

VILLAGE OF WAPPINGERS FALLS  
Offices of Planning/Zoning  
2582 South Avenue Wappingers Falls, NY 12590  
(845) 297-5277 Fax: (845) 296-0379

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**AGENDA OF THE ZONING BOARD OF APPEALS**

January 12, 2021

\*\*\*\*\*

**\*\*THIS MEETING WILL BE HELD ONLINE AND TELEPHONICALLY ONLY\*\***

**THERE WILL BE NO IN-PERSON PARTICIPATION  
BY THE BOARD OR THE PUBLIC.**

Until further notice, in accordance with Governor Cuomo's Executive Order 202.1, all Zoning Board of Appeals meetings will be held via videoconference utilizing the Webex platform. Each Board member will be participating remotely. There will not be an opportunity for the public to participate from the same location as a Board member. However, the public is welcome to view the videoconference contemporaneously by logging in to the Webex platform using the information below. There is also an option to participate by telephone for audio participation only. The meeting will be recorded and the recording will be posted on the Village website. A written transcript of the meeting also will be made available at a later date.

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the Village of Wappingers Falls will hold a public meeting on January 12, 2021, beginning at 7:00 p.m. via Webex.

The Webex participation information is as follows:

Meeting number (access code): 132 707 3669  
Meeting password: 7taMKNWJh69

You may also use this link: [Join meeting](#)

To join by phone please call: 1-408-418-9388

The agenda is as follows:

**ROLL CALL**

**STATEMENT OF COMPLIANCE BY THE CHAIR**

**APPROVAL OF DECEMBER 8, 2020 MINUTES**

## **PUBLIC HEARINGS**

### **McDONALD'S**

**1567 Route 9 (Grid #6158-19-527150-0002) – Ormater Development Corp. (Owner); McDonald's Corporation (Applicant); Keith P. Brown, Esq. – Brown Altman & DiLeo, LLP (Attorney) – Interpretation.**

This property is located in the Commercial Mixed Use (CMU) zoning district. The applicant is seeking an interpretation of §151-25(C)(7) of the Village Zoning Code, specifically, that its proposed digital pre-browse and menu boards, which change 3 times per day, do not fall within that section of the Code which provides that "Signs with flashing, blinking, intermittent, or moving lights, or any artificial light which does not maintain stationary and constant intensity and color at all times, except signs displaying time and/or temperature" are prohibited. In the alternative, the applicant is seeking rehearing of the denial of its prior application to the ZBA.

### **DOWNEY AVENUE**

**Downey Avenue (Grid #6158-13-199440) – Daniel E. Garay, Jr. (Owner and Applicant) – Area Variance.**

This property is located in the Residential (R) zoning district. The applicant is seeking a variance from Table 2A of §151 of the Village Code to permit an existing foundation to remain in place having a side yard setback for the northwest corner of the structure to be 7 feet, 1 inch where 8 feet is mandated, therefore, requiring a variance of 11 inches.



# VILLAGE OF WAPPINGERS FALLS

BUILDING DEPARTMENT OFFICE OF CODE  
ENFORCEMENT OFFICE OF THE FIRE INSPECTOR  
2582 SOUTH AVENUE  
WAPPINGERS FALLS, NY 12590  
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## ZONING BOARD OF APPEALS INTERPRETATION

Name of Project McDonald's - Wappingers Falls

Name of Applicant McDonald's Corporation

Address 110 North Carpenter Street, Chicago, IL 60607

Telephone (516) 222-0222

Name and Address of Record Owner Ormater Development Corp.  
25 Van Wagner Road, Poughkeepsie, NY 12603

Name and Address of Attorney Keith P. Brown, Esq. - Brown & Altman, LLP, 538 Broadhollow Rd., Ste. 301 W  
or Professional Representative Melville, NY 11747

Telephone (516) 222-0222

Street Address of all Parcels 1567 Route 9, Wappingers Falls, NY 12590

Tax Map Number of all Parcels 6158 -- 19 -- 527150

Zoning District Commercial Mixed Use

Have any permits affecting the property been issued by any other governmental agency? \_\_\_\_\_  
NO  YES  If yes, please list in detail (attach separate pages if necessary)

Has any application(s) for any other permit(s) for any activity affecting the property been submitted to any other governmental agency? No  Yes  If yes, please list in detail (attach separated pages if necessary?)

Code Section or Determination sought to be interpreted: See attached Exhibit "A" annexed hereto and made a part hereof.

Description of Reason for the Requested Interpretation: (Attach additional pages as necessary)

See attached Exhibit "A" annexed hereto and made a part herof  
Ormater Development Corp.

Signature By: [Signature] Date 24 NOV 20  
Name: SEAN TINKERMAN  
Title: ALYDIA

## Exhibit "A"

The Applicant seeks to redevelop its existing drive-through facility at the property located at 1567 Route 9, Wappingers Falls (the "Property") by installing digital pre-browse and digital menu boards (the "Digital Boards"). The Digital Boards will be located at the rear of the Property and will not be visible to passersby along Route 9. In addition, the proposed Digital Boards will be screened by an extensive landscaped buffer between the Property and the properties to its rear.

The Digital Boards include LED screens that change three (3) times per day based on the Applicant's restaurant's menu offerings. During business hours, the menu board will change its display from the breakfast menu to the lunch menu, followed by the lunch menu to the dinner menu. (During the early morning hours, the menu board will change from the dinner menu to the breakfast menu).

The current, existing, "static poster" boards installed at the Property's drive-through facility require an employee of the Applicant to manually change the breakfast, lunch and dinner menus. The present system exposes employees to the obvious danger of having to change the menu board display during periods where there are vehicles in the drive-through queueing lane. In addition, McDonald's is in the process of phasing out the existing static poster menu boards and will no longer support the same shortly.

The LED Digital Boards function similar to a computer screen that provides patrons with its menu offerings. Importantly, the Digital Boards do not flash, blink or having moving lights. Other than the three (3) menu changes per day, the Digital Boards are static and present no distraction to the public. After five (5) minutes of none-use, the Digital Board screen turns off. However, this gives the appearance that the restaurant and drive-through are closed and is not good for business. As a matter of safety, the Digital Boards eliminate the risk of having an employee change the menu offerings while there are vehicles in the drive-through queue.

We note that digital signs that intermittently flash and/or change its display with frequency present a significant distraction to motorists that municipalities regulate through its zoning codes for the public health and safety. Pursuant to the Village Code, the purpose of Article VII (Signs) is "to promote and protect the public health, safety, and welfare by regulating signs of all types. It is intended to encourage the use of signs as a means of communication, *protect pedestrian and vehicular safety, protect property values*, protect and enhance the aesthetic environment, enhance the Village's historic character and improve the Village's ability to attract sources of economic development." Village Code § 151-25(A) (emphasis added). In furtherance's of the Village's interest in, among other things, pedestrian and vehicular safety and to protect property values, the Village prohibits "[s]igns with flashing, blinking, intermittent, or moving lights, or any artificial light which does not maintain stationary and constant intensity and color at all times." Village Code § 151-25(C)(7).



We respectfully submit that menu boards that merely present food offerings, are not visible from the public roadway and are shielded from neighboring properties by extensive landscaping are not the type of signs the Village intended on regulating through Village Code § 151-26(C)(7). Further, digital menu boards that are shielded from the roadway and surrounding properties do present a risk to pedestrian and motorist safety that the Village intended on protecting through Article VII zoning code.

In addition, the digital menu boards that are subject to this Interpretation Application will be shielded from the public roadway as they will be situated behind the McDonald's restaurant and will be shielded from neighboring properties through an extensive landscape buffer. The impact, if any, to the value of surrounding properties or to the aesthetic character to the Village will be de minimus. We submit that Article VII of the Village Code does not seek to regulate this type of legitimate business activity that will not impact the character of the neighborhood or cause a detriment to the Village aesthetics.

Further, it should be noted that the instant LED digital menu boards do not present a risk to the public welfare and furthers the Village's stated purpose of attracting sources of economic development.

We respectfully request that the Zoning Board of Appeals provide an interpretation as to whether the Applicant's LED Digital Boards, which are shielded from the public view and do not present a danger to pedestrian or motorist safety, are the type of signs the Village intended on regulating through Village Code § 151-26(C)(7).

**AFFIDAVIT TO BE COMPLETED BY OWNER**

State of New York }  
County of Dutchess } ss:

Steven Tinkelman being duly sworn, deposes and says:

1. That I/we are the Owner(s) of the within property as described in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize Brown & Altman, LLP, to act as my/our representative in all matters regarding said application(s), and that I/we have the legal right to make or authorize the making of said application.
3. That I/we understand that by submitting this application for Zoning Board of Appeals approval that I/we expressly grant permission to the Zoning Board of Appeals and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Zoning Board of Appeals action.
4. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
5. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Zoning Board of Appeals, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Wappingers Falls, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
6. That I/we understand that the Zoning Board of Appeals intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we have examined this affidavit and that it is true and correct.

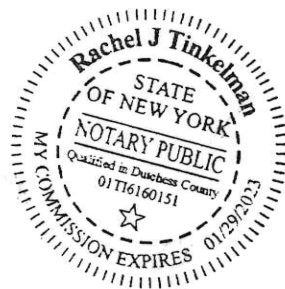
Ormater Development Corp.

By: [Signature]  
Applicant/Owner

Name: Steven Tinkelman  
Title: Attorney

[Signature]  
Notary Public

\_\_\_\_\_  
Applicant/Owner



CERTIFICATE OF AUTHORIZATION

The undersigned, Ormater Development Corp., certifies that s/he is VPRESIDENT of Ormater Development Corp., and further certifies as follows:

STEVE TINKELMAN is and has been a duly authorized PRESIDENT of Ormater Development Corp., with authority to execute and deliver agreements binding Ormater Development Corp.; and to perform such acts as may be legally, properly and reasonably required or necessary relating to the proposed development of the McDonald's restaurant and accessory drive-through, located at 1567 Route 9, Wappingers Falls, New York 12590; Tax Map Number: 6158-19-527150

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Authorization this 24 day of NOVEMBER, 2020.

Ormater Development Corp.

By: [Signature]  
Name: STEVE TINKELMAN  
Title: PRESIDENT

Sworn to me before this the 24th day of November, 2020

[Signature]  
Notary Public





**AFFIDAVIT TO BE COMPLETED BY OWNER**

State of IL }  
County of COOK } ss:

Brian T. Sheedy being duly sworn, deposes and says:

1. That I/we are the Owner(s) of the within property as described in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize Brown & Altman, LLP, to act as my/our representative in all matters regarding said application(s), and that I/we have the legal right to make or authorize the making of said application.
3. That I/we understand that by submitting this application for Zoning Board of Appeals approval that I/we expressly grant permission to the Zoning Board of Appeals and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Zoning Board of Appeals action.
4. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
5. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Zoning Board of Appeals, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Wappingers Falls, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
6. That I/we understand that the Zoning Board of Appeals intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we have examined this affidavit and that it is true and correct.

McDonald's Corporation

By: Brian T. Sheedy 10/14/2020  
Applicant/Owner

Applicant/Owner

Name: Brian T. Sheedy  
Title: Senior Counsel

[Signature]  
Notary Public





## CERTIFICATE OF AUTHORIZATION

The undersigned, Brian T. Sheedy, certifies that he is Senior Counsel of McDonald's Corporation, and further certifies as follows:

Brian T. Sheedy is and has been a duly authorized Senior Counsel of McDonald's Corporation, with authority to execute and deliver agreements binding McDonald's Corporation; and to perform such acts as may be legally, properly and reasonably required or necessary relating to the proposed development of the McDonald's restaurant and accessory drive-through, located at 1567 Route 9, Wappingers Falls, New York 12590; Tax Map Number: 6158-19-527150

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Authorization this 14<sup>th</sup> day of October, 2020.

McDonald's Corporation

By: Brian Sheedy  
Name: Brian T. Sheedy  
Title: Senior Counsel

Sworn to me before this the  
14<sup>th</sup> day of October, 2020

[Signature]  
Notary Public



VILLAGE OF WAPPINGERS FALLS  
ZONING BOARD OF APPEALS

-----X  
In the Matter of the Application of

MCDONALD'S CORPORATION,

Applicant,

TO INTERPRET THE MEANING AND INTENT OF  
VILLAGE CODE § 151-25(C)(7) AND VILLAGE CODE  
§ 151-61 AS IT APPLIES TO REAR FACING OUTDOOR  
DIGITAL MENU BOARDS FOR A DRIVE-THRU  
FACILITY.

-----X  

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**MEMORANDUM OF LAW IN FURTHER SUPPORT OF  
INTERPRETATION APPLICATION**

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**BROWN ALTMAN & DILEO, LLP**

By: Keith P. Brown, Esq.

Attorneys for the Applicant

538 Broadhollow Road, Suite 301W

Melville, New York 11747

(516) 222-0222 telephone

(516) 222-0322 facsimile

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### Exhibits

Exhibit “A”	December 4, 2020 ZBA Interpretation Application Submission
Exhibit “B”	Digital Board Rendering
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## **I. PRELIMINARY STATEMENT**

This Memorandum of Law is submitted in support of the Applicant, McDonald's Corporation ("McDonald's") by its attorneys, Brown Altman & DiLeo, LLP to the Village of Wappingers Falls ("Village") Zoning Board of Appeals ("ZBA") to interpret and construct the meaning of Village Code § 151-25(C)(7) as it applies to the outdoor LED digital menu boards and pre-browse boards (collectively, the "Digital Boards") for the drive-thru facility (the "Application") at the McDonald's restaurant located at 1567 Route 9, Wappingers Falls, New York (the "Premises").

The Applicant submits that the legislative intent of Village Code § 151-25(C)(7) is to prohibit signs with "flashing, blinking, intermittent or moving lights" located on the roadway that distracts motorists and jeopardizes the public health, safety and welfare. Village Code § 151-25(C)(7) is not intended to prohibit static rear facing LED menu boards that change its display three (3) times per day for breakfast, lunch and dinner, similar to the Digital Boards used by McDonald's.

The Digital Boards do not "flash," "blink" or have "intermittent lights." Further, the proposed Digital Boards are not located on the public roadway and do not distract motorists or jeopardize the public health, safety and welfare. Thus, the Digital Boards are permitted under the Village Code and do not fall within the scope of Village Code § 151-25(C)(7). It is respectfully submitted that a blanket prohibition against rear facing digital signs is arbitrary and capricious and does not comport with the purpose and intent of Village Code § 151-25(C)(7).

Further, the Digital Boards are not signs as defined by Village Code § 151-61. The rear facing Digital Boards are located behind the restaurant, cannot be viewed by the general public travelling along Route 9 and are not used to advertise or promote the McDonald's restaurant.

For the following reasons, and as more fully incorporated in this Memorandum of Law, the ZBA should grant this Application as the Digital Boards:

1. Do not flash, blink or contain imminent moving lights;
2. Are rear facing and will be located behind the existing McDonald's restaurant;
3. Will not distract motorists or pedestrians as they cannot be viewed from Route 9;
4. Only change its display three (3) times per day based on McDonald's food offerings to show the breakfast, lunch and dinner menus to patrons of the drive-thru facility;
5. Remove the need for a having a McDonald's employee change the existing "static poster" display during periods of operation where there are vehicles in the drive-thru queue;
6. Are not signs as defined by Village Code § 151-61 as the Digital Boards cannot be viewed by the general public nor do they promote or advertise the McDonald's restaurant at the Premises; and
7. Do not fall within the scope of Village Code § 151-25(A) as they present no risk to the public health, safety or welfare.

