

**MINUTES OF THE TOWN OF MILLVILLE
BOARD OF ADJUSTMENT HEARING
OCTOBER 27, 2011 @ 7:00PM**

1. CALL TO ORDER & PLEDGE:

Chairman Reeve called the meeting to order at 7:00pm.

2. ATTENDANCE:

Mark Reeve, Andy Lyons, and Tim Droney. Town Solicitor Seth Thompson, Town Manager Debbie Botchie, Town CBA Eric Evans, and Town Clerk Donna Schwartz.

3. ADOPTION OF BOARD OF ADJUSTMENT HEARING RULES:

Town Solicitor Seth Thompson ask the Board Members to take note of the clarification made to paragraph 7, as it was the only change to the document from the previous meeting.

Mr. Lyons motioned to accept the document. Mr. Reeve seconded his motion. All present voted in favor of accepting the Hearing Rules 3/0.

Motion carried unanimously.

4. ADOPTION OF MINUTES:

Mr. Droney asked for a motion to accept the minutes of the July 28, 2011 hearing. Mr. Lyons seconded his motion. All present voted in favor of accepting the minutes of the July 28, 2011 hearing 3/0.

Motion carried unanimously.

5. NEW BUSINESS:

Mr. Reeve read the official notice into the record: **NOTICE IS HEREBY GIVEN BY** the Board of Adjustment for the Town of Millville that a Public Hearing will be held at 7:00 pm, on Thursday, October 27, 2011, at the Millville Town Hall, 36404 Club House Rd., Millville, DE, to consider the following application:

BOA 03-12 submitted by Millville Town Center Associates, LLC, Tax Map Parcel #134-12.00-411.00, Giant Supermarket Store #389, for the following variances from Town Code:

a) Variance from Article IX, Section 155-44 E, which would allow for additional square footage on directional signage from 1.5 sq to 13.13 sq per sign; applicant proposing 2 "Welcome" signs.

b) Variance from Article IX, Section 155-46 C (3), which states each commercial use may have one (1) sign displaying the name of the store; applicant proposing five (5) signs.

c) Variance from Article IX, Section 155-46 C (3), which would allow for additional square footage. Current Code permits 100 sq ft for a commercial use within a shopping center. Applicant is requesting 291.4 sq ft a variance of 191.4 sq ft. The original sign permit granted in 2006 was for 219.75 sq ft

This application may be examined prior to the public hearing at the Town Hall, between 9 am & 4 pm, Monday through Friday (closed daily from 12 noon to 1 pm). For those unable to attend, written comments received prior to the hearing will be accepted.

Town Manager Debbie Botchie announced no written comments had been received in this matter.

Town Solicitor Seth Thompson indicated the hearing commence from paragraph six Item (6) and hear background information on the property from Town Code & Building Administrator Eric Evans.

Mr. Evans began by saying he considered requested Item A - "Welcome" sign a directional sign which is an allowable use and therefore separate from requests B & C. Town code §155-4E does permit directional signs of 1½ sq ft only and their request of 13.13 sq ft would need a variance for the additional square footage for size of the sign(s).

Mr. Evans also noted the total number of signs permitted by Town code per business is one. His determination after removing the two "Welcome" signs and the "PNC Bank" they are asking for approval for five signs total. Mr. Evans noted PNC Bank is a separate business and allowed one sign of their own; however, "Starbucks" is a subsidiary of Giant and is not entitled to its own sign. According to current Town code the total square footage allowed is 100 sq ft, currently they have a total of 219.75 sq ft, which was approved in 2006 and are requesting approximately an additional 70 sq ft for a grand total of 291.4 sq ft.

Mr. Droney questioned how the signs were approved in 2006 because the old code did not allow for that amount of signage either.

Mr. Lyons asked for clarification that only leased businesses with the store could have their own sign. He also mentioned he saw no safety issue or hazard with the approving the additional signs because Giant was so far off the main road.

Ms. Botchie commented Giant is currently "non-conforming" and if they change by more than 50%, they must follow the new code that is in place.

Mr. Gerry Brent, of Gable Signs, was present representing Giant Foods. He explained to the Board of Adjustment Members Giant was proposing a re-imaging of their stores regionally for brand uniformity. The five signs they are proposing their name, their logo (which is shrunk considerably), "Starbucks," "Quality Food People" and "Giant Pharmacy." Mr. Brent stated the signs are not prefabricated; the sizes of the signs are based on the actual dimensions of the storefront and on a vision-of-site measurement from the service road.

Mr. Thompson asked Mr. Brent how this measurement is done. Mr. Brent remarked the building is approximately 300ft from the service road, which runs through the shopping center. This measurement is used to guide the customer from that vantage point to the doorway to the store.

Mr. Reeve asked if they had considered putting the "Welcome" sign on the interior of the doorway. Mr. Brent commented the idea was for the entrances to be identified from the service road, especially at night to help differentiate the entrances after dark.

