

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

AGENDA OF THE ZONING BOARD OF APPEALS

February 9, 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 February 9, 2021, beginning at 7:00 p.m. via Webex.

The Webex participation information is as follows:

Meeting number (access code): 132 040 2760
Meeting password: iAtpkQHE435

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 JANUARY 12, 2021 MINUTES

PUBLIC HEARING

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) – Rehearing of Denial of Variance.

This property is located in the Commercial Mixed Use (CMU) zoning district. The applicant is seeking rehearing of the denial of the original requested variance application to the ZBA for the proposed digital pre-browse and menu boards.

CONTINUED PUBLIC HEARING

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.



January 27, 2021

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: Area Variance Rehearing and Sign Interpretation Application (collectively, the "Application") to the Village of Wappingers Falls ("Village") Zoning Board of Appeals ("ZBA") to install Outdoor Digital Menu Boards and Outdoor Digital Pre-Browse Boards (collectively, the "Digital Boards"), 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 (the "Property"); Tax Map No.: 6158-19-527150

Our File No.: 100-284-066

Honorable Members of the Village ZBA:

As you may recall, on January 12, 2021, this Honorable Board granted McDonald's request to rehear the denial of McDonald's prior area variance application to the ZBA for the Digital Boards. In furtherance of the February 9, 2021 rehearing, we respectfully submit the following documents in support of the Application:

1. Ten (10) copies of a Memorandum in Support, dated January 26, 2021;
2. Ten (10) copies of a Letter Report, prepared by Atlantic Traffic and Design Engineering, LLC, dated January 25, 2021;
3. Ten (10) copies of the prior ZBA Application;
4. Ten (10) copies the February 21, 2019 Village Building Inspector Letter denying McDonald's building permit to install, among other things, the Digital Boards;
5. Ten (10) full size copies of the Site Plan (C4), prepared by Core States Group ("Core States"), dated May 29, 2018, last revised August 19, 2019;
6. Ten (10) full size copies of the Construction Details (C8), prepared by Core States, dated May 29, 2018, last revised January 21, 2021;
7. Ten (10) full size copies of the Landscape Plan (L1), prepared by Cores States, dated May 29, 2018, last revised August 19, 2019; and
8. Ten (10) copies of the professional resume for Alan Roscoe, P.E., the project civil engineer.



BROWN
ALTMAN &
DILEO, LLP

The Applicant also submits the following exhibit to be viewed by the Members of this Honorable Board and we respectfully request that it be played during the February 9, 2021 ZBA public hearing:

- One (1) flash-drive that includes a video of a sign (the “Prohibited Sign”) that “flashes” “blinks” or contains “intermittent moving lights”.

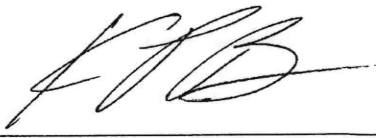
As can be seen, the Prohibited Sign changes color, is in a constant state of movement and produces a glare. This is the type of sign that the Village Board of Trustees sought to prohibit through Village Code §151-25(C)(7) as it presents a clear distraction to motorists on the roadway and increases the likelihood of car accidents.

In comparison, the Digital Boards are rear facing, located behind the restaurant and will not be viewed by motorists and pedestrians travelling along Route 9. As previously stated in McDonald’s January 11, 2021 Memorandum of Law, the Digital Boards do not “flash”, “blink” or have “intermittent moving lights”. The Digital Boards simply change its menu display at the same time each day to show the breakfast, lunch and dinner menus. Thus, the Digital Boards will not distract motorists on Route 9 and do not present a risk to the public health, safety or welfare.

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 and mingber@brownaltman. Thank you.

Very truly yours,

BROWN ALTMAN & DILEO, LLP

By: 
Keith P. Brown, Esq.

Encls.

cc: Village Attorney (attn.: Lisa Cobb, Esq.)

McDonald’s Corporation (attn.: Derek Moskal w/o encls.)

Core States (attn.: Alan Roscoe, P.E. w/o encls.)

VILLAGE OF WAPPINGERS FALLS
ZONING BOARD OF APPEALS

APPLICATION OF MCDONALD'S CORPORATION
MEMORANDUM IN SUPPORT

I. THE PROPERTY

The property is located at 1567 Route 9, Wappingers Falls, New York in the Village of Wappingers Falls (the "Village") (Tax Map No.: 6158-19-527150) (the "Property") and is situated in the Commercial Mixed Use ("CMU") zoning district. The Property is owned by Ormater Development Corp. and leased by McDonald's Corporation ("McDonald's" or the "Applicant").

The Property has been improved with a McDonald's restaurant and accessory drive-thru since *circa* 1989. It is located on the westerly side of Route 9 and is part of a shopping center that includes other retail, commercial and restaurant uses. To the north of the Property is a Smoothie King, pizza parlor, nail salon, Mexican restaurant and a Walgreens. South of the Property is a Starbucks with accessory drive-thru facility, jewelry store, Sprint retail storefront and a bank. East of the Property, across Route 9, includes, among other uses, a Home Depot, Planet Fitness, BigLots! and a Dollar Tree. Behind the Property to its west is a parking area and undisturbed land with natural vegetation. An Aerial Photograph is annexed hereto as **Exhibit "A"**.

In 2019, the McDonald's restaurant obtained Zoning Board of Appeals ("ZBA") and Planning Board ("PB") approvals to redevelop and modernize the site. Pursuant to the Village approvals, McDonald's has, among other things, remodeled the exterior of the restaurant and installed a side-by-side drive-thru consisting of two (2) static internally illuminated menu boards and two (2) static internally illuminated pre-browse boards (collectively, the "Static Boards").

The ongoing COVID-19 pandemic has significantly increased the demand for the drive-thru service as customers seek to limit in-person contact. As noted by the ZBA during a January 12, 2021 public hearing concerning the Property, the drive-thru line has regularly been extending onto Route 9, which has created a significant risk to public safety. In furtherance thereof, the Applicant seeks area variance relief to replace the four (4) drive-thru Static Boards with two (2) LED digital menu boards and two (2) LED digital pre-browse boards (collectively, the “Digital Boards”). It is anticipated the Digital Boards will increase the speed of the drive-thru ordering process, improve on-site circulation and decrease the impact of the drive-thru on Route 9.

McDonald’s respectfully requests area variance relief from Village Code § 151-25(C)(7) to install the Digital Boards. We note that a resolution of approval can be narrowly tailored to the specific facts of this case, which will have limited precedential value to future applicants. As more fully discussed in this Memorandum in Support, the specific facts of this Application warrant area variance relief. We note the following:

1. Granting variance relief will aid in alleviating an ongoing public safety concern by increasing the speed of the drive-thru ordering process, which will reduce the likelihood of the drive-thru line extending onto Route 9;
2. The Digital Boards are rear facing, will be located behind the McDonald’s restaurant and will not change the established commercial character of the surrounding area;
3. The Digital Boards do not flash, blink or contain intermittent moving lights as they only change its display three (3) times per day based on McDonald’s food offerings to show the breakfast, lunch and dinner menus to drive-thru patrons; and

4. The Digital Boards do not jeopardize the public health, safety or welfare as they will not be visible from Route 9 and will not distract motorists or pedestrians on the public roadway.

II. HISTORY

The Applicant incorporates the facts and arguments contained in Applicant's January 11, 2021 Memorandum of Law with the same force and affect as if more fully set forth herein at length.

The relevant facts include the following:

1. 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 Property:
 - a. To permit a total of thirteen (13) signs where Village Code § 151-25(J)(2) permits a maximum of three (3) signs;
 - b. To permit nine (9) freestanding signs where Village Code § 151-25(K)(2)(c)(1) permits a maximum of one (1) freestanding sign; and
 - c. To install two (2) LED digital pre-browse boards and two (2) LED digital menu boards (the "Digital Boards") for the drive-thru facility where Village Code § 151-25(C)(7) prohibits signs with flashing, blinking, intermittent or moving lights.
2. 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 ZBA deny McDonald's request to install the Digital Boards for the drive-thru.

3. 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). With respect to the Digital Boards, McDonald's received a majority vote in favor of grating area variance relief. However, a supermajority vote in favor was required to overcome the County's negative recommendation. *See* NY Gen. Mun. Law § 239-m(5).
4. On or about September 6, 2019, the Village PB granted McDonald's site plan application. 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."
5. On December 4, 2019, McDonald's submitted an application to the ZBA seeking: (a) an Interpretation of Village Code § 121-25(C)(7); and (b) a rehearing to reconsider the ZBA's May 14, 2019 resolution that only received a majority vote in favor and not the required supermajority vote to install the Digital Boards for the side-by-side drive-thru.
6. On January 12, 2021, the Village ZBA unanimously voted in favor of granting McDonald's a rehearing to reconsider its May 2019 resolution in respect to the Digital Boards. The ZBA adjourned the Interpretation Application to February 9, 2021.

III. THE DIGITAL BOARDS

As relevant to the instant Application, McDonald's seeks to replace its existing "static poster" boards currently installed at the side-by-side 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 an employee is required to change the "static poster" display during periods of operation where there are vehicles in the drive-thru queue. 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 software, 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.

IV. THE AREA VARIANCE

The Applicant is applying to the Village ZBA requesting area variance relief from Village Code § 151-25(C)(7) to permit four (4) Digital Boards for the side-by-side drive-thru. 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.

Section 151-52(B) of the Village Code provides that in determining whether to issue an area variance, the Board shall consider "the benefit to the applicant if the variance is granted, as

weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.” The Board is to consider the following factors in making its determination:

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

Granting variance relief to permit the Digital Boards for the drive-thru will not change the commercial character of the neighborhood nor will it create a detriment to or disturb nearby properties. We note that the Digital Boards are expected to have a positive impact on the surrounding area as they will improve the efficiency of the ordering process, improve overall on-site circulation, and alleviate an ongoing public safety concern by reducing the likelihood of the drive-thru line extending onto Route 9.

The Property has been improved with a McDonald’s restaurant with accessory drive-thru since *circa* 1989. The restaurant is currently improved with a side-by-side drive-thru using static menu boards and static pre-browse boards. Allowing McDonald’s to update its drive-thru equipment by replacing the static menu and pre-browse boards with modern Digital Boards will not change the commercial character of the area or cause a detriment to the nearby commercial properties.

As previously noted, the Property is located on Route 9 and the surrounding area is made-up of retail, commercial and restaurant uses. To the north of the Property is a Smoothie King, pizza parlor, nail salon, Mexican restaurant and a Walgreens. South of the Property is a Starbucks with accessory drive-thru facility, jewelry store, Sprint retail store and a bank. To the east of the Property, across Route 9, includes, among other uses, a Home Depot, Planet Fitness, BigLots! and a Dollar Tree. Behind the Property to its west is a parking area and undisturbed land with natural

vegetation. It is respectfully submitted that the McDonald's restaurant with Digital Boards will not change the established commercial character of Route 9.

The Digital Boards will be rear facing, located behind the McDonald's restaurant, and will not be visible by pedestrians and motorists travelling along Route 9. Thus, the Digital Boards will not distract vehicles driving along the public roadway nor will they present a risk to the public health, safety or welfare. Further, there are no residential properties in the immediate vicinity of the Property that will be able to view the improvements to the drive-thru. As can be seen by the Aerial Photograph annexed as **Exhibit "A"**, there is a significant natural buffer that provides substantial screening separating the Property from the nearest residences located on South Remsen Avenue.

We submit that the Digital Boards do not "flash", "blink" or otherwise contain "intermittent moving lights" as contemplated under Village Code § 151-25(C)(7). *See* McDonald's Mem. of Law, Sec. III(A), pgs. 8-10. The Digital Boards simply change its display three (3) times per day at the same time each day to display the breakfast, lunch and dinner menus. They are not designed to advertise the restaurant, do not contain moving animated graphics or emit high intensity flashing lights that tend to distract motorists on the public roadway and potentially leading to car accidents. We respectfully submit that the Digital Boards are not the type of signs that Village Code § 151-25(C)(7) seeks to prohibit and will not create a detriment to the surrounding commercial area.

In comparison, the Applicant has submitted a video that includes a sign located in the front of a restaurant facing a public roadway (the "Prohibited Sign"). A video of the Prohibited Sign is included in Applicant's submission dated January 27, 2021 and is incorporated by reference hereto. As can be seen, the Prohibited Sign changes color, is in a constant state of movement and produces a glare. This is the type of sign that the Village Board of Trustees intended to prohibit through

Village Code §151-25(C)(7) as it presents a clear distraction to motorists on the roadway, increases the likelihood of car accidents and is a significant determinant to the surrounding area.

The Village Code also does not define the terms “flash”, “blink” or “intermittent.” When terms are not defined, New York law requires that statutory terms be given their ordinary commonly understood meaning. NY Stat § 234. Any ambiguities in the terms “intermittent”, “flash” or “blink” must be resolved in the Applicant’s favor. *See BBJ Associates, LLC v. Zoning Bd. of Appeals of Town of Kent*, 65 A.D.3d 154, 159 (2nd Dep’t 2009).

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 Board 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.

It is respectfully submitted that 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. Alternatively, we ask that the Board take notice that the terms “flash”, “blink” and “intermittent” are ambiguous and can lead to overly broad interpretations, especially as applied to the Digital Boards. In such cases, New York law requires that such ambiguity be resolved in the applicant’s favor. Accordingly, the ambiguity of Village Code § 151-25(C)(7) weighs in favor of granting variance relief.

Based on the foregoing, the Applicant respectfully submits that granting the requested relief will not change the commercial character of the surrounding area nor cause a detriment to any nearby properties.

2. *Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.*

The Digital Boards will provide a public safety benefit by increasing the efficiency of the drive-thru operation, which will decrease the likelihood of vehicles queuing onto Route 9. We submit that the benefit of the Digital Boards cannot be achieved by any method other than through the grant of the requested area variance or through an interpretation that Village Code § 151-25(C)(7) does not apply. The Village Building Inspector has deemed the rear facing Digital Boards as the type of signs included within the blanket prohibition forbidding all signs that “flash” “blink” or have “intermittent moving lights.” We respectfully submit that the Digital Boards are not the

type of signs that the Village Board of Trustees intended to prohibit under Village Code § 151-25(C)(7). The Digital Boards are not located along Route 9, are not visible to vehicles or pedestrians travelling along the public roadway nor do they present a distraction to motorists. Absent an interpretation from the ZBA that Village Code § 151-25(C)(7) does not apply to the instant application, it is not possible for the Applicant to achieve the benefit of the Digital Boards without area variance relief.

As previously noted, McDonald's restaurants, like the instant restaurant, serve a broad range of food and beverage items during the course of the day. The McDonald's business model also contemplates that additional menu and seasonal offerings will be added to the breakfast, lunch and dinner menus throughout the year. To achieve the benefit of providing a comprehensive and changing menu, McDonald's no longer supports the prior "static" poster board menu system for its drive-thru facilities. Instead, the McDonald's business, like many other full service restaurants, have adopted the Digital Menu platform to better serve its customers, restaurants and site operators.

Under the "static" system, McDonald's Corporation and/or its restaurant operators are required to create custom tangible poster boards for the breakfast, lunch and dinner menus for each menu board and pre-browse board installed at the drive-thru. When the food offerings change, McDonald's Corporation and/or the restaurant operator is required to create new menu and/or pre-browse boards to reflect the new food and beverage offerings. This is not a practical or economically feasible solution for its business and, as previously noted, McDonald's Corporation no longer supports the "static" system for its drive-thrus. Thus, absent variance relief, the operator at this Property faces a substantial operational hardship as he or she will be forced to create new

“static” poster boards for the two (2) menu boards and two (2) pre-browse boards when McDonald’s changes its menu offerings.

Further, the static boards present a significant safety risk that can be eliminated through the use of the Digital Boards. The static board requires a McDonald’s employee to manually change the breakfast, lunch and dinner menus throughout the day. This presents an obvious danger as an employee is required to change the “static poster” display during periods of operation where there are vehicles in the drive-thru queue.

Granting the instant application will benefit the Applicant and remove the inherent danger of the “static” menu board system. A McDonald’s employee will no longer have to manually change the poster board display while vehicles are in the drive-thru queue. Further, the Digital Boards will facilitate the business operations of McDonald’s and allow this site operator to remain economically competitive and allow the site operator to timely update the restaurant menu offerings.

As noted by the ZBA during the January 12, 2021 public hearing, there is a serious and ongoing public safety hazard as the drive-thru queue has been extending onto Route 9. We note that COVID-19 has significantly changed consumer behavior by reducing the demand for in-store purchases in favor of using the drive-thru facility to limit in-person contact. As provided in the January 2021 Traffic Expert Report prepared by the Applicant’s traffic engineer, Atlantic Traffic & Design Engineering, LLC, the Digital Boards will improve on-site circulation and improve overall safety on Route 9. A copy of the Traffic Expert Report is included in Applicant’s January 27, 2021 submission and is incorporated by reference hereto.

The Expert Report provides that the Digital Boards will contribute to overall site safety for the following reasons:

1. The Digital Boards will provide customers with a clear display of the menu offerings and improve the efficiency and speed of the drive-thru ordering process;
2. The Digital Menu Board includes speakers and microphones that auto-adjusts to ambient noise levels and provides better sound quality at lower decibels than the existing drive-thru equipment and leads to more accurate communication between the customer and the order taker; and
3. The Digital Boards will enhance the speed of the drive-thru ordering process, reduce vehicle queueing in the drive-thru and alleviate an ongoing public safety concern by reducing the likelihood of the drive-thru line extending onto Route 9 and impacting oncoming traffic.

For the aforementioned reasons, area variance relief is needed to achieve the economic, operational and public safety benefits afforded by the Digital Boards.

3. Whether the requested area variance is substantial.

On May 19, 2019, the ZBA granted McDonald's variance application to install nine (9) freestanding signs, which included relief for the four (4) freestanding "static" boards currently installed at the side-by-side drive-thru. The Applicant will not be adding to the number of signs on the Property as the Application seeks an in-kind replacement of the four (4) "static" drive-thru boards with four (4) Digital Boards. It is respectfully submitted that the area variance relief is not substantial and will not change the total number of freestanding signs previously approved by the ZBA on May 19, 2019.

In any event, as discussed above, the absence of any impact on neighborhood character or detriment to any nearby properties resulting from the requested variances indicates the lack of weight that should be afforded to this criteria.¹

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

The requested variances will not have an adverse impact on the physical or environmental conditions of the neighborhood or district. The Property is not located in an area with protected natural features nor will the Digital Boards cause an environmental concern. Further, the surrounding area along Route 9 is predominately occupied with other commercial, business and restaurant uses. Permitting an in-kind replacement of the drive-thru boards for a McDonald's restaurants that has existed since *circa* 1989 will not change or have an adverse effect on the neighborhood. All existing utilities and services are in place and there will be nominal and temporary site disturbance when the improvements are made to the Property. In addition, the Digital Boards "will not have a significant negative impact onsite parking or circulation or on traffic flows on the adjacent public roadways." *See* Traffic Expert Report, pg. 3. Further, and as previously stated, the Digital Boards are expected to have a positive impact on the physical

¹ The courts are in complete accord with this view of the importance of the substantial nature of a variance when weighed against the neighborhood character and detriment to nearby properties criteria. *See, e.g., Wambold v. Village of Southampton Zoning Board of Appeals*, 140 A.D.3d 891, 32 N.Y.S.3d 628 (2d Dept. 2016) ("While we agree with the petitioner that the proposed variance is substantial, there was no evidence that the granting of the variance would have an undesirable effect on the character of the neighborhood, adversely impact physical and environmental conditions, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood or community."); *Nowak v. Town of Southampton*, 174 A.D.3d 901, 905, 106 N.Y.S.3d 372, 375 (2d Dept. 2019) (finding that the "evidence before the ZBA supported its findings that the requested relief would not produce an undesirable change in the character of the neighborhood, have an adverse impact on the physical or environmental conditions, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood or community, even if the proposed variance was arguably substantial and the alleged difficulty was self-created."); *Matter of Borrok v. Town of Southampton*, 130 A.D.3d 1024, 14 N.Y.S.3d 471 (2d Dept. 2015); *Beyond Builders, Inc. v. Pigott*, 20 A.D.3d 474, 799 N.Y.S.2d 241 (2d Dept. 2005) (area variance granted for under-sized lot requiring reduced setbacks even though variance might be deemed substantial).

conditions in the surrounding neighborhood as it will improve the drive-thru ordering process and produce a safety benefit by reducing the likelihood of the drive-thru line extending onto Route 9.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of an area variance.

The need for the variance relief is self-created to the extent that Village Code § 151-25(C)(7) prohibits signs that flash, blink or contain intermittent moving lights. As previously noted, and further explained in Applicant's January 11, 2021 Memorandum of Law, the Digital Boards do not flash, blink or contain intermittent moving lights and should not be included within the purview of Village Code § 151-25(C)(7). However, in light of the other area variance factors that weigh in favor of the Applicant, this factor should not be considered determinative as the benefit to the Applicant and the community at large far outweighs any possible detriment to the community.

V. CONCLUSION

The Digital Boards are necessary for the operation of the McDonald's business, will improve the efficiency and speed of the side-by-side drive-thru operation and will improve public safety by reducing the likelihood of drive-thru queueing onto Route 9. The Applicant asks that the ZBA issue area variance relief and the unique facts of this Application will have limited precedential value for future applicants.

As previously stated, the Application should be granted for the following reasons:

1. Granting variance relief will aid in alleviating an ongoing public safety concern by increasing the speed of the drive-thru ordering process, which will reduce the likelihood of the drive-thru line extending onto Route 9;
2. The Digital Boards are rear facing, will be located behind the McDonald's restaurant and will not change the established commercial character of the surrounding area;
3. The Digital Boards do not flash, blink or contain intermittent moving lights as they only change its display three (3) times per day based on McDonald's food offerings to show the breakfast, lunch and dinner menus to the drive-thru patrons; and
4. The Digital Boards do not jeopardize the public health, safety or welfare as they will not be visible from Route 9 and will not distract motorists or pedestrians on the public roadway.

For the aforementioned reasons, the ZBA should grant this Application in its entirety.

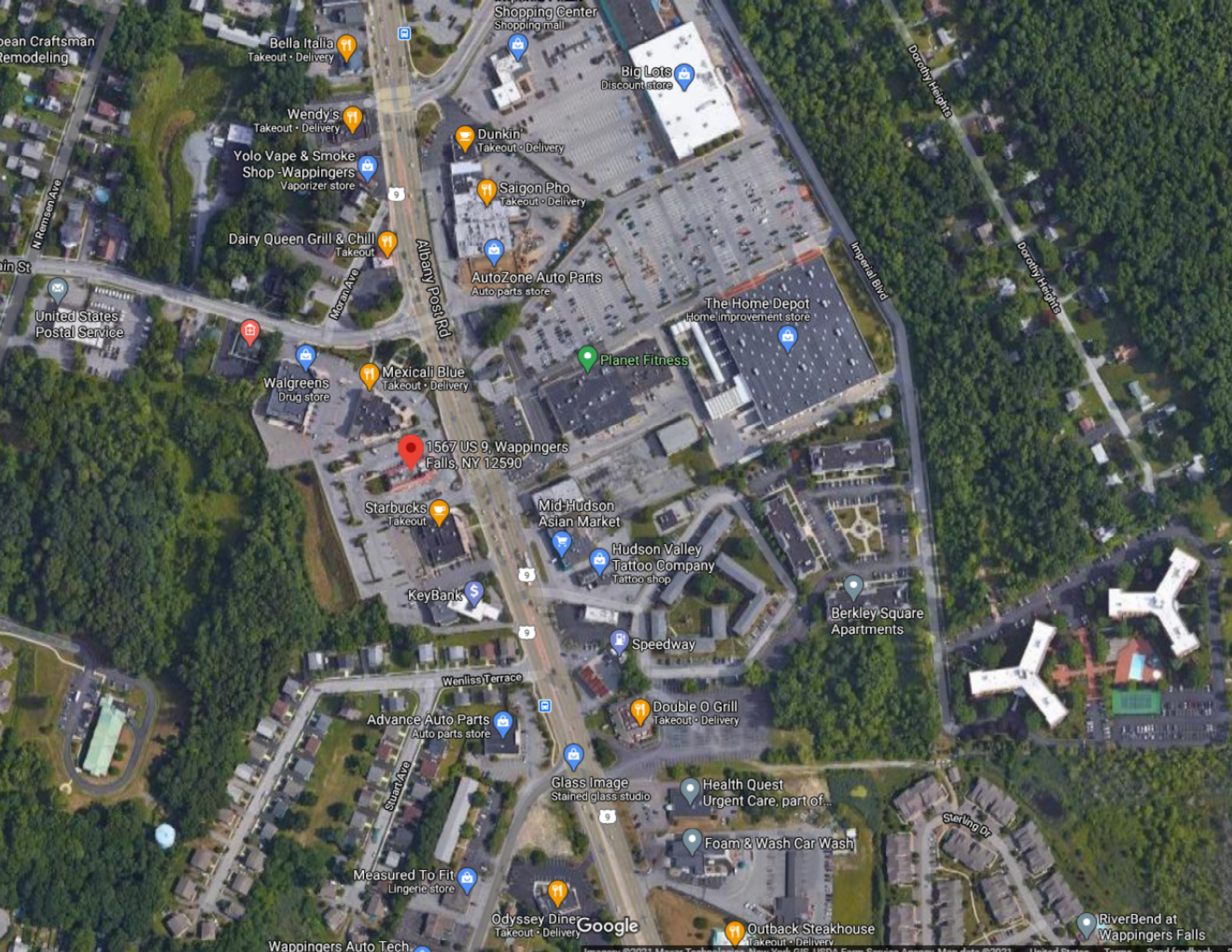
Dated: January 26, 2021
Melville, New York

Respectfully Submitted,



Keith P. Brown, Esq.
Brown Altman & DiLeo, LLP
Attorneys for McDonald's Corporation
538 Broadhollow Road, Suite 301 W
Tel: (516) 222-0222
Fax: (516) 222-0322

Exhibit A



Bella Italia
Takeout • Delivery

Wendy's
Takeout • Delivery

Yolo Vape & Smoke Shop
Wappingers Vaporizer store

Dairy Queen Grill & Chill
Takeout

Walgreens
Drug store

Mexicali Blue
Takeout • Delivery

1567 US 9, Wappingers Falls, NY 12590

Starbucks
Takeout

KeyBank

Advance Auto Parts
Auto parts store

Measured To Fit
Lingerie store

Odyssey Dine
Takeout • Delivery

Shopping Center
Shopping mall

Big Lots
Discount store

Dunkin'
Takeout • Delivery

Saigon Pho
Takeout • Delivery

AutoZone Auto Parts
Auto parts store

Planet Fitness

The Home Depot
Home improvement store

Mid-Hudson Asian Market

Hudson Valley Tattoo Company
Tattoo shop

Speedway

Double O Grill
Takeout • Delivery

Glass Image
Stained glass studio

Health Quest
Urgent Care, part of...

Foam & Wash Car Wash

Outback Steakhouse
Takeout • Delivery

RiverBend at Wappingers Falls

Google

Wappingers Auto Tech



2929 Expressway Drive North, Suite 120
Hauppauge, New York 11749
631-738-1919
www.atlantictraffic.com

January 25, 2021
via electronic mail

Zoning Board of Appeals
Village Hall
2582 South Avenue
Wappingers Falls, NY 12590
Attn: Mr. Allen Firstenberg
Board Chairman

**RE: McDonald's USA
Proposed Drive-Thru Signs
1567 Albany Post Road (US Route 9)
Village of Wappingers Falls
Dutchess County, New York 12590
Tax Map 135601-6158-19-527150
ATDE Project No. ANJ21010**

Dear Chairman Firstenberg and Honorable Board Members:

Atlantic Traffic & Design Engineering, LLC (ATDE) has prepared this Letter Report in support of McDonald's application to modify drive-thru signage at an existing restaurant located along southbound Albany Post Road (US Route 9), as shown in the attached **Figure 1**. The site is in the CMU Commercial zone where restaurants are a permitted use and drive-thrus are permitted by Special Permit.

The property in question is located along southbound Albany Post Road (US Route 9), approximately at mile marker 9-8205-1078. The site is between the signalized intersection with East Main Street and a shared signalized driveway serving the McDonalds and other commercial/retail development on the westerly leg, and serving a shopping center anchored by a Home Depot on the easterly leg.

Albany Post Road (US Route 9) is an Urban Principal Arterial under New York State Department of Transportation jurisdiction and has a posted speed limit of 40 miles per hour along the site frontage.

This section of the State Highway carries 2 southbound thru lanes and 3 northbound thru lanes with additional turning lanes at the signalized intersections. Sidewalks are provided on the southbound side of the roadway, including along the McDonald's frontage. According to NYSDOT data the highway serves an Average Annual Daily Traffic (AADT) of approximately 48,000 vehicles.

The McDonald's is an approximately 4,900 square foot restaurant with side-by-side drive-thru and is served by 64 parking stalls, including 3 ADA-accessible stalls. The existing drive-thru is the "side-by-side" type, with 2 ordering points, a payment

**Existing
Condition**

Atlantic Traffic & Design Engineering, LLC

window, and a pickup window. Site traffic circulates counterclockwise around all 4 sides of the building, to facilitate drive-thru operation. The drive thru pick-up window is located on the south side of the building, thereby maximizing available drive-thru queue length.

Primary access is via the adjacent signalized driveway. The McDonald's is also interconnected with other commercial/retail developments, through which unsignalized access is available along East Main Street and Albany Post Road (US Route 9)

It is understood and acknowledged that drive-thru demand at McDonald's has significantly increased due to the ongoing Covid-19 pandemic. Drive-thrus allow customers to purchase food with minimal contact. As a result of the increased demand, drive-thru queuing at the subject site has increased, and at times extends to the State Highway.

McDonald's proposes to upgrade the existing drive-thru with 2 new digital menu boards at the 2 ordering points, replacing the existing menu boards; and with 2 new digital pre-browse menu boards preceding each ordering point, replacing the existing pre-browse menu boards. The existing 4,900 square foot McDonald's building would remain, with no change to the seating or parking supply.

**Proposed
Condition**

The proposed development does not involve any expansion of the existing building square footage nor an increase in seats. The drive-thru enhancements are proposed in order to better service existing drive-thru demand at the restaurant. Thus, no additional trips to the restaurant are projected due to the proposed development.

The proportion of McDonald's customers utilizing the drive-thru as opposed to the dining room has increased over the last decade; and this trend has recently seen a substantial increase as a result of Covid-19. At the Albany Post Road McDonald's in Wappinger Falls, increased queues have extended to the State Highway.

Drive-Thru

McDonald's has found through years of research that the "choke point" in the drive-thru operation is taking customers' orders. McDonald's developed the "side-by-side" drive-thru in order to improve drive-thru efficiency by taking two orders at once.

The side-by-side drive thru geometrically accommodates a longer vehicle queue in a more compact area and also allows more than one vehicle to be processed through one menu board while a large or complex order is taken at the other menu board.

It is proposed to further optimize ordering at the site with the introduction of digital menu boards and pre-browse menu boards, and thereby operate the drive-thru more efficiently and minimize drive-thru queuing.

The new digital menu board would be positioned for visibility for the ordering point, only. The digital menu board uses the latest technological advancements to improve order taking. The improvements to the menu board include:

- ▶ Providing the customers with the appropriate menu for the time of day, without stopping the drive-thru to physically rearrange the menu board.
- ▶ Clear display of menu items and prices on a screen that **auto-adjusts** to ambient light levels, to assist customers in finalizing their selections.
- ▶ Speakers and microphones that **auto-adjust** to ambient noise levels and provide better sound quality at lower decibels, to enhance communication between the customer and the restaurant while remaining contactless.

In the proposed configuration digital "pre-browse" boards would also be provided. The pre-browse board is located along the drive-thru, and is oriented for visibility from the vehicle position directly behind the ordering position, only.

The pre-browse menu board gives customers an opportunity to look over the seasonal or popular items while waiting in queue. The pre-browse board helps customers familiarize themselves with the offerings so they will be ready to decide when they get to the ordering point, and, as a result, will spend less time ordering. The pre-browse board also serves to remind customers to be attentive, as they are next in line.

Improved service times result from the increased ordering efficiency that the digital menu board and digital pre-browse menu board provide, and will reduce vehicle queuing in the drive thru. Reduction of vehicle queuing reduces the likelihood of the drive-thru queuing onto U.S. Route 9, and thereby contributes to site safety and the safety of the travelling public.

In conclusion, the proposed project will **not** have a significant negative impact on site parking or circulation or on traffic flows on the adjacent public roadways. On the contrary, the proposed project is expected to improve traffic conditions.

Summary

The proposed digital menu board and pre-browse menu board are intended to process existing drive-thru demand more efficiently, thereby reducing queue lengths; and enhancing site safety and the safety of the travelling public.

The digital menu board and pre-browse menu board are designed to be read from a few feet away. They are not legible from a distance; and at the Wappingers Falls location, they would face away from the adjacent roadways. The images on the boards would not be animated, would only change a few times a day, and would automatically dim based on ambient lighting levels. Therefore, the digital boards would not distract or impact drivers.



Proposed Drive-Thru Signs
Wappingers Falls, New York
January 25, 2021
4 / 4

Please do not hesitate to contact the undersigned with any questions or comments.

Sincerely,

Atlantic Traffic & Design Engineering, LLC
N.Y. Certificate of Authorization No. 0015202

A handwritten signature in blue ink, appearing to read "Ethan Schukoske".

ETHAN B. SCHUKOSKE, P.E.
Professional Engineer
N.Y. License No. 102520

A handwritten signature in blue ink, appearing to read "Paul B. Goings".

PAUL B. GOING, P.E.
Professional Engineer
N.Y. License No. 76261

encl

cc Keith Brown, Esq.
Alan Roscoe, P.E. – Core States

PROPOSED MCDONALDS SITE IMPROVEMENTS
VILLAGE OF WAPPINGERS FALLS
DUTCHESS COUNTY, NEW YORK

LOCATION MAP



K:\2021\WV21010\REPORTS\CURRENT\FIGURES\FIGURES-MY-E--->LAYOUT: LOCATION MAP

LEGAL NOTICE

Please take notice that the Zoning Board of Appeals of the Village of Wappingers Falls will hold a public hearing on March 12, 2019, at 7:30 pm, American Legion Hall, 7 Spring Street, Wappingers Falls on the application submitted by Alan Roscoe, P.E. on behalf of McDonald's for property located at 1567 Route 9, Wappingers Falls (Grid #6158-19-527150-0000), in the Commercial Mixed Use (CMU) Zoning District. The applicant is seeking the following area variances:

1. §151-25 C(7) of the Village Code 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." Signs identified as signs 2 and 4 are digital signs which are prohibited per this section of Village Code.
2. §151-25 J(2) of the Village Code limits the number of signs per establishment to a "maximum of three (3)." The applicant is proposing thirteen (13) signs, requiring a variance for ten (10) signs.
3. §151-25 K(C)(1) of the Village Code states, "No more than one freestanding sign may be located on a lot." The applicant has proposed nine (9) freestanding signs, therefore requiring a variance for eight (8) signs. (The four drive-through signs painted on the macadam are included in this total.)

A copy of this application is on file in the Planning and Zoning Department and is available for inspection. The Department is open Monday-Friday, 8:00 AM to 4:00 PM. The telephone number is 845-297-5277. All interested persons may appear in person, by agent, or by attorney, and all will be heard.

Date: February 1, 2019

By order of the Village of Wappingers Falls Zoning Board of Appeals



VILLAGE OF WAPPINGERS FALLS

Office of Building, Planning & Zoning
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
www.wappingersfallsny.gov

February 21, 2019

Core State Architecture and Engineering LLC
9 Galen Street, Suite 117
Watertown, MA 02472

Re: 1567 Route 9
Wappingers Falls, NY 12590


To whom it may concern:

Reference is made to your submission to my office and your application to the Planning Board regarding your proposal to install signs at 1557 Route 9 in Wappingers Falls, NY.