## **II. STATEMENT OF FACTS**

The Applicant incorporates the facts and arguments contained in Exhibit "A," filed with the Village ZBA on December 4, 2020, with the same force and affect as if more fully set forth herein at length. A copy of the December 4, 2020 submission is annexed hereto as **Exhibit "A"**.

As relevant to the instant Application, McDonald's seeks to replace its existing "static poster" boards used for the drive-thru with Digital Boards. The static boards, which are no longer supported by McDonald's Corporation and its vendors, require a McDonald's employee to manually change the breakfast, lunch and dinner menus. This presents an obvious danger as the

employee is required to change the “static poster” display during periods of operation where there are vehicles in the drive-thru queue. In comparison, the Digital Boards remove this risk to employee and motorist safety as the boards function like a computer screen, automatically changing its display three (3) times per day based on the McDonald’s restaurant’s menu offerings. The menu board display is automated and operated by a remote third party vendor, such that all McDonald’s restaurants digital menu boards change at the same time nationally. During business hours, the menu board will change its display from the breakfast menu to the lunch menu, followed by the lunch menu to the dinner menu. (During the early morning hours, the menu board will change from the dinner menu to the breakfast menu). Further, the Digital Boards are rear facing and will be situated at the rear of the McDonald’s restaurant behind the building to support the drive-thru. They will not be visible along Route 9 and will be screened by an extensive landscape buffer at the rear of the Premises. A rendering of the Digital Boards is annexed hereto as **Exhibit “B”** and manufacturer cut sheets depicting the Digital Boards is annexed hereto as **Exhibit “C”**. We ask that the ZBA take note that the Digital Board display is not readily visible to motorists and pedestrians along Route 9.

On or about March 2019, McDonald’s submitted an application to the Village ZBA seeking the following sign variance relief to improve the existing McDonald’s restaurant at the Premises:

1. To permit a total of thirteen (13) signs where Village Code § 151-25(J)(2) permits a maximum of three (3) signs;
2. To permit nine (9) freestanding signs where Village Code § 151-25(K)(2)(c)(1) permits a maximum of one (1) freestanding sign; and
3. To install Digital Boards for the drive-thru facility where Village Code § 151-25(C)(7) prohibits signs with flashing, blinking, intermittent or moving lights.



On or about March 8, 2019, the ZBA application was referred to the Dutchess County Planning and Development Commission (the “County”) for review. The County recommended, among other things, that the Village ZBA deny McDonald’s request to install the Digital Boards for the drive-thru. *See Exhibit “D”*. On or about May 14, 2019, the ZBA granted those branches of McDonald’s application for variance relief from the provisions contained in Village Code § § 151-25(J)(2) and 151-25(K)(2)(c)(1). The Village ZBA, following the County’s recommendation, denied that branch of McDonald’s area variance application for the Digital Boards. We note that the Village ZBA is permitted to override the County’s recommendation by a supermajority vote. NY Gen. Mun. Law § 239-m(5).

Thereafter, on or about September 6, 2019, the Village Planning Board (“PB”) granted McDonald’s site plan application. *See Exhibit “E”*. The final site plan approval required McDonald’s “to replace the proposed Digital Boards with non-digital alternatives which will be internally illuminated, which will be motion-sensor activated to automatically turn on when a car drives up and to automatically turn off when no vehicle is present in the drive-through lane for 5 minutes, and will not include video components.” *Id.*

On December 4, 2020, McDonald’s submitted an application to the Village ZBA seeking an interpretation that Village Code § 151-25(C)(7) does not apply to rear facing Digital Boards for the McDonald’s drive-thru facility. Unlike the McDonald’s Digital Boards, Village Code § 151-25(C)(7) prohibits:

Signs with flashing, blinking, intermittent, or moving lights, or any artificial light which does not maintain stationary and constant



intensity and color at all times, except signs displaying time and/or temperature.

As provided in McDonald's December 4, 2020 ZBA application, *see Exhibit "A"*, construing Village Code § 151-25(C)(7) to prohibit the rear facing Digital Boards does not give effect to the intent or purpose of the Village sign ordinance.

### **III. ARGUMENT**

New York Village Law § 7-712-a(4) charges a zoning board of appeals with the duty to interpret its zoning code. *See also Indian Rock, LLC v. Zoning Bd. of Appeals of Village of Airmont*, 287 A.D.2d 629 (2nd Dep't 2001) (ZBA charged to interpret the meaning of accessory parking provisions in its zoning code); *BBJ Associates, LLC v. Zoning Bd. of Appeals of Town of Kent*, 65 A.D.3d 154 (2nd Dep't 2009) (ZBA obligated to determine the meaning of statutes and definitions in the Town zoning code); Patricia Salkin, *New York Zoning Law and Practice* § 27.12 (4th ed. 2014). We note that zoning restrictions, "being in derogation of common-law property rights, should be strictly construed and any ambiguities are to be resolved in favor of the property owner." *BBJ Associates, LLC*, 65 A.D.3d at 159.

It is well settled that the primary objective when presented with an issue of statutory interpretation is to "give effect to the intention of the Legislature." *Walsh v. New York State Comptroller*, 34 N.Y.3d 520, 524 (2019); *Nadkos, Inc. v. Preferred Contrs. Ins. Co. Risk Retention Group LLC*, 34 N.Y.3d 1, 7 (2019); *BBJ Associates, LLC*, 65 A.D.3d at 157. The literal letter of the law is not to be followed when a statutory interpretation leads to "absurd, unjust or other objectionable results" that were never intended by the legislature. NY Stat § 113. To carry out the legislative intent, New York law grants courts the authority to "depart from [the statute's]

literal construction and will sustain the legislative intention although it is contrary to the literal letter of the statute.” NY Stat § 111; NY Stat § 112 (“The construction of various particular statutes illustrate the principle that literal language of an enactment is not always controlling and that the courts may depart from a literal construction in order to carry out the legislative intent.”); *Matter of Astman v. Kelly*, 2 N.Y.2d 567 (1957). Further, the plain language of a statute cannot be followed where it leads to conclusions “inconsistent with the general purpose of the statute or to consequences irreconcilable with its spirit and reason.” NY Stat § 111, com.; NY Stat § 113; *Matter of Astman*, 2 N.Y.2d at 572. In construing a statute, “each part of the statute is to be given meaning and be interpreted to avoid absurd results . . . and the various provisions of a statute [must be harmonized] with each other and with the general intent of the statute. *Matter of Anderson v. Bd. of Educ. of City of Yonkers*, 46 A.D.2d 360, 364-65 (2nd Dep’t 1974); NY Stat § 94.

**A. The Intent of Village Code § 151-25(C)(7) is to Prohibit Signs that Distract Motorists and Pedestrians on the Roadway**

Section 151-25(A) of the Village Zoning Code codifies the Village Board of Trustees intent and purpose of Article VII of the Village Code (the “Sign Ordinance”). The Village Code provides:

- A. Purpose. The Purpose of this section is to promote and protect the public health, safety, and welfare by regulating signs of all types. It is intended to encourage the use of signs as a means of communication, protect pedestrian and vehicular safety, protect property values, protect and enhance the aesthetic environment, enhance the Village historic character, and improve the Village’s ability to attract sources of economic development.

Village Code § 151-25(A). To carry out legislative intent, Village Code § 151-25(C)(7), *supra*, prohibits signs with flashing, blinking, intermittent and moving lights. Specifically, the Village Board of Trustees included Village Code § 151-25(C)(7) in the Sign Ordinance to protect the public from highly visible signs that distract motorists and jeopardizes the safety of pedestrians and motorists along the roadway. The proposed Digital Boards are not located on the roadway and are not a distraction.

The Village Board of Trustees purpose for adopting Village Code § 151-25(C)(7) is in harmony with Village Code § 151-25(A). We note that the legislative intent to protect motorists by prohibiting distracting roadway signs is consistent with the goals and intent of other municipalities throughout New York State. *See, e.g.*, Village of Valley Stream Zoning Code § 99-1704(A) (prohibiting illuminated signs from being “placed or so directed as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance”); Town of North Hempstead Zoning Code §70-197(K) (prohibiting signs that may “interfere with the vision or discernment of any traffic sign or which might cause danger to the public travel”); Town of Hempstead Building Zone Ordinance § 246(B) (prohibiting signs that obstruct the vision of pedestrian or vehicular traffic).

The aforementioned municipalities also contain zoning provisions similar to Village Code § 151-25(C)(7). For example, the Town of North Hempstead includes a zoning provision prohibiting signs that have “moving parts or any flashing, changing, intermittent or varying illumination.” North Hempstead Town Code § 70-197(O). The Village of Valley Stream also prohibits illuminated signs that “contain flashing, intermittent, rotating or moving lights.” Valley Stream Village Code § 99-1704(A). It is clear that the intent of these municipalities, like the



Wappingers Falls Village Board of Trustees, is to protect public safety along its roadways by prohibiting signs that are likely to distract motorists and potentially lead to car accidents. Notwithstanding these prohibitions, the light emanating from the McDonald's Digital Boards is not the type of sign lighting that flashes, intermittently changes its display, contains moving lights, or otherwise presents the type of vehicular and pedestrian safety risk that legislatures seek to prohibit for the public welfare. A copy of Digital Board approvals are annexed hereto as **Exhibit "F"**.

The Applicant submits that the Digital Boards may not be considered "intermittent" as the food offerings will only change display three (3) times per day, with the display changing at the same time every day. A literal interpretation of the Village Code to prohibit all signs that "flash", "blink" or "intermittently" change its display should not be applied to the Digital Boards. This type of literal construction of the Village statute is not permitted under New York law as it frustrates the general purpose of the Sign Ordinance and leads to arbitrary results. *See* NY Stat § 112, 113. As previously noted, the Digital Boards will be rear facing, will not be located along the roadway and will not be readily visible to pedestrians or motorists on Route 9. Thus, the Digital Boards do not present any risk to the public safety and welfare that the Village Board of Trustees sought to protect through Village Code § 151-25(C)(7).

The Village Code does not define the terms "flashing", "blinking, or "intermittent." When terms are not defined, New York law requires that statutory terms be given their ordinary commonly understood meaning. NY Stat § 234. Further, any ambiguities in the terms "intermittent", "flash" or "blink" must be resolved in the Applicant's favor. *See BBJ Associates LLC*, 65 A.D.3d at 159. The Digital Boards only change its menu display three (3) times a day and the three (3) changes occur at the same time each day. Based on the commonly understood



meaning of the terms “flash”, “blink” and “intermittent”, the Digital Boards do not satisfy the definition of Village Code § 151-25(C)(7).

The term “blink” means to “shut and open the eyes quickly” or as “a momentary gleam of light.” Oxford English Dictionary, <https://www.lexico.com/definition/blink> (last visited Jan. 8, 2021). The Digital Boards do not blink as they do not produce a momentary gleam of light nor will they be turned on-and-off throughout the day. Instead, the Digital Boards will display the menu offerings throughout the entire day, automatically changing its display just three (3) times per day to show the breakfast, lunch and dinner menus. In addition, the Digital Boards neither “flash” nor produce “intermittent” moving lights. The term “flash” means to “shine in a bright but brief, sudden, or intermittent way.” See Oxford English Dictionary, <https://www.lexico.com/definition/flash> (last visited Jan. 8, 2021). “Intermittent” is defined as something “occurring at irregular intervals.” Oxford English Dictionary, <https://www.lexico.com/definition/intermittent> (last visited Jan. 8, 2021). We note that McDonald’s menu offerings will be displayed on the Digital Boards for 24 hours per day. Thus, the light produced by the Digital Boards will not produce a brief or sudden flash. Accordingly, the Digital Boards do not “flash” pursuant to Village Code § 151-25(C)(7). Further, the Digital Boards will only change its display three (3) times per day and the change from breakfast to lunch, lunch to dinner, and dinner to breakfast will occur at the same time each day. The rear facing Digital Boards automatically change its display at regular intervals each and every day to show the breakfast, lunch and dinner menu offerings. Thus, the Digital Boards display will not change based on some irregular pattern. Instead, the change will occur at a predictable pattern at the same three (3) times every day. Accordingly, the Digital Boards do not fall within the definition of

Village Code § 151-25(C)(7) as the display change is not “intermittent” and will change at the same time only three (3) times each day.

Based on the foregoing reasons, the Applicant respectfully requests that the ZBA carry out the purpose and intent of the Sign Ordinance and limit its application to those signs that jeopardize the health, safety and welfare of pedestrians and motorists along the roadway.

**B. The Village Sign Ordinance Arbitrarily and Irrationally Distinguishes between Internally Illuminated Signs and Digital Signs**

Pursuant to Village Code § 151-25(K)(2), internally illuminated signs are permitted in the CMU zoning district. Freestanding signs are permitted to include channel lit letters and are allowed to be “internally lit that shine through the changeable translucent plastic panels.” Village Code § 151-25(K)(2)(b). In accordance with Village Code § 151-25(K)(2) and pursuant to the terms of the September 9, 2019 PB Site Plan Approval, the Applicant was required “to replace the proposed Digital Boards with non-digital alternatives which will be internally illuminated, which will be motion-sensor activated to automatically turn on when a car drives up and to automatically turn off when no vehicle is present in the drive-through lane for 5 minutes, and will not include video components.” *See Exhibit “E”*.

On one hand, the Village Code permits internally lit fast food signs to be turned on-and-off intermittently based on the presence of vehicles on the drive-thru line. On the other hand, the Village Code, as presently interpreted, prohibits digital fast food menu boards that change its menu offering display three (3) times per day as an intermittently flashing sign posing a danger to motorists and pedestrians. There is no rational basis to make this distinction between digital drive-

thru boards and internally lit drive-thru boards.<sup>1</sup> It should also be noted that any flashing from the Premises will occur with greater frequency from the internally lit signs that turn on-and-off when vehicles approach the drive-thru as compared to the Digital Boards that change its display only three (3) times per day. Further the Digital Boards are automated and operated remotely by a third party vendor, such that they can only change its display three (3) per day at the same time each day. The operator of the McDonald's at the Premises does not have discretion to turn the Digital Boards on-and-off or change its display with greater frequency.

The Applicant respectfully submits that the PB Resolution of Approval permitting the internally lit drive-thru presents no danger to vehicles and pedestrians on the roadway. Further, the intermittent movement of light resulting from vehicles approaching the drive-thru is permitted under the Village Code as it present no threat to motorists and pedestrian safety along Route 9. In this instance, the Village is properly carrying out the legislative intent of the Sign Ordinance and not applying a literal interpretation of "intermittent" "flash" or "moving lights" that would otherwise lead an irrational and unreasonable application of the Code. We ask that the ZBA interpret the Village Sign Ordinance in respect to the Digital Boards with the same commonsense approach as the PB and carryout the intent of the Board of Trustees.

### **C. The Digital Boards are not "Signs" as Defined by the Village Zoning Code**

The Applicant submits that the Digital Boards are not signs as defined by the Village Zoning Code. Pursuant to Village Code § 151-61, a "sign" is defined as "[a]ny material, structure, or part thereof, composed of lettered or pictorial matter displaying an advertisement, announcement, notice or name, and including any declaration, demonstration, display,

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<sup>1</sup> The ZBA should take note of the weight of authority from other New York municipalities that do not make this type of arbitrary distinction. *See supra* Argument, Point 1.



representation, illustration or insignia *used to advertise or promote the interests* of any person or business or cause *when such is placed in view of the general public.*” (emphasis added). For the reasons that follow, the Digital Boards are not signs as defined by Village Code § 151-61 as they:

1. cannot be viewed by the general public along the Route 9 public roadway; and
2. do not advertise or promote or otherwise attract customers to the McDonald’s restaurant.

