

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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CITY CLERK'S OFFICE
GARDNER, MA

NAME: Cumberland Farms, Inc.
ADDRESS: 100 Crossing Boulevard
Framingham, MA 01702

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED AT FOLLOWING PARCELS:

Parcel ID #M22-10-1, M22-10-39, M22-10-40 and M22-10-41; Main Street

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN THE FOLLOWING DEEDS DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

Parcel M22-10-1	Book: 13175	Page: 37
Parcel M22-10-39	Book: 48349	Page: 327
Parcel M22-10-40	Book: 51658	Page: 255
Parcel M22-10-41	Book: 16322	Page: 217

ON APPLICATION DATED December 16, 2014 FOR A Variance to: construct/erect signage at proposed Cumberland Farms at Parcel ID #M22-10-1, M22-10-39, M22-10-40 and M22-10-41 on Main Street, Gardner, MA, located in Commercial 1 and Industrial 1 Districts. Denied a building permit as it does not comply with:

1. Front wall signage, 675-970(A) Maximum allowed height of a sign cannot exceed four (4) feet in height. The proposed front wall sign height is 5 feet 5 inches.
2. Right side wall sign, 675-970(B) Secondary sign maximum square footage allowed is 40 square feet. The proposed sign is 44.33 square feet plus the lettering exceeds the maximum height of four (4) feet. The proposed front wall sign height is 4 feet 8 inches.
3. Canopy signage, 675-970(B) Secondary sign, maximum number of signs allowed is two (2). The project proposes three (3) secondary signs, one right side wall and two on the canopy.
4. Secondary signage, 675-970(B) Secondary sign maximum square footage total of all signs allowed is 40 square feet. The proposed total square footage is 66.33 square feet.
5. Directional signs, 675-970(D) Maximum display area of each sign shall not exceed two (2) square feet. The proposed sign is 3.54 square feet each.
6. Pylon sign, 675-970 (E) Freestanding sign. The display area of the sign shall not exceed 50 square feet, the height shall not exceed 15 feet with a maximum seven feet six inch clearance above grade. The proposed pylon sign has a display area of 101 square feet, height of 25 feet, with a clearance above grade of 12 feet 8 inches.

The Gardner Zoning Board of Appeals at its March 17, 2015 meeting voted to grant with conditions a Variance to construct/erect signage at Parcel ID #M22-10-1, M22-10-39, M22-10-40 and M22-10-41 on Main Street, Gardner, MA.

The Public Hearing was held on January 20, 2015 and continued to February 17, 2015.

The Applicant proposed to construct a new retail store 4738 square feet, open 24 hours, with 12 fuel pumps under a canopy. The parcel is 2.08 acres in total with most of the property fronting rear Main Street. The Property is split between Commercial 1 and Industrial 1 Zoning District. A vacant dry cleaning business, vacant pub, and existing residential multifamily building are to be razed for this project. This project is immediately adjacent and to the north of the City's new police station.

Approved site plan of record is the titled "Site Plan Set for Cumberland Farms, Store # TBD, Station # TBD, 124-150 Main Street (RT-68), Gardner, MA 01440, prepared by Civil Design Group, LLC. , dated August 6, 2014, latest revision date 1/29/2015.

The Applicant proposes several internally illumined signs to provide the desired branding advertisement and directional guidance to customers visiting the retail establishment.

The Applicant believes that the proposed signage is necessary to promote the public safety while maintaining harmonious with Gardner's historic character and in doing so presented the following in defense of the variance:

- i. The lot area (2.08 acres ±)
- ii. The location is adjacent to the police station on Main Street, a highly travelled thoroughfare
- iii. The size, massing, architectural design of the structures on the site
- iv. The improvement to the lot from what currently exists
- v. The simplified identification and motif provided on the proposed sign – name of the entity and discernible gasoline prices to adequately alert motorists so as to allow appropriate reactions by pedestrians and other vehicles
- vi. Other neighborhood signs will not be obstructed or diminished.

In support of the signage, the applicant provided a photographic representation of the installed signage facing north and south and their relation to existing structures and the proposed project.

The Board in its deliberation for the granting of this Variance, elected to deal with each request individually.

Variance 1

Front wall signage, 675-970(A) Maximum allowed height of a sign cannot exceed four (4) feet in height. The proposed front wall sign height is 5 feet 5 inches.

This sign is located on the front of the store facing south.

The granting of this Variance does not create or aggravate a safety hazard. The proposed singage improves the recognition factor for the traveling vehicles more quickly and efficiently.

