

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

NAME: Brian A. Chipman
ADDRESS: 151 Hosley Road, Gardner, MA 01440

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CITY CLERK'S OFFICE
GARDNER MA

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON

49 Cross Street

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

BOOK 42790 PAGE 363

ON APPLICATION DATED April 14, 2014 FOR A Variance TO:
Install an awning sign at 49 Cross Street, Gardner, MA. Parcel ID #R27-23-44 owned by Maverick Realty, LLC, 38 Exchange Street, Athol, MA. (Denied a building permit by the Building Commissioner because it does not comply with Chapter 675, Section 675-950, in Single Family Residential 1 zoning district, of the Gardner City Code.)

The Zoning Board of Appeals at its May 20, 2014 meeting voted unanimously to deny the Variance to Brian A. Chipman to install an awning sign at Parcel ID #R27-23-44 at 49 Cross Street, Gardner, MA 01440.

The Public Hearing was held on May 20, 2014.

The Applicant proposes to install a sign 30" high x 460" wide. The subject property is a dental office located on Cross Street which abuts residential properties to the east and west and the Sauter School to the South. On April 12, 2010, this Board granted the Applicant a Variance to enlarge the building for an expanding dental practice. The sign was not proposed to be directly illuminated although there exists soffit lights that would be behind the proposed cloth awning sign that if illuminated would backlight the awning signage.

At the public hearing, the Applicant addressed the three conditions for granting a variance.

The sign would not create or aggravate a safety hazard. The awing sign would create greater visibility for patients to locate the practice.

The proposed sign does derogate from the intent of the ordinance but the Applicant felt that the sign was necessary to properly identify the business.

The Applicant believed that the topography of the lot and the location of the dental practice created a hardship in that there were no other suitable locations for signage. Prior to submitting an awning sign, the Applicant considered a pylon type sign and other type signage for the practice.

Chipman...dec
#14-05-2

In reviewing the application, the Board noted a condition in the original Variance for the expansion of the building required that the signage shall comply with the Ordinance. It was also noted that the existing sign installed in the building was not in compliance with the Ordinance. In discussion and consideration for this sign, the Board considered the location of this building and its proximity to the neighbors and the neighborhood. The Board determined that the requested awning sign was excessive and did not maintain the character of a Single Family Residential I district.

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 2nd DAY OF June, 2014

<u>Randall W. Heglin</u> <i>dk</i>	<u>Michael D. Gerry</u> <i>dk</i>	<u>Anthony J. Asmar</u> <i>dk</i>
Randall W. Heglin, Acting Chairman	Michael D. Gerry, Clerk	Anthony J. Asmar, 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 _____ 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.

Dated

Alan L. Agnelli, City Clerk