Please be advised that at this time I must deny your application for the following reasons:

1. §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." Your sign, identified as "Signs [2] and [4] are digital signs which is prohibited per this section of Village Code.
2. §151-25 J(2) states "A maximum of three (3) signs per establishment. You have proposed thirteen (13) signs which would require a variance of ten (10).
3. §151-25 K(C)(1) states, "No more than one freestanding sign may be located on a lot." You have proposed nine (9) freestanding signs, therefore requiring a variance of eight (8). (we are counting the four drive through signs painted on the macadam in this total)

Sincerely,


BRYAN MURPHY
Zoning Administrator/ Building Inspector
NYS Certification #0312-0024

BM

Cc: Board of Trustees File



APPLICATION FOR AN AREA VARIANCE

APPEAL NUMBER: _____ **MEETING DATE:** _____

APPLICANT:

Name: Core States Architecture and Engineering LLC (Alan Roscoe)

Address: 9 Galen Street, Suite 117

Watertown, MA 02472

Phone Numbers: (H) _____ (C) 857-500-4702

(E-mail) aroscoe@core-eng.com

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

PROPERTY OWNER:

Name: Ormater Development Corp.

Address: 25 Van Wagner Road

Poughkeepsie, NY 12603

Contact Phone Numbers. : (H) _____ (C) _____

(E-mail) _____

PROPERTY INFORMATION

Property Address (subject of appeal): 1567 U.S. Route 9, Wappingers Falls, NY 12590

Tax Parcel #: 135601-6158-19-527150-0000

Date property acquired: _____

Present use of property: McDonald's (Fast Food Restaurant)

Zoning District: CMU - Commercial Mixed Use

Dimensions: Lot Area 6.46 Acres(sq. ft. Width 774 ft. Depth 583 ft.

Setback: Front 46.7 ft. Rear 78.77 ft. (To Lease Line)

Sides 52.9 ft. and 74.5 ft. (To Lease Line)

REQUEST FOR AREA VARIANCE

Deed Restrictions: _____

Section(s) of ordinance from which variance is requested:

SECTION	REQUIRING	REQUESTED VARIANCE
§ 151-25-J	A maximum of three (3) signs.	Relief for a total of 8 signs, 7 which are drive-thru ordering equipment



APPLICATION FOR AN AREA VARIANCE (Continued)

Description of appeal Requested: Relief requested to exceed the sign count and area. Portions of the requested relief relate to ordering equipment (Pre-Sell Boards, Digital Menu Boards, Order Canopies and a Clearance-Bar).

Dates and Descriptions of prior appeals, variances or special permit for property: On record.

Planning Board review date(s): Underway - next schedule is for March 7, 2019

Environmental review: None anticipated.

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

1. How will this variance affect nearby properties?

Branding signage is softly illuminated and is consistent with Remodel Program underway in Northeast.
Digital Menu Boards are rear facing and will not adversely affect adjoining properties.

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

Enhance the customer experience and make ordering process more efficient, Branding and Logo signs are intended to define restaurant and modernize the appearance of the signage.

3. What is the minimum relief needed? Relief is required for Menu Boards and drive through ordering equipment where these items are not specifically covered in local codes. Brand signs are consistent with Remodel Program. Relief required for count (8) and total area.

4. Why are alternative methods for compliance NOT FEASIBLE?

Ordering equipment signage is necessary for drive through operations.

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) ? No



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) ? Ordering equipment shall enhance drive through operations, and reduce queuing times.

Drive through modifications shall increase stacking capability. Other signage is intended to modernize the Brand and blend with the remodeled facade in a tasteful way.

7. How will the proposed variance affect the health, safety, security morals or general welfare of residents, visitors or workers in the area? Proposed use is consistent with the existing restaurant use. Granting the requested relief will enhance the customer experience and refresh the visual appearance of the site.

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.

SIGNATURE OF APPLICANT

2.19.17

DATE

Wappinger's Falls McDonalds Remodel – SBS Update Jan. 2019
Signage Summary Table

Sign	Existing	Proposed	Code Requirement	Number of Variances
Front "McDonald's" Sign (Wall)	45 SF (from As-Built) L X W	30 SF	1 SF per Linear FT of Building face Up to 44 SF	N/A
Front Arch (Wall)	14 SF (4.1 SF actual window sign)	14 SF (4.1 SF actual)		
Drive-Thru Arch (Wall)	14 SF (4.1 SF actual window sign)	14 SF (4.1 SF actual)		
Non-Drive Thru Arch (Wall)	N/A	14 SF (4.1 SF actual)		
Clearance Bar Gateway	2.25 SF (Words "Drive-Thru")	2.25 SF (Words "Drive-Thru")		
Pre-Browse Board (1-Ex'g; 2-Prop'd)	6 SF	9.8 SF ea. (19.6 SF Total)		
Menu Board (1-Ex'g; 2-Prop'd)	32 SF	19.8 SF ea. (39.6 SF Total)		
Order Canopy (1-Ex'g; 2-Prop'd)				
Front Pylon Sign (Free Standing)	TBD (10-FT. ht.)	Retain Existing		TBD

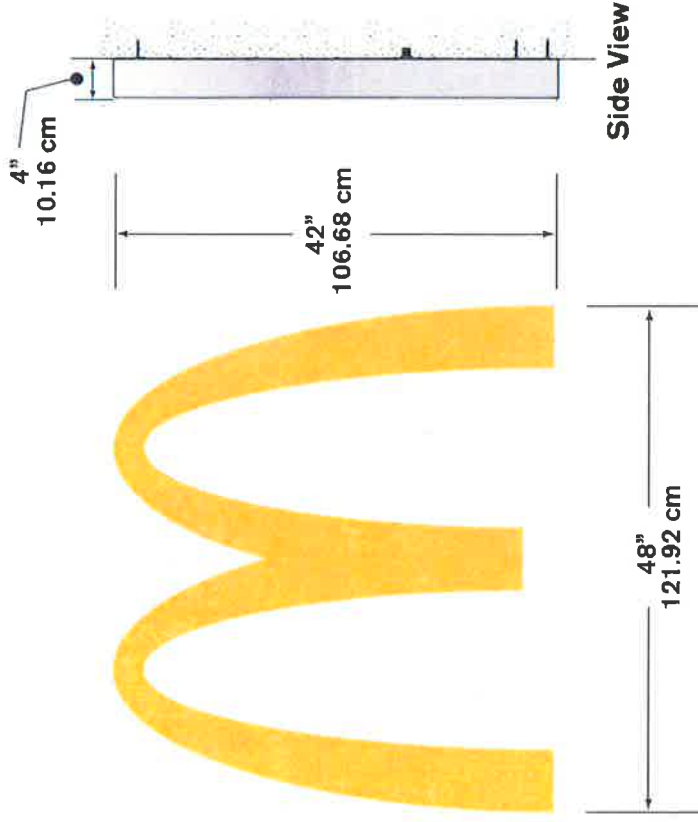
Up to 3 Signs are allowed per establishment.

The total area of the two signs proposed on the front façade is 44 SF and if combined conforms to the 44 SF (max.) code limit.

Secondary signage proposed includes the Clearance Gateway (1), Order Canopy (2), Order Boards (2); and a Pre-Browse Board (2) as Ordering Equipment for the Side-by-Side drive-through. Areas of Signage are comparable between existing and proposed conditions.

Ordering Equipment signage proposed is in the rear of the property and is rear-facing and is not prominent when viewed from the street but adds to the ability to inform the customer as they approach the drive-through. This additional information tends to speed the ordering process. Menu Board Images are stationary so as not to distract the driver and therefore are consistent with local requirements. The signs are informational in nature and internally illuminated consistent with local regulations. Clearance Gateway is non-illuminated.

42" NextGen Illuminated Building Arch - LED

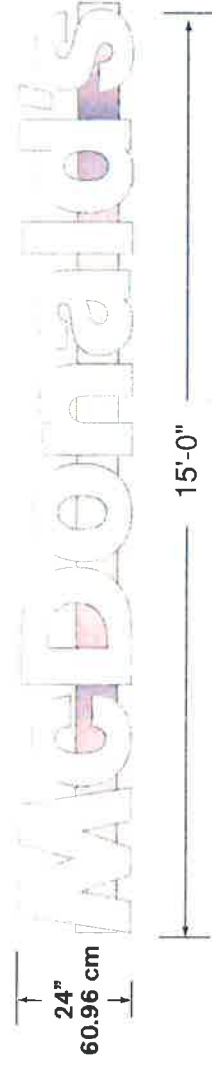


Illumination: LED

Electrical: .35 AMPS

Ballast: (1) OSRAM OT75-120-277-24

Ship Weight:



Illumination: LED

Electrical: 1.6 AMPS

Power Supply: (1) Amperor ANP90-30P1

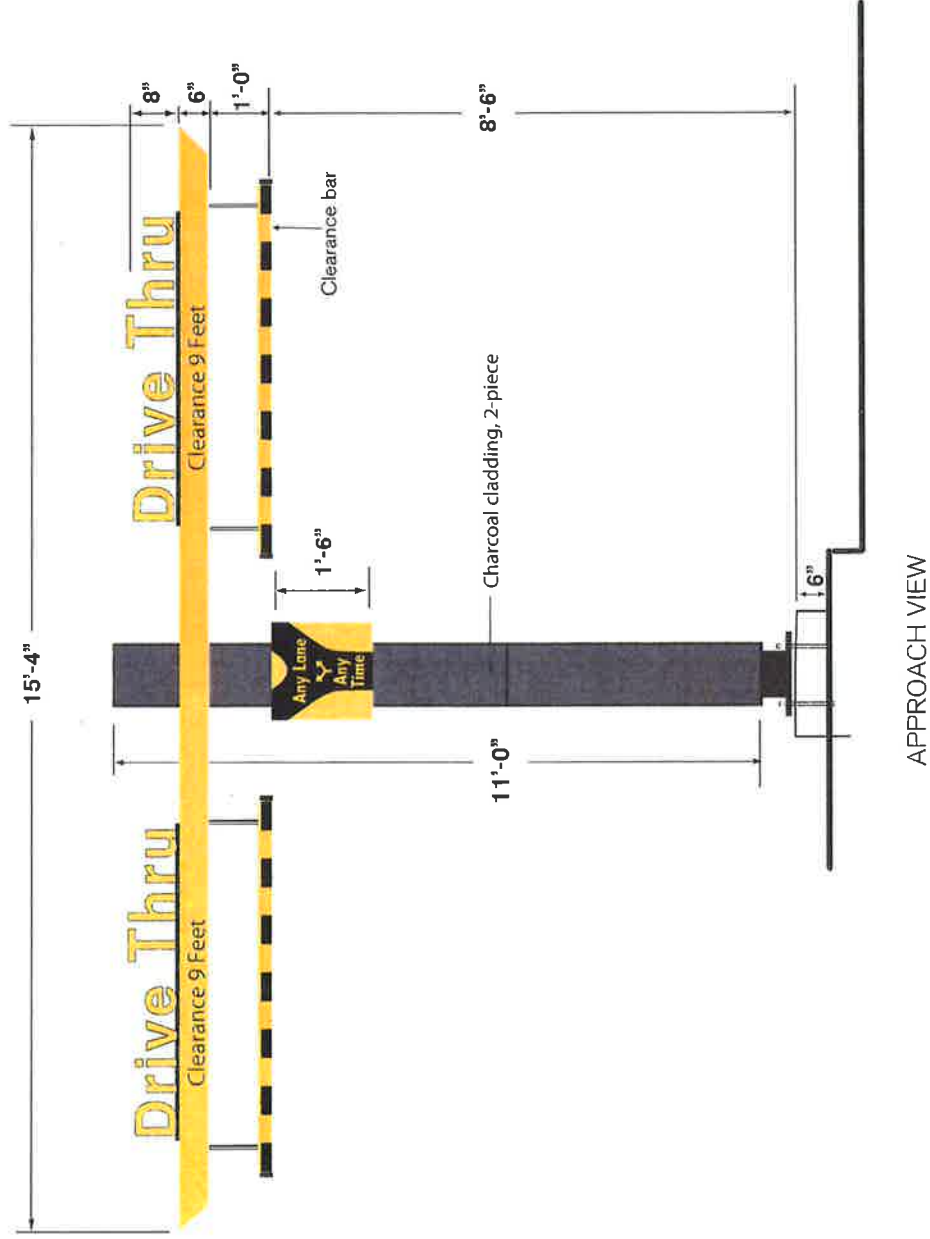
Ship Weight:

Double Welcome Point Gateway

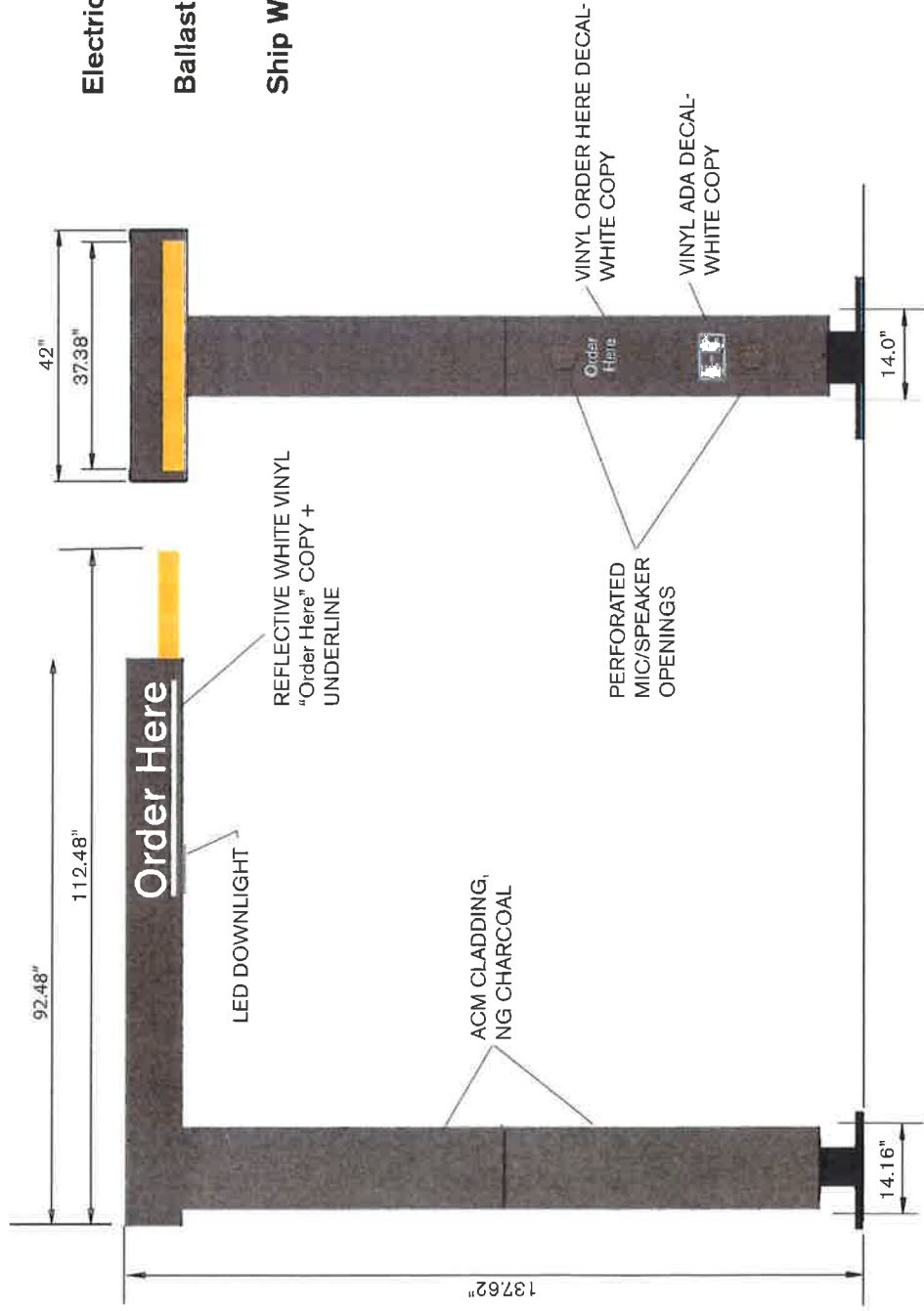


Illumination: N/A

- Other:**
- Non-illuminated clearance sign with spring loaded break away clearance arm.
 - Adjustable bang bar.