We note that the terms “view” and “general public” are not defined by the Village Code. Thus, New York law mandates that these words of ordinary import be construed with their usual and commonly understood meaning and that dictionary definitions are “useful guideposts in determining the meaning of a word or phrase.” *Walsh*, 34 N.Y.3d at 524; NY Stat § 234.

The term “view” is a word of ordinary import, and thus it should be given its usual and commonly understood meaning. Webster’s Dictionary defines “view” as the “extent of range of vision” or “the act of seeing or examining.” See Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/view> (last visited Jan. 6, 2021). “General public” is commonly understood to mean “all the people of an area, country, etc.” See Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/the%20general%20public> (last visited Jan. 6, 2021).

The Digital Boards are not signs as defined by the Village Code as they cannot be viewed by the general public. As previously stated, the Digital Boards are rear facing and are located behind the McDonald’s restaurant. They cannot be seen by the general public travelling along the public roadway on Route 9. Further, the Digital Boards can only be viewed by those persons who have left the public roadway and entered the private property maintained by McDonald’s and

the Property owner. Thus, the Digital Boards can only be seen by McDonald's customers or patrons of the shopping center proximate to the Premises who have voluntarily removed themselves from the public roadway and have entered the rear of the McDonald's restaurant. It should also be noted that the Premises contains extensive rear yard landscaping further shielding the Digital Boards from the general public. Accordingly, the Digital Boards cannot be viewed by the general public and are not signs as defined by Village Code § 151-61.

The spirit and intent of Village Code § 151-61 is to regulate signs that: (1) advertise or promote a business; and (2) are readily viewable by the general public. As previously noted, the Digital Boards cannot be viewed by the general public. Further, the Digital Boards do not advertise or promote the McDonald's business. In comparison, the freestanding pylon "McDonald's" arch installed in the front of the Premises and the golden arches and "McDonald's" wordmark installed on the northerly and southerly elevations of the restaurant are clearly signs contemplated under Village Code § 151-61. The pylon sign and walls signs are installed to, among other things, alert the public that a McDonald's restaurant is located at the Premises. These signs are designed to be easily viewed by motorists and the general public travelling along Route 9 so that they will recognize the McDonald's restaurant and safely enter the Premises. The rear facing Digital Boards do not advertise or promote the McDonald's restaurant. Instead, the Digital Boards are installed to assist McDonald's drive-thru customers in selecting a menu item. Further, by virtue of the Digital Boards being situated behind the restaurant, they are not visible along Route 9 and neither advertise the McDonald's nor attract customers to the restaurant.

For the aforementioned reasons, the Applicant submits that the Digital Boards are not signs as defined under Village Code § 151-61 as they:



1. Are rear facing and situated behind the restaurant;
2. Cannot be viewed by the general public; and
3. Do not advertise or promote the McDonald's business at the Premises.

#### **IV. CONCLUSION**

The Digital Boards are permitted to be installed at the Premises. The purpose of Village Code § 151-25(C)(7) is to prohibit signs with “flashing, blinking or intermittent lights” located on the roadway that distracts motorists and jeopardizes the public health, safety and welfare. The Digital Boards present none of these risks. They will not be located on Route 9 and will not distract motorists. As provided in this Memorandum of Law, the Digital Boards:

1. Do not “flash,” “blink” or contain “intermittent moving lights”;
2. Will not be installed along the public roadway on Route 9 and do not distract motorists;
3. They will change its display only three (3) times each day and the display change from the breakfast to lunch, lunch to dinner and dinner to breakfast menus will occur at the same time each day;
4. Are rear facing, will be installed behind the McDonald's restaurant, and cannot be viewed by the public;
5. Remove the safety risk of having a McDonald's employee change the existing “static boards” to display the different menu offerings during periods of operation where there are vehicles in the drive-thru queue;
6. Are not signs as defined by Village Code § 151-61 as they do promote or advertise the McDonald's restaurant;
7. Present no risk to the public health, safety or welfare; and

8. Any ambiguity regarding the terms “blink,” “flash” and “intermittent” must be decided in the Applicant’s favor.

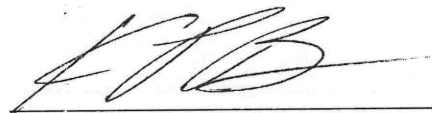
Accordingly, the Digital Boards are permitted to be installed at the Premises and the Applicant respectfully requests that the ZBA grant this application.

**WHEREFORE**, the Applicant respectfully requests and prays that a Resolution and decision be issued whereby:

1. The Digital Boards are permitted to be installed at the Premises;
2. Village Code § 151-25(C)(7) does not apply to the proposed Digital Boards as they do not distract motorists on Route 9 and do not “flash”, “blink” or present an “intermittent moving light”;
3. The Digital Boards are not “Signs” as defined by Village Code § 151-61; and
4. Grant any further relief that the ZBA deems just, proper and equitable under the facts and circumstances herein.

Dated: Melville, New York  
January 11, 2021

Yours, etc.,



BROWN ALTMAN & DILEO, LLP  
*Attorneys for the Applicant*  
538 Broadhollow Road, Suite 301W  
Melville, New York 11747  
(516) 222-0222 telephone  
(516) 222-0322 facsimile  
By: Keith P. Brown, Esq.

# Exhibit A





BROWN  
ALTMAN &  
DILEO, LLP

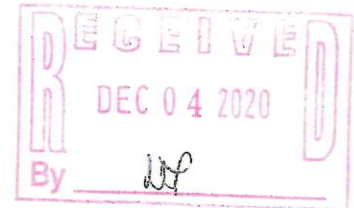
538 BROADHOLLOW ROAD | SUITE 301  
MELVILLE, NEW YORK 11747

TEL 516-222-0222 | FAX 516-222-0322  
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December 3, 2020

**VIA FEDERAL EXPRESS**

Mercedes Perez  
Secretary to the Village of Wappingers Falls  
Planning and Zoning Boards  
Zoning Board of Appeals  
2582 South Avenue  
Wappingers Falls, NY 12590



Re: Sign Interpretation Application (the "Application") to the Village of Wappingers Falls Zoning Board of Appeals ("ZBA") by McDonald's Corporation ("McDonald's") and Ormater Development Corp. ("Ormater") in connection with the property located at 1567 Route 9, Wappingers Falls, New York; Tax Map No.: 6158-19-527150

**Our File No.: 100-284-066**

Honorable Members of the Village ZBA:

In connection with the Application regarding the Property, enclosed you will find the following submission items:

1. One (1) original and nine (9) copies of the ZBA Interpretation Application executed by McDonald's, as the Applicant, and Ormater, as the property owner;
2. One (1) original and nine (9) copies of the Property Owner Affidavit form executed by Ormater;
3. One (1) original and nine (9) copies of a Certificate of Authorization form executed by Ormater;
4. One (1) original and nine (9) copies of the Property Owner Affidavit form executed by McDonald's;
5. One (1) original and nine (9) copies of a Certificate of Authorization form executed by McDonald's;
6. One (1) check, number 5663, in the amount of \$150.00 made out to the "Village of Wappingers Falls" for the Interpretation Application filing fee; and
7. One (1) check, number 5664, in the amount of \$1,500.00 made out to the "Village of Wappingers Falls" to be held in escrow by the Village and any remaining funds to be returned to Brown Altman & DiLeo, LLP upon the ZBA's final decision on the instant Interpretation Application.



BROWN  
ALTMAN &  
DILEO, LLP

Kindly date stamp the enclosed duplicate copy of this submission cover letter and return to our office in the enclosed prepaid FedEx envelope. If you have any questions concerning the foregoing or require additional information, please do not hesitate to contact me at 516-222-0222 or by email at [kbrown@brownaltman.com](mailto:kbrown@brownaltman.com) and [mingber@brownaltman.com](mailto:mingber@brownaltman.com). Thank you.

Very truly yours,

BROWN ALTMAN & DILEO, LLP

By: 

Keith P. Brown, Esq.

Encls.

cc: McDonald's Corporation (attn.: Brian T. Sheedy, Esq. w/o encls.)  
McDonald's Corporation (attn.: Derek Moskal w/o enclose)



# VILLAGE OF WAPPINGERS FALLS

BUILDING DEPARTMENT OFFICE OF CODE  
ENFORCEMENT OFFICE OF THE FIRE INSPECTOR  
2582 SOUTH AVENUE  
WAPPINGERS FALLS, NY 12590  
PHONE: (845) 297-5277 FAX: (845) 296-0379  
E-mail: [bmurphy@wappingersfallsny.gov](mailto:bmurphy@wappingersfallsny.gov)  
[www.wappingersfallsny.gov](http://www.wappingersfallsny.gov)

## ZONING BOARD OF APPEALS INTERPRETATION

Name of Project McDonald's - Wappingers Falls

Name of Applicant McDonald's Corporation

Address 110 North Carpenter Street, Chicago, IL 60607

Telephone (516) 222-0222

Name and Address of Record Owner Ormater Development Corp.  
25 Van Wagner Road, Poughkeepsie, NY 12603

Name and Address of Attorney Keith P. Brown, Esq. - Brown & Altman, LLP, 538 Broadhollow Rd., Ste. 301 W  
or Professional Representative Melville, NY 11747

Telephone (516) 222-0222

Street Address of all Parcels 1567 Route 9, Wappingers Falls, NY 12590

Tax Map Number of all Parcels 6158 -- 19 -- 527150

Zoning District Commercial Mixed Use

Have any permits affecting the property been issued by any other governmental agency? \_\_\_\_\_  
NO  YES  If yes, please list in detail (attach separate pages if necessary)

Has any application(s) for any other permit(s) for any activity affecting the property been submitted to any other governmental agency? No  Yes  If yes, please list in detail (attach separated pages if necessary)

Code Section or Determination sought to be interpreted: See attached Exhibit "A" annexed hereto and made a part hereof.

Description of Reason for the Requested Interpretation: (Attach additional pages as necessary)

See attached Exhibit "A" annexed hereto and made a part hereof  
Ormater Development Corp.

Signature By: [Signature] Date 24 NOV 20  
Name: SEAN TINKERMAN  
Title: ALTERNATE



## Exhibit "A"

The Applicant seeks to redevelop its existing drive-through facility at the property located at 1567 Route 9, Wappingers Falls (the "Property") by installing digital pre-browse and digital menu boards (the "Digital Boards"). The Digital Boards will be located at the rear of the Property and will not be visible to passersby along Route 9. In addition, the proposed Digital Boards will be screened by an extensive landscaped buffer between the Property and the properties to its rear.

The Digital Boards include LED screens that change three (3) times per day based on the Applicant's restaurant's menu offerings. During business hours, the menu board will change its display from the breakfast menu to the lunch menu, followed by the lunch menu to the dinner menu. (During the early morning hours, the menu board will change from the dinner menu to the breakfast menu).

The current, existing, "static poster" boards installed at the Property's drive-through facility require an employee of the Applicant to manually change the breakfast, lunch and dinner menus. The present system exposes employees to the obvious danger of having to change the menu board display during periods where there are vehicles in the drive-through queueing lane. In addition, McDonald's is in the process of phasing out the existing static poster menu boards and will no longer support the same shortly.

The LED Digital Boards function similar to a computer screen that provides patrons with its menu offerings. Importantly, the Digital Boards do not flash, blink or having moving lights. Other than the three (3) menu changes per day, the Digital Boards are static and present no distraction to the public. After five (5) minutes of none-use, the Digital Board screen turns off. However, this gives the appearance that the restaurant and drive-through are closed and is not good for business. As a matter of safety, the Digital Boards eliminate the risk of having an employee change the menu offerings while there are vehicles in the drive-through queue.

We note that digital signs that intermittently flash and/or change its display with frequency present a significant distraction to motorists that municipalities regulate through its zoning codes for the public health and safety. Pursuant to the Village Code, the purpose of Article VII (Signs) is "to promote and protect the public health, safety, and welfare by regulating signs of all types. It is intended to encourage the use of signs as a means of communication, *protect pedestrian and vehicular safety, protect property values*, protect and enhance the aesthetic environment, enhance the Village's historic character and improve the Village's ability to attract sources of economic development." Village Code § 151-25(A) (emphasis added). In furtherance of the Village's interest in, among other things, pedestrian and vehicular safety and to protect property values, the Village prohibits "[s]igns with flashing, blinking, intermittent, or moving lights, or any artificial light which does not maintain stationary and constant intensity and color at all times." Village Code § 151-25(C)(7).



We respectfully submit that menu boards that merely present food offerings, are not visible from the public roadway and are shielded from neighboring properties by extensive landscaping are not the type of signs the Village intended on regulating through Village Code § 151-26(C)(7). Further, digital menu boards that are shielded from the roadway and surrounding properties do present a risk to pedestrian and motorist safety that the Village intended on protecting through Article VII zoning code.

In addition, the digital menu boards that are subject to this Interpretation Application will be shielded from the public roadway as they will be situated behind the McDonald's restaurant and will be shielded from neighboring properties through an extensive landscape buffer. The impact, if any, to the value of surround properties or to the aesthetic character to the Village will be de minimus. We submit that Article VII of the Village Code does not seek to regulate this type of legitimate business activity that will not impact the character of the neighborhood or cause a detriment to the Village aesthetics.

Further, it should be noted that the instant LED digital menu boards do not present a risk to the public welfare and furthers the Village's stated purpose of attracting sources of economic development.

We respectfully request that the Zoning Board of Appeals provide an interpretation as to whether the Applicant's LED Digital Boards, which are shielded from the public view and do not present a danger to pedestrian or motorist safety, are the type of signs the Village intended on regulating through Village Code § 151-26(C)(7).

**AFFIDAVIT TO BE COMPLETED BY OWNER**

State of New York }  
County of Dutchess } ss:

Steven Tinkelman being duly sworn, deposes and says:

1. That I/we are the Owner(s) of the within property as described in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize Brown & Altman, LLP, to act as my/our representative in all matters regarding said application(s), and that I/we have the legal right to make or authorize the making of said application.
3. That I/we understand that by submitting this application for Zoning Board of Appeals approval that I/we expressly grant permission to the Zoning Board of Appeals and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Zoning Board of Appeals action.
4. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
5. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Zoning Board of Appeals, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Wappingers Falls, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
6. That I/we understand that the Zoning Board of Appeals intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we have examined this affidavit and that it is true and correct.

Ormater Development Corp.

By: [Signature]  
Applicant/Owner

\_\_\_\_\_  
Applicant/Owner

Name: Steven Tinkelman  
Title: Principal  
[Signature]  
Notary Public



CERTIFICATE OF AUTHORIZATION

The undersigned, Ormater Development Corp., certifies that s/he is President of Ormater Development Corp., and further certifies as follows:

STEVE TINKELMAN is and has been a duly authorized President of Ormater Development Corp., with authority to execute and deliver agreements binding Ormater Development Corp.; and to perform such acts as may be legally, properly and reasonably required or necessary relating to the proposed development of the McDonald's restaurant and accessory drive-through, located at 1567 Route 9, Wappingers Falls, New York 12590; Tax Map Number: 6158-19-527150

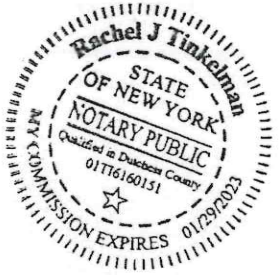
IN WITNESS WHEREOF, the undersigned has executed this Certificate of Authorization this 24 day of November, 2020.

Ormater Development Corp.

