

**RESOLUTION
TOWNSHIP OF PEQUANNOCK
PLANNING BOARD
IN THE MATTER OF SIGNSTAR NY, INC.
(ON BEHALF OF WIRELESS ZONE, LLC (d/b/a VERIZON WIRELESS))
DECIDED ON MAY 6, 2019
MEMORIALIZED ON JUNE 3, 2019
APPLICATION FOR SIGN VARIANCE APPROVAL**

WHEREAS, SignStar NY, Inc. (On Behalf of Wireless Zone, LLC (d/b/a Verizon Wireless)) (“hereinafter “Applicant”) has filed an application with the Township of Pequannock Planning Board, (hereinafter “Planning Board” or “Board”), for sign variance approval for property known as Block 2007, Lot 1 on the Tax Assessment Map of the Township of Pequannock (hereinafter “Township”), which premises are located at 500 Route 23, Pompton Plains, New Jersey 07444, and located in the C-3 Highway Commercial District (hereinafter “C-3 Zone”); and

WHEREAS, the Applicant has applied to the Pequannock Township Planning Board for approval pursuant to the Code of the Township of Pequannock, Chapter 189.13, Signs, which authorizes the Planning Board to review and approve all sign applications within the Township; and

WHEREAS, a public hearing was held on April 15, 2019 and May 6, 2019, after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Lauren Tardanico, Esq. from the law firm Chiesa, Shahinian & Giantomasi, PC.

NOW, THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which time a record was made.

The April 15, 2019 Hearing

The Applicant seeks sign variance approval for premises known and designated as Block 2007, Lot 1 on the Tax Assessment Map of the Township of Pequannock and located at 500 Route 23, Pompton Plains, New Jersey 07444 and located in the C-3 Zone. The Applicant proposed two

(2) 95.5 square foot building façade signs with one (1) sign on the front or westerly façade and one (1) sign on the side or southerly façade.

The following documents were submitted in connection with the application for sign approval:

1. Completed Pequannock Township Sign Application signed and dated January 8, 2019.
2. Sign Detail, consisting of twelve (12) sheets, prepared by Allen Industries, dated January 4, 2019, not signed.
3. Revised Sign Details, consisting of thirteen (13) sheets, prepared by Allen Industries, dated April 26, 2019, not signed.

Testifying on behalf of the Applicant was Lisa Phillips, P.P., AICP, a Licensed Professional Planner in the State of New Jersey. Ms. Phillips introduced into evidence Exhibit A-1 which is a photo array consisting of seven (7) photographs. The photo array consists of two (2) pages. Ms. Phillips reviewed the photo exhibit with the Board. Page 1 contains four (4) photographs. The first photograph depicts a view of the front of the Verizon Store; a second photograph depicts the front and southerly façade of the Verizon Store; a third photograph depicts a view of the adjacent Buy-Rite store and Verizon store and a fourth photograph provides a view northerly towards the Verizon store from the parking area in the southerly portion of the site. Page 2 of the photo exhibit introduced into evidence as Exhibit A-1 contains three (3) photographs. One (1) photograph depicts TJMaxx Store signage; a second photograph depicts a view of the Stop & Shop store which is adjacent to the Verizon store; and the third photograph on the exhibit depicts the Home Goods store signage.

Ms. Phillips testified that she reviewed the Applicant's application package, the Master Plan, Zoning Ordinance, as well as conducting a site visit. Ms. Phillips testified that the Verizon tenant space is located in the northwest section of the shopping mall. Ms. Phillips testified that the

location of the Verizon store on the site constitutes a unique situation because the Verizon tenant space is set forward. The front of the tenant space is not visible when you enter the site from Route 23. The Verizon store is also next to the Stop & Shop store which protrudes forward. The Applicant requests approval to locate one (1) sign on the front or westerly side of the building and one (1) sign on the side or southerly side of the building which can be seen from a southerly direction from the parking lot.

Ms. Phillips provided planning testimony in support of the granting of variance relief. Ms. Phillips testified that the Applicant is entitled to ancillary “c” variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) and (2).

