

COMMONWEALTH OF MASSACHUSETTS  
CITY OF GARDNER  
ZONING BOARD OF APPEALS  
DECISION

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CITY CLERK'S OFFICE  
GARDNER MA

NAME: Nichols Square, LLC  
ADDRESS: 232 Sherman Street, Gardner, MA 01440

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

560 Main Street

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

BOOK 47869 PAGE 40

ON APPLICATION DATED June 14, 2012 FOR A **Variance** TO:  
Install 466 square feet of exterior wall signage at Price Chopper, 560 Main Street, Gardner, MA (Parcel ID R22/17/25). Denied a building permit by the Building Commissioner because it does not comply with Section 9, #916 Signs Permitted in the Commercial or Industrial Districts, subsection 1, in Industrial 1 Zoning District, of the Gardner Zoning Ordinance.

The Gardner Zoning Board of Appeals at its August 21, 2012 meeting voted unanimously to grant with condition a Variance to install wall signage at 560 Main Street, Gardner, MA.

The Applicant seeks a Variance from the provisions of Section 916 of the City of Gardner Zoning Ordinance which limits the height and square foot area of wall signage that is able to be utilized at the property. The Applicant seeks a Variance to install the following signs as indicated on the plan of record dated 1/27/12 and on file with the Board:

<u>Type</u>	<u>Size</u>	<u>Illuminated (Y/N)</u>	<u>Square Foot</u>
"Price Chopper"	124"x270"	Y (letters)	232.5
"Food & Pharmacy"	24"x192"	Y (internally)	32.0
"24 Hours"	4' round	Y (internally)	12.6
Pharmacy Rx Within"	4' round	Y (internally)	12.6
Florist	22"x96"	N	14.7
Seafood	22"x96"	N	14.7
Bakery	22"x96"	N	14.7

Deli	22"x96"	N	14.7
Produce	22"x96"	N	14.7
Custom Meat	22"x168"	N	25.7
Bottle Return	22"x168"	N	25.7
Bagel Factory	22"x168"	N	25.7
Artisan Bakery	22"x168"	N	25.7
			466.0

- Permit the construction and utilization of thirteen (13) wall signs on the newly constructed Price Chopper retail food store which exceeds the total wall signs set forth in Section 916 of the Ordinance;
- To permit the total area of the proposed wall signs to be utilized with the newly constructed Price Chopper retail food store to total 466 square feet which is in excess of the 80 square feet total permitted by Section 916 (1) of the Ordinance

A Public Hearing was held on this application on July 17, 2012. The plans of record are a plan view of the proposed completed renovated store indicating the proposed signage and detailed sign layout plan. The plans of record are (1) prepared by A.T. Leonard & Associates titled "Proposed Mixed Use Development, Gardner [sic], Massachusetts for Blackpoint Realty, LLC," undated and (2) plan titled "Price Chopper #239, 560 Main Street, Gardner, MA," prepared by Signworks Neon Corp. and dated 1/27/12, and both are made a part of this application.

The granting of a Variance for installation of appropriate signage would not create or aggravate a safety hazard. The retail store is set back from Main Street by more than 350 feet. The proposed signage will provide adequate and necessary direction to identify the Price Chopper store and its various components. The proposed signage will provide customers with the necessary assistance to direct customers to the desired amenity. The store is intended to be open 24 hours a day. Should the hours of operation change, a condition for the granting of this Variance addresses the illumination of the signage. The Board also considered the light migration from the site and potentially affecting the residential abutters on Sherman Street. The Applicant provided to the Board a lighting analysis that was completed, reviewed, and approved by the Gardner Planning Board, at their meeting on August 14, 2012.

The granting of the Variance would derogate from the intent of the Zoning Ordinance. The proposed signage does not comply with the Ordinance. The signage desired by the Applicant is the current corporate standard for signage. The proposed signage, both illuminated and non-illuminated is proportional to the size and frontage of the building. A literal enforcement of the Ordinance would not allow the appropriate visual access and directional assistance necessary for the large retail store.

A hardship exists due to shape, topography or soil conditions of the property. The building sets back from Main & Sherman Streets more than 300 feet. The proposed signage is appropriately sized for the building and will provide adequate direction for customers visiting the retail store.

This Variance Application is for signage that is to be affixed to the building. Per conditions of the Gardner Planning Board, the Application for this Variance was reviewed and approved by the Gardner Planning Board at their meeting on August 14, 2012.

A Variance to install thirteen wall signs with total of 466 square feet is granted with the following condition:

- Should the hours of operation for the store change, the illumination of the signage to comply with the Zoning Ordinance.

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 23rd DAY OF August, 2012

*Raymond F. LaFond* dk  
Raymond F. LaFond, Chairman

*Randall W. Heglin* dk  
Randall W. Heglin, Clerk

*Michael D. Gerry* dk  
Michael D. Gerry, 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 August 23, 2012 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.

September 13, 2012  
Dated

*Alan L. Agnelli*  
Alan L. Agnelli, City Clerk