

Sign Special Permit –15-02
Advance Auto Parts – 245 Arlington Street
March 17, 2015



Planning Board

TOWN OF ACTON
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DECISION

15-02

245 Arlington Street
Advance Auto Parts

Sign Special Permit

March 17, 2015

GRANTED with CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the application of Patrick Huyge of Site Enhancement Services, 6011 Nimitz Parkway, South Bend, IN 46628, on behalf of Advance Auto Parts, 5008 Airport Road, Roanoke, VA 24012 (hereinafter the Applicant) for property in Acton, Massachusetts, owned by IJAN 2MA REALTY LLC; as listed by the Acton Assessor's (hereinafter the Owner). The Owner's property is located at 245 Arlington Street and shown on Acton Town Atlas as parcel F2A-60 (hereinafter collectively the Site).

This Decision is in response to an application for a sign special permit, received by the Acton Planning Department on January 13, 2015, pursuant to Section 7.13 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Sign Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the special permit application to the Board at a duly noticed public hearing on March 3, 2015. Board members Mr. Jeff Clymer (Chairman), Mr. Michael Dube, Mr. Ray S. Yacouby, and Mr. Derrick J. Chin were present throughout the hearing. Mr. Rob Bukowski reviewed a video/audio recording of the hearing proceedings and filed a Certification pursuant to M.G.L. Chapter 39, Section 23D (Mullin Rule). The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Items and documentation required by the Rules consisting of:
 - A properly executed Application for a Sign Special Permit, received in the Planning Department on January 13, 2015.
 - An application cover letter from Mr. Huyge, dated 01/09/2015.
 - Authorization from Advance Auto Parts, dated 05/03/2011.
 - Certified abutters list.
 - A locus plan (aerial photo), with sign locations.
 - Sign renderings, photos, and specifications, dated January 9, 2015 (10 pages).
- 1.2 Interdepartmental communication received from:
 - Acton Planning Department, dated 02/04/15 (with partial draft decision attached);
 - Municipal Properties Director/Tree Warden, dated 01/30/15.
 - Health Department, dated 01/26/15.
 - Engineering Department, dated, 01/20/15.
 - Finance Department, 01/21/15.

Exhibit 1.1 is referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the West Acton Village (WAV) zoning district.
- 2.2 The site is, and has been for a number of years, in use by an auto parts retail store (CARQUEST). The new store is Advance Auto Parts. The retail use is allowed in the WAV district.
- 2.3 WAV zoning regulations allow by right one exterior sign per business or principal use, which may be a wall sign, projection sign or awning sign mounted on the building (Bylaw s. 7.7).
- 2.4 WAV zoning regulations do not allow a freestanding sign for any business or principal use where a building is located within 30 feet of the sideline of the street or the front lot line (Bylaw s. 7.8.6.1). The building in questions sits about 35 feet back from the sideline.
- 2.5 WAV zoning regulations do not allow by right both exterior signs on the building(s) and a freestanding on the lot (Bylaw s. 7.8.6.2).

- 2.6 WAV zoning regulations specify that by-right exterior and freestanding signs have no visible portion or exterior surface that is made of plastic, other petroleum based products, or sheet metal (Bylaw s. 7.4.1).
- 2.7 WAV zoning regulations specify the method of sign illumination (Bylaw s. 7.4.3.4 & 6) allowing only back-lighting or lighting from an external above-mounted light source. Light source must remain concealed from view.
- 2.8 The Bylaw provides in s. 7.13 that the Planning Board may grant special permits for signs not otherwise allowed by right, including more signs, larger signs, signs in otherwise prohibited locations, and for materials and illumination not otherwise permitted.
- 2.9 The Applicant proposes, as a complete replacement of the existing CARQUEST sign, an individual letter wall sign:
- a) With a 21'-1 $\frac{3}{4}$ " wide, where the maximum by-right width in the WAV district is 16.667 feet, or one-third of the 50-foot width of the wall space that the business occupies (the overall building width in this case).
 - b) A proposed height, overall display area, and spacing to the building's architectural edges and lines would appear to comply with the by-right limits and requirements of the WAV zoning district.
 - c) The proposed material for the letter faces is Plex-Face (color white 7328) with aluminum letter returns.
 - d) The proposed method of illumination is halo-lit that appears to comply with the backlighting requirement of the Bylaw s. 7.4.3.4.b).
- 2.10 In addition to the new wall sign, the Applicant proposes a re-facing of the existing freestanding sign that served the previous long-standing CARQUEST business. In the absence of a special permit consideration the re-facing is allowed by right. Where a special permit application has been submitted all signage on the lot can be subject to review. The Planning Board may grant special permit exemptions from some requirements, but not all, and it can allow existing nonconformities to continue. There is no special permit on-record for the existing free-standing sign:
- a) WAV zoning allows a maximum display area of 8 square feet (Bylaw s. 7.8.6.2). The existing display area for re-facing is 12- $\frac{1}{3}$ square feet. The Board finds that the display area of the freestanding sign is pre-existing nonconforming to the Bylaw and may continue.
 - b) WAV zoning limits the overall height from the ground to 5 feet (Bylaw s. 7.8.6.2). The existing height is not dimensioned in the application, but it is clearly more than 6 feet. The Board finds that the height of the freestanding sign is pre-existing nonconforming to the Bylaw and may continue.
 - c) A freestanding sign's set back from the street sideline must be at least equal to the height of the sign, but not less than 5 feet (Bylaw s. 7.8.2). While not dimensioned in the application, the existing sign may meet or may be close to meeting this standard. The Board finds that the positioning of the freestanding sign, to the extent it does not comply with the Bylaw, is pre-existing nonconforming to the Bylaw and may continue.