By: [Signature]  
Name: STEVE TINKELMAN  
Title: President

Sworn to me before this the 24th day of November, 2020

[Signature]  
Notary Public





AFFIDAVIT TO BE COMPLETED BY OWNER

State of IL }  
County of COOK } ss:

Brian T. Sheedy being duly sworn, deposes and says:

1. That I/we are the Owner(s) of the within property as described in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize Brown & Altman, LLP, to act as my/our representative in all matters regarding said application(s), and that I/we have the legal right to make or authorize the making of said application.
3. That I/we understand that by submitting this application for Zoning Board of Appeals approval that I/we expressly grant permission to the Zoning Board of Appeals and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Zoning Board of Appeals action.
4. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
5. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Zoning Board of Appeals, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Wappingers Falls, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
6. That I/we understand that the Zoning Board of Appeals intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we have examined this affidavit and that it is true and correct.

McDonald's Corporation

By: Brian T. Sheedy 10/14/2020

Applicant/Owner  
Name: Brian T. Sheedy  
Title: Senior Counsel

\_\_\_\_\_  
Applicant/Owner

[Signature]  
Notary Public





## CERTIFICATE OF AUTHORIZATION

The undersigned, Brian T. Sheedy, certifies that he is Senior Counsel of McDonald's Corporation, and further certifies as follows:

Brian T. Sheedy is and has been a duly authorized Senior Counsel of McDonald's Corporation, with authority to execute and deliver agreements binding McDonald's Corporation; and to perform such acts as may be legally, properly and reasonably required or necessary relating to the proposed development of the McDonald's restaurant and accessory drive-through, located at 1567 Route 9, Wappingers Falls, New York 12590; Tax Map Number: 6158-19-527150

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Authorization this 14<sup>th</sup> day of October, 2020.

McDonald's Corporation

By: Brian T. Sheedy  
Name: Brian T. Sheedy  
Title: Senior Counsel

Sworn to me before this the  
14<sup>th</sup> day of October, 2020

[Signature]  
Notary Public



# Exhibit B





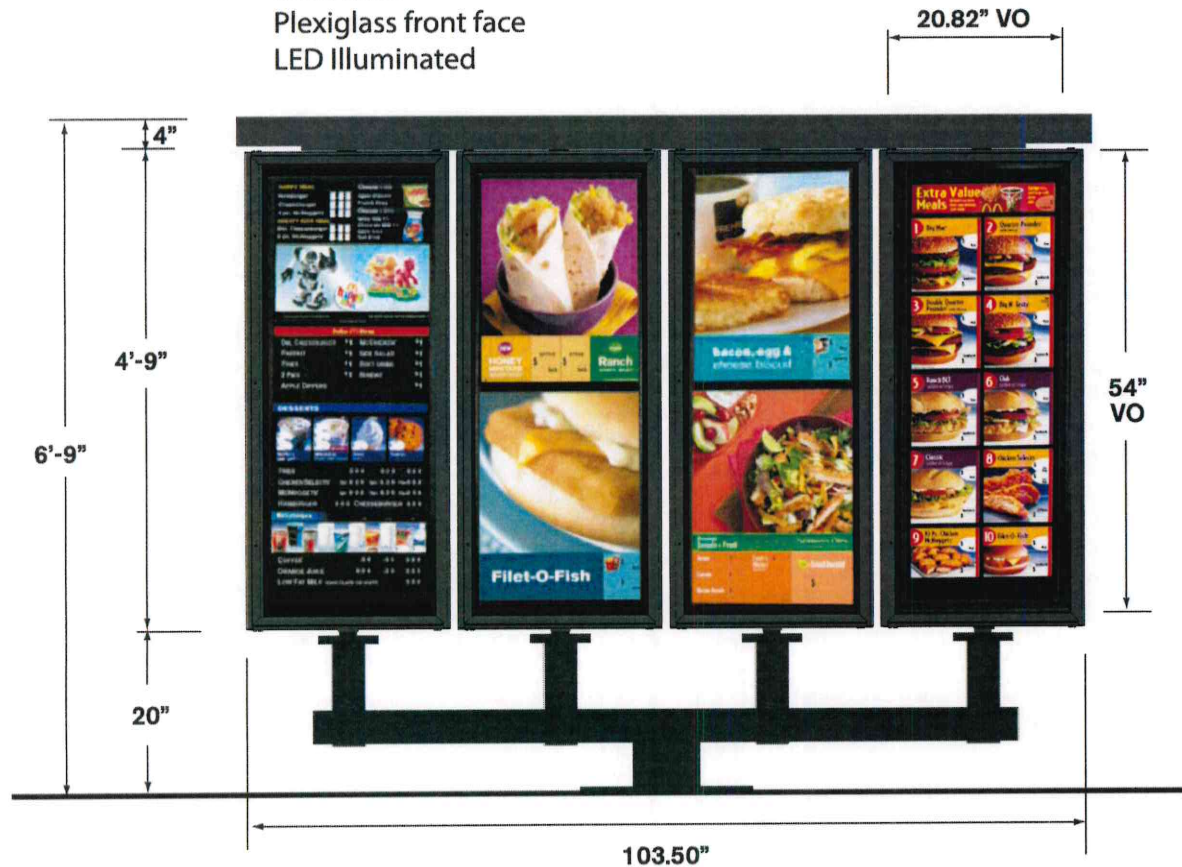
# Exhibit C





# OPO Outdoor Menu Board

Gray Aluminum Frame  
Steel Base  
Plexiglass front face  
LED Illuminated



**Illumination:** LED

**Electrical:** First Circuit: 120/1/60, 15 amp  
Second Circuit: 120/1/60, 15 amp

**Ship Weight:** 1,313 lbs.

- Other:**
- Please call IMS for graphics, 800-937-7671
  - Triangular design for increased graphic options
  - Available in an manual or automated version. Automated version must be ordered directly from Florida Plastics.



**DISCLAIMER:** Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings. These drawings and designs are the exclusive property of Everbrite LLC Use of, or duplication in any manner without express written permission of Everbrite LLC is prohibited.

Customer: McDONALD'S		Description: OPO 3-column manual menu board	Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.	
Project No: 348090	Scale:			
Date: 07.08.16	Drawn By: eo	Revised:	CUSTOMER SIGNATURE _____	DATE _____
Location & Site No: HANOVER PARK, IL 60133 NN23208-3		Revised:	LANDLORD SIGNATURE _____	DATE _____

# Exhibit D



<b>Dutchess County Department of Planning and Development</b>	Fax Info To: <u>V/Wappingers Falls</u>	Date: <u>3/8/19</u>	# pgs: <u>3</u>
	Dept: <u>ZBA</u>	From: <u>Dutchess Co. Planning</u>	
	Fax #: <u>246-0379</u>	Phone #: <u>486-3600</u>	

## 239 Planning/Zoning Referral - Exemption Communities

Municipality: Village of Wappingers

Referring Agency:     Planning Board             Zoning Board of Appeals             Municipal Board

Tax Parcel Number(s): 135601-6158-19-527150-0000

Project Name:    McDonald's    Multiple Sign Variances

Applicant:    Core State Architecture and Engineering LLC

Address of Property:    9 Galan Street, Suite 117, Watertown, MA 02472

Please fill in this section

<p><b>Parcel(s) within 500 feet of:</b></p> <p><input type="checkbox"/> State Road _____</p> <p><input type="checkbox"/> County Road _____</p> <p><input type="checkbox"/> State Property (w/public building or recreation area)</p> <p><input type="checkbox"/> County Property (w/public building or recreation area)</p> <p><input type="checkbox"/> Municipal Boundary</p> <p><input type="checkbox"/> Farm operation in an Agricultural District</p>	<p><b>Actions Requiring 239 Review</b></p> <p><input type="checkbox"/> Comprehensive/Master Plans</p> <p><input type="checkbox"/> Zoning Amendments (standards, uses, definitions, district regulations, etc.)</p> <p><input type="checkbox"/> Rezoning involving all map changes</p> <p><input type="checkbox"/> Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)</p> <p><input type="checkbox"/> Site Plans (all)</p> <p><input type="checkbox"/> Special Permits for all non-residential uses</p> <p><input type="checkbox"/> Use Variances for all non-residential uses</p> <p><input checked="" type="checkbox"/> Area Variances for all non-residential uses</p>	<p><b>Exempt Actions:* 239 Review is NOT Required</b></p> <ul style="list-style-type: none"> <li>• Administrative Amendments (fees, procedures, penalties, etc.)</li> <li>• Special Permits for residential uses (accessory apts, home occupations, etc.)</li> <li>• Use Variances for residential uses</li> <li>• Area Variances for residential uses</li> <li>• Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals</li> <li>• Subdivisions / Lot Line Adjustments</li> <li>• Interpretations</li> </ul> <p><input type="checkbox"/> Exempt Action submitted for informal review</p>
---	---	---

Date Response Requested (if less than 30 days): March 12, 2019

If subject of a previous referral, please note County referral number(s): ZR19-390, ZR18-340

*\* These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.*

FOR COUNTY OFFICE USE ONLY

### Response from Dutchess County Department of Planning and Development

<p><b>No Comments:</b></p> <p><input type="checkbox"/> Matter of Local Concern</p> <p><input type="checkbox"/> No Jurisdiction</p> <p><input type="checkbox"/> No Authority</p> <p><input type="checkbox"/> Project Withdrawn</p> <p><input type="checkbox"/> Exempt from 239 Review</p>	<p><b>Comments Attached:</b></p> <p><input type="checkbox"/> Local Concern with Comments</p> <p><input type="checkbox"/> Conditional</p> <p><input checked="" type="checkbox"/> Denial</p> <p><input type="checkbox"/> Incomplete — municipality must resubmit to County</p> <p><input type="checkbox"/> Incomplete with Comments — municipality must resubmit to County</p> <p><input type="checkbox"/> Informal Comments Only (Action Exempt from 239 Review)</p>
--	---

Date Submitted: <u>2/21/19</u>	Notes:	<input type="checkbox"/> Major Project
Date Received: <u>2/25/19</u>		
Date Requested: <u>3/21/19</u>		Referral #: <u>ZR19-048</u>
Date Required: <u>3/22/19</u>	<input checked="" type="checkbox"/> Also mailed hard copy	
Date Response Faxed: <u>3/8/19</u>	Reviewer: <u>Quirly S. O'Connell</u>	





**COUNTY OF DUTCHESS**  
DEPARTMENT OF PLANNING AND DEVELOPMENT

March 8, 2019

To: Zoning Board of Appeals, Village of Wappingers Falls  
Re: Referral 19-048, McDonald's - Multiple Sign Variances  
Parcel: 6158-19-527150-0000; 1567 Route 9

The Dutchess County Department of Planning and Development has reviewed the submitted referral for countywide and intermunicipal impacts as outlined in General Municipal Law (Article 12B, §239-l/m).

**ACTION**

The applicant is seeking three variances related to signage:

- 1) to allow four digital signs (two digital pre-browse menu boards and two digital menu boards), which are prohibited per Village Code;
- 2) to allow 13 total signs where a maximum of three signs are allowed per establishment (this includes the four digital signs, four wall signs, a pylon sign, and four 'drive-through' pavement markings); and
- 3) to allow nine freestanding signs where only one such sign is allowed (this includes the four digital signs, the pylon sign, and the four pavement markings).

**COMMENTS**

The signage proposed for this site is excessive and duplicative. Some of the proposed signs function more as advertising than business identification, and others appear to be unnecessary. As the Board is aware, the State directs that only the *minimum* amount of variance necessary be granted in instances where relief has merit and where the benefit to the applicant outweighs the detriment to the community. Specific comments for each requested variance are listed below:

- 1) No details were provided for the digital menu boards or the pre-browse/pre-sell boards. While the applicant states that the menu board images are stationary, the fact that they are digital signs raises questions about their operation. For all digital signs, it is important to understand message duration, transitions, brightness, and potential use as video. We support the Village's prohibition of digital signs. The pre-browse digital menu boards serve as advertising and are unnecessary. For the menu boards, we recommend a non-digital alternative.
- 2) The number of signs proposed is excessive. The north and south wall signs are unnecessary, as the pylon sign and east facade wall sign are visible from both approaches on Route 9. All three sides of the building also have logos on the windows that are visible from Route 9. On the east wall, the arch and 'McDonalds' text signs are redundant—one wall sign, along with the pylon sign, is sufficient to identify the business.
- 3) As noted above, the freestanding pre-browse menu boards are unnecessary. The pylon sign and two freestanding menu boards are sufficient. We defer to the Village on its interpretation of the 'Drive-thru' pavement markings as freestanding signs. We have no concerns about the pavement markings, but note that physical freestanding 'drive-through' signs would be more of a concern. If the Board is inclined to grant the variance for the pavement markings, the resolution language should make it clear that alternate freestanding signs could not take the place of the pavement markings granted a variance.

In addition, while the two springboard canopy 'Order Here' signs and the clearance gateway 'Drive Thru' signs are not considered signs per the code due to their size, they would add to visual clutter and are unnecessary. For the

'Order Here' signs, customers will already understand that it is their turn to order. For the 'Drive Thru' signs, drivers will have already entered the drive-through lane.

## **RECOMMENDATION**

For the reasons stated above, our Department recommends the following:

- 1) Digital signs: That the Board not grant the requested variance.
- 2) Total signage: That the Board allow only the two menu boards (in a non-digital format), one wall sign (either an arch or text on the east façade), and the pylon sign.
- 3) Freestanding signs:
  - a. That the Board allow only the two menu boards (in a non-digital format) and the pylon sign.
  - b. The four pavement markings we deem a local decision, but note that if a variance is granted for these, the Board should clarify that it applies only to pavement markings and does not allow additional physical freestanding signs.

**Voting and Reporting Requirements:** If the Board acts contrary to our recommendation, the law requires that it do so by a majority plus one of the full membership of the Board and that it notify us of the reasons for its decision.

Eoin Wrafter, AICP, Commissioner

By



Emily S. Dozier, AICP, Senior Planner

cc: Bryan Murphy, Michele Grieg

# Exhibit E

# Memo

**To:** Village Clerk Karge  
**From:** Melina Zambrano  
**Date:** September 9, 2019  
**Re:** Amended Resolution Granting Amended Site Plan Approval to McDonalds Site Improvements

  
RECEIVED  
SEP 09 2019  
VILLAGE CLERK'S OFFICE  
VILLAGE OF WAPPINGERS FALLS

Attached please find the Amended Resolution Granting Amended Site Plan Approval to McDonalds Site Improvements. Please initial and date stamp you receipt of this document, keep a copy for your records and return copy to me for filing.

Thank you in advance.

Melina Zambrano



Cc: Board of Trustees Reading File

Attachment



# Memo

**To:** Village Clerk Karge  
**From:** Melina Zambrano  
**Date:** September 9, 2019  
**Re:** Amended Resolution Granting Amended Site Plan Approval to McDonalds Site Improvements

---

Attached please find the Amended Resolution Granting Amended Site Plan Approval to McDonalds Site Improvements. Please initial and date stamp you receipt of this document, keep a copy for your records and return copy to me for filing.

Thank you in advance.

