AREA (NICK G. PATRONAS).

BY COUNCILOR STAUBER:

RESOLVED, that the decision of the board of zoning appeals to deny the application by Nick G. Patronas for a variance from the sign ordinance restricting the size of off premise signage in a scenic area for property located at 2120 London Rd. is reversed for the following reason:

(a) The appellant seeks a variance from the provisions of the Sign Code regulating signs in a scenic zone. Section 44-34(b) of the City Code restricts the size of a sign in a scenic area to 60 square feet;

(b) The board of zoning appeals (board) denied the variance request finding that the applicant failed to demonstrate the existence of a hardship and that the request was contrary to the intent of the scenic area regulations;

(c) The appellant has now appealed the decision of the board to the city council;

(d) Section 44-35(a) of the City Code provides that the power to grant a variance is limited to the powers specified in sections 50-47(a) and (b) of the City Code. These sections require an applicant for a variance to present evidence demonstrating the existence of all of the following factors:

(1) The exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the terms of the Code will result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property; and

(2) That the relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the Code; and

(3) The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity; and

(4) The granting of the variance is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant; and

(5) The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city;

(e) The appellant has previously received two variances from the size restriction as follows:

(1) A variance approving a total of 240 square feet of signage by the city council by Resolution 01-0488 approved on June 25, 2001;

(2) A second variance increasing the size of the nonconforming sign area to 360 square feet by Resolution 03-0595 approved on August 25, 2003;

(f) The appellant has presented evidence establishing the existence of the factors required in Section 50-47(b) of the Code to support the granting of a variance. In particular the appellant has demonstrated that the following hardship exists: ~~{council is required to identify the nature of the hardship supporting granting the variance}~~

Official controls have inappropriately named the district a scenic area, that the sign controls go too far for this site, that a sign was there before and that the sign site in question is open;

(g) The variance is granted subject to the following conditions:

(1) The additional signage is limited to an additional 60 square

feet;

(2) The sign shall be constructed and maintained in accordance with all applicable codes, standards and requirements of the building official;

(3) No lighting or changes to lighting currently lawfully in existence are authorized by this variance and any unauthorized lighting shall be removed prior to construction of the additional square footage.

CCREQ/BLDG SFTY CH:ek 8/18/2010

STATEMENT OF PURPOSE: This resolution reverses the decision of the board of zoning appeals and approves the request for a third variance to increase an oversized off premise sign in a scenic area an additional 60 square feet to a total of 420 square feet when the maximum allowed by code is 60 square feet.