

Board Members  
Brian White, Chair  
Gibb Phenegar, Vice Chair  
Christina Oster, Clerk  
Tom Emero, Member  
Rori Stumpf, Member  
Carol Gould, Associate Member



Medway Town Hall  
155 Village Street  
Medway, MA 02053  
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**TOWN OF MEDWAY**  
**COMMONWEALTH OF MASSACHUSETTS**  
**ZONING BOARD OF APPEALS**

**DECISION**  
**VARIANCE-SIGN**  
**65 MAIN STREET**

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**20 Day Appeal**  
**November 15, 2021**

**Applicant(s):** I.D. Sign Group, Inc., representing Shaw's Supermarkets

**Location of Property:** 65 Main Street (Assessor Parcel ID: 41-023).

**Approval Requested:** The application is for the issuance of a **variance** under Section 7.2.5.B.1 and Table 5 Multi-Tenant Development, Individual Establishment Wall Sign to install another wall sign at Shaw's Supermarket which will exceed the limit of signs and square footage allowed by the Zoning Bylaw.

**Members Participating:** Brian White, Chair; Christina Oster, Clerk; Tom Emero, Member; Rori Stumpf, Member

**Members Voting:** Brian White, Chair; Christina Oster, Clerk; Tom Emero, Member; Rori Stumpf, Member

**Date of Decision:** October 20, 2021

**Decision:** **GRANTED WITH CONDITIONS**

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## **I. PROCEDURAL HISTORY**

1. On September 24, 2021, the Applicants filed for the issuance of a **variance** under Section 7.2.5.B.1 of the Zoning Bylaw and Table 5 Multi-Tenant Development, Individual Establishment Wall Sign.
2. Notice of the public hearing was published in the Milford Daily News on October 6, 2021 and October 13, 2021, and notice sent by mail to all parties in interest and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on October 20, 2021. The hearing was closed the same evening.
4. The Property is located in the Central Business (CB) District. The front setback requirement is 10 feet, and the side and rear setback requirements are 25 feet. The minimum lot area requirement is 10,000 sq. ft.
5. The Board notified Town departments, boards and committees of this application.
6. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal's files and listed in Section V. of this Decision.

## **II. TESTIMONY**

Jamie Fisher, of I.D. Sign Group, was present via Zoom to represent Shaw's Medway. The applicant is seeking a variance under Section 7.2.5.B.1 and Table 5 Multi-Tenant Development, Individual Establishment Wall Sign to install another wall sign at Shaw's Supermarket which will exceed the limit of signs and square footage allowed by the Zoning Bylaw. Mr. Fisher stated that the entire sign being requested is 17.5 square feet, and the existing Shaw's letter sign is 177 square feet, and the remaining existing signs on the storefront (such as "Produce", etc.) are 28 square feet. The sign would only be illuminated during Shaw's hours and would be internally illuminated. Mr. Fisher explained that the purpose of the program is that customers drive to the store and park in a designated parking spot, not in front of the store under the proposed sign location. Mr. Fisher noted that the program has been occurring without the sign, and that the sign is mainly to make the customers aware that the program exists. There is no curbside pick-up.

Mr. White discussed the hardship with the Mr. Fisher regarding the difficulties of rolling out the contactless service, which is a public benefit during the COVID 19 pandemic. Without the signage, many patrons do not know of the service.

Mr. White and the Board reviewed the variance criteria and agreed that the application meets the variance decision requirements, based on the materials provided and testimony. With respect to criterion number 1, the unique shape and topography of the Medway Commons site tends to hide the building and the signage, especially because the building does not face Main Street and is

located behind other buildings. Criterion number 2 is met because there is a hardship in informing the public about this service which is important during the current pandemic. The proposed sign is consistent with the public good by notifying the public of this important service and would not nullify the purpose of the zoning by-law, because this business is in a commercial area, the signage is similar to that for all Shaw's stores, and the sign will not change the character of the Town.

### **III. FINDINGS**

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A, as amended, and by the Medway Zoning Bylaw. The Board also considered evidence and testimony presented at the public hearing.