Melina Zambrano



Cc: Board of Trustees Reading File

Attachment

## **Amended Resolution Granting Amended Site Plan Approval to McDonald's Site Improvements**

**Name of Project:** McDonald's Site Improvements

**Name of Applicant:** McDonald's Corporation

**Whereas,** the applicant, McDonald's Corporation, has submitted an application for Amended Site Plan approval to the Village of Wappingers Falls Planning Board to renovate building facades, construct a  $\pm$  22 sq. ft. building addition, install new signage, create an ADA accessible sidewalk, and expand the drive-through facility of an existing restaurant on a  $\pm$  0.753-acre leased area of a  $\pm$  6.464 acre parcel (Tax Map No. 135601-6158-19-527150) located at 1567 Route 9 in the Commercial Mixed Use (CMU) District in the Village of Wappingers Falls, Dutchess County, New York; and

**Whereas,** the applicant has submitted a Site Plan entitled "Site Improvement Plan for McDonald's" prepared by Core States Group (Sheets C1 to C10, L1, LP1 and LP2 dated May 29, 2018 and last revised July 16, 2019), and Building Elevations prepared by Core States Group (Sheets A2.1 and A2.2 dated December 1, 2018 and revised July 16, 2019); and

**Whereas,** it was determined that the application required referral to the Village of Wappingers Falls Zoning Board of Appeals for a number of area variances for signage; and

**Whereas,** on May 14, 2019, the Zoning Board of Appeals granted all of the area variances pertaining to signs except those for digital pre-browse and menu boards, as reflected in its resolution of findings; and

**Whereas,** due to the location of the property on a State highway, the site plan application was referred to the Dutchess County Department of Planning and Development for review under General Municipal Law § 239m and the County Planning Department issued a review letter dated June 24, 2019 which recommended that the Planning Board rely upon its own study of the facts in the case with due consideration to the County's comments; and

**Whereas,** the Planning Board fully considered each of the County's comments, and the applicant revised the plans as follows: (a) to remove three (3) parking spaces in the southeast corner of the site to reduce conflicts with vehicles entering the site; (b) to remove the two McDonald's flags on the east side of the building; (c) to replace the proposed digital pre-browse and menu board signs with non-digital alternatives which will be internally illuminated, will be motion-sensor activated to automatically turn on when a car drives up and to automatically turn off when no vehicle is present in the drive-through lane for 5 minutes, and will not include video components; to revise the photometric plan to eliminate the 19'4" high building-mounted lights and reduce hot spots and overall lighting levels; to ensure that all fixtures are fully shielded, dark-sky complaint with a color temperature no more than 2700K; to include four (4) additional shade trees on site, with all shade trees having a 3½" caliper at time of planting; to include an "inverted U" bicycle rack near the southeast building entrance; and to include high-visibility ladder markings for all crosswalks; and

**Whereas,** the Planning Board considered the County's remaining comments and determined the width of the "in-only" entrance at the southeast corner of the site could not be narrowed since



this entrance is used by supply trucks and emergency vehicles which need a wider access; that the additional signs cited by the County were granted area variances by the ZBA; and that a sidewalk along the front (east) facade to connect the two sidewalks would require the removal of landscaping in this area; and

**Whereas**, on March 7, 2019, the Planning Board classified the proposed action as an Unlisted action undergoing uncoordinated review pursuant to SEQR; and

**Whereas**, on July 11, 2019, the Planning Board, in consideration of the Short Environmental Assessment Form (EAF) dated October 17, 2018 and the 'criteria for determining significance' set forth in 6 CRR-NY Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environment, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas**, on June 6, 2019, the Planning Board determined pursuant to Article VIII of the Zoning Law that a public hearing on the Site Plan application was not necessary; and

**Whereas**, the project also requires a Special Permit and on August 1, 2019, the Planning Board granted the applicant a Special Permit; and

**Whereas**, on August 1, 2019, the Planning Board granted Site Plan approval to McDonald's for the proposed alterations subject to a number of conditions, one of which was to address all comments set forth in the July 31, 2019 review memorandum from KC Engineering and Land Surveying, P.C. to the satisfaction of the Village Engineer; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board hereby reaffirms its prior Site Plan approval granted to McDonald's Corporation for the proposed alterations in accordance with the plans and specifications heretofore submitted upon the following conditions:

A. The Planning Board authorizes the Chairman or his authorized designee to sign the Site Plan after compliance with the following conditions:

- (1) The Site Plan shall be revised as follows:
  - (a) To revise Details S3 and S4 on Sheet C8 to state that the pre-browse and menu boards will be internally illuminated with an LED lamp with a maximum of 2700K, will be motion-sensor activated to automatically turn on when a car drives up and to automatically turn off when no vehicle is present in the drive-through lane for 5 minutes, and will not include video components; and the menu boards shall be set on a timer to automatically rotate a maximum of three (3) times per day.
  - (b) To include a signature block for the Planning Board on every sheet of the Site Plan, including the Building Elevations.
  - (c) Address all comments set forth in the July 31, 2019 review memorandum from KC Engineering and Land Surveying, P.C. (attached herein) to the satisfaction of the Village Engineer.
  - (d) The applicant shall obtain permission from the NYS Department of Transportation (DOT) to connect the sidewalk and perform work within the DOT right-of-way.
- (2) Payment to the Village of Wappingers Falls of any outstanding fees due and owing for the review of this application.

- (3) Payment of any and all outstanding escrow balances for consultant review.
- (4) Submission of Site Plan drawings for stamping and signing in the number and form specified under the Village's Zoning Law, including all required stamps and signatures.
- (5) The applicant shall sign a copy of this resolution and file it with the Planning Board for the purpose of indicating familiarity with the provisions of this resolution and acknowledging receipt of a copy thereof.

When the above conditions have been satisfied, three (3) sets of the above referenced plans shall be submitted for Planning Board Chairman endorsement. One (1) set shall be returned to the applicant, one (1) set will be retained by the Planning Board, and one (1) set will be provided to the Village Engineer. The applicant must return for approval from the Planning Board if any changes from the endorsed plans are subsequently desired.

B. The following conditions shall be fulfilled prior to the issuance of a Certificate of Compliance (CC):

- (1) The installation, satisfactory to the Dutchess County Department of Behavioral and Community Health, and the Village Engineer and/or Code Enforcement Officer, of a properly designed, sized, and installed grease trap.
- (2) All proposed improvements shall have been completed in accordance with the approved Site Plan. In the event that a CC is requested prior to completion of all proposed landscaping, a cash bond in an amount recommended by the Village Engineer will be posted to ensure completion of these features in accordance with the approved Site Plan.
- (3) A CC will not be issued until a member of the Planning Board has conducted a site inspection to verify that all proposed improvements have been completed in accordance with the approved Site Plan and offers their opinion to the Building Department.

C. The following are general conditions which shall be fulfilled throughout the construction and operation of the project:

- (1) The applicant shall continue to comply with all conditions imposed by any of the outside agencies in their permits and approvals.
- (2) All other conditions of the prior site plan approval shall continue to be in effect unless modified by this approval.

**BE IT FURTHER RESOLVED**, that within five (5) business days of the adoption of this resolution, the Chairman or other duly authorized member of the Planning Board shall cause a copy of this resolution to be filed with the Village Clerk, and a copy sent to the applicant.

On a motion by Michael Ruffen, seconded by Bonnie Kieffer, and a vote of 5 for, and 0 against, and 0 absent, this amended resolution was adopted on September 5, 2019.



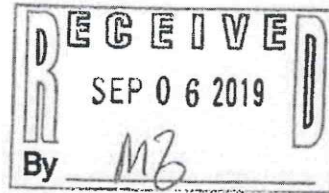
Resolution Certified, filed with the Village Clerk and mailed to the Applicant

Melina M. Zambrano

Melina Zambrano, Planning Board Secretary

9/6/19

Date



*[Handwritten signature]*

## **Amended Resolution Granting Amended Site Plan Approval to McDonald's Site Improvements**

**Name of Project:** McDonald's Site Improvements

**Name of Applicant:** McDonald's Corporation

**Whereas**, the applicant, McDonald's Corporation, has submitted an application for Amended Site Plan approval to the Village of Wappingers Falls Planning Board to renovate building facades, construct a  $\pm$  22 sq. ft. building addition, install new signage, create an ADA accessible sidewalk, and expand the drive-through facility of an existing restaurant on a  $\pm$  0.753-acre leased area of a  $\pm$  6.464 acre parcel (Tax Map No. 135601-6158-19-527150) located at 1567 Route 9 in the Commercial Mixed Use (CMU) District in the Village of Wappingers Falls, Dutchess County, New York; and

**Whereas**, the applicant has submitted a Site Plan entitled "Site Improvement Plan for McDonald's" prepared by Core States Group (Sheets C1 to C10, L1, LP1 and LP2 dated May 29, 2018 and last revised July 16, 2019), and Building Elevations prepared by Core States Group (Sheets A2.1 and A2.2 dated December 1, 2018 and revised July 16, 2019); and

**Whereas**, it was determined that the application required referral to the Village of Wappingers Falls Zoning Board of Appeals for a number of area variances for signage; and

**Whereas**, on May 14, 2019, the Zoning Board of Appeals granted all of the area variances pertaining to signs except those for digital pre-browse and menu boards, as reflected in its resolution of findings; and

**Whereas**, due to the location of the property on a State highway, the site plan application was referred to the Dutchess County Department of Planning and Development for review under General Municipal Law § 239m and the County Planning Department issued a review letter dated June 24, 2019 which recommended that the Planning Board rely upon its own study of the facts in the case with due consideration to the County's comments; and

**Whereas**, the Planning Board fully considered each of the County's comments, and the applicant revised the plans as follows: (a) to remove three (3) parking spaces in the southeast corner of the site to reduce conflicts with vehicles entering the site; (b) to remove the two McDonald's flags on the east side of the building; (c) to replace the proposed digital pre-browse and menu board signs with non-digital alternatives which will be internally illuminated, will be motion-sensor activated to automatically turn on when a car drives up and to automatically turn off when no vehicle is present in the drive-through lane for 5 minutes, and will not include video components; to revise the photometric plan to eliminate the 19'4" high building-mounted lights and reduce hot spots and overall lighting levels; to ensure that all fixtures are fully shielded, dark-sky complaint with a color temperature no more than 2700K; to include four (4) additional shade trees on site, with all shade trees having a 3½" caliper at time of planting; to include an "inverted U" bicycle rack near the southeast building entrance; and to include high-visibility ladder markings for all crosswalks; and

**Whereas,** the Planning Board considered the County's remaining comments and determined the width of the "in-only" entrance at the southeast corner of the site could not be narrowed since this entrance is used by supply trucks and emergency vehicles which need a wider access; that the additional signs cited by the County were granted area variances by the ZBA; and that a sidewalk along the front (east) facade to connect the two sidewalks would require the removal of landscaping in this area; and

**Whereas,** on March 7, 2019, the Planning Board classified the proposed action as an Unlisted action undergoing uncoordinated review pursuant to SEQR; and

**Whereas,** on July 11, 2019, the Planning Board, in consideration of the Short Environmental Assessment Form (EAF) dated October 17, 2018 and the 'criteria for determining significance' set forth in 6 CRR-NY Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environment, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas,** on June 6, 2019, the Planning Board determined pursuant to Article VIII of the Zoning Law that a public hearing on the Site Plan application was not necessary; and

**Whereas,** the project also requires a Special Permit and on August 1, 2019, the Planning Board granted the applicant a Special Permit; and

**Whereas, one of the comments from the Village Engineer included determining the adequacy of the existing grease trap for this use, and same was done and found to be deficient, and the applicant has agreed to install a properly-sized grease trap; and**

**Whereas,** the Planning Board has deliberated on the application and all the matters before it.

**NOW, THEREFORE, BE IT RESOLVED,** that the Planning Board has determined that no new residential building lots or dwelling units will be created, and thus deems not applicable to this application the requirement for set-aside of recreation or other open space land or the alternative payment of a cash-in-lieu-of-land recreation fee.

**BE IT FURTHER RESOLVED,** that the Planning Board hereby issues Site Plan approval to McDonald's Corporation for the proposed alterations in accordance with the plans and specifications heretofore submitted upon the following conditions:

- A. The Planning Board authorizes the Chairman or his authorized designee to sign the Site Plan after compliance with the following conditions:
  - (1) The Site Plan shall be revised as follows:
    - (a) To revise Details S3 and S4 on Sheet C8 to state that the pre-browse and menu boards will be internally illuminated with an LED lamp with a maximum of 2700K, will be motion-sensor activated to automatically turn on when a car drives up and to automatically turn off when no vehicle is present in the drive-



through lane for 5 minutes, and will not include video components; and the menu boards shall be set on a timer to automatically rotate a maximum of three (3) times per day.

- (b) To include a signature block for the Planning Board on every sheet of the Site Plan, including the Building Elevations.
  - (c) Address all comments set forth in the July 31, 2019 review memorandum from KC Engineering and Land Surveying, P.C. (attached herein) to the satisfaction of the Village Engineer.
  - (d) The applicant shall obtain permission from the NYS Department of Transportation (DOT) to connect the sidewalk and perform work within the DOT right-of-way.
- (2) Payment to the Village of Wappingers Falls of any outstanding fees due and owing for the review of this application.
  - (3) Payment of any and all outstanding escrow balances for consultant review.
  - (4) Submission of Site Plan drawings for stamping and signing in the number and form specified under the Village's Zoning Law, including all required stamps and signatures.
  - (5) The applicant shall sign a copy of this resolution and file it with the Planning Board for the purpose of indicating familiarity with the provisions of this resolution and acknowledging receipt of a copy thereof.

When the above conditions have been satisfied, three (3) sets of the above referenced plans shall be submitted for Planning Board Chairman endorsement. One (1) set shall be returned to the applicant, one (1) set will be retained by the Planning Board, and one (1) set will be provided to the Village Engineer. The applicant must return for approval from the Planning Board if any changes from the endorsed plans are subsequently desired.

B. The following conditions shall be fulfilled prior to the issuance of a Certificate of Compliance (CC):

- (1) The installation, satisfactory to the Dutchess County Department of Behavioral and Community Health, and the Village Engineer and/or Code Enforcement Officer, of a properly designed, sized, and installed grease trap.
- (2) All proposed improvements shall have been completed in accordance with the approved Site Plan. In the event that a CC is requested prior to completion of all proposed landscaping, a cash bond in an amount recommended by the Village Engineer will be posted to ensure completion of these features in accordance with the approved Site Plan.
- (3) A CC will not be issued until a member of the Planning Board has conducted a site inspection to verify that all proposed improvements have been completed in accordance with the approved Site Plan and offers their opinion to the Building Department.

C. The following are general conditions which shall be fulfilled throughout the construction and operation of the project:



- (1) The applicant shall continue to comply with all conditions imposed by any of the outside agencies in their permits and approvals.
- (2) All other conditions of the prior site plan approval shall continue to be in effect unless modified by this approval.

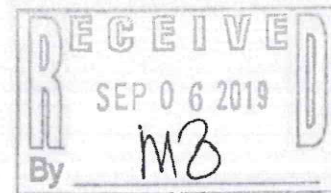
**BE IT FURTHER RESOLVED**, that within five (5) business days of the adoption of this resolution, the Chairman or other duly authorized member of the Planning Board shall cause a copy of this resolution to be filed with the Village Clerk, and a copy sent to the applicant.

On a motion by Michael Ruffen, seconded by Bonnie Keiffer, and a vote of 5 for, and 0 against, and 0 absent, this amended resolution was adopted on September 5, 2019.

Resolution Certified, filed with the Village Clerk and mailed to the Applicant

Melina M. Zambrano  
Melina Zambrano, Planning Board Secretary

9/6/19  
Date



Allen L. D.

# Exhibit F



**BOARD OF APPEALS  
TOWN OF HEMPSTEAD**

1 Washington Street  
Hempstead, New York 11550-4923  
(516) 489-5000  
FAX (516) 483-0432  
www.hempsteadny.gov

**NOTICE OF DECISION**

July 10, 2020

Tracking Number: S167221

Case Number: 464 / 20

Hearing Date: 5/20/2020

Decision Date: 5/20/2020

COPY TO:

Keith Brown, Esq.

TO:

McDonald's Corp.  
110 N. Carpenter St.  
Chicago, IL 60607

REQUEST: Install one menu board & one preview board in conjunction with existing McDonald's drive thru.