The granting of the Variance does derogate from the intent of the Ordinance in that the height of the sign is 5.5 feet. The height is standard branding for the chain. The sign lettering is to be internally illuminated. The Applicant provided photographs of the actual signs and installed are muted.

A hardship related to shape, topography, or soil conditions is not applicable.

Variance is approved by unanimous vote.

Variance 2

Right side wall sign, 675-970(B) Secondary sign maximum square footage allowed is 40 square feet. The proposed sign is 44.33 square feet plus the lettering exceeds the maximum height of four (4) feet. The proposed front wall sign height is 4 feet 8 inches.

This sign is located on the right side of the retail store along Main Street.

The height of the lettering includes the trademark symbol above the "Cumberland Farms". Similar to the sign in #1 above. The lettering and branding symbol is to be internally illuminated.

The granting of this Variance does not create or aggravate a safety hazard.

The granting of the Variance does derogate from the intent of the Ordinance in that the height of the sign is 4'-8". The sign lettering is to be internally illuminated. The Applicant provided photographs of the actual signs and installed are muted.

A hardship related to shape, topography, or soil conditions is not applicable. Although, had the building not been relocated during the site plan process, this sign might not have been necessary as the building would have been to the rear of the property.

Variance is approved by unanimous vote.

Variance 3

Canopy signage, 675-970(B) Secondary sign, maximum number of signs allowed is two (2). The project proposes three (3) secondary signs, one right side wall and two on the canopy.

The Applicant proposes two signs on the gas island canopy, one facing north, one facing south.

The granting of this Variance does not create or aggravate a safety hazard.

The granting of the Variance does derogate from the intent of the Ordinance in that it increases the number of secondary signs permitted.

A hardship related to shape, topography, or soil conditions is not applicable.

Variance is approved by unanimous vote.

Variance 4

Secondary signage, 675-970(B) Secondary sign maximum square footage total of all signs allowed is 40 square feet. The proposed total square footage is 66.33 square feet.

The granting of this Variance does not create or aggravate a safety hazard.

The granting of the Variance does derogate from the intent of the Ordinance in that it increases allowable square footage of secondary signage. To comply in the Board's opinion would incorporate signage that would be out of character with proposed structure.

A hardship related to shape, topography, or soil conditions is not applicable.

Variance is approved by unanimous vote.

Variance 5

Directional signs, 675-970(D) Maximum display area of each sign shall not exceed two (2) square feet. The proposed sign is 3.54 square feet each.

The Applicant proposes driveway entrance signs to guide vehicles into and out of the establishment.

The granting of this Variance does not create or aggravate a safety hazard. Providing directional guidance signs may increase safety at the site.

The granting of the Variance does derogate from the intent of the Ordinance in that it increases allowable square footage of secondary signage.

A hardship related to shape, topography, or soil conditions is not applicable.

Variance is approved by unanimous vote.

Variance 6

Pylon sign, 675-970 (E) Freestanding sign. The display area of the sign shall not exceed 50 square feet, the height shall not exceed 15 feet with a maximum seven feet six inch clearance above grade. The proposed pylon sign has a display area of 101 square feet, height of 25 feet, with a clearance above grade of 12 feet 8 inches.

Subsequent correspondence to the Board dated February 20, 2015, the Applicant submitted a revised dimension for the pylon, reducing the overall height to 19'6", with 7'2" clearance and consisting of 101 square feet in area. It is this revised proposal that The Board considered and approves. The schematic of the pylon is attached to the letter dated February 20, 2015 and is referred to as Schedule B in the attachments.

The granting of this Variance does not create or aggravate a safety hazard.

The granting of the Variance does derogate from the intent of the Ordinance in that the height of the sign exceeds what is permissible by the Code as well as the area. The Applicant provided photographic mockups of the proposed pylon sign with views from both the north and the south. The pylon sign is in harmony with the canopy that will exist over the fuel pumps.

A hardship related to shape, topography, or soil conditions is not applicable.

Variance for the freestanding sign is approved with the following conditions:

- Board approves plan as referenced Schedule B as attached to February 20, 2015

correspondence to the Board

- Price amounts on sign shall automatically dim at dusk to 20% intensity as represented at Public Hearing by the applicant.

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 30th DAY OF MARCH 2015

Raymond F. LaFond
Raymond F. LaFond, Chairman

Randall W. Heglin
Randall W. Heglin, Clerk

Michael D. Gerry
Michael D. Gerry, Third Member

I, Alan L. Agnelli, City Clerk, City of Gardner, hereby certify the attached decision by the Zoning Board of Appeals was filed with my office on MARCH 30, 2015 and that twenty days have elapsed since the filing of said decision with my office and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

21-April-2015
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk