

**ZONING HEARING BOARD OF WARWICK TOWNSHIP  
BUCKS COUNTY, PENNSYLVANIA**

Docket No. 22-01

Applicants: McDonald's Corporation  
110 N. Carpenter Street  
Chicago, IL 60607

Owner: F W PA Warwick Plaza LLC  
One Independent Drive, Suite 114  
Jacksonville, FL 32202

Subject Property: Tax Parcel No. 51-003-099 for property known as 2395 York Road within  
the Warwick Square Shopping Center

Requested Relief: The Applicant is seeking the following variances from the Warwick  
Township Zoning Ordinance ("Ordinance"): §195-95.E to permit an  
electronic message center in the Corridor Overlay District; and §195-95.F  
to allow an electronic message center without animation, scrolling or  
moving video graphics or flashing lights in the Highway Commercial (C-  
2) District.

Hearing History: The Application was filed in Warwick Township on November 2, 2021.  
The hearing was held on January 4, 2022 at the Warwick Township  
Administration Building.

Appearances: Daniel S. Lyons, Esquire  
Obermayer Rebmann Maxwell & Hippel, LLP  
10 S. Clinton Street, Suite 300  
Doylestown, PA 18901

Parties: Deborah Williamson Luke Vanderlake  
1416 Angela Court 1410 Angela Court  
Jamison, PA 18929 Jamison, PA 18929

Mailing Date: February 2, 2022

## DECISION

### FINDINGS OF FACT:

1. The Zoning Hearing Board of Warwick Township met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearing held.

2. The Applicant is the Lessee of a portion of the Subject Property and is therefore possessed of the requisite standing to make application to this Board.

3. The following exhibits were marked and admitted during the January 4, 2022 hearing:

#### Board Exhibits:

B-1 Application with attachments received by Warwick Township on November 2, 2021

B-1A Waiver of Requirement for hearing through January 4, 2022 from Daniel Lyons, Esquire

B-2 Proof of Publication from the Intelligencer for advertising notice on December 20, 2021 and December 27, 2021. Public Notice advertising hearing scheduled for January 4, 2022 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated December 13, 2021 to Daniel S. Lyons, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated December 20, 2021 sent by Kristen Beach, Warwick Township Deputy Zoning Officer and copy of list of property owners

B-5 Property Posting Certification by Kristen Beach, Deputy Zoning Officer dated December 20, 2021

B-6 Letter from William Oetinger, Esquire dated January 3, 2022

#### Applicant Exhibits:

A-1 Aerial Photograph of the Subject Property

A-2 Photograph of the McDonald's building

A-3 Photograph of McDonald's building

A-4 Photograph of current menu board

A-5 Zoning Permit Plan for McDonald's Warwick, PA

4. The Subject Property is located in the C-2 Highway Commercial Zoning District and the Corridor Overlay District. The Subject Property consists of 3.3 acres and currently contains a shopping center.

5. Mr. Lyons provided the following summary of the Application:

The Applicant leases a portion of the shopping center for its existing McDonald's restaurant. The Applicant wants to update the drive through with a new menu board. The new menu board will not have any movement or flashing lights. An electronic message center is not permitted in the Overlay District. The Applicant does not believe that Section 95-F is applicable because it is not proposing an electronic message center but is requesting the variance as a precaution and at the request of Warwick Township. The new menu board will not be animated, have scrolling or moving video or graphics or flashing lights. In addition, the new menu board will not alter the character of the neighborhood or impair development of other properties and the variances being requested are the least modifications possible.

6. Mr. Lyons then presented the testimony of Eileen Seeburger. Ms. Seeburger's testimony is summarized as follows:

Ms. Seeburger is the area construction manager for McDonald's and she is overseeing this project. She has been with McDonald's for approximately 5 years and has worked in the field of commercial construction for 20 years. She is familiar with the Subject Property and the Application.

The McDonald's was constructed in approximately 1999. There is a single lane drive through. Exhibit A-4 is a photo of the existing menu board. The menu board currently has 4 sections that include paper copies of the menu and only a portion of the menu is capable of being displayed. Exhibit A-5 shows the proposed menu board. The new menu board is smaller than the current menu board, about half the size, and will have a privacy screen that overlays both sides of the board. The privacy screen allows the menu to only be seen by the car in line that is ordering. Other cars will see light coming from the menu board but it will be less light than what is present now. The bottom of the menu board will display the customer's order and then as the customer pulls forward the menu will reset.