Slim Springboard Canopy w/Audio Only - Yellow



Illumination: LED Downlighting

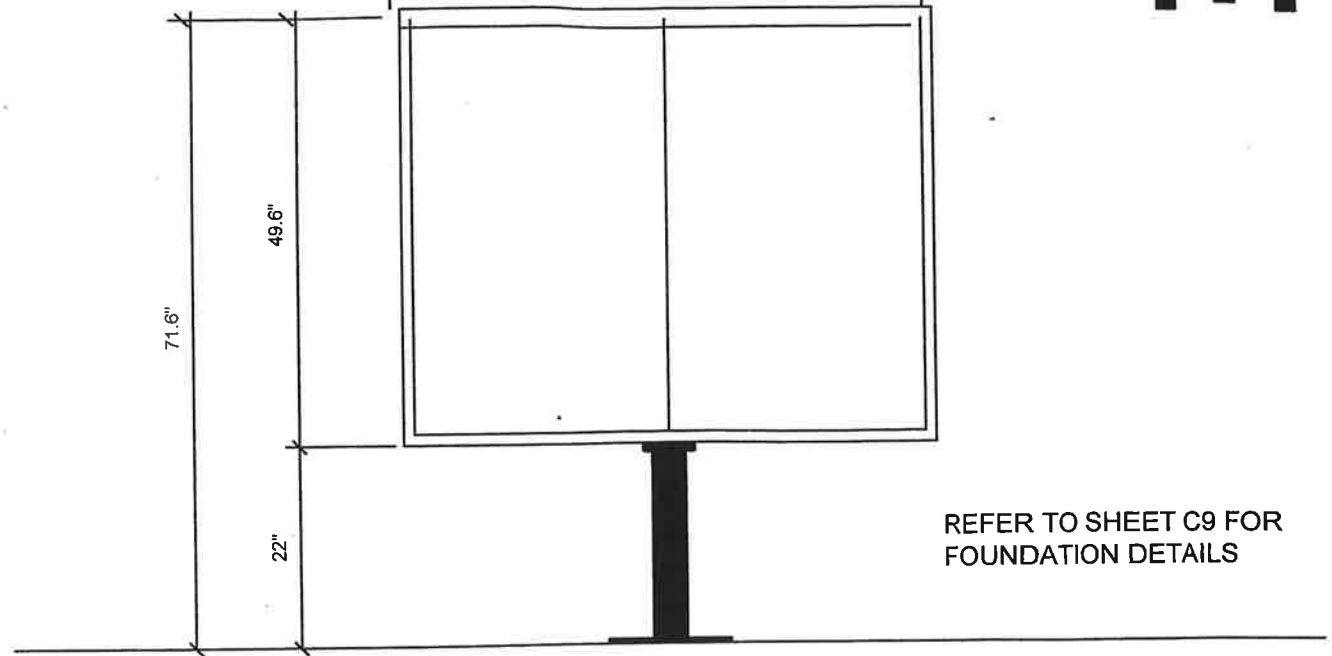
Electrical: 1.5 Amps 120 volt, 60 Hz

Ballast:

Ship Weight:



DE
SIDE



REFER TO SHEET C9 FOR
FOUNDATION DETAILS

5
C9

DIGITAL MENU BOARD

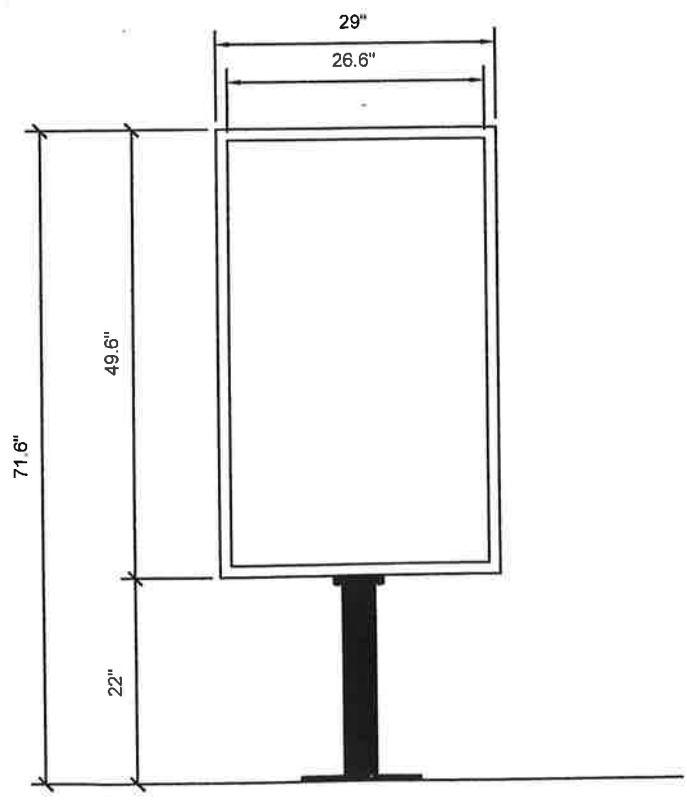
SCALE: NONE



ECTOR

IRU

L BE



REFER TO SHEET C9 FOR
FOUNDATION DETAILS

6

DIGITAL PRE-BROWSE BOARD

Wappinger Falls, NY
1178 Route 9 East Main Street
L/C: 031-1255
File #9448
Prepared by: Elizabeth D. Santis, Esq.
After recording, return to: Angie Coombs
McDONALD'S CORPORATION
One McDonald's Plaza
Oak Brook, Illinois 60523

AMENDED MEMORANDUM OF LEASE

THIS AMENDED MEMORANDUM OF LEASE (the "Amended Memorandum") is dated April 30, 2009 between **ORMATER DEVELOPMENT CORP.**, a New York corporation ("Landlord") whose address is 295 Main Street, 3rd Floor, Poughkeepsie, New York 12601, and **McDONALD'S USA, LLC**, a Delaware limited liability company ("Tenant") whose principal place of business is located at One McDonald's Plaza, Oak Brook, Illinois 60523.

RECITALS:

A. All of the obligations and rights of Landlord and Tenant are set forth in the Ground Lease dated February 17, 1989 and fully initialed and acknowledged on April 24, 1989, as amended by that certain Amendment to Lease dated January 17, 1990, as amended by that certain Second Amendment to Lease dated April 30, 2009 (the "**Lease**"), as evidenced by Memorandum of Lease dated April 3, 1989, recorded in Liber 1861, Page 581 in Dutchess County, New York (the "**Memorandum**") and executed by the parties, pursuant to which Landlord leased to Tenant, and Tenant leased from Landlord, that certain parcel of land located on the west side of Route 9 in the shopping center commonly known as Patriots Park (the "**Shopping Center**"), in the Village and Town of Wappinger Falls, New York, together with all appurtenant easements and appurtenances, and all improvements located thereon. Such parcel of land, together with all such easements, appurtenances and improvements, is referred to in the Lease as the "**Demised Premises**" and is legally described and depicted in Exhibit A attached hereto and incorporated herein by reference.

B. In addition to those easements granted by Landlord to Tenant pursuant to the terms of the Lease, Landlord wishes to grant and Tenant desires to receive, certain easements over and across portions of the Shopping Center legally described in Exhibit B attached hereto and incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT:

1. Recitals: The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Amended Memorandum.

2. Additional Parking Easement: In addition to those easements granted by Landlord to Tenant pursuant to the terms of the Lease, Landlord hereby grants and conveys to Tenant for the term of the Lease, as modified from time-to-time, a perpetual, non-exclusive easement in, over, through, along and across that certain portion of the Shopping Center described and depicted on Exhibit C-1 attached hereto and incorporated herein, for vehicular parking, ingress and egress (hereafter, the "**Additional Parking Easement**").

3. Drive-Thru Easement: In addition to those easements granted by Landlord to Tenant pursuant to the terms of the Lease, Landlord hereby grants to Tenant, for the term of the Lease, as modified from time-to-time, a perpetual, exclusive easement, in, over, under, through, along and across that certain portion of the Shopping Center described and depicted on Exhibit C-1 attached hereto and incorporated herein, for the installation, maintenance, repair, replacement, and modification, at Tenant's sole discretion, of a drive-thru lane servicing the business located on the Demised Premises (the "**Drive-Thru Easement**").

4. Trash Corral Easement: In addition to those easements granted by Landlord to Tenant pursuant to the terms of the Lease, Landlord hereby grants and conveys to Tenant, for the term of the Lease, as modified from time-to-time, a perpetual, exclusive easement, in, over, through, along and across that certain portion of the Shopping Center described and depicted on Exhibit C-1 attached hereto and incorporated herein, for the installation, maintenance, repair, replacement, and modification of Tenant's trash corral, at Tenant's discretion (hereafter, the "**Trash Corral Easement**"), provided that such trash corral improvements will not reduce the size and/or number of available parking spaces or infringe upon the trash areas currently in place and utilized by other tenants, as of the date of this Amended Memorandum.

This instrument is merely an Amended Memorandum of Lease and is subject to all the terms, conditions and provisions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail as between the parties. This Amended Memorandum is binding upon and shall inure to the benefit of the heirs, successors, assigns, executors and administrators of the parties.

To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this document.

LANDLORD: **ORMATER DEVELOPMENT CORP.**,
a New York corporation

By: _____
Its: _____

ATTEST

By: _____
Its: _____

WITNESS

TENANT: **McDONALD'S USA, LLC**,
a Delaware limited liability company

By: _____
Its: Vice President, Kathryn M. Kotel

ATTEST

By: _____
Its: Vice President, Catherine A. Griffin

WITNESS

Gwen Nakutis

Sandy Bieschke

(Attach Acknowledgment of Signatures and Exhibits A, B and C-1)



**UNIFORM FORM CERTIFICATE OF PROOF
OF EXECUTION BY A SUBSCRIBING WITNESS
(OUTSIDE OF NEW YORK STATE)**

State of ILLINOIS)
) SS
County of DUPAGE)

On the 30th day of April , in the year 2009 before me, the undersigned personally appeared Kathryn M. Kotel, Vice President, of McDonald's USA, LLC, a Delaware limited liability company who is personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose name is subscribed to the within instrument and acknowledged to me that they executed the same in his/her capacities, and that by his/her signatures on the instrument, the individual, or the person upon behalf of which the individuals acted, executed the instrument.

Given under my hand and notarial seal, this 30th day of April , 2009.

Sandra S. Steinhaus
Sandra S. Steinhaus, Notary Public

My commission expires: 10/18/2010



**UNIFORM FORM CERTIFICATE OF ACKNOWLEDGMENT
(WITHIN NEW YORK STATE)**

State of New York)
) SS
County of _____)

On the _____ day of _____ in the year 2009 before me, the undersigned, _____ personally _____ appeared _____, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she resides in _____ (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she knows _____ to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said _____ execute the same; that said witness at the same time subscribed his/her name as a witness thereto; and that said subscribing witness made such appearance before the undersigned in _____ (Insert the city or other political subdivision and the state or country or other place in which the proof was taken).

Signature and Office of Individual
Taking Proof

Exhibit A
Legal Description of Demised Premises
Page 1 of 1

All that certain parcel of land situate in the Town of Wappinger Village of Wappinger's Falls, County of Dutchess, State of New York, being more particularly bounded and described as follows:

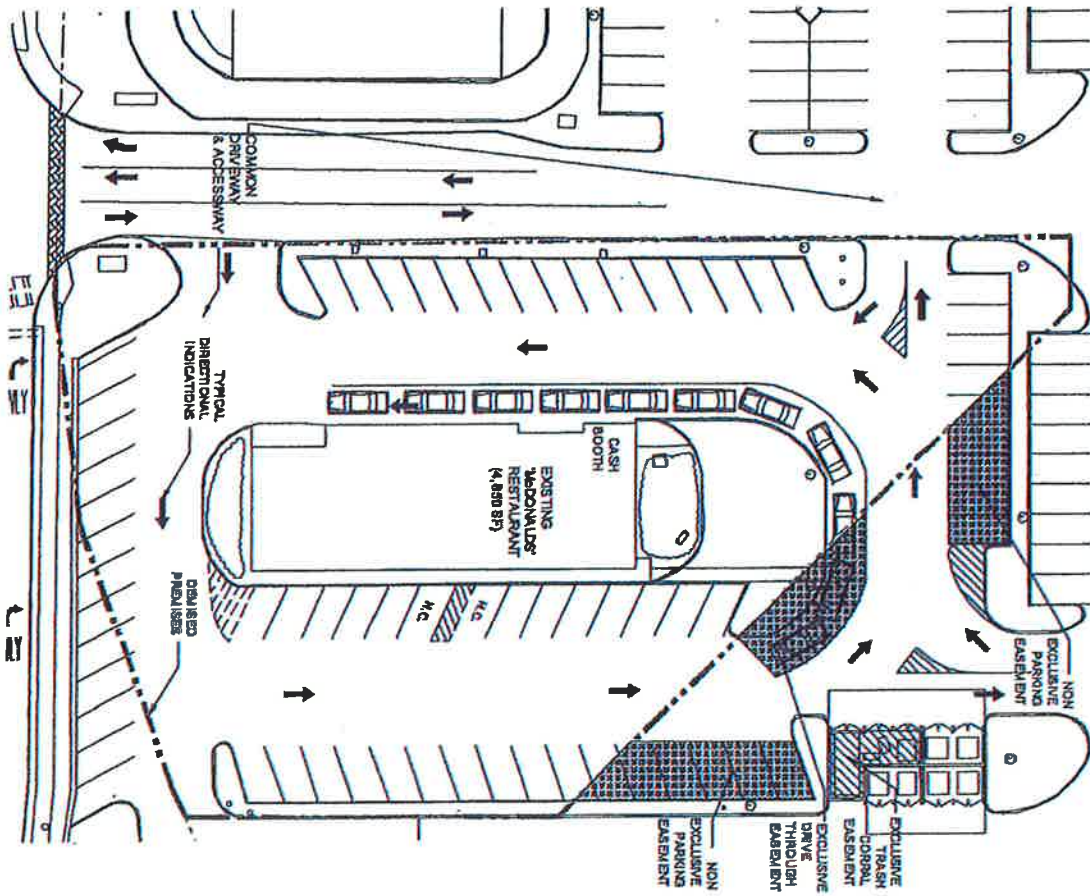
BEGINNING at a point in the Westerly boundary of U.S. Route 9 (S.H. 5154), said point being South 32 degrees 06 minutes 50 seconds East 90.32 feet from the point of intersection of the common division line between the lands of Ormater Development Corporation as described in Book 1795 of Deeds at Page 491 on the Southeast and the lands of Newton A. and Helen A. Erickson as described in Book 1187 of Deeds at Page 467 on the Northwest with the boundary of East Main Street (formerly Route 9, S.H. 5154), and RUNS thence from said point of beginning along the westerly boundary of the said U.S. Route 9 the following four (4) courses: 1) South 32 degrees 06 minutes 50 seconds East a distance of 9.48 feet to the point of intersection of the common division line between the lands of said ,Ormater Development Corporation on the Northwest and lands of Steven Tinkelman as described in Book 1732 of Deeds at Page 788 on the Southeast with the Westerly line of said U.S. Route 9; 2) South 25 degrees 40 minutes 37 seconds East a distance of 83.43 feet to a point; 3) South 13 degrees 33 minutes 27 seconds East a distance of 68.28 feet to the point of intersection of the common division line between the lands of said Steven Tinkelman on the Northwest and other lands of Ormater Development Corporation as described in Book 1818 of Deeds at Page 801 on the Southeast with the Westerly boundary of said U.S. Route 9; and 4) South 05 degrees 48 minutes 33 seconds East a distance of 9.01 feet to a point of curvature; THENCE through the lands of said Ormater Development Corporation, the lands of Steven Tinkelman, and other lands of said Ormater Development Corporation the following three (3) courses: 1) Southwesterly along a curve to the right, of radius 30.00 feet, an arc distance of 20.45 feet to a point of tangency (the chord for the above described curve being South 83 degrees 43 minutes 40 seconds West 20.05 feet; 2) South 83 degrees 15 minutes 10 seconds West a distance of 288.01 feet to a point; and 3) North 06 degrees 44 minutes 50 seconds West a distance of 22.34 feet to a point in the common division line between the lands of Ormater Development Corporation as described in Book 1795 of Deeds at Page 491 on the Southeast and the lands now or formerly of Henry A. DiMarco as described in Book 1544 of Deeds at Page 827 on the Northwest; THENCE North 38 degrees 25 minutes 13 seconds East along said common division line, a distance of 118.93 feet to its point of intersection with the common division line between the lands of said DiMarco on the Southwest and the lands of said Erickson on the Northeast; THENCE along the common division line between the lands of said Ormater Development Corporation on the Southeast and the lands of said Erickson on the Northwest, North 37 degrees 52 minutes 58 seconds East a distance of 91.07 feet to a point; said point being South 37 degrees 52 minutes 58 seconds West 114.93 feet from the most Easterly corner of the lands of said Erickson; THENCE through the lands of said Ormater Development Corporation North 83 degrees 15 minutes 10 seconds East a distance of 119.52 feet to the point or place of beginning, containing 36.090 square feet 10.897+7- acres of land.

EXHIBIT B
Legal Description of Shopping Center
Page 1 of 1

PARCEL B

ALL that certain plot, piece or parcel of land situate, lying and being in the Village of Wappinger Falls, Town of Wappinger, County of Dutchess and State of New York, being designated as Parcel B on a certain map entitled, "Subdivision of Property Prepared for Ormater Development Corp., Property Situate in the Village of Wappinger Falls, Town of Wappinger, County of Dutchess, State of New York" dated 10/23/2007 and filed 11/29/2007 in the Office of the Dutchess County Clerk as File Map NO. 9972B.

EXHIBIT C-1
Depiction of Additional Parking Easement,
Drive-thru Easement and Trash Corral Easement
Page 1 of 1



NON EXCLUSIVE ADDITIONAL
 PARKING EASEMENT;
 EXCLUSIVE DRIVE THROUGH
 EASEMENT; EXCLUSIVE
 TRASH EASEMENT; COMMON
 DRIVEWAY & ACCESSWAY

<p align="center">Patriots Park Development US Route 9 Village of Wappingers Falls, NY</p>	
<p>T.A. TOWN OF WAPPINGERS FALLS TOWN ENGINEER</p>	<p>C1</p>



VILLAGE OF WAPPINGERS FALLS

Office of Building, Planning & Zoning
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
www.wappingersfallsny.gov

February 21, 2019

Core State Architecture and Engineering LLC
9 Galen Street, Suite 117
Watertown, MA 02472

Re: 1567 Route 9
Wappingers Falls, NY 12590


To whom it may concern:

Reference is made to your submission to my office and your application to the Planning Board regarding your proposal to install signs at 1557 Route 9 in Wappingers Falls, NY.

