



DEPARTMENT OF DEVELOPMENT SERVICES – PLANNING DIVISION
REPORT: Variance request at 289 Washington Street
 for consideration July 6, 2021

STAFF REPORT

TO: Zoning Board of Appeals
PREPARED BY: Paul Ashworth, Senior Planner
paul.ashworth@hartford.gov

PROJECT: J Restaurant Nonconforming Pole Sign
 289 Washington Street
PARCEL ID: 227-543-044
P&Z-COMM-2021-0410

ZONE: MX-1, Multi-use Mix District

TYPE: Variance from Section 1.5.5.B to allow replacement of a nonconforming pole sign.

APPLICANT: ARTfx Signs c/o Lynda Laureano

OWNER: Lincoln Realty LLC



Overhead View – City of Hartford GIS 2021

BACKGROUND INFORMATION

Applicant is requesting a variance to allow existing alterations to a nonconforming sign to remain. The Applicant applied for a permit to exchange the rectangular top of an existing nonconforming pylon sign for a similarly sized square top. Please see Figure 1 below to show the prior and existing versions.

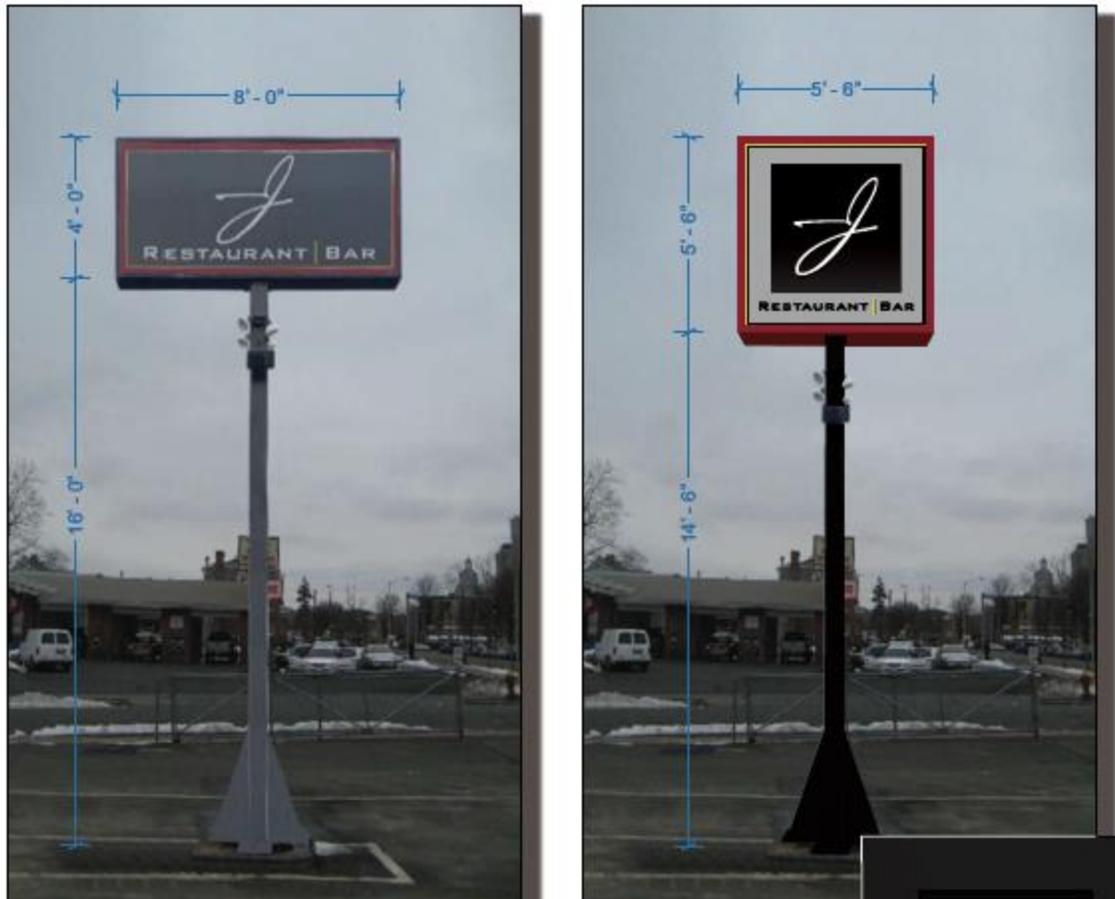


Figure 1. Previous version on the left, existing sign on the right – ARTfx 2021

The Applicant applied for a zoning permit for sign replacement on March 12, 2021. During permit review, Staff made the determination that the sign could not be replaced because it did not meet the criteria for nonconforming sign replacement under Section 1.5.5 of the Zoning Regulations (the Regulations). The Applicant then applied for a variance to allow the alteration as designed. Staff visited the site twice during the review period, once on March 12, 2021 and once on June 29, 2021. Staff confirmed via the site visits that the proposed sign had been installed without permits. Please see Photo 1 and Photo 2 below depicting the sign prior to and after alteration by the Applicant.



