

**BOROUGH OF CLARKS SUMMIT
304 SOUTH STATE STREET
CLARKS SUMMIT, PENNSYLVANIA 18411**

**ZONING HEARING BOARD
Tuesday, July 14, 2020
7:00 P.M.**

The Board of Zoning Appeals held a duly advertised meeting on Tuesday, July 14, 2020 at 7:00 PM. The Meeting was held in Borough Council Chambers, 2nd Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania.

Mr. John Jeffrey called the meeting to order and recording secretary, Ms. Virginia Kehoe, called the roll.

Present: Mr. Geoff Brock, Mr. John Jeffrey, Alternate Bruce Arrowood, Alternate Sarah Dawgert, Solicitor Jill Spot, Recording Secretary Virginia Kehoe, Code Enforcement Officer Jenn Basalyga, and Stenographer Nicole Pisarski.

1. APPROVAL OF THE AGENDA:

2. APPROVAL OF MINUTES:

February 11, 2020: John Jeffrey made the first motion to approve the minutes, seconded by Geoff Brock, vote was unanimous, 3-0.

3. CORRESPONDENCE:

N/A

4. NEW BUSINESS:

2020-01 Request for Appeal and Relief through Variance –
King Outdoor Advertising Company & ML570 Realty LLC, 725 S State Street,
Clarks Summit, PA

Appeal: Determination that Section 501.5 Extension of Non-Conforming
Setbacks had not been complied with in placing new sign

Variance Ordinance 2002-01- Section 404.3 Development Standards – Part 6 in
HC Zone requires 25' setback while the new sign only has a 15' setback

Tax ID #10008-020-00800

Code Officer Jenn Basalyga was sworn in:

DATE: 07/14/2020

FROM: Jenn Basalyga
Code Enforcement Officer

TO: Zoning Hearing Board

RE: King Outdoor Advertising Company

Owners – King Outdoor Advertising Company

Applicant – Same
Location – 725 South State Street
Tax Map # 1000802000800
Zoning District – HC

The hearing was advertised in The Scranton Times on June 30, 2020 and July 5, 2020.

All four corners of the property were posted early July.

The applicant is requesting relief through appeal and variance of the following Zoning Ordinances:

Section 501.5: Extension of Non-Conforming Setbacks: This states that a structure which is non-conforming as to a setback requirement may be extended along the non-conforming setback line at a distance not to exceed fifty percent of the length of the structure as it existed as the effective date of this Ordinance. The applicant is seeking an appeal stating that this section has not been complied with in placing new sign.

Section 1107.1 (C, D, and E): *C* Such unnecessary hardship has not been created by the appellant. *D*. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not to be detrimental to the public welfare. *E*. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. The applicant is seeking a variance, stating that relief is justified

The Borough of Clarks Summit sent a violation letter to King Outdoor Advertising Company, P.O. Box 912, Scranton, PA 18501, on March 6th concerning the sign located at 725 South State Street, Clarks Summit, PA. In response King Advertising requested to delay processing while we were undergoing the Covid 19 epidemic, the Borough delayed the deadline. The Borough sent a second letter on May 29th re-addressing the original concern. The property at 725 South State Street in the Borough of Clarks Summit is zoned HC, the front setback requirement for the HC zone is 25 feet from the property line. I measured the setback and as it stands today, the setback is only 15 feet from the property line. The completed application showed the 25 foot front setback required. Therefore the sign structure is in violating **Borough Ordinance 401 Designation of**

Districts, Schedule of Developmental Standards, Part 6: Non-Residential uses in CC, HC, HC1, and RU Districts: The front setback requirement is 25 feet from the property line, the side setback requirements are 10 feet from the property line and the rear setback requirement is 10 feet from the property line.

