

IN THE MATTER OF	:	BEFORE THE
LITITZ SIGN COMPANY	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. 18-002S

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DECISION AND ORDER

On January 22, 2019, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of the Lititz Sign Company (Petitioner) for a variance to erect a new commercial freestanding identification sign in a CE-CLI (Corridor Employment—Continuing Light Industrial) zoning district, filed pursuant to § 3.513(b), Subtitle 5 of Title 3 of the Howard County Code (the Sign Code).

Petitioner certified to compliance with the notice and advertising requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Petitioner was not represented by counsel. Thomas Benjamin in support of the petition. No one appeared in opposition to the petition.

Petitioner introduced in evidence these exhibits.

1. Alternative sign # 1
2. Alternative sign # 2
3. Alternative sign # 3

FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is located in the Sixth Election District on the southeast side of US Route 1 (Washington Boulevard) about 575 feet west of Brewers Court. It is referenced as Tax Map 0050, Block 0010, Parcel 442 and is known as 9941 Washington Boulevard (the Property).

2. Property Description. The 10.636-acre Property is the site of a NAPA Auto Parts commercial store and distribution center. The building sits deep into the site because the front section of the Property along Washington Boulevard contains a deep forest conservation area, which has steep elevation changes and embankments for water drainage and stormwater retention ponds. For these reasons, the only driveway access is from the northern Wilbert Lane. The Property is also located where Washington Boulevard and North Second Street converge.

3. Vicinal Properties. The technical staff report (TSR) contains several photographs depicting the views of the Property, including aerial views and photographs to/from the existing sign and the proposed location as seen from north and southbound motorists. US Route 1 in this area is seven lanes wide with a posted speed limit of 35mph. To the north, across the intersection of US Route 1 and Wilbert Lane, is a used car lot. The TSR shows the presence of vehicles parked along and in the right-of-way. There is a six-foot rise in grade at this intersection. To the south and east are commercial and industrial uses. Together with the forested area along the front section of the Property, these conditions severely limit the viewing of code compliant signage on the Property.

The TSR also comments on a new roadway expansion project at the intersection of Route 1 and Wilbert Lane, which causes the proposed sign location to be setback 31'4" from the original

property line. Consequently, the proposed sign location is now 1.0 feet from what technical staff identifies as the “utility right-of-way.”

4. The Requested Sign Variance. At the outset of the hearing, Petitioner introduced three alternative sign designs intended to be more compliant with the Route 1 Manual’s signage recommendations, which prefers low-profile signs over pylon signs. Because a low-profile sign would not be visible, the Hearing Examiner reviewed the alternative signs with the Petitioner, with Alternative Sign #3 being most compliant. This sign is shown on pg. 4.

The proposed sign comprises a two-pole freestanding identification sign with a 3.0’ base and an upper section whose height is not identified. There are three aluminum sign cabinet sections. The upper and lower sign cabinet sections will be LED, internally illuminated with matching sign faces on both sides. The middle sign cabinet section will have a full color EMC electronic message board. The total signage area is 163.5sf. The variance is necessary because the total signage area is 162.5sf more than the code allows at the proposed location, which is 31’4” from the recently installed US Route 1 concrete curb and sidewalk and about 41’4” south from the right side Wilbert Lane concrete curb, according to the TSR.

→ ***Sign Dimensions***

- Upper sign cabinet – 9’2” high, 11’1” wide (101.60sf). This top sign contains the NAPA corporate logo and the words “Auto Parts” below it.
- Middle cabinet section – 3’8” high and 11’1” wide (40.40sf). This sign contains a rectangular EMC message board. In accordance with county policy, the messaging on this EMC signage may change only once every 24 hours.
- Lower cabinet section – 2.0’ high and 11’1” wide (22.17sf). This area contains the words “Distribution Center and Retail Store.”

The Hearing Examiner does not approve the Property address shown on the base of the sign because Petitioner did not prove the address would not increase the total signage area.



Petitioner requests variance relief from these sections of the Sign Code.

