

**BOROUGH OF NEW PROVIDENCE
PLANNING BOARD
NEW PROVIDENCE HOLDINGS, LLC**

RESOLUTION

WHEREAS, New Providence Holdings, LLC (the “Applicant”) is the owner of property located at 29 South Street, New Providence (Block 171, Lot 21 on the Tax Map), approximately 300 feet south of the intersection with Springfield Avenue, in the Central Commercial District (the “Site” or “Property”), and has applied to the Planning Board of the Borough of New Providence (the “Board”) for site plan approval and variance relief, in connection with the proposed installation of a freestanding sign at the Site; and

WHEREAS, the Applicant was represented by Brian D. Schwartz, Esq., of Craner, Satkin, Scheer & Schwartz, P.C.; and

WHEREAS, the Applicant served the required Notice of Public Hearing, filed proof of service in accordance with pertinent statutes, and gave public notice of the application by publication in the official newspaper of the Borough of New Providence; and

WHEREAS, the application was heard by the Board at a public hearing conducted on April 12, 2016, at which members of the public and interested parties had an opportunity to appear and be heard; and

WHEREAS, the Board Planner, Chris Dochney, P.P., A.I.C.P., and the Borough Construction Official, Keith Lynch, were duly sworn according to law; and

WHEREAS, the Board has examined, considered and placed on file with its record all of the exhibits submitted by the Applicant; and

WHEREAS, the Board does hereby make the following findings of fact and conclusions:

1. The Property is an approximately .62 acre lot, presently improved with a 3,900 square foot, two-story commercial structure, and surface parking lot. Three businesses, a doctor's office, dentist's office, and a hair salon/spa, presently occupy the building. The Property is surrounded by a variety of commercial uses.

2. The Applicant proposes to install a freestanding sign having a setback of approximately three (3) feet from the front property line. The sign is proposed to be 94 inches (7 feet, 10 inches) in height and 50 inches (4 feet, 2 inches) in width. No other changes are proposed for the existing building or parking lot at this time.

3. The Applicant's proposal is depicted on a Plot Plan prepared by James R. Watson, P.L.S., P.P., of EKA Associates, P.A., dated December 22, 2015, unrevised, same consisting of one page. The Plot Plan also includes a proposed rendering of the sign. A larger colorized version of the rendering, which was prepared by Loumarc Signs, dated March 30, 2015, and last revised July 30, 2015, was also included with the application.

4. The Site is located in the CCD (Central Commercial District). The Applicant seeks site plan approval and variance relief for a proposed freestanding sign setback of approximately three (3) feet from the front property line, whereas Section 310-33.L(1)(b) of the Zoning Ordinance requires a minimum setback of ten (10) feet from any property line.

5. James R. Watson, P.L.S., P.P., of EKA Associates, P.A., having a business address of 328 Park Avenue, Scotch Plains, New Jersey, was duly sworn according to law, provided his credentials and was accepted by the Board as an expert in both the fields of land surveying and professional planning.

6. Mr. Watson testified that the Property was irregularly shaped and that the majority of the Property was used as a surface parking lot. He stated that the Applicant proposed

to install a freestanding sign approximately three (3) feet from the front property line. Mr.

Watson opined that while it might be possible to increase the setback by a few feet, the proposed location constituted a better planning alternative as the sign would be centered between the right-of-way and the building. He opined that centering the sign was more aesthetically pleasing to both pedestrians and motorists.

7. Mr. Watson testified that the proposed sign was 94 inches by 50 inches. The sign would be navy blue background with white lettering and some gray interspersed. After discussion with the Board, the Applicant stipulated, as a condition of approval, to redesigning the sign such that the street number would be larger and more visible, with the ultimate size of the street number being subject to the review and approval of the Borough Construction Official.

8. The Applicant stipulated, as a condition of approval, that the existing wall signs would be removed. The Applicant further stipulated, as conditions of approval, to installing only low-level LED lighting facing the sign with the appropriate shielding, and ensuring that same would be properly fastened so as not to become out of focus, and that there would not be any internal lighting of the sign, subject to the review and approval of the Borough Construction Official.

9. Mr. Watson testified that, in his opinion as a planner, the Applicant demonstrated the requirements for c(2) variance relief. Mr. Watson further testified that if the Applicant was constrained to conform with the setback requirement, the sign would be located such that it would be behind the building rendering it ineffective.

10. As to the positive criteria, he opined that the proposal advanced the purposes of the Municipal Land Use Law and referenced N.J.S.A. 40:55D-2 subsections (b), (c), and (i) in that the proposal secured safety from fire, flood, panic and other natural and man-made disasters,

provided adequate light, air, and open space, and provided a desirable visual environment, respectively. He emphasized that the traffic safety impact of the sign which would serve to highlight the entrance to the business parking lot for customers/patients trying to find same. Mr. Watson also emphasized the benefit of having one two-sided sign to minimize disturbance at the Site. He also identified several nearby businesses with freestanding signs located less than 10 feet from their respective front property lines.

