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CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

B-7 Mixed Use Urban Zone Interpretation Appeal Decision

Date of public hearing: August 17, 2017

Name and address of Appellant: Convenient MD, LLC
c/o Natalie L. Burns, Esq.
10 Free Street
Portland, Maine 04101

Location of property under appeal: 191 Marginal Way
CBL 024 C021001& 025 B009001

FOR THE RECORD

Names and addresses of witnesses (proponents, opponents and others):

Natalie Burns - FOR: Peter Noyes
 Julien Bard - owns 191 Marginal Way site
 (Landlord)
~~Bert Walker~~
 Max Puyanic
 c/o Convenient MD

Exhibits admitted (e.g. renderings, reports, etc.)

Application & Exhibits
 Brochure
 DIBIA application dated June 15, 2017

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The appellant appeals from the determination of the Zoning Administrator that the proposed sign is not permitted as a building identification sign pursuant to § 14-369.5 because the proposed sign does not “identif[y] the name of the tenant in basic letters,” and, instead, “represents the company’s branding and logo,” and “is a commercial message and not a building identification sign.”

The Board derives authority to review orders, decisions, determinations and interpretation of the building authority pursuant to §§ 14-471, 14-472 of the City of Portland Code of Ordinances.

Applicable Ordinance Sections

A building identification sign in the B-7 Zone is allowed without a permit. § 14-369.5(a). Building identification signs are limited in that, “Only address and name of occupant allowed on sign.” § 14-369.5(a), n.(e). Sign includes, “Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.” § 14-367. Building identification sign is not further defined.

By way of context, other types of building signs and restrictions include:

- A building marker may include “only building name, date of construction, or historical data on historical site.” Building marker is defined as, “Any sign indicating the name of a building, date of construction, or other incidental information about its construction and/or history.”
- An incidental sign is limited in that, “No commercial message of any kind allowed on a sign if such message is legible from any location off the zone lot on which the sign is located.” An incidental sign includes,

A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. Directional signs indicating the location of a building, tenant or entrance shall also be considered incidental signs. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

- Residential sign is defined as, “Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods and services offered on the premises where the sign is located, provided that offering such goods or services conforms with all requirements of this article.”

- A suspended sign is limited, "No commercial message of any kind allowed on a sign if such message is legible from any location off the zone lot on which the sign is located."

§§ 14-367, 14-369.5(a). Commercial message is defined as, "Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity." *Id.*

Findings

WARSSON, Karsiafices

Appellant has demonstrated that the interpretation of the Zoning Administrator that the proposed sign is not a building identification sign was incorrect or improper.

Satisfied Not Satisfied

Reason and Supporting Facts:

This is an application for building identification sign. Under the ordinance, 14-369.5, B-7 zone (e) building identification signs - footnote (e) require only name and occupant. Ordinance does not prescribe the ~~style of~~ style of sign.

Secretary of State filing indicates that Convenient MD, LLC will do business as Convenient MD Urgent ~~Center~~ Care.

The ordinance is vague ~~and~~ on the issue of identification signs and doesn't prescribe, other than the name ~~and~~ of occupant and address. Ordinance is missing a clear definition of "identification" sign.

Conclusions

Option 1: The Board finds that the appellant has satisfactorily demonstrated that the Interpretation of the Zoning Administrator that the proposed sign is not a building identification sign was incorrect or improper.

Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator that the proposed sign is not a building identification sign was incorrect or improper.

Dated:

8-17-17



Board Chair