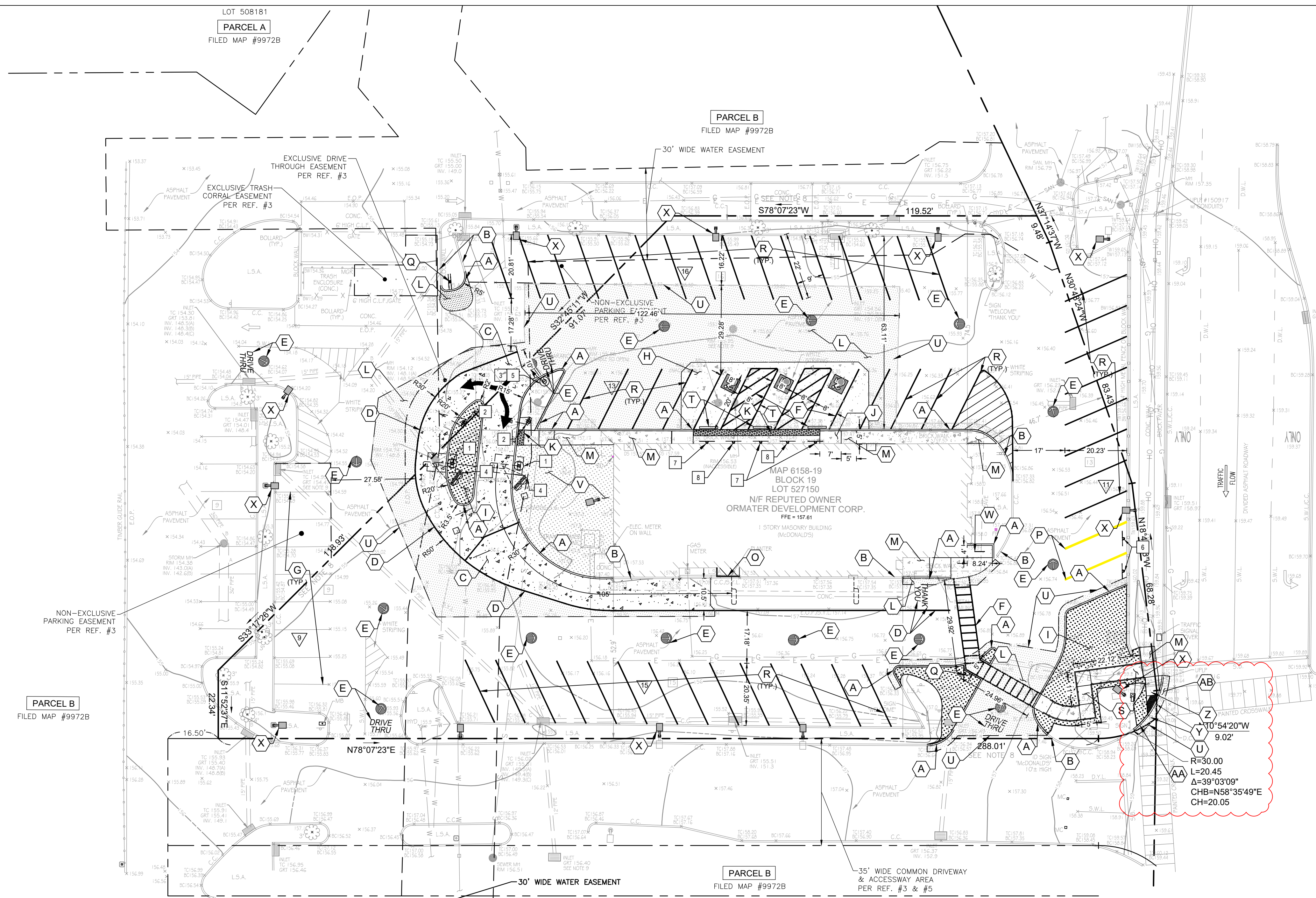
Please be advised that at this time I must deny your application for the following reasons:

1. §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." Your sign, identified as "Signs 2 and 4" are digital signs which is prohibited per this section of Village Code.
2. §151-25 J(2) states "A maximum of three (3) signs per establishment. You have proposed thirteen (13) signs which would require a variance of ten (10).
3. §151-25 K(C)(1) states, "No more than one freestanding sign may be located on a lot." You have proposed nine (9) freestanding signs, therefore requiring a variance of eight (8). (we are counting the four drive through signs painted on the macadam in this total)

Sincerely,


BRYAN MURPHY
Zoning Administrator/ Building Inspector
NYS Certification #0312-0024

BM
Cc: Board of Trustees File



U.S. ROUTE 9 (S.H. 5154)
(A.K.A. ALBANY POST ROAD)
(VARIABLE WIDTH)

GENERAL NOTES:

- THIS DRAWING REFERENCES: BOUNDARY & TOPOGRAPHIC SURVEY VILLAGE AND TOWN OF WAPPINGERS FALLS, DUTCHESS COUNTY, STATE OF NEW YORK LOT 527150, BLOCK 19, MAP 6158-19 PREPARED BY: GALLAS SURVEYING GROUP, DATED: 02/06/17
- 1) **EQUITABLE OWNER/APPLICANT:** MCDONALD'S CORPORATION
1 MCDONALD'S PLAZA
OAK BROOK, IL 60523
TEL: (914) 631-9623
- 2) **SITE ADDRESS:** 1567 U.S. ROUTE 9
VILLAGE AND TOWN OF WAPPINGERS FALLS, NY 12590
DUTCHESS COUNTY, STATE OF NEW YORK
- 3) **ZONING DATA:** ZONED: CMU - COMMERCIAL
PROPOSED USE: RESTAURANT (PERMITTED)
FAST FOOD RESTAURANT WITH DRIVE-THRU (PERMITTED BY SPECIAL USE)
- | | REQUIRED | EXISTING | PROPOSED |
|--------------------------|-----------------|----------------|----------------|
| MIN. LOT AREA: | N/A | 6.464 AC | 6.464 AC |
| MIN. LOT FRONTAGE: | N/A | 792.35' | 792.35' |
| MIN. LOT WIDTH: | 100' | 472.27' | 472.27' |
| MIN./MAX. FRONT SETBACK: | 2' / 25' (MIN.) | 46.7' | 46.7' |
| MIN./MAX. SIDE SETBACK: | 0' / 25' (MIN.) | 52.9' | 52.9' |
| MIN. REAR SETBACK: | 0' (25' MIN.) | 325' | 325' |
| MAX. LOT COVERAGE: | 85% | 82.88% | 82.88% |
| | | (832,825 S.F.) | (832,398 S.F.) |
| MIN. FRONTAGE BUILDOUT: | 80% | E.C. | NO CHANGE |
| MIN. GREENSPACE: | 5% | 16.03% | 17.12% |
| HEIGHT: | 25' | 16' 4" | 16' 0" |
- *TO LEASE LINE
- 4) **PARKING REQUIREMENTS:**
FOR A RESTAURANT USE PARKING REQUIREMENTS ARE DETERMINED BY SITE PLAN REVIEW (SPR).
EXISTING MCDONALD'S AREA PARKING: 67 SPACES (INCLUDING 2 HANDICAPPED SPACES)
PROPOSED MCDONALD'S AREA PARKING: 64 SPACES (INCLUDING 3 HANDICAPPED SPACES) (WITHIN EASEMENT, LEASEHOLD, AND PROPERTY SUBJECT TO NYDOT LICENSE)
- PARKING STALL DIMENSIONS:**
EXISTING: 9'X18'
REQUIRED: 9'X18'
PROPOSED: 9'X18'
- 5) ALL EXISTING FEATURES ARE TO REMAIN UNLESS OTHERWISE NOTED.
- 6) ALL PAVEMENT MARKINGS SHALL BE LONG LIFE EPOXY.
- 7) PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO MAKE SURE THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED. NO CONSTRUCTION OR FABRICATION SHALL BEGIN UNTIL THE CONTRACTOR HAS RECEIVED AND THOROUGHLY REVIEWED ALL PLANS AND OTHER DOCUMENTS BY ALL OF THE PERMITTING AUTHORITIES.
- 8) ALL OFF-PREMISE CONSTRUCTION ACTIVITIES SHALL ONLY BE PERFORMED WITH CONSENT OF PROPERTY OWNER.
- 9) ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF THE LOCAL GOVERNING AUTHORITY.
- 10) ALL DIMENSIONS SHOWN ON THE PLANS SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION. CONTRACTOR SHALL NOTIFY ENGINEER IF ANY DISCREPANCIES EXIST PRIOR TO PROCEEDING WITH CONSTRUCTION FOR NECESSARY PLAN CHANGES. NO EXTRA COMPENSATION SHALL BE PAID TO THE CONTRACTOR FOR WORK HAVING TO BE REDONE DUE TO DIMENSIONS OR GRADES SHOWN INCORRECTLY ON THESE PLANS IF SUCH NOTIFICATION HAS NOT BEEN GIVEN.
- 11) SOLID WASTE TO BE DISPOSED OF BY CONTRACTOR IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS.
- 12) ALL EXCAVATED UNSUITABLE MATERIAL MUST BE TRANSPORTED TO AN APPROVED DISPOSAL LOCATION.
- 13) CONTRACTOR IS RESPONSIBLE FOR ALL SHORING REQUIRED DURING EXCAVATION AND SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT OSHA STANDARDS, AS WELL AS ADDITIONAL PROVISIONS TO ASSURE STABILITY OF CONTIGUOUS STRUCTURES, AS FIELD CONDITIONS DICTATE.

GENERAL DEVELOPMENT NOTES:

- MCDONALD'S ROAD SIGN AND BASE ARE BY THE SIGN CONTRACTOR. CONDUIT AND WIRING ARE BY THE GENERAL CONTRACTOR. THE FOUNDATION DESIGN ARE BY OTHERS.
- BASES, ANCHOR BOLTS, CONDUIT AND WIRING FOR ALL OTHER SIGNS ARE BY THE GENERAL CONTRACTOR.
- PROPOSED UTILITIES ARE ONLY SHOWN IN SCHEMATIC LAYOUT. EXACT LOCATIONS SHALL BE DETERMINED PRIOR TO CONSTRUCTION. SHOULD THERE BE ANY DISCREPANCIES, THE CONTRACTOR SHALL HALL WORK AND NOTIFY THE ENGINEER OF RECORD.
- THE CONTRACTOR SHALL COORDINATE WITH ALL UTILITY COMPANIES TO DETERMINE EXACT POINT OF SERVICE CONNECTION AT EXISTING UTILITY. REFER TO THE BUILDING ELECTRICAL AND PLUMBING DRAWINGS FOR UTILITY SERVICE ENTRANCE LOCATIONS, SIZES, AND CIRCUITING.
- FINISH WALK AND CURB ELEVATIONS SHALL BE 6" ABOVE FINISH PAYMENT UNLESS OTHERWISE NOTED ON THESE PLANS.
- ALL DIMENSIONS SHOWN ARE TAKEN FROM FACE OF CURB UNLESS OTHERWISE INDICATED.
- ALL FEATURES SHOWN ARE EXISTING UNLESS OTHERWISE INDICATED.
- EXISTING CONDITIONS ARE BASED ON BOUNDARY & TOPOGRAPHIC SURVEY BY GALLAS SURVEYING GROUP DATED 02/06/2017.
- ALL DIMENSIONS FROM PROPERTY LINES ARE PERPENDICULAR UNLESS OTHERWISE NOTED.
- THE CONTRACTOR WILL BE RESPONSIBLE FOR MAINTAINING THE SITE UNTIL WORK IS ACCEPTED BY THE OWNER.
- ANY DAMAGE TO THE EXISTING CURB AS A RESULT OF THIS DEVELOPMENT MUST BE REPLACED AS NECESSARY.
- IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REMOVE ANY DEBRIS AND FLUSH OUT ALL EXISTING AND NEW STORM DRAINAGE FACILITIES WITHIN THE PROJECT LIMITS AT THE COMPLETION OF THE CONSTRUCTION.
- ALL NEW BUILDING SIGNAGE WILL COMPLY WITH ZONING REGULATIONS.
- PROVIDE ADEQUATE OFF-STREET PARKING FOR CONSTRUCTION EMPLOYEES. PARKING ON NON-SURFACED AREAS SHALL BE PROHIBITED IN ORDER TO ELIMINATE THE CONDITION WHEREBY MUD FROM CONSTRUCTION AND EMPLOYEE VEHICLES IS TRACKED ONTO THE PAVEMENT CAUSING HAZARDOUS ROADWAY AND DRIVEWAY CONDITIONS.
- ALL QUANTITIES SHOWN ON PLANS ARE APPROXIMATE AND FOR REFERENCE ONLY.
- CONTRACTOR TO VERIFY ALL MINIMUMS CALLED OUT ON THE CIVIL PLANS AND SHALL NOTIFY ENGINEER AND ACM IF MINIMUMS CANNOT BE MET.
- REFER TO SHEET C2 FOR GENERAL NOTES.
- AT TIME OF CONSTRUCTION IN THE VICINITY OF THE WATER LINE, THE CONTRACTOR SHALL DIG TEST PITS IN THE AREAS OF PROPOSED FREESTANDING FIXTURES TO ENSURE NO CONFLICT EXISTS. THE CONTRACTOR SHALL NOTIFY THE VILLAGE IN ADVANCE OF ANY TEST PITS ACTIVITIES.
- AFTER VERIFYING ADEQUACY OF GREASE TRAP CAPACITY, CONTRACTOR SHALL PUMP OUT, REMOVE ACCUMULATED GREASE AND DISPOSE OF APPROPRIATELY TO ENSURE CONTINUED FUNCTION.

SITE LEGEND

- EXISTING PROPERTY BOUNDARY LINE
- EXISTING ADJOINING PROPERTY LINE
- EXISTING ROAD CENTERLINE
- PROPOSED ROAD CENTERLINE
- PROPOSED DITCH CENTERLINE
- PROPOSED LIMITS OF BMP / DETENTION
- PROPOSED SAWCUT LINE
- LIMITS OF DISTURBANCE
- EXISTING CURB
- PROPOSED CURB
- PROPOSED MOUNTABLE CURB
- PROPOSED BUILDING
- PROPOSED ASPHALT (± 5,607 S.F.)
- PROPOSED CONCRETE (± 4,523 S.F.)
- PROPOSED LANDSCAPE (± 576 S.F.)
- PROPOSED BRIDGE
- PROPOSED WATER STRUCTURES
- PROPOSED STORM STRUCTURES
- PROPOSED SANITARY STRUCTURES
- EXISTING SANITARY STRUCTURES
- EXISTING WATER STRUCTURES
- PROPOSED PARKING COUNT

SITE KEY NOTES:

- A. PROPOSED CURB. REFER TO SHEET C7 FOR DETAIL.
- B. EXISTING CURB TO REMAIN. CONTRACTOR TO PROTECT IN PLACE.
- C. PROPOSED CONCRETE SIDE BY SIDE DRIVE-THRU PAD. REFER TO SHEET C7 AND C8 FOR DETAIL.
- D. PROPOSED DRIVE THRU MARKING. MUST BE LONG LIFE EPOXY. REFER TO SHEET C11 FOR DETAIL.
- E. PROPOSED DIRECTIONAL STRIPING. MUST BE LONG LIFE EPOXY. REFER TO SHEET C11 FOR DETAIL.
- F. PROPOSED ACCESSIBLE STRIPING. MUST BE LONG LIFE EPOXY. REFER TO SHEET C8 FOR DETAIL.
- G. EXISTING PARKING STRIPING TO REMAIN (TYP.). CONTRACTOR TO PROTECT IN PLACE.
- H. PROPOSED ACCESSIBLE PARKING CONCRETE PAD. REFER TO SHEET C8 FOR DETAIL.
- I. PROPOSED SOD LANDSCAPE.
- J. PROPOSED ACCESSIBLE PARALLEL CURB RAMP. REFER TO SHEET C7 FOR DETAIL.
- K. PROPOSED 2' WIDE DETECTABLE WARNING. REFER TO SHEET C7 FOR DETAIL.
- L. PROPOSED ASPHALT PAVEMENT. REFER TO SHEET C8 FOR DETAIL.
- M. PROPOSED CONCRETE SIDEWALK. REFER TO SHEET C7 FOR DETAIL.
- N. NOT USED.
- O. PROPOSED BUILDING ADDITION. REFER TO ARCHITECTURAL DRAWING FOR DETAIL.
- P. PROPOSED PULL FORWARD YELLOW PAVEMENT MARKING. THE PAINT COLOR OF THE STRIPE SHOULD MATCH PMS 123 YELLOW.
- Q. PROPOSED RELOCATED "DO NOT ENTER" SIGN.
- R. PROPOSED PARKING STRIPING (TYP.).
- S. PROPOSED ACCESSIBLE RAMP WITH HANDRAILS. REFER TO SHEET C7 FOR DETAIL.
- T. PROPOSED WHEELSTOP. REFER TO SHEET C7 FOR DETAIL.
- U. PROPOSED SAWCUT.
- V. EXISTING LANDSCAPED AREA TO REMAIN.
- W. PROPOSED BIKE RACK. REFER TO SHEET C7 FOR DETAIL.
- X. PROPOSED LUMINAIRE. REFER TO SHEET LPA FOR DETAIL.
- Y. EXISTING WATER SHUTOFF TO REMAIN. ADJUST COVER TO GRADE.
- Z. PROPOSED NYSDOT CURB RAMP WITH DETECTABLE WARNING SURFACE. REFER TO SHEET C10 FOR DETAIL.
- AA. PROPOSED NYSDOT CURB. REFER TO SHEET C10 FOR DETAIL.
- AB. PROPOSED NYSDOT PAVEMENT RECONSTRUCTION. REFER TO SHEET C10 FOR DETAIL.

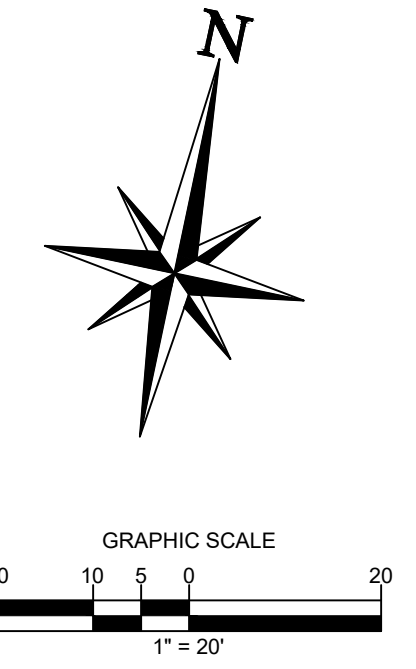
SIGN LEGEND:

- 1) PROPOSED DRIVE-THRU CANOPY.
 - 2) PROPOSED PRE-BROWSE MENU.
 - 3) PROPOSED WELCOME POINT GATEWAY.
 - 4) PROPOSED MENU BOARD.
 - 5) PROPOSED ANY LANE ANY TIME BOLLARD SIGN.
 - 6) PROPOSED PULL FORWARD SIGN.
 - 7) ACCESSIBLE PARKING SIGNS.
 - 8) PROPOSED 'NO STOPPING ANYTIME' SIGN.
- VERIFY SIGNAGE WITH SIGN ORDER REQUEST FORM. VERIFY LOCATIONS WITH MCDONALD'S REPRESENTATIVE.