11. As to the negative criteria, Mr. Watson opined that there would be neither a substantial detriment to the public good, nor a substantial impairment of the purpose of the zone plan and zoning ordinance. In this regard, Mr. Watson testified that the location of the sign did not interfere with the sight lines of motorists or pedestrians. He further testified that the sign was not out of character with the adjacent properties, as there were multiple other nonconforming sign setbacks along the street. As to substantial impairment of the zone plan, Mr. Watson opined that the proposal advanced the goals of the Borough's recent Master Plans, as referenced in the 2009 Master Plan Reexamination Report.

12. As to comments set forth in the March 30, 2016 Memorandum of Susan S. Gruel, P.P., and Chris Dochney, P.P., A.I.C.P., the Applicant stipulated, as a condition of approval, to complying with all of the requests set forth therein. The Applicant confirmed that no additional changes were proposed, aside from the removal of shrubs (Comments 1 and 8), that the existing wall signs located on the building to the right of the entrance would be removed (Comment 4), that no sight triangles were impacted (Comment 6), and that the height of the sign would comply with the sign ordinance such that it would be less than 10 feet in height (Comment 7).

13. Dr. Cavazos, having a business address of 29 South Street, New Providence (one of the tenants), was duly sworn according to law. Dr. Cavazos suggested that it was unnecessary

to impose a mandatory shut-off time for the sign lighting as he often entertained house calls at night.

14. No member of the public commented on, or objected to, the application.

15. After reviewing the testimonial and documentary evidence presented and based thereon, the Board, by a vote of 7 to 0, finds that the Applicant has satisfied its burden of proving its entitlement to site plan approval, and to variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) for the proposed freestanding sign setback deviation, as aforesaid.

16. The Board finds that the Applicant has satisfied the positive criteria for c(2) variance relief by meeting its burden of demonstrating that the purposes of the Municipal Land Use Law will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh any detriments associated therewith. The Board accepts the testimony of Mr. Watson and agrees that the proposal advances the purposes of the Municipal Land Use Law, specifically with respect to traffic safety. Moreover, the Board believes that the stipulated conditions, as set forth below, should mitigate any detriments associated with the deficient sign setback.

17. The Board further finds that the Applicant has satisfied the negative criteria, that is, it has demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance. As to the substantial detriment prong of the negative criteria, the Board considers that the proposed sign location is more aesthetically pleasing and effective from a traffic safety standpoint than a conforming location, and that the deficient setback would not impact vehicular or pedestrian sight lines. This finding is supported by the lack of any public opposition to the development application. Moreover, the Board finds that the variance relief

does not impair the intent of the zone plan and zoning ordinance. Indeed, same is consistent with certain provisions stated therein.

WHEREAS, the Board took action on this application at its meeting on April 12, 2016, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of New Providence, on the 15th day of May, 2016, that the application of New Providence Holdings, LLC, for site plan approval and variance relief, as aforesaid, be, and is hereby, granted, subject to the following conditions:

- (1) The Applicant shall post sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account;
- (2) The Applicant shall redesign the sign such that the street number is larger and the size of the street number shall be subject to the review and approval of the Borough Construction Official;
- (3) The Applicant shall install low-level LED lighting facing the sign with the appropriate shielding, and ensure that same is properly fastened so as not to become out of focus;
- (4) The proposed freestanding sign shall not be internally lit;
- (5) The Applicant shall remove the existing wall signs on the building;
- (6) The sign shall be installed strictly in accordance with the plans and testimony presented to the Board and any conditions testified to during the hearing, even if not specifically set forth herein, shall apply thereto;
- (7) The Applicant shall post all performance and maintenance guarantees required, if any, by the Borough Engineer and shall pay all taxes, escrows and fees to the Borough official and shall obtain any necessary municipal governmental approvals;
- (8) The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein;

- (9) The Applicant shall comply with all Federal, State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State;
- (10) Pursuant to Section 291-9H of the Land Use Procedures Ordinance and Ordinance No. 2011-20(O)(3), the site plan and variance relief granted herein shall expire unless such alterations permitted by said relief has actually commenced within six (6) months of the adoption of this Resolution; and
- (11) All notes included in the approved plans, including any notes required by this Resolution, shall be deemed to be conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

ROLL CALL VOTE:

Those in Favor: Mr. Kapner, Mr. Keane and Mr. Sartorius

Those Opposed: -----

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of New Providence at its meeting of May 10,, 2016.

Approved this 10th day of May, 2016.

Margaret Koontz
Margaret Koontz, Secretary

Robert K. Lesnewich
Robert K. Lesnewich, Chairman

John F. Keane, vice chair