Ms. Phillips testified that the location of the Verizon store on the site is set forward. Thus, from the southerly portion of the existing parking lot, it is difficult to identify the location of the Verizon store unless the Applicant is permitted to install signage on the southerly façade of the Verizon store. Ms. Phillips also testified that by having two (2) signs as opposed to one (1) façade sign, it would promote better visibility of the site and thus, present a better planning alternative. She also testified that the shopping center contains several different stores and that the shared parking scenario among the multiple different stores supports the need to install two (2) signs which she stated are better than one (1) sign in order to help patrons of the shopping center to more easily identify the location of the Verizon store. Ms. Phillips also represented that the size and location of the proposed signage promotes better visibility and facilitates ease of identification of the location of the Verizon store within the shopping center complex. Ms. Phillips further represented that there is no signage proposed on the existing free-standing sign. Ms. Phillips testified that in reviewing Exhibit A-1 which depicts several stores and the different signs on each store, that there is no uniform sign plan for the shopping center.

Ms. Phillips also testified that the approval of the proposed signage would be consistent with the Pequannock Township Master Plan goal of establishing sign guidelines which contribute to the Route 23 corridor enhancement and the aesthetics of the shopping center. Furthermore, Ms. Phillips testified that pedestrians in the shopping center and motorists traveling both along Route 23 and within the shopping center would benefit by having both a front façade sign and a side façade sign which would enhance the visibility of the location of the Verizon store on the site. As a result, Ms. Phillips concluded that variance relief can be granted without substantial detriment to the public good. Furthermore, Ms. Phillips testified that variance relief can be granted without substantial impairment of the zone plan and zoning ordinance. Finally, Ms. Phillips concluded that the benefits of the deviation would substantially outweigh any detriments which would thus enable the Board to grant variance approval for a front façade sign and a side façade sign for the Verizon store.

The Applicant and the Board then engaged in a lengthy discussion regarding the proposed signage. The Board requested that the Applicant return to the Board with revised sign details which would provide for a front façade (westerly side) sign not to exceed a sign area of 95.5 square feet. Furthermore, the Board requested that the Applicant reduce the size of the second façade sign on the southerly side of the building from 95.5 square feet to 50 square feet. The Applicant agreed that it would provide a revised sign plan to conform to the Board's recommendations.

The meeting was opened up to the public and there were no members of the public present who expressed an interest in this application.

The May 6, 2019 Hearing

Ms. Lauren Tardanico, Esq. on behalf of the Applicant, once again appeared before the Planning Board. Ms. Tardanico summarized the application. Ms. Tardanico also presented a revised sign plan which is referenced on pages 6 and 7 of the most recent submission on behalf of the Applicant. The sign plan as presented provides for a 95.5 square foot building façade sign on the

front or westerly side of the building. The signage as proposed on the front or westerly side of the building is identified on page 6 of the submission. The Applicant is also providing for a 50 square foot façade sign on the southerly side of the building. In accordance with the recommendation of the Board Planner, the Applicant agreed to revise sheet 7 of the submission in order to indicate the length of the Verizon sign on the southerly side. The Applicant did, however, stipulate that the proposed façade sign on the southerly sign would not exceed 50 square feet. Thus, the Applicant agreed to resubmit a cover sheet along with pages 6 and 7 adding the length of the sign to the southerly side sign on page 7.

The meeting was opened up to the public and there were no members of the public present who expressed an interest in this application.

NOW, THEREFORE, the Planning Board makes the following conclusions of law, based on foregoing findings of fact.

SignStar NY, Inc. (On Behalf of Wireless Zone, LLC (d/b/a Verizon Wireless)) is the Applicant for premises known and designated as Block 2007, Lot 1 on the Tax Assessment Map of the Township of Pequannock and located at 500 Route 23, Pompton Plains, New Jersey 07444, located in the C-3 Zone.

The nature of the application is to locate two (2) building façade signs on the front façade (westerly façade) and on the side façade (southerly façade) regarding the Verizon tenancy at this location. The Applicant requires variance relief from Section 189.13.060 (B) (2) (b) which permits only one (1) façade sign for each use. The Applicant is proposing a second façade sign at 50 square feet where only one (1) attached sign is permitted thus requiring “c” variance relief as stated herein.

