

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member



Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 321-4890
zoning@townofmedway.org

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
VARIANCE-SIGN
67C MAIN STREET

Applicant(s): Charbel Tabet

Location of Property: 67C Main Street (Assessor Parcel ID: 41-023-067C).

Approval Requested: The application is for the issuance of a **variance** under Section 7.2.5 to install a wall sign at Supreme Pizza which will exceed the limit of square footage allowed by the Zoning Bylaw.

Members Participating: Brian White, Chair; Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Tom Emero, Member

Members Voting: Brian White, Chair; Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Tom Emero, Member

Date of Decision: April 5, 2023

Decision: **GRANTED WITH CONDITIONS**

I. PROCEDURAL HISTORY

1. On March 8, 2023, the Applicants filed for the issuance of a **variance** under Section 7.2.5. of the Zoning Bylaw.
2. Notice of the public hearing was published in the Milford Daily News on March 22, 2023, and March 29, 2023, 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 April 5, 2023. 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.

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RECEIVED TOWN CLERK
APR 11 '23 AM 10:04

DECISION
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20 Day Appeal
May 1, 2023

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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

The applicant was present to discuss the application and explained that they are requesting a variance for the size of the sign, as the existing sign for the old location of the restaurant is 18 sq. ft., but the Zoning Bylaw permits the new location to have a 16 sq. ft. sign.

Mr. Phenegar clarified that this was the same sign from the previous location, just being moved down to the new unit. Mr. White asked how long the sign was at the previous location, the applicant estimated it was there for about 15 years. Mr. White stated there were no notes from the Town that there were no prior issues with the sign while it was at the old location. The Board had no further comments.

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 shape and frontage of the structure, the Zoning Bylaw permits 16 sq. ft. of signage, but the applicant has an existing 18 sq. ft. sign used in the previous location.

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 applicant from using the existing sign from the previous location, causing them to spend more money to have a new sign made.

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 is existing and will identify the new location of Supreme Pizza. The existing sign is only 2 sq. ft. larger than the bylaw regulations state.

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, Charbel Tabet, a **VARIANCE** under Section 7.2.5 of the Zoning Bylaw, to install an 18 sq.ft. wall sign at Supreme Pizza as proposed, which will exceed the limit of square footage allowed by the Zoning Bylaw, located at 67C Main Street (Parcel ID: 41-023-067C), subject to the following **CONDITIONS**.

1. 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.
2. 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 March 8, 2023.
2. Rendering of the existing sign on the new location, undated.

VI. VOTE OF THE BOARD

By a vote of 4 to 0, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Charbel Tabet, a **VARIANCE** under Section 7.2.5 of the Zoning Bylaw to install an 18 square foot wall sign as proposed which will exceed the limit of square footage allowed by the Zoning Bylaw, on the property located at 67C Main Street (Parcel ID: 41-023-067C), in accordance with the application and description of the sign provided and subject to the **CONDITIONS** herein.

| Member: | Vote: | Signature: |
|-----------------|-------|------------|
| Brian White | Aye | _____ |
| Gibb Phenegar | 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.

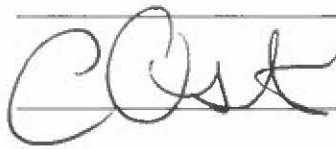
Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within 20 days after the filing of this notice in the office of the Medway Town Clerk.

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 and notification by the Applicant of the recording at the Norfolk Registry of Deeds, shall be furnished to the Board.

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| Member: | Vote: | Signature: |
|-----------------|-------|--|
| Brian White | Aye | _____ |
| Gibb Phenegar | Aye | _____ |
| Christina Oster | Aye |  _____ |
| Tom Emero | Aye | _____ |

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