LOCATION: W/s Wantagh Ave., 89' S/o Park Ave.,  
a/k/a 1946 Wantagh Ave., WANTAGH

DECISION: GRANTED unanimously by those present temporarily to May 20, 2025 with conditions (see attached).

**PERMIT MUST BE OBTAINED FROM DEPARTMENT OF BUILDINGS  
WITHIN 4 MONTHS OF THE FILING OF THIS DECISION.**

**\*\* ALL OPEN PERMITS MUST BE CLOSED OUT.**

Very truly yours,



Albert Jaegers  
Secretary to the Board of Appeals

**THIS IS NOT A BUILDING PERMIT**  
Applicant will be notified by  
the Department of Buildings as to  
the status of the permit application



May 20, 2020

**Case # 464 – McDonald's Corp.**

Install one menu board and one preview board in conjunction with existing McDonald's Drive Thru  
W/s Wantagh Ave., 89' S/o of Park Ave., a/k/a 1946 Wantagh Ave., Wantagh  
(App. # S167221-19)

On motion of Mrs. Perry and seconded by Mr. Ragano, granted temporarily to May 20, 2025, in accordance with applicant's site plan, prepared by Core States Group, last revised 8/30/19, marked Applicant's Exhibit "1", received by the Board of Appeals on 12/18/19, applicant's area map, prepared by Core States Group, last revised 8/30/19, marked Applicant's Exhibit "2", received by the Board of Appeals on 3/4/20 (other exhibits considered), subject to the following conditions:

1. The menu board and preview board shall be on timers, and the illumination thereof shall be extinguished at the time the business closes.
2. The boards' illumination shall be by soft, steady interior illumination with no flashing, blinking or moving lights and no animation.
3. The boards and their support structures shall be maintained in good condition at all times.
4. In the event the grants made herein are not renewed, or in the event future renewals are not granted, or in the event the grants herein or any future renewals are revoked, then, and in any of such events, the signs together with their support structures shall be removed forthwith.
5. In the event of a violation of any of the conditions herein, the Board reserves the right, after a duly convened public hearing, to amend or revoke any or all grants made herein.

The foregoing resolution is adopted upon roll call as follows:

AYES: Mr. Weiss  
Mrs. D'Amato  
Mr. Ragano  
Mrs. Perry  
Mr. Pellegrini  
Mr. Fisher  
Mrs. Adams

NOES: None

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

2020 JUL 22 AM 8: 22

APPEALS: 3953/3954

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

**TO:** McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

An application for a Special Use Permit from Section 99-1301.M.1 and for a variances from Sections 99-1304.A.2.c, 99-2203.D.1.a, 99-2205.B.2, 99-3404.B.1 and 99-3404.B.2 of the Code of the Village of Valley Stream to construct a one- story commercial building for a restaurant, with drive- thru, was submitted to the Board.

Section 99-1301.M.1 of the Code of the Village requires a special use permit for a restaurant use in the C-2 District.

Section 99-1304.A.2.c of the Code requires a 5 feet rear yard setback and 5 feet side yard setback when the rear and/or side property line is located within or adjacent to an adjoining commercial district, whereas, the proposed side yard setback is 0 feet at the west property line.

Section 99.2203.D.1.a of the Code requires that each parking space for a standard size automobile shall have a minimum dimension of not less than 9 feet in width and 20 feet in length, and shall provide 20 feet of maneuvering area for ingress and egress. The proposed maneuvering area is 18 feet.

Section 99-2205.B.2 of the Code requires in part that no vehicle be parked in any required front yard setback, whereas, proposed off-street parking spaces are located in the required front yard setback along Rockaway Avenue.

Section 99-3404.B.1 of the Code of the Village of Valley Stream prohibits the use of aluminum and building materials that appear temporary or artificial for commercial building facades; whereas, proposed commercial building façade consists of metal fascia and aluminum and appears temporary and/ or artificial.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

An application for Final Site Development Plan review pursuant to Article XXVII of the Code of the Village of Valley Stream was also entertained by the Board.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020 at which time the Board deliberated and made the following findings and conclusions:

With respect to the requested variances, the Board finds after reviewing the record and taking into consideration the benefit to the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood that the requested area variances should be granted. In making such determination the Board has considered and found that:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variances;



2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variances;
3. The requested area variances are not substantial;
4. The requested area variances will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variances.

Further, the Board finds in favor of granting a special use permit to allow a restaurant at the subject property. The Board has considered the special use permit standards set forth in Section 99-2008 of the Village Code in making its' determination.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3953 is GRANTED:

ROLL CALL:	Mr. Bond	yes
	Mr. DeLucie	yes
	Mr. Frusci	no
	Mr. Panzarino	yes
	Mr. Pizzolo	yes

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application to approve Final Site Development Plan Review as per Article XXVII of the Code of the Village of Valley Stream is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA) and is determined not to have a significant impact on the environment and the within application Case No. 3954 is GRANTED:

ROLL CALL:	Mr. Bond	yes
	Mr. DeLucie	yes

Mr. Frusci no  
Mr. Panzarino yes  
Mr. Pizzolo yes

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THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION

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If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.

BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

2020 JUL 22 AM 8: 22

APPEAL: 3955

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

Application for variances from Sections 99-1707.B.1, 99-1707.B.2, 99-1707.B.7 and 99-1704.F of the Code of the Village of Valley Stream to erect a commercial freestanding sign was submitted to the Board.

Section 99-1704.F prohibits banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices, whereas, proposed sign contains electronic message center.

Section 99-1707.B.1 requires the top of a commercial freestanding sign not to exceed 16 feet above the curb level adjacent to said sign, whereas, the top of the proposed commercial freestanding sign is 20 feet above the curb level adjacent to said sign.

Section 99-1707.B.2 requires the lowest bottom edge of a commercial freestanding sign shall not be lower than 12 feet from the ground curb level adjacent to said sign, whereas, the lowest bottom edge of the proposed commercial freestanding sign is 8.25 feet from the ground curb level adjacent to said sign.



Section 99-1707.B.7 permits 1 commercial freestanding sign, whereas 4 commercial freestanding signs are proposed.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020, at which time the Board deliberated and made the following findings and conclusions:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variances;
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variances;
3. The requested area variances are not substantial;
4. The requested area variances will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variances.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3955 is GRANTED.

ROLL CALL: Mr. Bond     yes  
              Mr. DeLucie   yes

Mr. Frusci no  
Mr. Panzarino yes  
Mr. Pizzolo yes

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THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION

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If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

2020 JUL 22 AM 8: 22

APPEAL: 3956

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

Application for variances from Sections 99-1707.B.2 and 99-1707.B.7 of the Code of the Village of Valley Stream to erect a commercial freestanding sign was submitted to the Board.

Section 99-1707.B.2 requires the lowest bottom edge of a commercial freestanding sign shall not be lower than 12 feet from the ground curb level adjacent to said sign, whereas, the lowest bottom edge of the proposed commercial freestanding sign is 1.83 feet from the ground curb level adjacent to said sign.

Section 99-1707.B.7 permits 1 commercial freestanding sign, whereas 4 commercial freestanding signs are proposed.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020, at which time the Board deliberated and made the following findings and conclusions:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variances;
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variances;
3. The requested area variances are not substantial;
4. The requested area variances will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variances.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3956 is GRANTED.

ROLL CALL: Mr. Bond     yes  
              Mr. DeLucie   yes  
              Mr. Frusci     no  
              Mr. Panzarino   yes  
              Mr. Pizzolo    yes

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**THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION**

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If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.



RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

2020 JUL 22 AM 8: 22

APPEAL: 3957

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

Application for variances from Sections 99-1707.B.2 and 99-1707.B.7 of the Code of the Village of Valley Stream to erect a commercial freestanding sign was submitted to the Board.

Section 99-1707.B.2 requires the lowest bottom edge of a commercial freestanding sign shall not be lower than 12 feet from the ground curb level adjacent to said sign, whereas, the lowest bottom edge of the proposed commercial freestanding sign is 1.83 feet from the ground curb level adjacent to said sign.

Section 99-1707.B.7 permits 1 commercial freestanding sign, whereas 4 commercial freestanding signs are proposed.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020, at which time the Board deliberated and made the following findings and conclusions:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variances;
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variances;
3. The requested area variances are not substantial;
4. The requested area variances will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variances.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3957 is GRANTED.

ROLL CALL: Mr. Bond      yes  
                  Mr. DeLucie   yes  
                  Mr. Frusci       no  
                  Mr. Panzarino   yes  
                  Mr. Pizzolo      yes

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**THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION**

If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.

BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

2020 JUL 22 AM 8:22

APPEAL: 3958

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

Application for variances from Sections 99-1707.B.2 and 99-1707.B.7 of the Code of the Village of Valley Stream to erect a commercial freestanding sign was submitted to the Board.

Section 99-1707.B.2 requires the lowest bottom edge of a commercial freestanding sign shall not be lower than 12 feet from the ground curb level adjacent to said sign, whereas, the lowest bottom edge of the proposed commercial freestanding sign is 1.83 feet from the ground curb level adjacent to said sign.

Section 99-1707.B.7 permits 1 commercial freestanding sign, whereas 4 commercial freestanding signs are proposed.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.



A public meeting was held on June 16, 2020, at which time the Board deliberated and made the following findings and conclusions:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variances;
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variances;
3. The requested area variances are not substantial;
4. The requested area variances will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variances.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3958 is GRANTED.

ROLL CALL: Mr. Bond      yes  
                  Mr. DeLucie   yes  
                  Mr. Frusci      no  
                  Mr. Panzarino   yes  
                  Mr. Pizzolo     yes

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**THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION**

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If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.



BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

2020 JUL 22 AM 8: 22

APPEAL: 3959

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

Application for variances from Sections 99-1707.A.1 of the Code of the Village of Valley Stream to erect a commercial surface-mounted sign was submitted to the Board.

Section 99-1707.A.1 permits a commercial surface-mounted sign to be no more than 3 feet in height, whereas, the proposed sign is 3.5 feet in height.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020, at which time the Board deliberated and made the following findings and conclusions:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance;

2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variance;
3. The requested area variance is not substantial;
4. The requested area variance will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variance.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3959 is GRANTED.

ROLL CALL: Mr. Bond     yes  
              Mr. DeLucie   yes  
              Mr. Frusci     no  
              Mr. Panzarino   yes  
              Mr. Pizzolo    yes

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**THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION**

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If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.

BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

2020 JUL 22 AM 8:22

APPEAL: 3960

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

Application for variances from Sections 99-1707.A.1 of the Code of the Village of Valley Stream to erect a commercial surface-mounted sign was submitted to the Board.

Section 99-1707.A.1 permits a commercial surface-mounted sign to be no more than 3 feet in height, whereas, the proposed sign is 3.5 feet in height.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020, at which time testimony was given, evidence submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020, at which time the Board deliberated and made the following findings and conclusions:

1. An undesirable change will not be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance;

2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the requested area variance;
3. The requested area variance is not substantial;
4. The requested area variance will not have an adverse effect and impact on the physical and environmental conditions in the neighborhood or district; and
5. Although the alleged difficulty is self-created, this fact in and of itself should not preclude the granting of the area variance.

**THEREFORE**, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3960 is GRANTED.

ROLL CALL: Mr. Bond     yes  
              Mr. DeLucie   yes  
              Mr. Frusci     no  
              Mr. Panzarino   yes  
              Mr. Pizzolo    yes

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**THIS IS NOT A BUILDING PERMIT  
TIME LIMITATION**

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If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.



BOARD OF APPEALS  
INCORPORATED VILLAGE OF VALLEY STREAM  
VILLAGE HALL  
123 SOUTH CENTRAL AVENUE  
VALLEY STREAM, NEW YORK 11580

RECEIVED  
BUILDING DEPT  
INC VILLAGE OF  
VALLEY STREAM

2020 JUL 22 AM 8: 22

APPEAL NUMBER: 3961

DECISION DATE: June 16, 2020

PROPERTY ADDRESS: 10 West Sunrise Highway  
Valley Stream, New York

TO: McDonalds USA, LLC  
111 Wood Avenue  
Iselin, New Jersey

DECISION is hereby rendered by the BOARD OF APPEALS in connection with the following matter:

An application was made for Final Site Development Plan Review per Article XXVII of the Code of the Village of Valley Stream.

The subject property is located on the southwest corner of West Sunrise Highway formed by the intersection of Rockaway Avenue and West Sunrise Highway and is known as 10 West Sunrise Highway, Valley Stream, New York.

A public hearing was held on June 2, 2020 at which time testimony was given, evidence was submitted and all interested persons were afforded an opportunity to be heard.

A public meeting was held on June 16, 2020 at which time the Board deliberated and made the following findings and conclusions:

The Board finds that approval of the site plan is appropriate. As required by Section 99-2704 of the Village Code the Board has considered the public health, safety and welfare of the general public and the prospective occupants in making its' determination.

THEREFORE, on motion by Mr. DeLucie, seconded by Mr. Pizzolo, the within application is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and is determined not to have a significant impact on the environment and the within application Appeal 3961 is GRANTED.

ROLL CALL: Mr. Bond     yes  
              Mr. DeLucie   yes  
              Mr. Frusci     no  
              Mr. Panzarino   yes  
              Mr. Pizzolo    yes

THIS IS NOT A BUILDING PERMIT

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TIME LIMITATION

If a variance or special use permit has been granted, said variance or permit must be acted upon within one (1) year from the granting of the same, unless an extension shall be granted by the Board of Appeals because of the occurrence of unforeseen conditions at the time of the granting of such variance or permit. If said variance is not so acted upon within one (1) year, unless an extension is granted, such variance or permit shall automatically expire without notice.

IN MATTERS WHEREIN THE BOARD OF APPEALS GRANTS A PERMIT, the same remains subject to the approval of the Building Department as to obtaining building permits and certificates of occupancy and subject to such Village and State Laws as may be applicable thereto.

# Town of North Hempstead



*Chairman*  
David L. Mammina, A.I.A.

*Members*  
Leslie Francis, Esq.  
David I. Levine, Esq.  
Daniel Donatelli, Esq.  
Jay Hernandez

## Board of Zoning Appeals

210 Plandome Road  
Manhasset, NY 11030  
(516) 869-7667  
Fax (516) 869-7812

### NOTICE OF DECISION

**APPEAL #20967 – McDonald’s USA, LLC (Signs); 95 Westbury Avenue, Carle Place; Section 10, Block 349, Lot 9; Zoned Industrial-B**  
Variances 70-196.J(1)(a), 70-196.J(1)(f), 70-196.J(1)(b), 70-196.J(2)(a), 70-196.J(2)(b), and 70-196.J(2)(d) to erect wall signs that exceed the number permitted on a wall, the height above the ground, and the height of a sign facing a parking area and to construct ground signs that exceed the number permitted on a property, a ground sign that is too big, and ground signs with not enough clearance between the bottom of the signs and the ground.