If there is no one at the drive through, the screen is dark. There is a camera mounted at the top of the menu board that activates the screen when a car approaches.

The Applicant is also proposing a pre-browse menu that cars will be able to view while they are waiting in the drive through to order. The pre-browse menu will be located at the rear of the building in the drive through lane. The pre-browse menu will only show the current specials being offered by McDonalds and will have a privacy screen that allows it to only be viewed by the car in line.

The proposed menus will not have animation or scrolling text. The updated menus will improve order accuracy and will potentially increase speed in the drive through. The menu boards cannot be seen from York Road and she doesn't believe they can be seen by the neighbors.

The proposed menu boards are internally lit. The current menu boards have external lights that are pointed toward the menu boards. The Applicant can remove the existing lights when the new menu boards are installed.

8. Ms. Williamson was concerned that the Applicant was proposing other signs on York Road. Now that she has heard the testimony she is not concerned. Ms. Williamson expressed that what the Applicant is proposing sounds better than what is currently there.

9. Mr. Vanderlake was also concerned that the Applicant was proposing a big Golden Arches sign on York Road. In response to his question, the Applicant indicated that the new menu boards will be installed in the spring because a new foundation needs to be installed.

10. No other members of the public were present.

11. Warwick Township submitted a letter that was marked as Exhibit T-6. The Township decided to remain neutral on the Application but asked the Board to consider the following conditions if the relief were granted: the Applicant seek a variance from Section 195-95.E and 195-95.F; and the menu board not be utilized for advertisement of products or services not offered by McDonald's.

### **CONCLUSIONS OF LAW:**

1. Section 910.2 of the Pennsylvania Municipalities Planning Code requires that an applicant demonstrate all of the following in order to be entitled to a variance: (1) there are unique physical circumstances or conditions peculiar to the Property that impose an unnecessary hardship; (2) because of such unique physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the Zoning Ordinance and that the variance is therefore necessary to enable the reasonable use of the Property; (3) such unnecessary hardship has not been created by applicant; (4) the variance will not alter the essential character of the neighborhood; and (5) the variance represents the minimum variance that will afford relief. (53 P.S. §10910.2).

2. The burden on the applicant seeking a variance is a heavy one, and the reasons for granting the variance must be substantial, serious, and compelling. *Pequea Township v. ZHB of Pequea Township*, 180 A.3d 500 (Pa. Cmwlth. 2018) (citations and internal quotations omitted).

3. The hardship must relate to the property and not the person. *Id.*

4. The use of the Subject Property as a G27 Shopping Center is a permitted use in the C-2 Highway Commercial Zoning District.

5. The credible evidence presented by the Applicant supports the conclusion that the variances are necessary for the reasonable use of the Subject Property.

6. The competent evidence presented by the Applicant and un rebutted leads, the Board to conclude that, should the requested variances be granted, there will be no negative impacts upon surrounding properties or uses.

7. The Board concludes that the evidence presented establishes that the relief sought by the Applicant are the minimum variances necessary.

8. The Board concludes that the granting of the variances will not alter the essential character of the neighborhood or district in which the Subject Property is located.

9. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the relief requested.

10. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief.

### **ORDER**

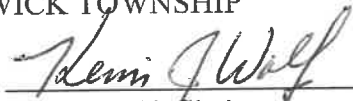
Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance: §195-95.E to permit an electronic message center in the Corridor Overlay District; and §195-95.F to allow an electronic message center without animation, scrolling or moving video graphics or flashing lights in the Highway Commercial (C-2) District subject to the following conditions:


1. The menu boards will not be utilized for advertisement of products or services not offered by McDonald's.
2. The Applicant will remove the existing lighting for the current menu boards when the new menu boards are installed.

The relief contained herein granted is subject to compliance with all other applicable governmental ordinances and regulations, including obtaining the proper permits.

ZONING HEARING BOARD OF  
WARWICK TOWNSHIP

By:

  
Kevin Wolf, Chairman

  
David Mullen

  
Lorraine Sciuto-Ballasy

**NOTICE TO APPLICANT**

You have the right to appeal this Decision to the Court of Common Pleas of Bucks County. Such an appeal must be taken within thirty (30) days of the date the Decision was issued and mailed to you as stated above.