VILLAGE OF WAPPINGERS FALLS
PLANNING BOARD
FINAL APPROVAL DATED: _____
PB CHAIRMAN: _____
PB SECRETARY: _____

DOCUMENTS PREPARED BY CORE STATES ARCHITECTURE AND ENGINEERING, P.C. INCLUDING THIS DOCUMENT, ARE TO BE USED ONLY FOR THE SPECIFIC PROJECT AND SPECIFIC USE FOR WHICH THEY WERE INTENDED. ANY EXTENSION OF USE TO ANY OTHER PROJECTS, BY OWNER OR BY ANY OTHER PARTY, WITHOUT THE EXPRESSED WRITTEN CONSENT OF CORE STATES ARCHITECTURE AND ENGINEERING, P.C. IS DONE UNLAWFULLY AND AT THE USER'S OWN RISK. IF USED IN A WAY OTHER THAN THAT SPECIFICALLY INTENDED, USER WILL HOLD CORE STATES ARCHITECTURE AND ENGINEERING, P.C. HARMLESS FROM ALL CLAIMS AND LOSSES.

Dig Safely. New York.
800-962-7962
www.digsafelynewyork.com
Call Before You Dig
Wait The Required Time
Confirm Utility Response
Respect the Marks
Dig With Care



RESOLUTION COMPLIANCE	REVISED PER ORWATER DEV. CORP. COMMENTS	REVISED DRIVE-THRU TO SIDE BY SIDE	REVISIONS PER TECHNICAL REVIEW COMMENTS	REVISIONS PER REVIEW COMMENTS	DATE	REV	DESCRIPTION
6	08/19/19						
5	07/16/19						
4	04/16/19						
3	2/20/19						
2	11/28/18						
1	11/20/18						

DATE: 02/29/2018
THOMAS PICKERING, P.E.
NY LICENSE #078013

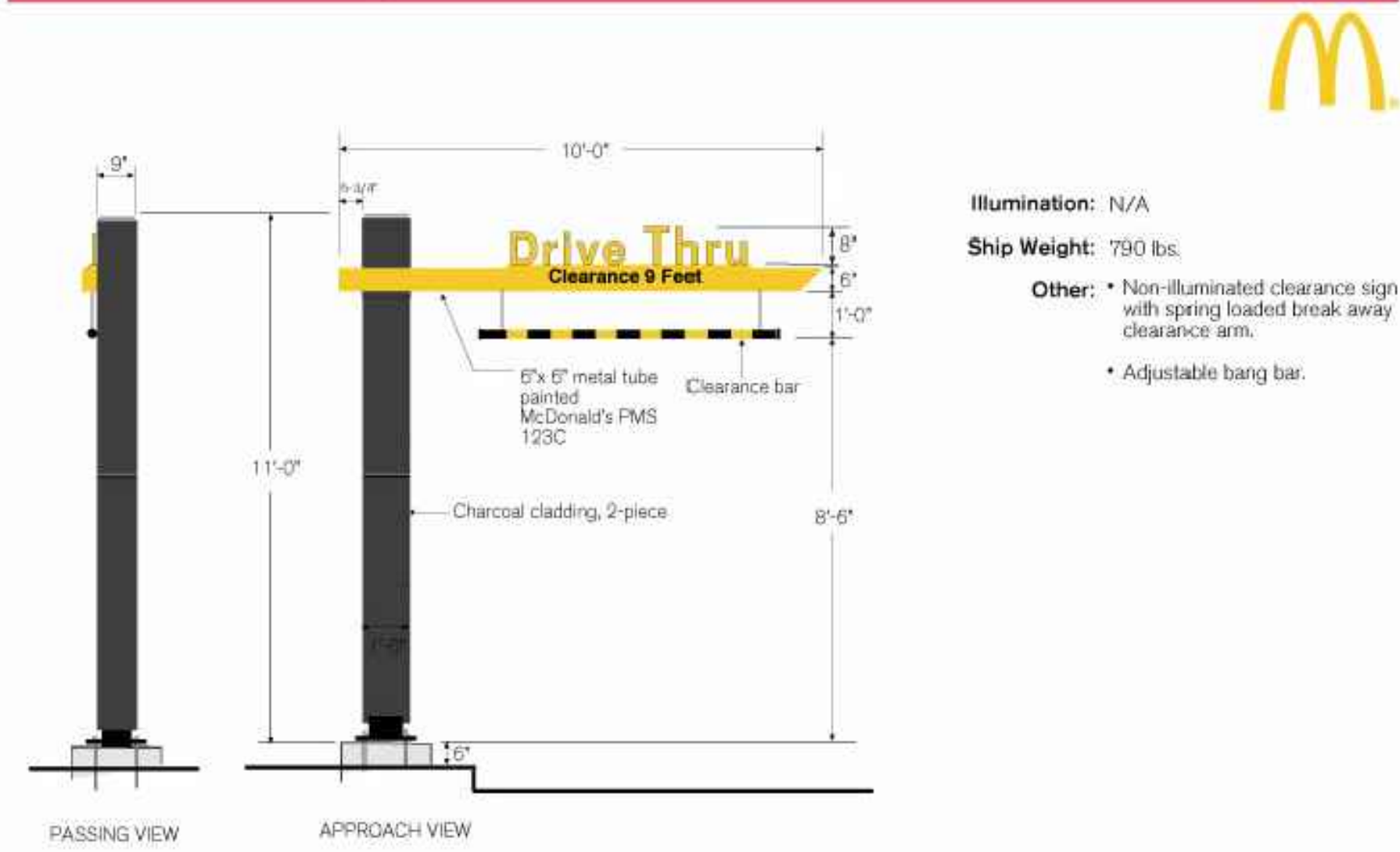
CORE STATES
CORE STATES ARCHITECTURE AND ENGINEERING, P.C.
8 Glen Street
Whitworth, MA 02472
Phone: (617) 976-0007
info@coresstates.com

PREPARED FOR: McDonald's USA, LLC
DRAWN BY: MW
STD ISSUE DATE: 2018
REVIEWED BY: DB
DATE ISSUED: 02/29/2018
C.S.G. PROJECT #: MCD-21069

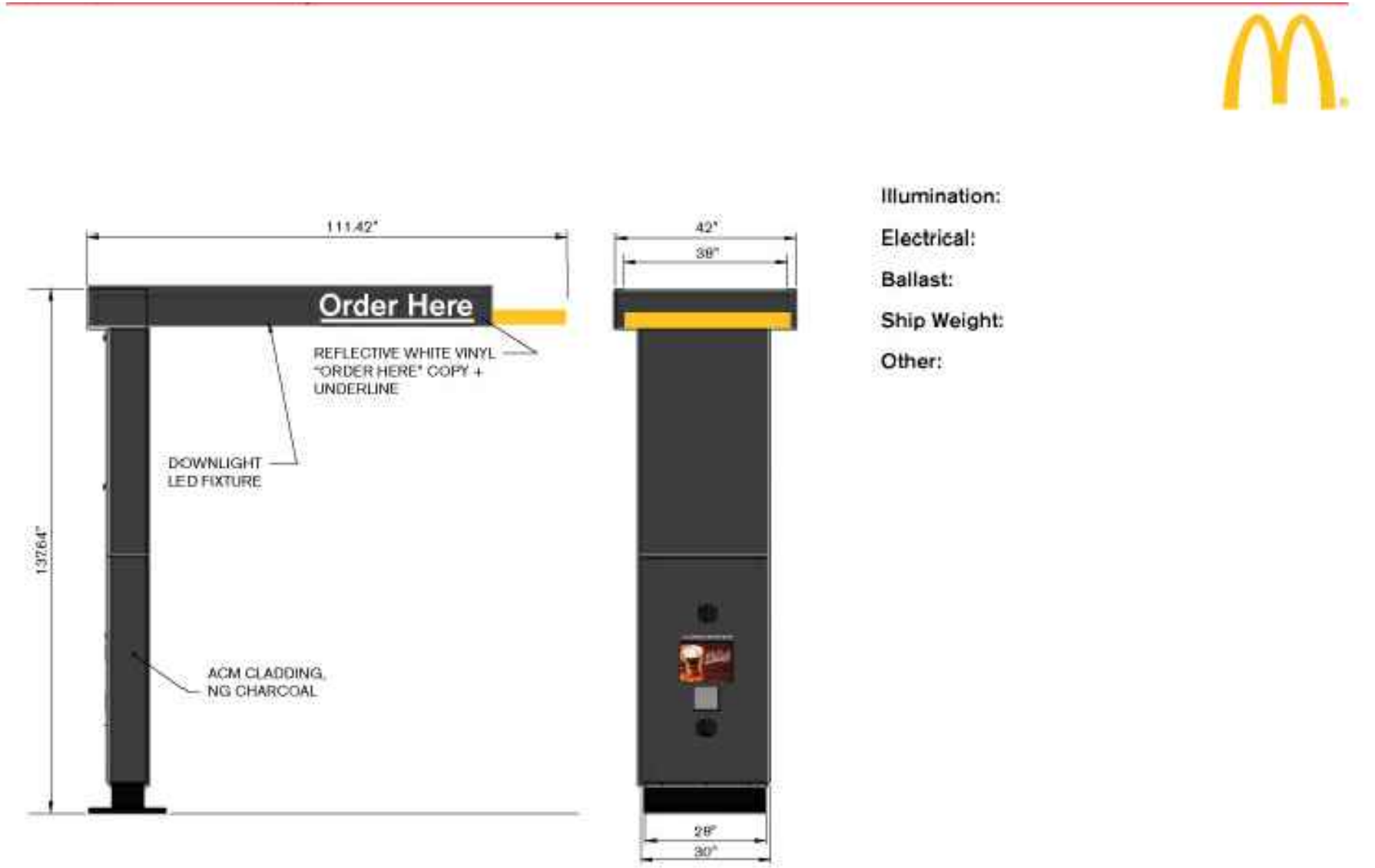
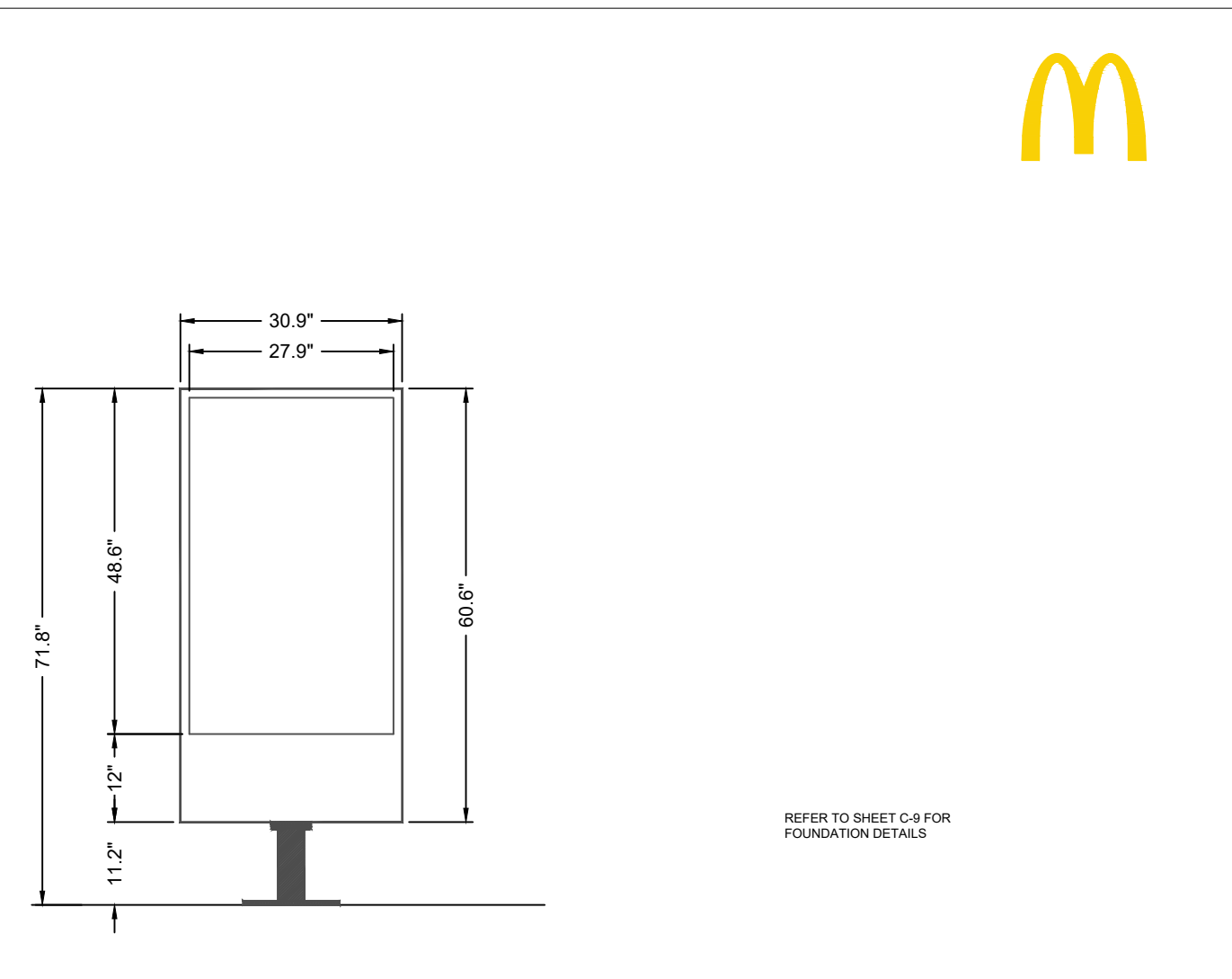
TITLE: SITE IMPROVEMENTS PLAN FOR MCDONALD'S
SHEET: _____
SITE PLAN
SITE ID: 031-1265
1567 U.S. ROUTE 9, WAPPINGERS FALLS, NY 12590