**Whereas**, an application (20-107211) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **December 2, 2020**, the appeal in the above entitled matter was decided as follows:

**GRANTED** of the dimension and in the location as shown on drawings prepared by Joseph A. Deal, P.E. dated February 27, 2018 and revised through August 18, 2020 (drawings SG-01 - SG-11) **SUBJECT TO THE FOLLOWING CONDITION:**

*The ground pylon sign shall not include an electronic message center.*

**THIS IS NOT A BUILDING PERMIT**

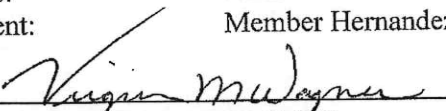
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by:           Member Donatelli           Seconded by: Vice Chairman Francis

Ayes:                    Member Donatelli, Member Levine  
                              Vice Chairman Francis, Chairman Mamma

Nays:                    None

Absent:                 Member Hernandez



**VIRGINIA M. WAGNER**  
**SECRETARY**

**THIS IS NOT A BUILDING PERMIT**





**BOARD OF APPEALS  
TOWN OF HEMPSTEAD**

1 Washington Street  
Hempstead, New York 11550-4923  
(516) 489-5000  
FAX (516) 483-0432  
WWW.TOH.LI

**NOTICE OF DECISION**

May 8, 2020

Tracking Number: 201813419

Case Number: 227/20

Hearing Date: 3/4/2020

Decision Date: 3/4/2020

COPY TO:

Keith Brown, Esq.

TO:

McDonald's Corp.  
110 North Carpenter St.  
Chicago, IL 60607-2101

REQUEST: Special exception to construct two (2) lane drive-thru window in conjunction with existing McDonald's restaurant; variance in off-street parking with improper maneuverability.

LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave., a/k/a 1255 Grand Ave., BALDWIN

DECISION: GRANTED unanimously by those present temporarily to March 4, 2025 with conditions (see attached).

**PERMIT MUST BE OBTAINED FROM DEPARTMENT OF BUILDINGS  
WITHIN 4 MONTHS OF THE FILING OF THIS DECISION.  
\*\* ALL OPEN PERMITS MUST BE CLOSED OUT.**

**THIS IS NOT A BUILDING PERMIT**  
Applicant will be notified by  
the Department of Buildings as to  
the status of the permit application.

Very truly yours,



Albert Jaegers  
Secretary to the Board of Appeals

March 4, 2020

**Case # 227 - McDonald's Corp.**

Special exception to construct two (2) lane drive-thru window in conjunction with existing McDonald's restaurant; variance in off-street parking with improper maneuverability.  
E/s Grand Ave., 110.41' N/o Grand Terrace Ave., a/k/a 1255 Grand Ave., Baldwin  
(Department of Buildings # 201813473)

On motion of Mr. Fisher and seconded by Mr. Ragano, granted temporarily to March 4, 2025 in accordance with applicant's plot plan prepared by Thomas Pickering, PE, dated 3/17/17 and received by the Board of Appeals 12/9/19 marked Applicant's Exhibit "1," together with Applicant's sign plan description prepared by Matthew Dewitt, P.E. dated 3/17/17, received by the Board of Appeals on 2/19/19 and marked Applicant's Exhibit "3," (the Board also received and reviewed other marked exhibits made a part of the record) subject to the following conditions:

1. Applicant shall receive deliveries on off-peak hours only.
2. Applicant shall maintain the drive thru speaker volume in accordance with Chapter 144 of the Town Code.
3. In the event of a violation of any of the conditions herein, the Board reserves the right, after a duly convened public hearing, to amend or revoke any or all grants made herein.

The foregoing resolution is adopted upon roll call as follows:

AYES: Mr. Weiss  
Mrs. D'Amato  
Mr. Ragano  
Mrs. Perry  
Mr. Pellegrini  
Mr. Fisher  
Mrs. Adams

NOES: None



**BOARD OF APPEALS  
TOWN OF HEMPSTEAD**

1 Washington Street  
Hempstead, New York 11550-4923  
(516) 489-5000  
FAX (516) 483-0432  
WWW.TOH.LI

**NOTICE OF DECISION**

May 8, 2020

Tracking Number: S167385

Case Number: 228 / 20

Hearing Date: 3/4/2020

Decision Date: 3/4/2020

COPY TO:

Keith Brown, Esq.

TO:

McDonald's Corp.  
110 North Carpenter St.  
Chicago, IL 60607-2101

REQUEST: Install 2nd single faced illuminated, detached menu board not permitted (1 detached sign permitted).

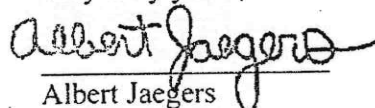
LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave.,  
a/k/a 1255 Grand Ave., BALDWIN

DECISION: GRANTED unanimously by those present temporarily to March 4, 2025 with conditions (see attached).

**PERMIT MUST BE OBTAINED FROM DEPARTMENT OF BUILDINGS  
WITHIN 4 MONTHS OF THE FILING OF THIS DECISION.  
\*\* ALL OPEN PERMITS MUST BE CLOSED OUT.**

**THIS IS NOT A BUILDING PERMIT**  
Applicant will be notified by  
the Department of Buildings as to  
the status of the permit application

Very truly yours,



Albert Jaegers  
Secretary to the Board of Appeals

March 4, 2020

**Case # 228 - McDonald's Corp.**

Install 2nd single faced illuminated, detached menu board not permitted (1 detached sign permitted).

E/s Grand Ave., 110.41' N/o Grand Terrace Ave., a/k/a 1255 Grand Ave., Baldwin  
(Building Application # S-167385-19)

On motion of Mr. Fisher and seconded by Mr. Ragano, granted temporarily to March 4, 2025 in accordance with applicant's site plan prepared by Thomas Pickering, PE, dated 3/17/17 and received by the Board of Appeals 12/9/19 marked Applicant's Exhibit "1," together with Applicant's sign plan description prepared by Gregory Campbell, dated 11/2/17, received by the Board of Appeals on May 29, 2019 and marked Applicant's Exhibit "2," (the Board also received and reviewed other marked exhibits made a part of the record) subject to the following conditions:

1. The signs shall be on a timer, and the illumination thereof shall be extinguished at the time the business closes.
2. The signs' illumination shall be by soft, steady interior illumination with no flashing, blinking or moving lights and no animation.
3. The signs and their support structures shall be maintained in good condition at all times.
4. In the event the grant made herein is not renewed, or in the event a future renewal is not granted, or in the event the grant herein or any future renewal is revoked, then, and in any of such events, the signs together with its support structure shall be removed forthwith.
5. In the event of a violation of any of the conditions herein, the Board reserves the right, after a duly convened public hearing, to amend or revoke any or all grants made herein.

The foregoing resolution is adopted upon roll call as follows:

AYES: Mr. Weiss  
Mrs. D'Amato  
Mr. Ragano  
Mrs. Perry  
Mr. Pellegrini  
Mr. Fisher  
Mrs. Adams

NOES: None





**BOARD OF APPEALS  
TOWN OF HEMPSTEAD**

1 Washington Street  
Hempstead, New York 11550-4923  
(516) 489-5000  
FAX (516) 483-0432  
WWW.TOH.LI

**NOTICE OF DECISION**

May 8, 2020

Tracking Number: S167386

Case Number: 229 / 20

Hearing Date: 3/4/2020

Decision Date: 3/4/2020

COPY TO:  
Keith Brown, Esq.

TO:  
McDonald's Corp.  
110 North Carpenter St.  
Chicago, IL 60607-2101

REQUEST: Install 3rd single faced illuminated, detached menu board not permitted (1 detached sign permitted).

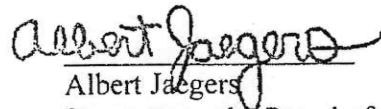
LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave.,  
a/k/a 1255 Grand Ave., BALDWIN

DECISION: GRANTED unanimously by those present temporarily to March 4, 2025 with conditions (see attached).

**PERMIT MUST BE OBTAINED FROM DEPARTMENT OF BUILDINGS  
WITHIN 4 MONTHS OF THE FILING OF THIS DECISION.**

**\*\* ALL OPEN PERMITS MUST BE CLOSED OUT.**

Very truly yours,

  
Albert Jaegers

Secretary to the Board of Appeals

**THIS IS NOT A BUILDING PERMIT**  
Applicant will be notified by  
the Department of Buildings as to  
the status of the permit application

March 4, 2020

**Case # 229 - McDonald's Corp.**

Install 3rd single faced illuminated, detached menu board not permitted (1 detached sign permitted).

E/s Grand Ave., 110.41' N/o Grand Terrace Ave., a/k/a 1255 Grand Ave., Baldwin  
(Building Application # S-167386-19)

On motion of Mr. Fisher and seconded by Mr. Ragano, granted temporarily to March 4, 2025 in accordance with applicant's site plan prepared by Thomas Pickering, PE, dated 3/17/17 and received by the Board of Appeals 12/9/19 marked Applicant's Exhibit "1," together with Applicant's sign plan description prepared by Robert Campbell, dated 11/2/17, received by the Board of Appeals on May 29, 2019 and marked Applicant's Exhibit "2," (the Board also received and reviewed other marked exhibits made a part of the record) subject to the following conditions:

1. The signs shall be on a timer, and the illumination thereof shall be extinguished at the time the business closes.
2. The signs' illumination shall be by soft, steady interior illumination with no flashing, blinking or moving lights and no animation.
3. The signs and their support structures shall be maintained in good condition at all times.
4. In the event the grant made herein is not renewed, or in the event a future renewal is not granted, or in the event the grant herein or any future renewal is revoked, then, and in any of such events, the signs together with its support structure shall be removed forthwith.
5. In the event of a violation of any of the conditions herein, the Board reserves the right, after a duly convened public hearing, to amend or revoke any or all grants made herein.

The foregoing resolution is adopted upon roll call as follows:

AYES: Mr. Weiss  
Mrs. D'Amato  
Mr. Ragano  
Mrs. Perry  
Mr. Pellegrini  
Mr. Fisher  
Mrs. Adams

NOES: None



**BOARD OF APPEALS  
TOWN OF HEMPSTEAD**

1 Washington Street  
Hempstead, New York 11550-4923  
(516) 489-5000  
FAX (516) 483-0432  
WWW.TOH.LI

**NOTICE OF DECISION**

May 8, 2020

Tracking Number: S167387  
Case Number: 230/20  
Hearing Date: 3/4/2020  
Decision Date: 3/4/2020

COPY TO:  
Keith Brown, Esq.

TO:  
McDonald's Corp.  
110 North Carpenter St.  
Chicago, IL 60607-2101

REQUEST: Install single faced illuminated, detached preview board not permitted (1 detached sign permitted).

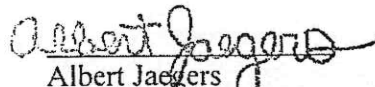
LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave.,  
a/k/a 1255 Grand Ave., BALDWIN

DECISION: GRANTED unanimously by those present temporarily to March 4, 2025 with conditions (see attached).

**PERMIT MUST BE OBTAINED FROM DEPARTMENT OF BUILDINGS  
WITHIN 4 MONTHS OF THE FILING OF THIS DECISION.**

**\*\* ALL OPEN PERMITS MUST BE CLOSED OUT.**

Very truly yours,

  
Albert Jaegers  
Secretary to the Board of Appeals

**THIS IS NOT A BUILDING PERMIT**  
Applicant will be notified by  
the Department of Buildings as to  
the status of the permit application

March 4, 2020

**Case # 230 - McDonald's Corp.**

Install single faced illuminated, detached preview board not permitted (1 detached sign permitted).

E/s Grand Ave., 110.41' N/o Grand Terrace Ave., a/k/a 1255 Grand Ave., Baldwin  
(Building Application # S-167387-19)

On motion of Mr. Fisher and seconded by Mr. Ragano, granted temporarily to March 4, 2025 in accordance with applicant's site plan prepared by Thomas Pickering, PE, dated 3/17/17 and received by the Board of Appeals 12/9/19 marked Applicant's Exhibit "1," together with Applicant's sign plan description prepared by Robert Campbell, dated 11/2/17, received by the Board of Appeals on May 29, 2019 and marked Applicant's Exhibit "2," (the Board also received and reviewed other marked exhibits made a part of the record) subject to the following conditions:

1. The signs shall be on a timer, and the illumination thereof shall be extinguished at the time the business closes.
2. The signs' illumination shall be by soft, steady interior illumination with no flashing, blinking or moving lights and no animation.
3. The signs and their support structures shall be maintained in good condition at all times.
4. In the event the grant made herein is not renewed, or in the event a future renewal is not granted, or in the event the grant herein or any future renewal is revoked, then, and in any of such events, the signs together with its support structure shall be removed forthwith.
5. In the event of a violation of any of the conditions herein, the Board reserves the right, after a duly convened public hearing, to amend or revoke any or all grants made herein.

The foregoing resolution is adopted upon roll call as follows:

AYES: Mr. Weiss  
Mrs. D'Amato  
Mr. Ragano  
Mrs. Perry  
Mr. Pellegrini  
Mr. Fisher  
Mrs. Adams

NOES: None





**BOARD OF APPEALS  
TOWN OF HEMPSTEAD**

1 Washington Street  
Hempstead, New York 11550-4923  
(516) 489-5000  
FAX (516) 483-0432  
WWW.TOH.LI

**NOTICE OF DECISION**

May 8, 2020

Tracking Number: S167388

Case Number: 231/20

Hearing Date: 3/4/2020

Decision Date: 3/4/2020

COPY TO:  
Keith Brown, Esq.

TO:  
McDonald's Corp.  
110 North Carpenter St.  
Chicago, IL 60607-2101

REQUEST: Install 2nd single faced illuminated , detached preview board not permitted (1 detached sign permitted).

LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave.,  
a/k/a 1255 Grand Ave., BALDWIN

DECISION: GRANTED unanimously by those present temporarily to March 4, 2025 with conditions (see attached).

**PERMIT MUST BE OBTAINED FROM DEPARTMENT OF BUILDINGS  
WITHIN 4 MONTHS OF THE FILING OF THIS DECISION.  
\*\* ALL OPEN PERMITS MUST BE CLOSED OUT.**

THIS IS NOT A BUILDING PERMIT  
Applicant will be notified by  
the Department of Buildings as to  
the status of the permit application

Very truly yours,

Albert Jaegers  
Secretary to the Board of Appeals

March 4, 2020

**Case # 231 - McDonald's Corp.**

Install 2nd single faced illuminated, detached preview board not permitted (1 detached sign permitted)

E/s Grand Ave., 110.41' N/o Grand Terrace Ave., a/k/a 1255 Grand Ave., Baldwin  
(Building Application # S-67388-19)

On motion of Mr. Fisher and seconded by Mr. Ragano, granted temporarily to March 4, 2025 in accordance with applicant's site plan prepared by Thomas Pickering, PE, dated 3/17/17 and received by the Board of Appeals 12/9/19 marked Applicant's Exhibit "1," together with Applicant's sign plan description prepared by Robert Campbell, dated 11/2/17, received by the Board of Appeals on May 29, 2019 and marked Applicant's Exhibit "2," (the Board also received and reviewed other marked exhibits made a part of the record) subject to the following conditions:

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2. The signs' illumination shall be by soft, steady interior illumination with no flashing, blinking or moving lights and no animation.
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5. In the event of a violation of any of the conditions herein, the Board reserves the right, after a duly convened public hearing, to amend or revoke any or all grants made herein.

The foregoing resolution is adopted upon roll call as follows:

AYES: Mr. Weiss  
Mrs. D'Amato  
Mr. Ragano  
Mrs. Perry  
Mr. Pellegrini  
Mr. Fisher  
Mrs. Adams

NOES: None

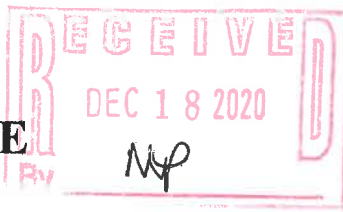


VILLAGE OF WAPPINGERS FALLS

OFFICE OF BUILDING, PLANNING & ZONING

(845) 297-5277 Fax: (845) 296-0379

APPLICATION FOR AN AREA VARIANCE



APPEAL NUMBER: \_\_\_\_\_ MEETING DATE: \_\_\_\_\_

(F)

APPLICANT:

Name: DANIEL E GARAY JR
Address: 8 APPLE SUMMIT LANE
LAGRANGEVILLE NY 12540
Phone Numbers: (H) 914-774-5737 (C) 914-774-5737
(E-mail) JASTINE@OPTONLINE.NET

(If the applicant is not the owner, a Consent form signed by the owner must be filed with this application.)