The Applicant also requires variance relief from Section 189.13.060 (B)(2)(c)(2) which permits attached signs to have an area that is 50 square feet or 5% of the façade whichever is greater for a store front that has a façade area of 1,001 to 2,000 square feet. In this instance, the principal

façade has an area of 1,320 square feet permitting the Applicant to provide a building façade sign not to exceed 66 square feet. The Applicant is proposing a building façade sign for the front or westerly side at 95.5 square feet thus requiring ancillary “c” variance relief in order to exceed the sign area for the front façade sign.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the Applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the Applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting

pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board, therefore, finds that the purposes of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2 would be met by the approval of this application. The Board finds that the approval of this application will result in providing sufficient space in appropriate locations for a variety of commercial uses. The Board also finds that the approval of the sign measuring 95.5 square feet of sign area on the front or westerly facade will improve visibility of the site for motorists traveling along Route 23 and will facilitate safe access to the site. With respect to the proposed second building façade sign not to exceed 50 square feet on the side or southerly façade of the building, the Board notes that this is a unique situation in that the building is set forward and is next to the Stop & Shop building which is also set forward. The Board accepts the representations of the Applicant that motorists and pedestrians in the southerly portion of the shopping center could have difficulty in locating the Verizon store without the southerly side sign. The Board finds that the Applicant has agreed to reduce the size of the southerly side sign not to exceed 50 square feet which is a reasonable size for a second façade sign. The Board also notes that the approval of the second façade sign will help promote visibility for identification of the location of the Verizon tenant space. Thus, the Board finds that the approval of this application will also promote public safety which satisfies one of the purposes of the Municipal Land Use Law.

Having found that the Applicant has satisfied the positive criteria, the Board next turns to the negative criteria, the Board finds that the granting of this application can be done without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. The Board reaches these conclusions based on the fact that the proposed signage is in conformance with the size of signage for other businesses along the Route 23 corridor, and in particular, within this shopping center. The signage will help to promote

safe access to the site. The Board finds that under the MLUL pursuant to N.J.S.A. 40:55D-70c(1) that by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or structures lawfully existing thereon, the strict application of any regulation would result in peculiar and exceptional practical difficulties to or exceptional undue hardship upon the Applicant, thus permitting the Board to grant “c” variance relief.

The Board also finds that the purposes of the act would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, thereby enabling the Board to grant variance relief under the MLUL pursuant to N.J.S.A. 40:55D-70c(2).

Upon consideration of the plans, testimony and application, the Board determines that the Applicant has provided sufficient information so as to enable the Board to render an informed decision with regard to the request for sign approval. The Board determines that it is appropriate to grant the application for signage as proposed by the Applicant.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock, that the application of Sign Star NY, Inc. (On Behalf of Wireless Zone, LLC (d/b/a Verizon Wireless)) for premises known and designated as Block 2007, Lot 1, on the Tax Assessment Map of the Township of Pequannock, and located at 500 Route 23 North, Pompton Plains, New Jersey 07444, located in the C-3 Zone. requesting sign approval, is determined as follows:

A. Approval is hereby granted to enable the Applicant to install two (2) building façade signs. One (1) building façade sign not to exceed 95.5 square feet will be located on the front or westerly façade of the building. The second building façade sign not to exceed 50 square feet shall be located on the southerly side of the building.

IT IS FURTHER RESOLVED that the above land use relief is granted subject to the following terms and conditions:

1. The Applicant shall comply with all appropriate terms and conditions of the Township of Pequannock Code Chapter 189.13 – Signs.

2. The Applicant represents that all representations and stipulations made by him or on his behalf to the Township of Pequannock Planning Board are true and accurate and acknowledges that the Planning Board specifically relied upon said stipulations in the Boards granting of approval. If any representation or stipulation is false, this Approval is subject to revocation.

3. This Approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on April 15, 2019 and May 6, 2019.

4. The granting of this Application is subject to and conditioned upon the Applicant complying with all terms and conditions set forth in the Board Planner’s review report dated March 13, 2019.

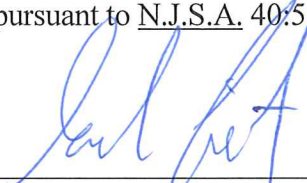
5. The granting of this Application is subject to and conditioned upon the Applicant resubmitting a cover sheet with pages 6 and 7 of the most recent sign submission prepared by Allen Industries relative to option 1 which was presented to the Planning Board for approval. The Applicant shall add to the proposed southerly façade sign on page 7 the length of the sign similar to the measurement of length which is contained on page 6 for the westerly façade sign. The signage as approved shall conform to the Allen Industries submission as reference herein.

6. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.

7. Certificate that taxes are paid current to date of approval.

8. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other jurisdiction.

The undersigned secretary certifies the within Resolution was adopted by this Planning Board on May 6, 2019 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 3, 2019.



Gerard Fitamant, Board Secretary

In favor: *Kohle, Cascone, Fitamant, Infield, Vitawick, Driess*

Against:

Abstained:

Board Members Eligible to Vote: