

IN RE: APPEAL OF McDONALD’S USA, LLC, RELATIVE TO A PROPERTY LOCATED AT 1001 N. NINTH STREET A/K/A 901 SPRING STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA	: BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2405-0012 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION
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**DECISION OF THE ZONING HEARING
 BOARD OF THE CITY OF READING**

AND NOW, this 10th day of July 2024, a hearing having been held on June 12, 2024, upon the application of the McDonald’s USA, LLC, notice of such hearing having first been sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is McDonald’s USA, LLC, an entity fully owned by McDonald’s Corporation, with a mailing address of 110 N. Carpenter Street, Chicago, IL 60607 (hereinafter referred to as the “Applicant”).
2. Applicant has a leasehold interest in the property located at 1001 N. Ninth Street a/k/a 901 Spring Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the “Subject Property”).
3. The fee simple owner of the Subject Property, McDonald’s Corporation, has granted Applicant permission to seek the requested relief.
4. Applicant was represented by Charles M. Suhr, Esquire, of Stevens & Lee, 17 N. Second Street, 16th Floor, Harrisburg, PA 17101.
5. The Subject Property is located in the CN – Commercial Neighborhood Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).

6. The Subject Property is an approximately ±0.61 acre tract of land and is currently developed with a ±3,527 square foot McDonald's restaurant with a drive-thru facility.

7. Applicant is proposing to redevelop the Subject Property with a new ±4,311 square foot restaurant with a reconfigured drive-thru facility.

8. A restaurant without a drive-thru facility is a permitted use in the CN Zoning District, therefore, the drive-thru facility at the Subject Property is a valid nonconforming use. See Zoning Ordinance Section 600-809(B)(s).

9. Applicant proposes a demolition and reconstruction of the drive-thru facility and is requesting a special exception pursuant to Zoning Ordinance Section 600-607(E)(1).

10. Applicant states the reconstruction of the drive-thru facility:

- a. will not substantially increase traffic congestion or create a traffic safety hazard;
- b. will not create an undue concentration of population;
- c. will not impair an adequate supply of light and air to adjacent properties;
- d. will not create a significant threat to the public health or safety; and
- e. will not be detrimental to the appropriate use of adjacent properties through the generation of significant nuisances or hazards.

11. Applicant seeks a special exception pursuant to Zoning Ordinance Section 600-1724; or in the alternative, a dimensional variance from Zoning Ordinance Section 600-1706(E) to allow freestanding directional signs to exceed 4 feet in height, and a Sign A to exceed 6 square feet in area.

12. The specific signs requested are as follows:

- a. Sign A (Double Gateway Clearance Sign) with a height of 11'2" and an area of 8.74 square feet;
- b. Sign C (Order Here Canopy Sign) with a height of 11'6" and an area of 1.24 square feet;
- c. Sign G (Roll Forward Parking Sign) with a height of 7' and an area of 4.6 square feet;

d. Sign K (Curbside Pickup Sign) with a height of 7' and an area of 4.6 square feet;
and

e. Sign L (McDelivery Courier Parking Sign) with a height of 7' and an area of 4.6 square feet.

13. Applicant states the heights and areas are necessary for the safe and efficient operation of the drive-thru facility.

14. Zoning Ordinance Section 600-1706(D) limits a property in the CN Zoning District to 1 freestanding sign per lot street frontage, not to exceed 16 feet and 32 square feet in area.

15. The Subject Property has frontage along 3 streets: North Ninth Street, Spring Street and Moss Street.

16. Applicant seeks a special exception pursuant to Zoning Ordinance Section 600-1725; or in the alternative, a dimensional variance from Zoning Ordinance Section 600-1706(D) to allow 5 freestanding signs with a Sign M to exceed 16 feet in height, and 32 square feet in area.

17. Applicant proposes the following 5 freestanding signs:

a. Sign B (Pre-Browse Menu Board) – 2 signs each 10.1 square feet in area and 6'6" in height.

b. Sign D (Menu Board) – 2 signs each 20 square feet in area and 6'6" in height.

c. Sign M (Next Gen Road Sign) – 1 sign 42.08 square feet in area and 20 feet in height.

18. Applicant states the requested signage represents a modest amount of signage at the Subject Property and is reduced from the typical sign package at existing and other proposed McDonald's sites.

19. Applicant states the proposed signage complements the new building design to offer a more "upscale" appearance of the building to complement the dining and drive-thru experience.

20. Applicant also requests dimensional variances from Zoning Ordinance Sections 600-1004(C), 600-1401(C), and 600-1402 to allow for reduction in the required buffer areas and vegetative screening.

21. Section 600-1004(C) requires a 10' buffer be located between a drive-thru lane and a residential property with screen installed within the 10' area. The current drive-thru lane is located less than 10' feet from the adjoining properties. Applicant proposes to maintain the current buffer width and additional screening will be added to supplement what is in place.

22. Section 600-1401(C) requires a 6' buffer be located along a public street where more than 8 parking spaces are proposed adjacent to the street. Currently there is a buffer strip of ± 3 feet located partially on the Subject Property and partially within the right-of-way of Spring Street (adjacent to the sidewalk). Applicant proposes to maintain the current buffer width and additional screening will be added to supplement what is in place.

23. Section 600-1401 requires that waste disposal areas be screened with plantings. The current dumpster enclosure at the northeast corner of the Subject Property is screened with fencing and/or walls but no vegetative screening is in place. Applicant proposes to reconstruct the dumpster in essentially the same area with fencing and/or walls but no vegetative screening.

24. Applicant states the proposed layout is necessary due to the irregular shaped lot with no area to expand.

25. There were no objections to the requested relief.

DISCUSSION

Applicant is seeking a special exception for the reconstruction of a nonconforming restaurant with drive-thru facility and signage; or in the alternative, variances for signage and a variance for buffer strips and screening. The proposed use of the Subject Property is in keeping with the spirit and intent of the Zoning Ordinance and will not be a detriment to the health, safety and welfare of the neighborhood or the zoning district in general.

CONCLUSIONS OF LAW

1. Applicant is McDonald's USA, LLC, an entity fully owned by McDonald's Corporation.
2. The Subject Property is located at 1001 N. Ninth Street a/k/a 901 Spring Street, in the City of Reading, Berks County, Pennsylvania.

3. The Subject Property is located in the CN – Commercial Neighborhood Zoning District.

4. Applicant is seeking a special exception for the reconstruction of a nonconforming restaurant with drive-thru facility and signage; or in the alternative, variances for signage and a variance for buffer strips and screening.

5. The Zoning Board is permitted to grant applications for special exceptions and variances as set forth under the relevant Sections of the Zoning Ordinance.

6. In order to grant the requested relief, the Applicant must show it has satisfied the relevant sections of the Zoning Ordinance.

7. The Zoning Board incorporates the findings of fact as though fully set forth at length herein.

8. After reviewing Applicant's request in detail, the Zoning Board enters the following decision:

a. Applicant is granted the requested special exception and variances subject to the following conditions:

(1) A Preliminary Land Development Plan, if necessary, shall be prepared to address the provisions required by the Subdivision and Land Development Ordinance (Chapter 515 of the City of Reading Code).

(2) A final land development must be recorded which depicts all screening, landscaping, buffer and parking areas which comply with all relevant provisions of the Zoning Ordinance for which relief has not been granted and which is duly approved by the City of Reading Planning Commission.

(3) All sanitary sewage disposal issues shall be resolved to the satisfaction of the City of Reading, including the reservation, permitting, installation and connection of the required sanitary sewage disposal improvements.

(4) All water supply issues shall be resolved to the satisfaction of the City of Reading, including the reservation, permitting, installation and connection of the required water supply improvements.

(5) A lighting plan must be submitted to the Zoning Administrator which demonstrates compliance with Sections 600-1602.M. and 600-912 of the Zoning Ordinance.

(6) If possible, Applicant should place some outdoor seating at the Subject Property.

(7) Applicant shall comply with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

(8) Applicant may not use, expand, alter or otherwise use the Subject Property inconsistent with the contents of this Decision without making application requesting further relief from the Zoning Board.

(9) Failure to comply with any of these conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 3 to 0 .

**ZONING HEARING BOARD OF THE CITY
OF READING**

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ William Harst

WILLIAM HARST

/s/ Jared Barcz

JARED BARCZ