Mr. Brent continued to explain the reason Giant was seeking a variance to replace the other signs currently attached to the store. They are trying to appeal to a younger crowd and have been in the process of updating their name with a new logo, trying to better promote the Giant Pharmacy - a brand within a brand, and Starbucks, a franchise which Giant owns, helping to promote business by advertising on the brand on the outside of the building. Mr. Brent stated this was a typical branding package, and the suggested placement of the signs is to balance out the store frontage using the outside band.

Mr. Reeve asked if they had any plans of changing the freestanding sign at the entrance to which Mr. Brent replied no.

Mr. Thompson inquired if there was an order of priority between the signs.

Mr. Brent replied, in order of importance he would think the name, logo, pharmacy Starbucks... however his client thinks they all are important. Mr. Brent stated he did not feel the problem was competition, versus impact. Mr. Dronney asked Mr. Brent what he considered the hardship to be. Mr. Brent replied it would be difficult to prove hardship; Giant would like to achieve "quality" in all things.

Mr. Thompson asked Mr. Evans if there were any other non-conforming stores in the area asking for 2/3 more than others do. Mr. Brent felt the Board needed to look at the size of the frontage. Mr. Reeve inquired about Food Lion. Mr. Evans replied they were also non-conforming with over 100 sq ft in proportion to the building.

Mr. Thompson asked Mr. Brent if he was okay with the Board using some approximate figures for building frontage. He understood. Mr. Evans said the code allowed for 5% of the frontage or 100 sq ft, whichever is smaller. He stated he believed Food Lion has 165' frontage, or 3,874 sq ft which their signs whereas Giant 300' frontage or 6,000 sq ft. Currently neither store complies with the Town code.

Mr. Reeve seeing they were no more questions from the Board asked for public comment hearing none moved the proceeding to the Closing Argument portion of the hearing.

Mr. Brent thanked Mr. Evans for his help and thanked the Board for hearing his variance request.

Mr. Thompson reminded the Board they were free to discuss the issue or consider it and render a decision within 60 days.

Mr. Lyons stated he felt the building was far enough back it would not impact the drivers on the roadway. Mr. Droney agreed with Mr. Lyons. Mr. Reeve asked Mr. Brent if the new signs would be illuminated. Mr. Brent replied the one there now are not, but the new signs would be.

Mr. Thompson suggest the Board consider voting on Items B & C separately from Item A. Mr. Droney said he had no issue with the "Welcome" signs since it has been noted Food Lion is non-conforming also. He believes it is a good idea for people to know how far a walk from the entrance to where they are parking. Mr. Reeve stated he does not have trouble helping people find the doors he is just not sure they need to be so large.

Mr. Evans remarked the allowable size of a directional sign is 1½ ⌘, approximately a 12"x18" sign. The Giant has 8' wide doors; he feels the signs should be proportionate. Mr. Droney asked if the "Welcome" signs would be illuminated. Mr. Evans replied yes. Mr. Lyons stated he did not think the large illuminated proportionate to the building does not seem excessive to him and does not think the signs would not bother or offend anyone. Mr. Reeve said although they were specific to the entryway he was not convinced they were necessary as presented. He does not believe there have been any complaints of people unable to finding the entry. Mr. Lyons commented the entrances are far apart and knowing where they are would make it very helpful as to where to park. Mr. Reeve disagreed with Mr. Lyons, stating he felt the entrances were obvious from the parking lot. Mr. Lyons said maybe for local residents, but it is not as pronounced for out of state visitors. Mr. Reeve stated he is not convinced.

Mr. Lyons said he understands Mr. Reeve's concern, but showing the entry way is a practical need. Mr. Reeve said he was concerned with giving Giant an unfair advantage over other stores. Mr. Lyons stated he felt the code was too restrictive. Mr. Reeve reminded him it is the code they must use to make the decision. Mr. Droney commented without many stores this size in Town it would not create a problem with setting precedence.

Mr. Lyons motioned to provide a variance to allow the two 13.13 ⌘ directional signs ["Welcome"] based on the store being 400'-450' distance from Route 26. Mr. Droney seconded his motion. **Vote:** Mr. Droney - yes; Mr. Lyons - yes; Mr. Reeve - no.

Motion carried 2/1. Mr. Reeve stated he just was not convinced. Mr. Droney stated he agreed with Mr. Lyons.

Mr. Lyons continued with discussion of Items B and C, which he said he felt different about the other five signs. He said he could see the logic however; they do not meet the requirements of the code. He would perhaps agree to two or three if they fell within the existing sign square footage.

Mr. Droney stated he had no comment at this time.

Mr. Thompson again reminded the Board Members they can table and renote the meeting decision within 60 days.

Mr. Lyons suggested they table the discussion on parts B and C to take advantage of the time and further consider the request. Mr. Lyons motioned to table the unfinished part B and C of the hearing. Mr. Reeve seconded his motion. All three members were in agreement with the decision to table the hearing 3/0. Motion carried unanimously.

The balance of the meeting was scheduled for November 17, 2011

6. ADJOURNMENT:

Mr. Lyons motioned to adjourn the meeting. Mr. Reeve seconded his motion. All members voted to adjourn 3/0. Motion carried unanimously.