- d) A freestanding sign must be centered, more or less, within a landscaped area (Bylaw s. 7.8.3). For a 5-foot high sign, the minimum size of the landscape area must be 100 square feet, with suitable shrubs and flowering perennials surrounding the base of the sign. The existing sign sits in a plain grass strip.
 - e) The existing freestanding sign is internally illuminated, which is inconsistent with the Bylaw.
 - f) The existing materials of the freestanding sign are plastic for the faces and a combination of steel and aluminum for the frame. The applicant proposed to reface the sign with Plex-Face (same material as wall sign letter faces) with colors as shown in the application.
- 2.11 The proposed Signs may be allowed on the Site by special permit in accordance with section 7.13.1.1 of the Bylaw.
- 2.12 As conditioned and limited herein -
- a) The Signs are consistent with the character and uses of the area and with the Zoning District in which they will be located.
 - b) The Signs are appropriate in scale, design, and proportion relative to the buildings in the area and to the general surroundings. It is attractively designed, appropriately located, and will be compatible with the buildings to which it principally relates, and it is in harmony with the general area and character of the LB zoning district.
 - c) The Signs can be viewed as a continuous part of an integrated architectural design of the entire Site.
 - d) The colors and materials of the Signs are restrained, and in harmony with the building.
 - e) The materials used for the Signs are appropriate and do not detract from the aesthetic qualities of the surroundings.
 - f) The number of graphic elements on the Signs is held to the minimum needed to convey their primary messages and are in good proportion to the area of the Signs' faces.
 - g) The Signs will not unduly compete for attention with any other signs in the area.
 - h) The Signs are necessary for adequate identification of the businesses at this Site.
 - i) The Signs as approved and conditioned herein are appropriate for the Site; consistent with the Master Plan; in harmony with the purpose and intent of the Bylaw, specifically Section 7; will not be detrimental or injurious to the neighborhood where it is proposed; and comply in all respects to the applicable requirements of the Bylaw and the Rules.
 - j) The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

3 BOARD ACTION

Therefore, the Board voted on March 17, 2015 to GRANT the requested special permit subject to and with the benefit of the following conditions and limitations as follows:

- 3.1.1 To allow the width and external materials for the individual letter wall sign as proposed.
- 3.1.2 To allow the proposed material for the re-facing of the pre-existing nonconforming freestanding sign.

4 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns, and shall be enforceable by the Zoning Enforcement Officer (ZEO) in his administration of the sign permits under section 7.6 of the Bylaw. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any sign permit issued by the ZEO hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 4.1. Prior to erecting the Signs, the Applicant shall obtain a sign permit from the ZEO pursuant to section 7.6 of the Bylaw.
- 4.2. Issuance of the sign permit by the ZEO shall be subject to:
 - a) Approval by the Board or its designee, of a landscape plan for the freestanding sign in compliance with or exceeding the requirements of Bylaw s. 7.8.3. The Board's preferred configuration for the landscaped area will create a landscaped base around the foot of the sign and border between the Site's front yard and the adjacent railroad right-of-way.
 - b) Approval by the Board or its designee, of a revised illumination plan for the freestanding sign that, consistent with the Bylaw, specifies external illumination from a concealed light source shining from above. The Board's preferred method for illumination would be accomplished with a narrow light rail installed along the upper edge of the sign surface.
- 4.3. The application for a sign permit from the ZEO shall include the material and information required in the Bylaw, s. 7.6 and in paragraph 3.3.2 above.
- 4.4. The Sign shall be erected in accordance with the Plan approved and amended herewith, and shall otherwise comply with all applicable requirements of the Bylaw.
- 4.5. All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to issuance of a sign permit.

5 LIMITATIONS

This special permit shall be limited as follows:

- 5.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw and the Rules.
- 5.2 This special permit applies only to the Site identified in this decision and to the proposed Sign as shown on the Plan.

- 5.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 5.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 5.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

6 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed on behalf of the Acton Planning Board

Roland Bartl, AICP, Planning Director
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Owner

Building Dept.
Engineering Dept.
Town Manager
Assessor Dept.

Health Dept.
Municipal Properties Dept.
Police Chief
Planning Department

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