MCD-21069

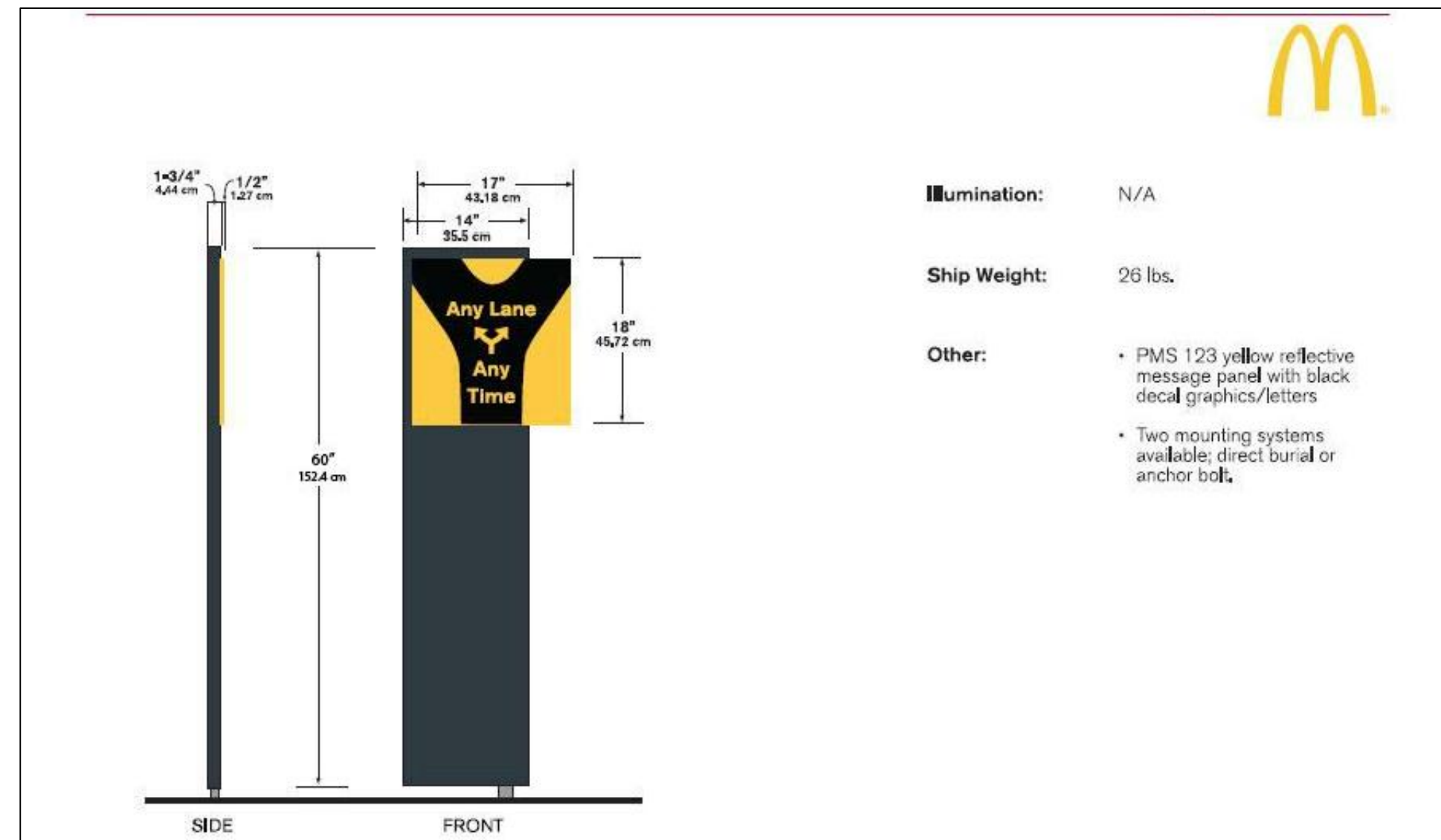
C4



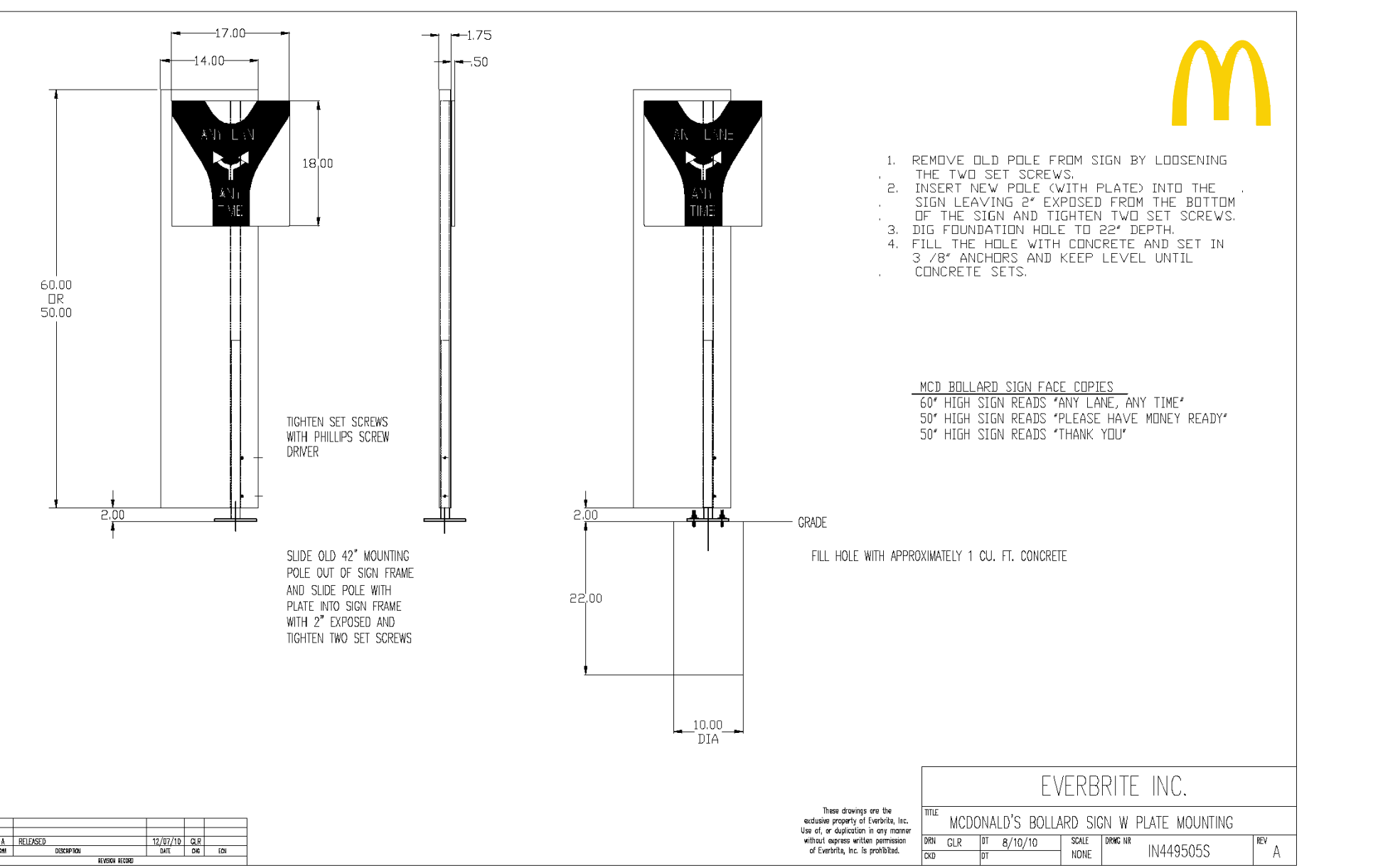
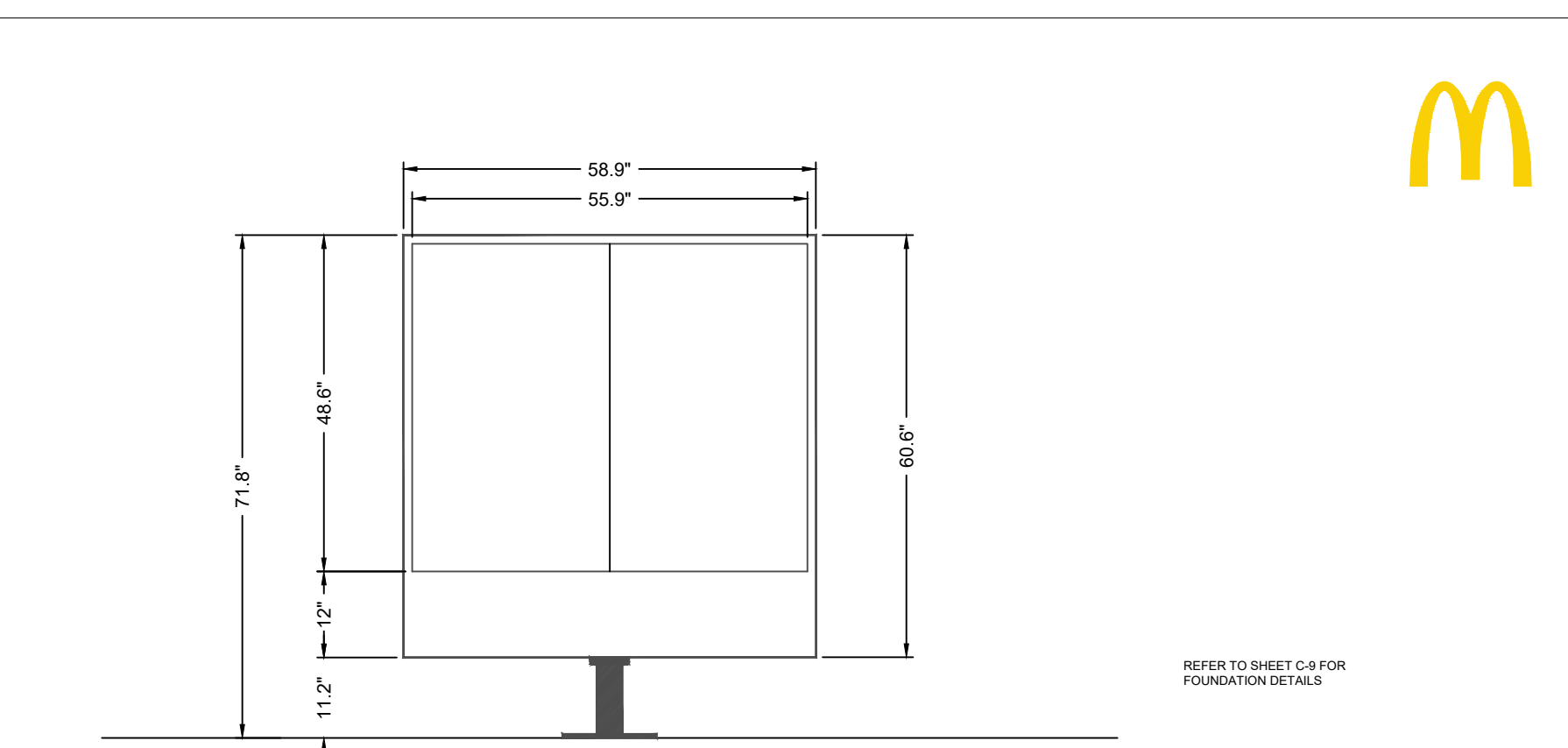
illumination: N/A
Ship Weight: 790 lbs.
Other: • Non-illuminated clearance sign with spring loaded break away clearance arm.
• Adjustable bang bar.



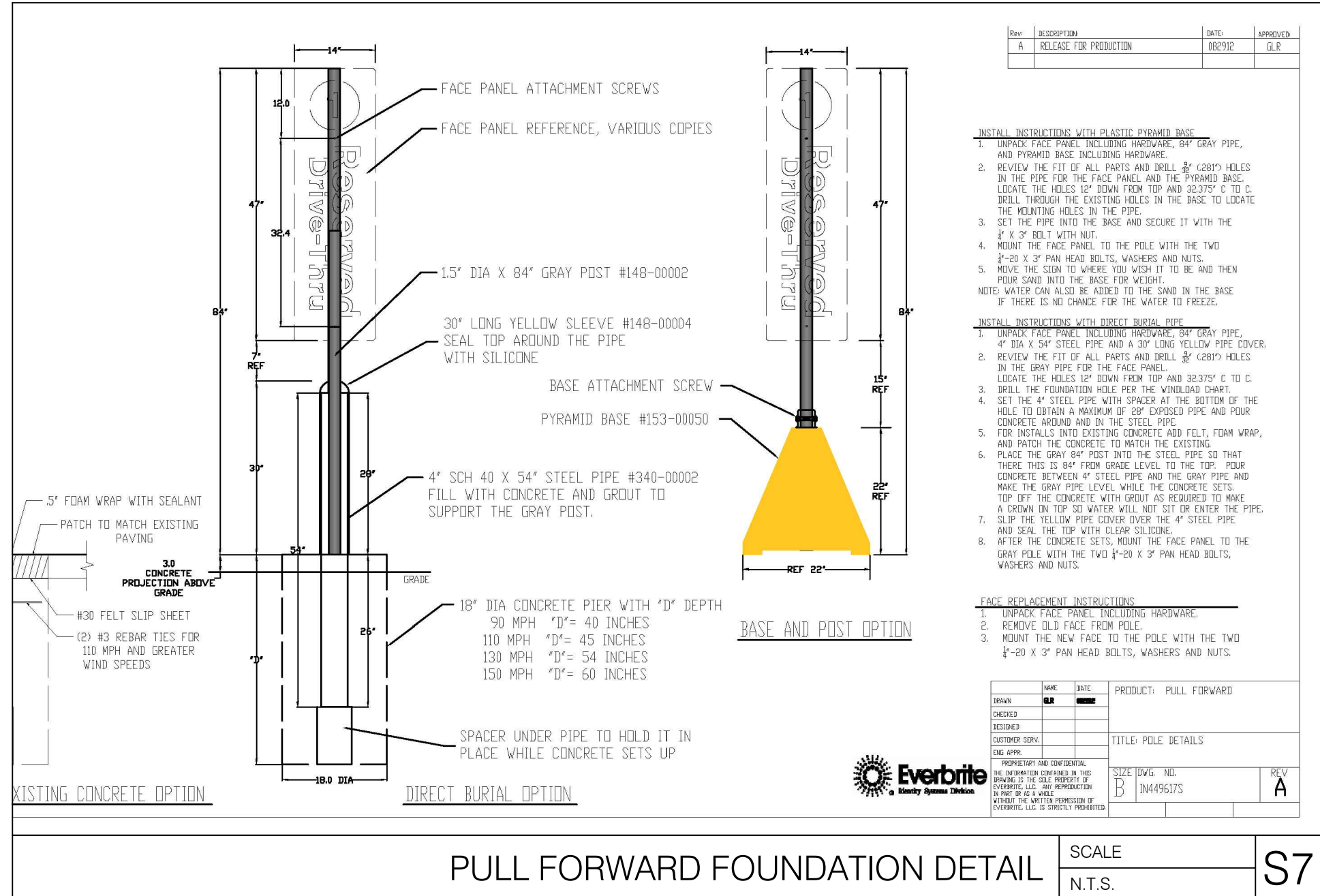
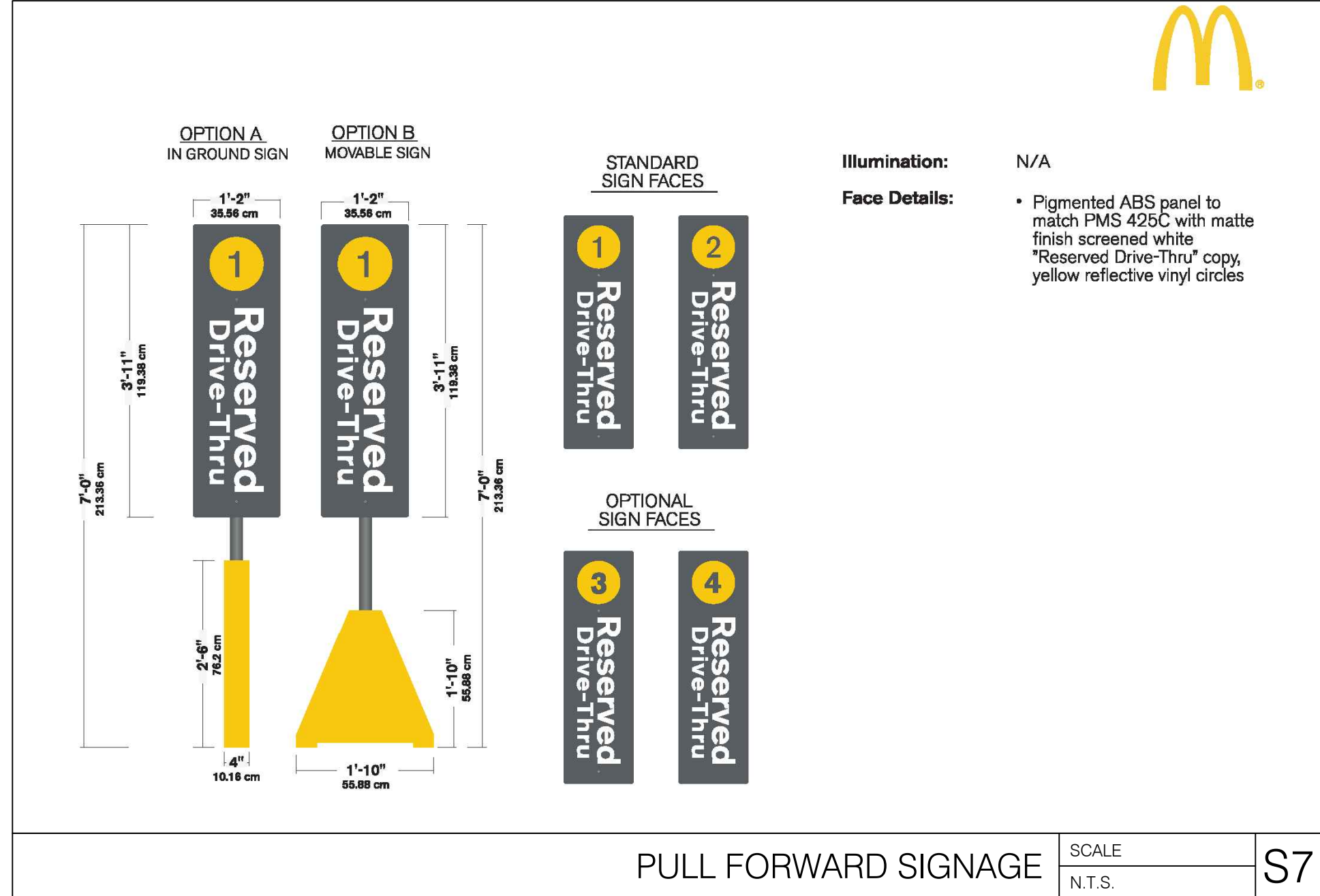
illumination:
Electrical:
Ballast:
Ship Weight:
Other:



illumination: N/A
Ship Weight: 26 lbs.
Other: • PMS 123 yellow reflective message panel with black decal graphics/letters
• Two mounting systems available: direct burial or anchor bolt.



illumination: N/A
Ship Weight: 26 lbs.
Other: • PMS 123 yellow reflective message panel with black decal graphics/letters
• Two mounting systems available: direct burial or anchor bolt.



INSTALL INSTRUCTIONS WITH PLASTER FORMING PIPE:
1. REMOVE OLD POLE FROM SIGN BY LOOSENING THE TWO SET SCREWS.
2. INSERT NEW POLE (WITH PLATED) INTO THE SIGN LEAVING 2" EXPOSED FROM THE BOTTOM OF THE SIGN AND TIGHTEN TWO SET SCREWS.
3. DIG FOUNDATION HOLE TO 22" DEPTH.
4. FILL THE HOLE WITH CONCRETE AND SET IN 2"Ø ANCHORS AND KEEP LEVEL UNTIL CONCRETE SETS.

FACE PANEL ATTACHMENT INSTRUCTIONS:
1. REMOVE OLD FACE FROM SIGN BY LOOSENING THE TWO SET SCREWS.
2. INSERT NEW FACE INTO SIGN LEAVING 2" EXPOSED FROM THE BOTTOM OF THE SIGN AND TIGHTEN TWO SET SCREWS.
3. DIG FOUNDATION HOLE TO 22" DEPTH.
4. FILL THE HOLE WITH CONCRETE AND SET IN 2"Ø ANCHORS AND KEEP LEVEL UNTIL CONCRETE SETS.

VILLAGE OF WAPPINGERS FALLS

PLANNING BOARD

FINAL APPROVAL DATED: _____

PB CHAIRMAN: _____

PB SECRETARY: _____

NOTE: CORES STATES ARCHITECTURE AND ENGINEERING, P.C. DID NOT PROVIDE SUCH DETAILS LABELED WITH AN "A" AND SHALL BE HELD HARMLESS FROM CONSTRUCTION ISSUES RESULTING FROM ERRORS AND OMISSIONS FROM SUCH DETAILS.

DOCUMENTS PREPARED BY CORE STATES ARCHITECTURE AND ENGINEERING, P.C. INCLUDING THIS DOCUMENT, ARE TO BE USED ONLY FOR THE SPECIFIC PROJECT AND SPECIFIC USE FOR WHICH THEY WERE INTENDED. ANY EXTENSION OF USE TO ANY OTHER PROJECTS, BY OWNER OR BY ANY OTHER PARTY, WITHOUT THE EXPRESSED WRITTEN CONSENT OF CORE STATES ARCHITECTURE AND ENGINEERING, P.C. IS UNLAWFUL AND AT THE USER'S OWN RISK. IF USED IN A WAY OTHER THAN THAT SPECIFICALLY INTENDED, USER WILL HOLD CORE STATES ARCHITECTURE AND ENGINEERING, P.C. HARMLESS FROM ALL CLAIMS AND LOSSES.

Dig Safely. New York.
800-962-7962
www.digsafelynywork.com

Call Before You Dig
Mark The Required Time
Confirm Utility Response
Respect the Marks
Dig With Care

AI	MENU AND PRE BROWSE BOARD DETAILS	01/21/21	REV	DATE	DESCRIPTION
7					
6	RESOLUTION COMPLIANCE	06/19/19			
5	PER REVIEW COMMENTS DISCUSSED 7/11/19	07/16/19			
4	REVISED PER ORWATER DEV. CORP. COMMENTS	04/16/19			
3	REVISED DRIVE-THROUGH TO SIDE BY SIDE	2/20/19			
2	REVISIONS PER TECHNICAL REVIEW COMMENTS	11/28/18			
1	REVISIONS PER TECHNICAL REVIEW COMMENTS	11/20/18			

PREPARED FOR: **McDonald's USA, LLC**
These drawings and specifications are the confidential and proprietary property of McDonald's USA, LLC and shall not be copied or reproduced without written authorization. The contract documents were prepared for use on this specific site in conjunction with its issue date and are not suitable for use on a different site or at a later time. Use of these drawings for reference or example on another project requires the services of properly licensed architects and engineers. Reproduction of the contract documents for reuse on another project is not authorized.