#### **A. Section 6.1 Variance Criteria**

1. Whether there are circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;

**The Board found that due to the unique topography of the lot, the location of the structure within the Medway Commons, and the fact the building does not face the street, are unique circumstances.**

2. As a result of which, a literal enforcement of the provisions of the zoning Bylaw would involve substantial hardship, financial or otherwise, to the applicant, and

**The Board found that the literal enforcement of the zoning by-law regarding signs would prevent the public from being knowledgeable about a service that would benefit the public good during the COVID-19 pandemic, creating a hardship.**

3. Desirable relief may be granted without substantial detriment to the public good, and

**The Board found that there is no substantial detriment to the public good because the sign would make the public aware of a useful service which promotes the public good, and the additional signage is in a commercial area with no impact on residences.**

4. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

**The Board found that this criterion is met where this is a commercial zoning district and does not impact residential areas.**

**The Board finds that the Applicant has demonstrated through evidence submitted, including the plot plan, the proposed pictures of the site, review of the square footage and usage of the proposed property, that it has met all the required Variance Decision Criteria under Section 6.1.**

#### IV. CONDITIONS OF APPROVAL

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board hereby **GRANTS** the Applicant, I.D. Sign Group, Inc., a **VARIANCE** under Section 7.2.5.B.1 of the Zoning Bylaw, and Table 5, Multi-Tenant Development, Individual Establishment Wall Sign, to install another wall sign at Shaw's Supermarket, located at 65 Main Street (Parcel ID: 41-023), subject to the following **CONDITIONS**.

1. "No Parking" signs must be added to the front of the building on the columns underneath the placement of the "Drive Up & Go" sign, to indicate that there shall be no curbside pickup.
2. This variance is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the variance that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a new request.
3. Any work or use that deviates from this Decision may be a violation of the Medway Zoning Bylaw. All conditions imposed by this Decision are mandatory, and any violation of a condition imposed by this decision may be a violation of the Medway Zoning Bylaw. Any violations of this Decision may prevent the issuance of a building permit and/or occupancy permit, or result in the issuance of a cease and desist order, noncriminal penalties, or fines, as further provided in Section 3.1 of the Zoning Bylaw. Please note that Section 3.1.F of the Zoning Bylaw provides:
  1. Anyone who violates a provision of this Zoning Bylaw, or any condition of a variance, site plan review decision or special permit, shall be punishable by a fine of not more than three hundred dollars for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.
  2. As an alternative means of enforcement, the Building Commissioner may impose noncriminal penalties pursuant to G.L. c. 40, § 21D and Article XX of the Town's General Bylaws, in accordance with the following schedule:
    - First offense: warning (verbal or written)
    - Second offense: one hundred dollars
    - Third offense: two hundred dollars
    - Fourth and each subsequent offense per violation: three hundred dollars
4. Pursuant to G.L. c. 40A, §10: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the

expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.”

## **V. INDEX OF DOCUMENTS**

A. The application included the following plans and information that were provided to the Board at the time the application was filed:

1. Application dated September 24, 2021
2. Plan entitled “Sign Type: Drive Up & Go Signage” dated 2/16/21, prepared by I.D. Sign Group, Inc. (the Plan).

B. During the course of the review, the following additional materials were submitted to the Board.

1. Email from Debbie Collins requesting an Amendment to the Variance to include Table 5 of the Zoning Bylaw, dated September 29, 2021.
2. Email from Debbie Collins confirming the square footage of the existing wall signs, dated October 14, 2021.
3. Prior signage application from 65 Main Street, dated 2016.
4. Memorandum submitted by the Planning and Economic Development Board, dated October 19, 2021.

## VI. VOTE OF THE BOARD

By a vote of 4 to 0 on a motion made by Rori Stumpf and seconded by Christina Oster, the Zoning Board of Appeals hereby **GRANTS** the Applicant, I.D. Sign Group, Inc., a **VARIANCE** under Section 7.2.5.B.1 of the Zoning Bylaw, and Table 5, Multi-Tenant Development, Individual Establishment Wall Sign, to install another wall sign on property located at 65 Main Street (Parcel ID: 41-023), in accordance with the application and Plan provided and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	Aye	_____
Rori Stumpf	Aye	_____
Christina Oster	Aye	_____
Tom Emero	Aye	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in General Laws, chapter 40A, section 15.


Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within 20 days after the filing of this notice in the office of the Medway Town Clerk.

In accordance with Massachusetts General Laws, chapter 40A, Section 11, no variance shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk, that twenty days have elapsed after the Decision has been filed in the Office of the Town Clerk and no appeal has been filed within said twenty day period or that any duly filed appeal has been dismissed or denied The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

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## VI. VOTE OF THE BOARD

By a vote of 4 to 0 on a motion made by Rori Stumpf and seconded by Christina Oster, the Zoning Board of Appeals hereby **GRANTS** the Applicant, I.D. Sign Group, Inc., a **VARIANCE** under Section 7.2.5.B.1 of the Zoning Bylaw, and Table 5, Multi-Tenant Development, Individual Establishment Wall Sign, to install another wall sign on property located at 65 Main Street (Parcel ID: 41-023), in accordance with the application and Plan provided and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	Aye	
Rori Stumpf	Aye	
Christina Oster	Aye	
Tom Emero	Aye	

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in General Laws, chapter 40A, section 15.

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