Attorney Pat Lavelle asked Ms. Basalyga about the permit application dated 4-13-04 which was filled out by Samuel Lomeo to erect a 4x8 foot sign on his property. The front setback is indicated as 15 feet, he asked if that is correct, Ms. Basalyga said yes. There was a letter from Mancinelli Associates attached. He asked Ms. Basalyga to read the first paragraph. He stated that this was an approval from the Code Enforcement Officer, in 2004, approving a non-conforming sign. Attorney Lavelle asked Ms. Basalyga if Mr. Frank was basing all of his calculations off the base of that pre-existing sign. Ms. Basalyga said she had no idea. Attorney Lavelle stated that the placement of the new structure complies with 501.5 Non-Conforming Signs, based on the sign that was approved in 2004. John Jeffrey stated that the setbacks for the sign are 10 foot side setbacks, 25 foot front setback and 10 foot rear setback. Ms. Basalyga stated that when Mr. Frank came in for the application he had questions. Along with the sign permit application Ms. Basalyga gave Mr. Frank a copy of Ordinance 2007-03 which gives the information concerning a Billboard Sign and all the requirements that need to be met. Also, on the original sign permit Ms. Basalyga wrote the setbacks required. Ms. Basalyga received the completed permit back from Mr. Frank and the information concerning the setbacks was correct, Mr. Frank actually showed on the application that he would have a 30 foot setback. The plot plan also showed a 30 foot setback. The base of the pole is assumed to be 30 feet from the property line. Attorney Weinschenk stated that the base of the pole right now is only 15 feet from the property line and the front edge of the sign is only 7 ½ feet from the road. They completely removed the old sign to put up the new sign. Attorney Weinschenk thinks that there is no need to discuss the variance. Attorney Lavelle continued with his case. Mr. Frank was sworn in. Mr. Frank owns King Outdoor Advertising, a billboard business for 45 years. Mr. Lam owns the property. Exhibits were presented. The application and pictures of the site were presented. Mr. Frank stated that he did not actually measure the front setback. He stated that the 30 feet was an estimate because of the original sign placement. The framework for the sign was up by December 12, 2019. The digital arrived on March 9, 2020 and it was installed. The Clarks Summit Borough does not inspect the sign. The building inspector NEIC would do the inspection of the construction standards, not of the setback. Mr. Bradley Frank was sworn in. He showed the board pictures of the sign illuminated. Mr. Arrowood asked if the previous sign was shown on the original application. The answer was no. Ms. Kehoe was sworn in. The Clarks Summit Borough does not inspect the setbacks; we assume that the application will be honored. Attorney Weinschenk asked Mr. Frank about with the discrepancy concerning the setbacks. Mr. Frank stated that the measurement is to the post, not the edge of the sign. Mr. Frank admitted that he never measured the setback. A letter from Norman Bourcier was submitted from Attorney Weinschenk showing a sign that was never permitted and another sign, 100 yards south of the Carpet Chalet was built years later. Attorney Lavelle stated that since Mr. Bourcier is unavailable and they don't have the opportunity to cross examine him. Attorney Lavelle objects to this letter.

The ZHB took an executive session.
The ZHB returned from the executive session.

Mr. John Jeffrey stated that Ms. Kehoe provided the board with a copy of a sign application for 725 South State Street from years ago. The sign shown in the pictures is not the previous sign in 2004 that was approved. This picture was in the 2004 permit file also. This sign was much lower to the right of the property and it was a 4x8 proposed sign. Attorney Lavelle stated that the old sign was measured by the Code Officer Jenn Basalyga and that is not true. John Jeffrey stated that the verdict is being based on the information that evening by members in attendance. Attorney Lavelle stated that they are seeking an appeal from the Code Enforcement Officer due to non-conforming setbacks. They are also asking for a zoning variance, Attorney Lavelle went through the conditions for a variance.

The ZHB took an executive session.
The ZHB returned from the executive session.

John Jeffrey stated that the board has discovered the relevant facts regarding the application. Geoff Brock voted no, Bruce Arrowood voted no and John Jeffrey voted no.

5. PUBLIC COMMENT/INPUT:

6. ADJOURNMENT:

John Jeffrey made a motion to adjourn, seconded by Geoff Brock, vote was 3-0.