DRAWN BY: MW
STD ISSUE DATE: 2018
REVIEWED BY: DB
DATE ISSUED: 05/29/2018
C.S.G. PROJECT #: MCD-21069

TITLE: **SITE IMPROVEMENTS PLAN FOR MCDONALDS**
SHEET: **CONSTRUCTION DETAILS**

SITE ID: 031-1255
SITE ADDRESS: 1567 U.S. ROUTE 9, WAPPINGERS FALLS, NY 12590

REGISTERED PROFESSIONAL ENGINEER
CORE STATES ARCHITECTURE AND ENGINEERING P.C.
1000 Main Street
Waterbury, MA 02472
Phone: (617) 576-0007
Email: corestates@corestates.com

ALAN D. ROSCOE, P.E., BCEE

19 Stoney Brook Road Rowley, MA 01969

(978) 948-2682 roscoe.alan@gmail.com

Civil/Environmental Engineer with over thirty years of experience in a wide range of planning and civil design projects. Recent experience includes prominent roles in major programs at Core States Group for Fortune 500 Clients; and overall experience includes major roles in site/civil design projects ranging from single-family to complex commercial and industrial projects. Prior experience also includes a focus on wastewater planning, evaluation of wastewater collection and treatment systems, and design of sanitary disposal systems for small communities and land development firms. Extensive experience in civil engineering projects including site planning, stormwater management and permitting of land development projects. Mastery of Massachusetts rules and regulations related to wastewater, stormwater and water resources. Excellent writing and communication skills. Proven ability to work on multiple projects with several clients as well as with managing staff; and technical and financial aspects of projects.

SKILLS/PROFICIENCIES

- Site/Civil Land Planning and Development Design
- Wastewater Planning and Design
- Public Hearing Representation and Permitting at state and local level
- Completed Project Management Training Program (while at CDM)
- Wetlands Filings and Mitigation Design
- MEPA (Mass. Environmental Policy Act) Permitting
- Passive Radon Protection Design
- Working knowledge of Mass. Contingency Plan (310 CMR 40.0000)

WORK HISTORY

Core States Group, Cambridge and Watertown, MA

2016 - PRESENT

Project Manager/Senior Project Manager

Working on a variety of Civil Engineering projects for Program Clients and private developers.

- Manage production and supervise design tasks for civil/site design engineering projects in accordance with applicable rules and regulations and Client needs. Simultaneously managed multiple projects with several clients. Managing Design staff in-office and remotely.
- Manage project scope, budgets, and schedules, performing technical and quality reviews of design projects. Managing internal staff and in other offices, coordinating with other professional disciplines.
- Lead Permitting and Entitlements Manager for Northeast McDonald's and Chase Bank projects.

W. C. Cammett Engineering, Inc., Amesbury, MA

2014 - 2016

Director of Engineering

Worked on a variety of Civil and Environmental Engineering projects for both municipal and private clients.

- Performed and supervised design tasks for civil/site design engineering projects in accordance with applicable rules and regulations. Simultaneously managed multiple projects with several clients.
- Managed project scope and budgets, and schedules, performed technical and quality reviews of public and private projects for clients ranging from municipal departments, small to mid-size companies to individual homeowners.
- Prepared or supervised preparation of engineering plans and reports, and construction documents for design projects for multi-million dollar commercial and residential developments.

Hancock Associates, Danvers, MA

2009-2014

Engineering Division Manager

Worked on a variety of Civil and Environmental Engineering projects for both municipal and private clients.

- Performed and supervised planning and design tasks for civil/site design engineering projects in accordance with applicable rules and regulations. Simultaneously managed multiple projects with several clients.
- Managed project scope and budgets, schedules, technical aspects and quality reviews of public and private projects for clients ranging from municipal departments, small to mid-size companies to individual homeowners.
- Prepared or supervised preparation of engineering plans and reports, and construction documents for design projects for multi-million dollar commercial and residential developments.
- With a team of three professionals, managed receivables in excess of \$575,000 in 2012.

CDM – CAMP, DRESSER & MCKEE, INC., Cambridge, MA**1998-2008****Project Engineer / Project Manager**

Worked on a variety of Civil and Environmental Engineering projects for both municipal and private clients.

- Oversaw and evaluated planning and design tasks for complex or multi-disciplinary engineering projects in accordance with applicable rules and regulations. Simultaneously managed multiple projects with several clients.
- Prepared and managed project scope and budgets, schedules, and technical aspects of projects for municipalities and from small to mid-size companies and Fortune 500's.
- Prepared engineering reports, technical memoranda and construction documents for planning and design projects for wastewater planning programs for up to \$300 million.

J.K. Holmgren & Associates, Inc., Brockton, MA**1984-1998****Project Engineer - Director of Civil Engineering Division**

Supervised staff of approx. 15 employees (including Drafting Dept., Survey Div., and Administrative Staff).

- Led site planning, design and coordination with multiple clients and regulatory officials (state and local) for residential, commercial, and industrial land development projects.
- Responsible for Project Contracts, scheduling and budgets, oversight, and quality reviews.
- Obtained local (i.e. Conservation Commission, Board of Health, and Subdivision Approvals) and Commonwealth of Massachusetts (i.e. Groundwater Discharge, MA DOT, and MEPA) permitting.
- Represented clients and secured permitting by presenting projects before town departments (i.e. Board of Selectmen, Planning Board, City Council) for land development projects on tight deadlines.

EDUCATION**SOUTHEASTERN MASSACHUSETTS UNIVERSITY / UMASS DARTMOUTH, North Dartmouth, MA****Bachelor of Science, Civil Engineering****ACHIEVEMENTS / CERTIFICATIONS**

- MA Professional Civil Engineer - #40163 (Ability to obtain licensure in other states)
- Licensed Soil Evaluator – MA DEP (inactive)
- Board Certified Environmental Engineer (BCEE) from American Academy of Environmental Engineers (inactive)

PROFESSIONAL ACTIVITIES

- Boston Society of Civil Engineers
- American Society of Civil Engineers
- Former Chairman of the Flyaway Pond Restoration Committee, Town of Easton, MA
- Town of Rowley, Open Space Committee Chairman

PROFESSIONAL REFERENCES

References available upon request



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
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 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.

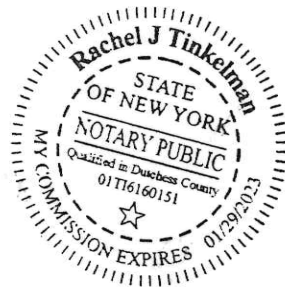
Ormater Development Corp.

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.

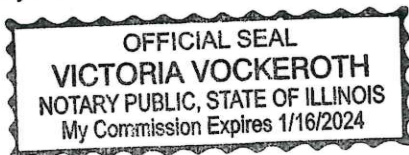
McDonald's Corporation

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 14th day of October, 2020.

McDonald's Corporation

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

Sworn to me before this the
14th day of October, 2020

Victoria Vockeroth
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

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

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

TABLE OF CONTENTS

PRELIMINARY STATEMENT1

STATEMENT OF FACTS2

ARGUMENT.....5

 A. THE INTENT OF VILLAGE CODE § 151-25(C)(J) IS TO PROHIBIT SIGNS THAT
 DISTRACT MOTORISTS AND PEDESTRIANS ON THE ROADWAY6

 B. THE VILLAGE SIGN ORDINANCE ARBITRARILY AND IRRATIONALLY
 DISTINGUISHES BETWEEN INTERNALLY ILLUMINATED SIGNS AND DIGITAL
 SIGNS10

 C. THE DIGITAL BOARDS ARE NOT “SIGNS” AS DEFINED BY THE VILLAGE
 CODE11

CONCLUSION.....14

TABLE OF AUTHORITIES

Cases

<i>BBJ Associates, LLC v. Zoning Bd. of Appeals of Town of Kent</i> , 65 A.D.3d 154 (2nd Dep’t 2009)	5, 8
<i>Indian Rock, LLC v. Zoning Bd. of Appeals of Village of Airmont</i> , 287 A.D.2d 629 (2nd Dep’t 2001)	5
<i>Matter of Anderson v. Bd. of Educ. of City of Yonkers</i> , 46 A.D.2d 360 (2nd Dep’t 1974)	6
<i>Matter of Astman v. Kelly</i> , 2 N.Y.2d 567 (1957)	6
<i>Nadkos, Inc. v. Preferred Contrs. Ins. Co. Risk Retention Group LLC</i> , 34 N.Y.3d 1 (2019)	5
<i>Walsh v. New York State Comptroller</i> , 34 N.Y.3d 520, 524 (2019)	5, 12

Statutes

NY Gen Mun Law § 239-m(5)	4
NY Stat § 94	6
NY Stat §111	6
NY Stat § 112	6, 8
NY Stat § 113	5-6, 8
NY Stat § 234	8, 12
Town of Hempstead Building Zone Ordinance § 246(B)	7
Town of North Hempstead Zoning Code § 70-197(K)	7
Town of North Hempstead Zoning Code § 70-197(O)	7
Village of Valley Stream Zoning Code § 99-1704(A)	7
Village of Wappingers Falls Zoning Code § 151-25(A)	2, 6-7
Village of Wappingers Falls Zoning Code § 151-25(C)(7)	1, 3-10, 14, 16
Village of Wappingers Falls Zoning Code § 151-25(J)(2)	3-4
Village of Wappingers Falls Zoning Code § 151-25(K)(2)	10
Village of Wappingers Falls Zoning Code § 151-25(K)(2)(b)	10
Village of Wappingers Falls Zoning Code § 151-25(K)(2)(c)(1)	3-4
Village of Wappingers Falls Zoning Code § 151-61	1-2, 11-14, 16

Other

Patricia Salkin, <i>New York Zoning Law and Practice</i> § 27.12 (4th ed. 2014)	5
Oxford English Online Dictionary: “Blink”	9
Oxford English Online Dictionary: “Flash”	9
Oxford English Online Dictionary: “Intermittent”	9
Webster Online Dictionary: “View”	12
Webster Online Dictionary: “General Public”	12

Exhibits

Exhibit “A”	December 4, 2020 ZBA Interpretation Application Submission
Exhibit “B”	Digital Board Rendering
Exhibit “C”	Digital Board Manufacturer Cut Sheets
Exhibit “D”	March 8, 2019 Dutchess County Planning Commission Recommendation Letter
Exhibit “E”	September 6, 2019 Village of Wappingers Falls Planning Board Approval
Exhibit “F”	Digital Board Approvals

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.¹ 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,

¹ 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.

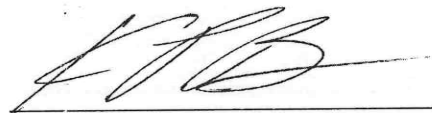
Accordingly, the Digital Boards are permitted to be installed at the Premises and the Applicant respectfully requests that the ZBA grant this application.

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.

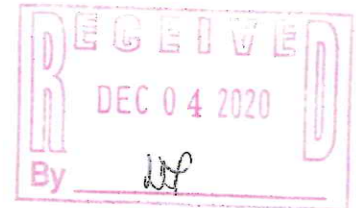
Exhibit A



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 and 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
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:

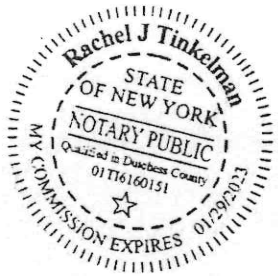
1. That I/we are the Owner(s) of the within property as described in the foregoing application for Zoning Board of Appeals approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize Brown & Altman, LLP, to act as my/our representative 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

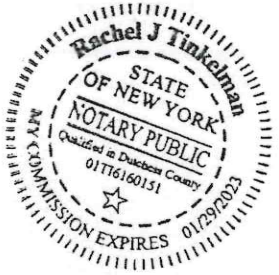
IN WITNESS WHEREOF, the undersigned has executed this Certificate of Authorization this 24 day of November, 2020.

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

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 14th day of October, 2020.

McDonald's Corporation

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

Sworn to me before this the
14th day of October, 2020

[Signature]
Notary Public



Exhibit B

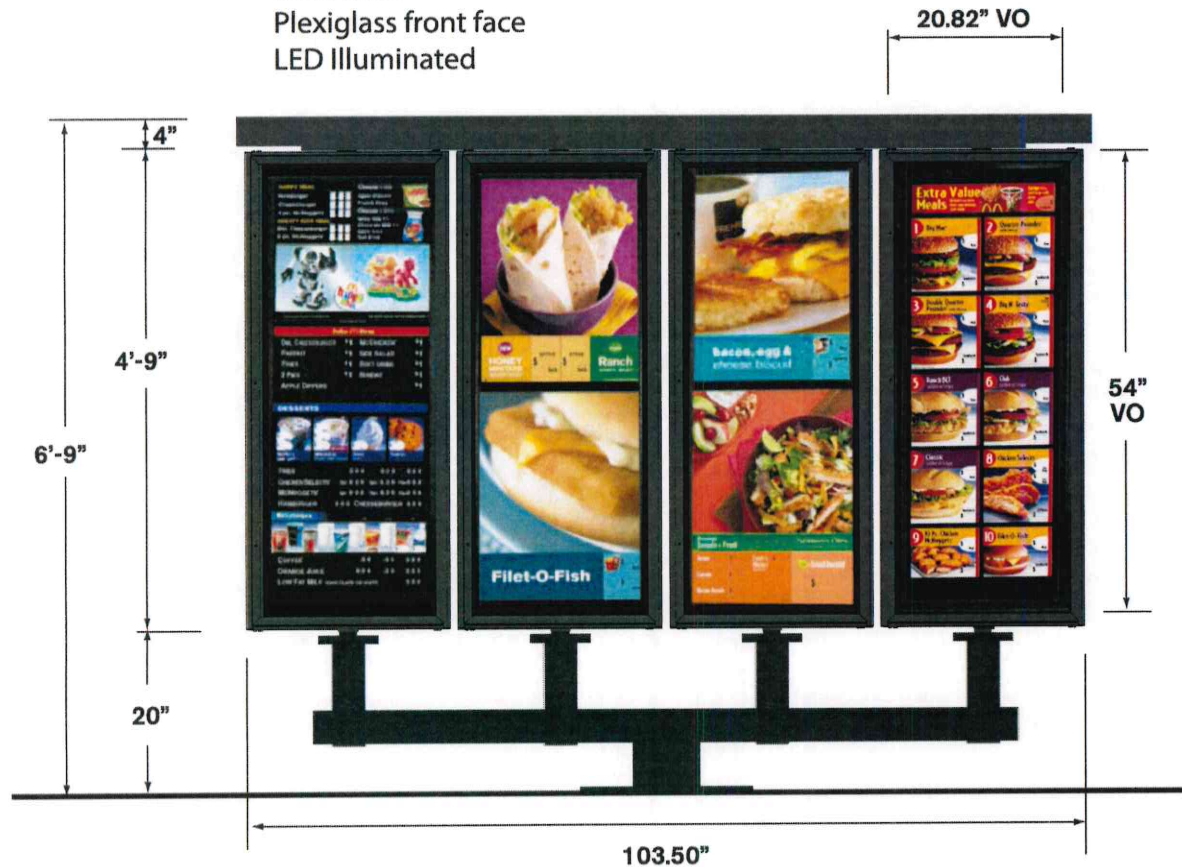


Exhibit C



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

Dutchess County Department of Planning and Development	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>Parcel(s) within 500 feet of:</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>Actions Requiring 239 Review</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>Exempt Actions:* 239 Review is NOT Required</p> <ul style="list-style-type: none"> Administrative Amendments (fees, procedures, penalties, etc.) Special Permits for residential uses (accessory apts, home occupations, etc.) Use Variances for residential uses Area Variances for residential uses Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals Subdivisions / Lot Line Adjustments Interpretations <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>No Comments:</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>Comments Attached:</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>		Referral #: <u>ZR19-048</u>
Date Requested: <u>3/2/19</u>		
Date Required: <u>3/22/19</u>	<input checked="" type="checkbox"/> Also mailed hard copy	Reviewer: <u>Quirly S. O'Connell</u>
Date Response Faxed: <u>3/8/19</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

[Handwritten Signature]
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

MZ

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.

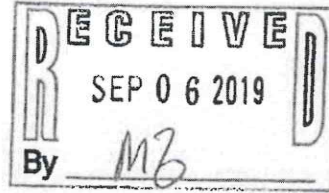
Resolution Certified, filed with the Village Clerk and mailed to the Applicant

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.

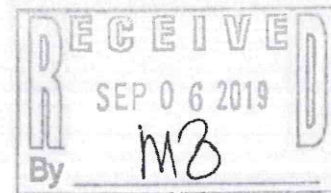
BE IT FURTHER RESOLVED, that within five (5) business days of the adoption of this resolution, the Chairman or other duly authorized member of the Planning Board shall cause a copy of this resolution to be filed with the Village Clerk, and a copy sent to the applicant.

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.

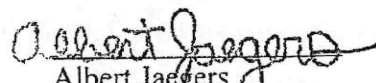
LOCATION: W/s Wantagh Ave., 89' S/o Park Ave.,
a/k/a 1946 Wantagh Ave., WANTAGH

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

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: 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

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.

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

**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.

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

**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

**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: 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

**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: 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

**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 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

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

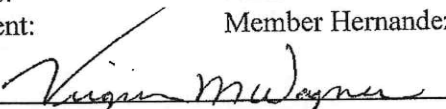
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

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

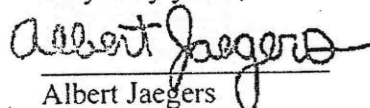
DECISION: GRANTED unanimously by those present temporarily to March 4, 2025 with conditions (see attached).

**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).

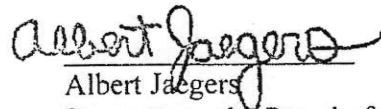
LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave.,
a/k/a 1255 Grand Ave., BALDWIN

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).

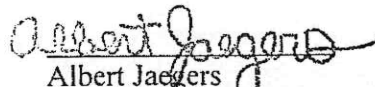
LOCATION: E/s Grand Ave., 110.41' N/o Grand Terrace Ave.,
a/k/a 1255 Grand Ave., BALDWIN

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:

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