Photo 1. Previous Sign Condition, March 12, 2021 – Staff Photograph



Photo 2. Sign alterations have already been installed, June 29, 2021– Staff Photograph

STATEMENT OF HARDSHIP

The Applicant provided the following statement:

The existing use of the land is a surface parking lot in the MX-1 Zoning District. The existing configuration of the nonconforming parking lot does not allow for a new monument sign type to be located or relocated on the lot.

KEY APPLICATION TIMELINES

- Application Submission Date: May 21, 2021
- Date Application Accepted as Complete: May 21, 2021
- Application Date of Receipt: June 1, 2021 (sooner of either: date of next regularly scheduled meeting, or 35 days after acceptance of complete application)
- Public Hearing is scheduled to open on Tuesday, July 6, 2021; Open Hearing Deadline: August 5, 2021.
- Close Hearing Deadline (if opens July 6, 2021): (35 days after opening) Tuesday, August 10, 2021
- CT General Statutes Sec.8-7D allow that the applicant may consent to one or more extensions of time, provided the total extension of all time periods shall not be for longer than 65 days*.

LEGAL STANDARD

Standard for Application Type:

The ZBA shall have the power under Chapter 124 of the Connecticut General Statutes to vary the application of the zoning laws, ordinances, or regulations when the conditions affecting a particular parcel but not the general district cause exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed. The board must take into consideration conserving the public health, safety, convenience, welfare, and property value solely with respect to the affected parcel. (City of Hartford Zoning Board of Appeals Bylaws, Article II, Sec. 3)

STANDARD SPECIFIC TO THE USE

1.5.5 NONCONFORMING SIGNS

A. Description. A nonconforming sign is a sign that was lawfully established but that no longer complies with applicable zoning regulations because of the adoption or amendment of regulations after the sign was established.

B. Alterations or Changes.

- (1) A nonconforming sign may not be altered or changed in any way unless it is made to conform to these regulations.
- (2) A change shall not include the changes of Manually Changeable Copy on a sign and shall not include normal maintenance activities.
- (3) Notwithstanding the foregoing, a duly permitted nonconforming sign associated with a lawfully established nonconforming use may be replaced when the use remains lawfully nonconforming but where there has been a change in the name of the entity or service being advertised or where the sign condition has deteriorated to the point that replacement is warranted. In such a situation, the zoning administrator or commission, as applicable, may allow replacement of such sign upon a finding that the proposed replacement sign:
 - (a) Does not exceed the total square footage of the sign being replaced;
 - (b) Is of an appearance that is substantially similar to or better than the sign being replaced;
 - (c) Is of a type and location that is suitable to the surrounding environment, regardless of any previous type and location; and
 - (d) Otherwise meets, to the extent feasible, the requirements of the sign type contained in 8.0 Signs of these regulations.

Section 8.15.2.F: Off-Site Advertising. Signs utilized to market or promote something not offered on the site which the sign is located, are prohibited.

FINDING OF FACTS

Previous Sign

- 20' tall measured from grade
- Sign face was 8' by 4' or 32 square feet
- Appeared to be in fair condition

New Sign

- 20' Tall measured from grade
- Sign face is 5.5' by 5.5' or 30.25 square feet

Subject Property

- Used for parking and a large outdoor patio associated with the J Restaurant, which is on an abutting parcel
- The subject property is otherwise not improved
- Approximately 12,300 square feet

Nonconforming Status

- The previous sign was legally nonconforming.
 - o The sign type (pylon sign) and size (20' from grade) are no longer permitted by the zoning regulations.
 - o The sign is not on the same parcel of land as the use that it advertises and is therefore considered off-site advertising.

COMMENTS RECEIVED (DEPARTMENTS, AGENCIES, NRZs, PUBLIC)

The Frog Hollow Neighborhood Revitalization Zone (NRZ) was notified of the subject request on May 26, 2021. As of this writing no comments have been received by Staff.