PROPERTY OWNER:

Name: DANIEL E GARAY JR
Address: 8 APPLE SUMMIT LANE
LAGRANGEVILLE NY 12540
Contact Phone Numbers: (H) 914-774-5737 (C) 914-774-5737
(E-mail) JASTINE@OPTONLINE.NET

PROPERTY INFORMATION

Property Address (subject of appeal): 37 DOWNEY AVE
Tax Parcel #: 6158-13-199440-0000
Date property acquired: 6-3-2019
Present use of property: SINGLE FAMILY HOME TO BE BUILT
Zoning District:
Dimensions: Lot Area 7,650 (sq. ft. Width 50 ft. Depth 153 ft.
Setback: Front 15 ft. Rear ft.
Sides 8 ft. and 8 ft.

REQUEST FOR AREA VARIANCE

Deed Restrictions: SINGLE FAMILY ZONE
Section(s) of ordinance from which variance is requested:

Table with 3 columns: SECTION, REQUIRING, REQUESTED VARIANCE. Row 1: (blank), (blank), ADDITIONAL 12" SET BACK FROM RIGHT SIDE PROPERTY LINE.





VILLAGE OF WAPPINGERS FALLS

OFFICE OF BUILDING, PLANNING & ZONING

(845) 297-5277 Fax: (845) 296-0379

APPLICATION FOR AN AREA VARIANCE (Continued)

Description of appeal Requested: NEW FOUNDATION IS OVER THE RIGHT HAND SIDE SET BACK BY 11" IN RIGHT REAR CORNER. BACK IS 7'-7" TO FRONT CORNER IS 8'5"

Dates and Descriptions of prior appeals, variances or special permit for property: NONE

Planning Board review date(s): \_\_\_\_\_

Environmental review: \_\_\_\_\_

PLEASE ANSWER THE FOLLOWING QUESTIONS: (Use attachments if necessary)

1. How will this variance affect nearby properties?

THERE ISN'T ANY

2. How will granting this variance benefit the property owner?

I WON'T HAVE TO REMOVE FOUNDATION

3. What is the minimum relief needed?

12"

4. Why are alternative methods for compliance NOT FEASIBLE?

IT CAN BE DONE BUT IT'S EXPENSIVE TO DIG OUT, REMOVE FOUNDATION & REPLACE W/ NEW

5. Did you do something to your property to cause the need for the variance? (i.e., previous activities such as grading, excavations, additions, improvements)?

MOT FOUNDATION TO CLOSE TO PROPERTY LINE.





**VILLAGE OF WAPPINGERS FALLS**  
**OFFICE OF BUILDING, PLANNING & ZONING**  
 (845) 297-5277 Fax: (845) 296-0379  
**APPLICATION FOR AN AREA VARIANCE (Continued)**

6. How will this variance affect the general character of the community with respect to noise, vibration, odors, vehicular and pedestrian traffic, visual aesthetics, public services (such as schools, police, fire, water, sewer, and roads)? IT WON'T / ZERO AFFECTS

7. How will the proposed variance affect the health, safety, security morals or general welfare of residents, visitors or workers in the area? IT WON'T / ZERO AFFECTS

**REQUIRED SUBMITTALS:**

- "Letter of Denial"
- Affidavit of ownership
- Contract of Sale or Lease, if applicable
- Photographs of affected area if applicable
- Plot Plan
- Application Fee

**SIGNATURE AND VERIFICATION**

Please be advise that no application can be deemed complete unless signed below.  
**The applicant hereby states that all information given is accurate as of the date of application. If not the owner of the property, I hereby swears that this application is made with the informed knowledge and consent of the owner.**

*David Baruch*  
 SIGNATURE OF APPLICANT

12-15-2020  
 DATE

617.20  
Appendix B  
Short Environmental Assessment Form

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: <b>NEW HOME - 37 DOWNEY AVE</b>			
Project Location (describe, and attach a location map): <b>37 DOWNEY AVE</b>			
Brief Description of Proposed Action: <b>RIGHT SIDE OF FOUNDATION TOO CLOSE TO PROPERTY LINE.</b>			
Name of Applicant or Sponsor: <b>DANIEL E GARDY JR</b>		Telephone: <b>914-774-5737</b>	
Address: <b>8 APPLE SUMMIT LANE</b>		E-Mail: <b>JASTINE@OPTONLINE.NET</b>	
City/PO: <b>LAGAARVILLE</b>		State: <b>NY</b>	Zip Code: <b>12540</b>
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? <u>0</u> acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <u>0</u> acres			
4. Check all land uses that occur on, adjoining and near the proposed action.			
Urban	Rural (non-agriculture)	Industrial	Commercial <input type="checkbox"/>
			Residential (suburban) <input checked="" type="checkbox"/>
Forest Agriculture Parkland	Aquatic	Other (specify): <u>SCHOOL/CHURCH</u>	

5. Is the proposed action, a. A permitted use under the zoning regulations?	<b>NO</b>	<b>YES</b>	<b>N/A</b>
		X	
b. Consistent with the adopted comprehensive plan?			
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<b>NO</b>	<b>YES</b>	
		X	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<b>NO</b>	<b>YES</b>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?  b. Are public transportation service(s) available at or near the site of the proposed action?  c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<b>NO</b>	<b>YES</b>	
	X		
	X		
	X		
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<b>NO</b>	<b>YES</b>	
	X		
10. Will the proposed action connect to an existing public/private water supply?  If No, describe method for providing potable water: _____	<b>NO</b>	<b>YES</b>	
	X		
11. Will the proposed action connect to existing wastewater utilities?  If No, describe method for providing wastewater treatment: _____	<b>NO</b>	<b>YES</b>	
	X		
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?  b. Is the proposed action located in an archeological sensitive area?	<b>NO</b>	<b>YES</b>	
	X		
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<b>NO</b>	<b>YES</b>	
	X		
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<b>NO</b>	<b>YES</b>	
	X		
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: Shoreline    Forest    Agricultural/grassland    Early mid-successional    Wetland <input checked="" type="checkbox"/>			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<b>NO</b>	<b>YES</b>	
	X		
16. Is the project site located in the 100 year flood plain?	<b>NO</b>	<b>YES</b>	
	X		
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties?  b. Will storm water discharges be directed to established conveyance systems off and storm drains)? If Yes, briefly describe: _____	<b>NO</b>	<b>YES</b>	
	X		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	X	
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	X	
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
_____	X	

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: DAVID E GARY JR Date: 12-15-2020

Signature: Daniel E Gary

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	X	
2. Will the proposed action result in a change in the use or intensity of use of land?	X	
3. Will the proposed action impair the character or quality of the existing community?	X	
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	X	
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	X	
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	X	
7. Will the proposed action impact existing:		
a. public / private water supplies?	X	
b. public / private wastewater treatment utilities?	X	
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	X	
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	X	



	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	X	
11. Will the proposed action create a hazard to environmental resources or human health?	X	

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. **Part 3** should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)

PART "B"  
APPLICANT / AGENT AFFIDAVIT

State of NEW YORK }  
County of DUTCHESS } ss:

DANIEL E GARAY JR being duly sworn, deposes and says:

1. That I/we are the DANIEL E GARAY JR named in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That he/she resides at or conducts business at 8 APPLE SUMMIT LAKE in the County of DUTCHESS and the State of NEW YORK
3. That I/we understand that by submitting this application for Zoning Board of Appeals approval that I/we expressly grant permission to the Zoning Board of Appeals and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Zoning Board of Appeals action. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
4. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Zoning Board of Appeals, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Wappingers Falls, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
5. That I/we understand that the Village of Wappingers Falls Zoning Board of Appeals intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we has examined this affidavit and that it is true and correct.

Daniel Garay Jr  
Applicant/Agent

Applicant/Agent

Sworn to before me this 18<sup>th</sup> day of

December, 2020.

Dipti Shah  
Notary Public

DIPTI SHAH  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SH6391079  
Qualified in Dutchess County  
My Commission Expires 04-29-2023

PART "A"  
OWNER AFFIDAVIT

State of NEW YORK }  
County of DUTCHESS } ss:

DANIEL E GARAY JR being duly sworn, deposes and says:

1. That I/we are the Owner(s) of the within property as described in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize DANIEL E GARAY JR, to act as my/our representative in all matters regarding said application(s), and that I/we have the legal right to make or authorize the making of said application.
3. That I/we understand that by submitting this application for Zoning Board of Appeals approval that I/we expressly grant permission to the Zoning Board of Appeals and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Zoning Board of Appeals action.
4. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
5. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Zoning Board of Appeals, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Wappingers Falls, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
6. That I/we understand that the Village of Wappingers Falls Zoning Board of Appeals intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we have examined this affidavit and that it is true and correct.

Daniel Garay Jr  
Applicant/Owner

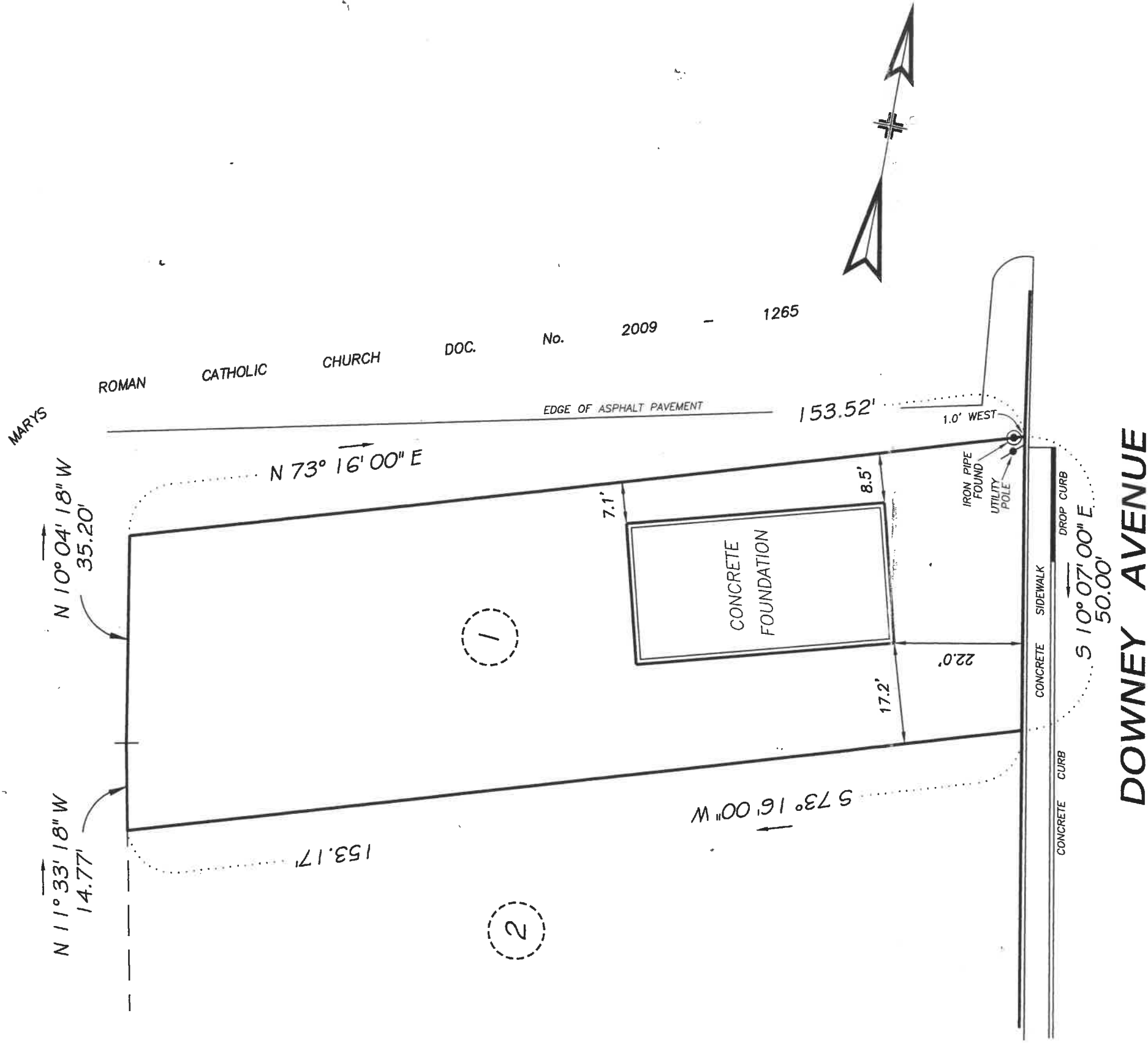
\_\_\_\_\_  
Applicant/Owner

Sworn to before me this 18<sup>th</sup> day of  
December, 2029.

D. Y. Shah  
Notary Public

DIPTI SHAH  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SH6391079  
Qualified in Dutchess County  
My Commission Expires 04-29-2023

LANDS NOW OR FORMERLY ST.



**SURVEY OF PROPERTY  
SITUATE IN THE  
VILLAGE OF WAPPINGERS FALLS  
DUTCHESS COUNTY  
NEW YORK**

SCALE: 1" = 20'  
SURVEYED: DECEMBER 8, 2020

**Link**  
**Land Surveyors P.C.**  
21 Clark Place, Suite 1-B Phone 845-628-5857  
Mahopac N.Y. 10541 Fax 845-621-0013



- THE PREMISES SHOWN HEREON DESIGNATED AS LOT 1 ON A CERTAIN MAP ENTITLED, "DOWNEY AVENUE SUBDIVISION", PREPARED BY ROBERT V. OSWALD, L.S., DATED JUNE 2019 AND FILED IN THE DUTCHESS COUNTY CLERK'S OFFICE ON MAY 18, 2020 AS FILED MAP No. 12661.
- THIS MAP IS BASED UPON THE INFORMATION SUPPLIED BY THE CLIENT AND/OR HIS REPRESENTATIVE AND SUBJECT TO THE FINDINGS THAT A COMPLETE ABSTRACT OF TITLE MAY UNCOVER
- THE OFFSETS SHOWN HEREON ARE NOT INTENDED TO ESTABLISH PROPERTY LINES FOR THE ERECTION OF FENCES, STRUCTURES OR ANY OTHER IMPROVEMENTS.
- ENCROACHMENTS BELOW GRADE AND/OR SUBSURFACE FEATURES, IF ANY, NOT LOCATED OR SHOWN HEREON.
- UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUBDIVISION 2, OF THE NEW YORK STATE EDUCATION LAWS.
- THE INFORMATION DEPICTED HEREON IS BASED UPON AN ACTUAL FIELD SURVEY AND IS AN OPINION BASED UPON SAID SURVEY. VARIATIONS IN OFFSETS FROM THAT OF THE OTHERS CAN AND MAY EXIST.
- ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S SEAL SHALL BE CONSIDERED TO BE TRUE VALID COPIES.
- THIS MAP WAS PREPARED FROM AN ACTUAL FIELD SURVEY CONDUCTED ON THE DATE SHOWN AND THAT SAID SURVEY WAS PERFORMED IN ACCORDANCE WITH THE EXISTING "CODE OF PRACTICE FOR LAND SURVEYS" ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS.

PREPARED FOR: DANIEL GARAY

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