3.501(c)(2)(c). Sign standards by district. Commercial Areas, all Areas within Downtown Columbia, Industrial Districts and Industrial areas.

c. Freestanding signs. The provisions of this paragraph shall not apply in Downtown Columbia. Where a building does not cover the full area of the property, business signs may be freestanding or ground-

supported and may be located in the front yard. The height of the sign may not exceed one foot for each two feet the sign is set back from the right-of-way and shall not exceed 26 feet from the grade level to the top of the sign. Freestanding signs shall be permitted only where there is a minimum of 40 lineal feet of lot frontage. The maximum allowable area for a freestanding sign shall be one square foot for each one foot the sign is set back from the road right-of-way. The largest single face of a freestanding sign shall be considered for the purpose of computing allowable area under this section. No part of the sign shall extend beyond a property line or right-of-way line.

As proposed, the sign would be located 1.0 feet from the Route 1 "utility right-of-way."

At this location, the sign code allows only a total 0.6" sign height and 1.0 total square footage sign area.

Sign Code § 3.508(a). Illumination.

(a) *Shading.* The light from any illuminated sign or billboard or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into residential structures.

(b) *Blinking or Flashing.* Except as provided in section 3.502A of this subtitle, a sign shall not have blinking, flashing or fluttering lights or other illuminating devices which have a changing light operated as to create an appearance or illusion of writing or printing. A variance may be granted by the Board of Appeals for movement showing the date, the time and the temperature exclusively. Nothing contained in this section shall, however, be construed as preventing the use of lights or decorations related to religious and patriotic festivities. Beacon lights or search lights shall not be permitted as a sign for advertising purposes.

(c) *Strobe and Incandescent Lamps.* No exposed reflective type bulbs and no strobe lights or incandescent lamps which exceed 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

The TSR states the full-color EMC digital sign board must meet the requirements of Sec. 3.508. - Illumination and the message may only change once every 24 hours, which will be a stipulation of the issued sign permit.

5. The Technical Staff Report. All Department of Inspections, Licenses, and Permits (DILP) TSRs evaluate a proposed sign variance petition against the criteria for granting a variance, but make recommendations. The December 28, 2018 TSR found unique physical and

topographical conditions, including the seven-lane US Route 1, a wide forest area, and excessive motorist speed.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Facts, the Board of Appeals Hearing Examiner concludes as follows.

1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.

The proposed location of the new sign is along US Route 1, a highway with a dependency on nonlocal use. This section of US Route 1 is 7 lanes wide; it is a very heavily traveled highway with a posted speed limit of 35MPH. The Hearing Examiner routinely drives along this road, and has observed speed limits much higher than 35MPH.

2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.

The wide forest conservation area and grade changes cause practical difficulty in complying with the Sign Code.

3. Or, that there are historical, architectural, or aesthetic characteristics which shall be considered.

Petitioner has redesigned the sign to be more compliant with the Route 1 Manual's signage recommendations, which prefers low-profile signs over pylon signs.

4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.

There is no evidence that the requested variance would adversely affect the appropriate use or development of adjacent properties, or result in a dangerous traffic condition.

5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.

In the Hearing Examiner's view, the proposed sign is a reasonable size and therefore the minimum necessary.

6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

The Petitioner did not create the practical difficulties or hardships pertaining to the Sign Code.

ORDER

Based upon the foregoing, it is this **12th Day of February 2019**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Lititz Sign Company for a variance to erect a new commercial freestanding identification sign in a CE-CLI (Corridor Employment—Continuing Light Industrial) zoning district, is **GRANTED**;

Provided, however, that:

1. The sign variance shall apply only to the sign described in the petition and plan as revised and shown on pg. 4 of this decision and order.
2. The full-color EMC digital sign board and message area shall change only one time every 24 hours, which will be a stipulation of the issued sign permit.
4. The Property address shown on the base of the sign is not approved.
5. The sign shall not be located in a public right-of-way.
6. The Petitioner shall obtain all necessary permits.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**



Michele L. LeFaivre

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.

In accordance with C.B. 51-2016, § 1 (HCC Sec. 22.902 - Computation of time), if the deadline to appeal is a Saturday, Sunday, or holiday, or if the County offices are not open, the deadline shall be extended to the end of the next open County office business day.