ANALYSIS

The replacement of a nonconforming sign is permitted under the criteria listed in Section 1.5.5.B of the Regulations. Section 1.5.5.B(3) permits a nonconforming sign associated with a lawfully established nonconforming use to be changed where (1)the sign does not exceed the total square footage of the sign being replaced, (2) the appearance is substantially better, (3)the sign is of a type and location suitable for the environment, and the sign, (4)to the extent feasible meets the requirements of the zoning regulations:

- (1) The proposed sign design is the same height as the previous sign and the total sign area is reduced by 1.75 square feet.
- (2) Staff agree that the appearance of the sign face is substantially better than the previous sign.
- (3) The surrounding area has several other pylon signs along Washington Street, including a car wash and Dunkin Donuts to the north (see Photo 3), however, it should be noted that the intention of the revised zoning regulations is to move away from auto-oriented signage. Pylon signs are auto-oriented structures.

Washington Street is a commercial connector, which abuts residential streets. In accordance with the regulations, permitted sign types in the zones along this street intend to increase visibility, without overpowering the streetscape. One can argue that the sign is suitable for the environment as it currently is due to the presence of other signs of similar size and scale, but the zoning regulations, which intend to guide future development in the different direction, disagree.

- (4) The sign does not meet the requirements of the zoning regulations to the extent feasible. Furthermore, the applicant installed the sign without permits.

The sign, while legally nonconforming, and associated with a lawfully established nonconforming use (J Restaurant – Eating Places are not permitted in the MX-1 zone), is not located on the same parcel as the use itself. Section 8.15 regarding specifically identifies off-site advertising as prohibited, thus eliminating the possibility of Staff administratively approving the request. Rather, the subject sign is located on a corner lot, which is utilized for parking associated with the Eating Place use. During the COVID-19 pandemic, to provide additional flexibility to restaurants pursuant to and in accordance with Executive Order 7MM, the nonconforming restaurant use expanded onto the subject property by constructing an outdoor café/seating area. This outdoor dining area now occupies approximately 1/3 of the subject property and is accessory to the Eating Place Use. While the Executive Order did not allow for the establishment of nonconforming use rights for expanded outdoor dining facilities, this outdoor café/seating area was then made permanently possible by the Planning & Zoning Commission’s adoption of Section 3.5.2.D.(d) which allows for accessory outdoor cafés to be located on adjacent lots and parking lots. Please see Photo 3 below showing the relationship between the sign and the off-site use.



Photo 3. Proximity of sign to restaurant use – Staff Photograph 2021

Staff finds that the accessory outdoor dining use and the parking, which are specific and accessory to the adjacent Eating Place use create a unique physical relationship between the lots and a unique characteristic on the subject property where an argument can be made that this is not off-site advertising despite the fact that the parcels remain separate. Staff note that the parcels are not owned by the same entity and were not able to establish whether the entities are related. Staff do believe that this unique quality creates an unusual hardship as to this barrier to an administrative approval.

The design of the sign is consistent in some ways with the requirements of Section 1.5.5.B, but the Applicant and Property Owner should have worked more closely with the Planning Division to develop a sign structure more in line with the current zoning regulations. The previous sign, while not the most modern, was in fair condition and did not meet the provision of 1.5.5.B(3) of being deteriorated. Further, no change in name or service was made on the new sign. Staff cannot condone the fact that the application was made and the sign was still then installed without permits. If the Applicant had been willing to work with Staff, additional improvements could have been made, beyond the improvements to the sign face, to create a sign more aligned with the regulations, and to better satisfy the provisions of 1.5.5.B. It should be noted that the regulations include provisions for increases in sign size at corners as well.

While the ZBA has ruled on pylon signs in other applications, it has justified hardship due to the proximity of those signs to the interstate. Washington Street is a commercial connector street abutting residential and institutional uses. Staff do not find a hardship that would have prohibited the Applicant from developing a new sign structure to more closely meet the requirements of the regulations.

The application is to allow a variance for the replacement of the sign. Staff to find reasonable justification to recommend approval of the variance but note the following recommendations:

1. The Property Owner should consider merging the parcels.
2. The Applicant and Property Owner should consider making additional modifications to the sign to bring it more in line with the intent of the Zoning Regulations.

Staff further recommend approval with the following conditions:

1. The Variance shall only remain in effect as long as the Subject Property remains a use accessory to the adjacent Eating Place use.

STAFF RECOMMENDATION

Staff recommends approval of this application.

A draft resolution follows.

ATTACHMENTS

1. Sign Rendering & Dimension

REVIEWED AND EDITED BY,

Aimee Chambers, AICP



**CITY OF HARTFORD
ZONING BOARD OF APPEALS RESOLUTION
289 WASHINGTON STREET
VARIANCE TO ALLOW REPLACEMENT OF A NONCONFORMING SIGN**

- Whereas,** The City of Hartford Zoning Board of Appeals reviewed the application and attached documents regarding the request for a variance from Section 1.5.5.B to allow the replacement of a nonconforming pole sign at 289 Washington Street; and
- Whereas,** The proposed replacement has already been installed without Zoning approval or permits; and
- Whereas,** The previous sign was ~20' tall measured from grade with an 8' by 4' rectangular, two sided sign mounted atop a pylon or pole; and
- Whereas,** The existing sign, post replacement, is ~20' tall measured from grade with a 5.5' by 5.5' square, two sided sign mounted atop the same pylon or pole and located in the same position approximately 30' from both the Washington Street and Lincoln Street property lines; and
- Whereas,** The proposed/existing sign is similar in design to the previous sign consistent with Section 1.5.5.B of the regulations and is approximately 1.75 square feet smaller than the previous sign; and
- Whereas,** The subject property is primarily used as an outdoor dining/patio area for the abutting restaurant located at 285 Washington Street and for parking for the same restaurant; and
- Whereas,** The recent addition of the outdoor dining/patio area was done under Executive Order 7MM and may remain as an accessory use per Section 3.5.2.D.(d); and
- Whereas,** The corridor, the zoning district and the relationship of the subject property to the residential neighborhood to the west all suggest that the property should be gradually transitioned to a more pedestrian oriented design; and
- Whereas,** The replacement of the sign without zoning approval is evidence of a self-created hardship; and

Now therefore Be It

Resolved, That the City of Hartford Zoning Board of Appeals (ZBA) hereby finds that a **hardship exists/does not exist** due to the following circumstances: **XXXXXXXXXX**;

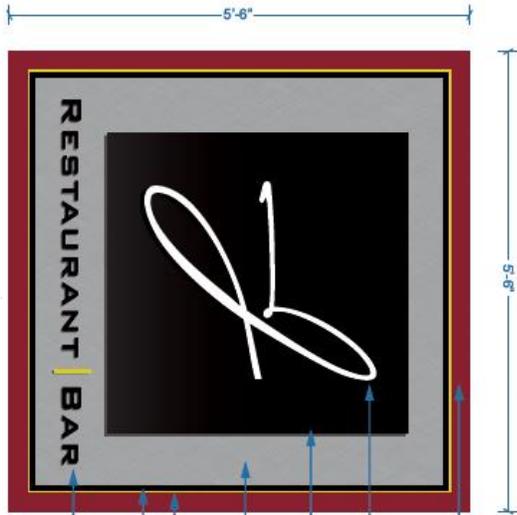
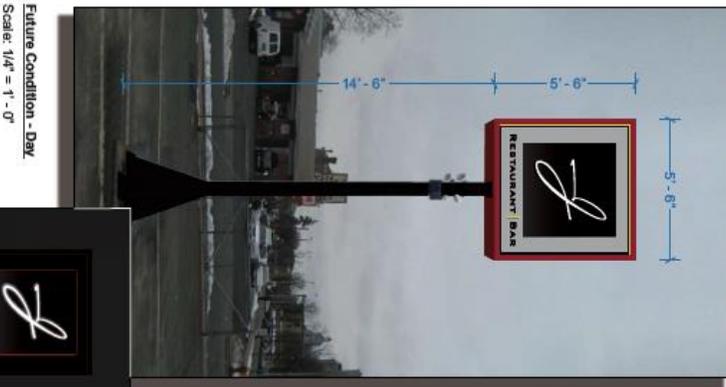
Resolved, That the City of Hartford Zoning Board of Appeals hereby **denies/approves** the request for a use variance from Section 1.5.5.B to allow replacement of a nonconforming pole sign at 289 Washington Street:

Resolved, **[If approval is granted]** That the Variance shall only remain in effect as long as the Subject Property remains a use accessory to the adjacent Eating Place use.

Be It Further,

Resolved, This 6th day of July, 2021.

Attachment 1 – Sign Rendering & Dimensions



Double-faced pylon sign
Scale: 3/4" = 1'-0"
30.25 sq. ft.

- Pre-engineered alum. extruded sign cabinet painted decorative rust, TBD see pg.3 for details
- 3/4" Clear acrylic push-thru logo, backed w/ white diffuser & trans. white vinyl on face
- Stencil cut alum. face painted black
- 1/8" alum face, brushed nickel random orbital metal.
- applied 3/8" gold vinyl border, color TBD
- applied 7/8" matte black vinyl border
- 1/2" White acrylic push-thru copy w/ black day/night vinyl on text & trans gold on bar (Gold TBD)



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Project Name: J Restaurant | Pylon & Awning

Job#:

57755

Scale:

As noted

Date:

03/17/21

Artist:

BSA

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