

**O'FALLON ZONING HEARING OFFICER
FINDINGS OF FACT
Hearing: ZHO 2008-24
September 9, 2008**

IN RE: THE MATTER OF:

**Petition for: (ZHO2008-24) – The applicant, Andy Patel for PS Hospitality of St. Louis, requests a Sign Variance at 116 Regency Park Drive.
Property Address: 116 Regency Park Drive, O'Fallon, Illinois
Petitioner: Andy Patel for PS Hospitality of St. Louis**

In the matter of the City of O'Fallon Public Hearing, Cause ZHO 2008-24, the below signed Hearing Officer makes the following Findings of Fact.

1) Notice of the hearing held on September 9, 2008 was given to all required parties, pursuant to 65 ILCS 5/11-13-6, & 7, by publication in the O'Fallon Progress, Publication date August 21, 2008, and by direct certified mail notice to those affected property owners.

2) The Hearing was called to order at 5:07 p.m. Three witnesses were duly sworn in and provided testimony and evidence to be considered, a) Jennifer Howland for the City of O'Fallon, b) Andy Patel, representative of the property owner and c) Jon Krone of Warren Sign on behalf of Petitioner. There were no other witnesses present to testify either for or against the Petition.

3) Hearing Officer Evans acknowledged the Petitioner and those persons in the audience. The Petitioner's Variance Request was date stamped August 15, 2008. Hearing Officer Evans accepted into the record, by agreement of the parties, the following Exhibits: Petition for Variance dated August 15, 2008; the City's PowerPoint presentation that was presented by the City and incorporated into the record, a copy of the temporary restraining order entered in the cause of B JL Properties Inc vs, PF Hospitality of St. Louis, LLC and Nehala Patel St. Clair County Cause No.: 08-CH-1171, pertaining to a significant factual dispute existed between the petitioner and the owner of the adjoining property over easement issue.

4) The sign has been in existence for approximately 9 years at 128 Regency Park, approximately 24 feet to the south of the proposed location. The applicant has recently spent \$11,000 in refurbishing the sign before the legal dispute arose.

5) The applicant is under severe and unique financial hardship due to ongoing legal disputes over the ownership of the sign; magnified by the amount of money that applicant has spent on refurbishing the sign and on the commercial property.

6) Applicant during the hearing made concessions whereby applicant agreed to change the location of the sign to 32 feet from the side boundary rather than the

requested 24 feet in order to meet sign setback and also further that they agreed to resleeve a section of the raw steel and to paint it to match. Applicant also showed cooperation by agreeing to provide landscaping as required by the City.

7) The sign variance is consistent with the spirit and purpose of this Chapter and would not detract from the aesthetic appearance of properties in the immediate area. The existing sign will be shifted 32 feet to the north of its current location and will not likely be a noticeable change to surrounding properties.

8) Meeting the strict application of the freestanding sign requirements would require the petitioner to construct an entirely new sign. The existing sign is well maintained and has been recently refurbished. Requiring the petitioner to tear it down and construct a new sign would result in unnecessary practical hardship.

9) The petitioner purchased all assets of the hotel including the building, land and signage on January 11, 2008 (according to the petitioner's application.) Had the sign easement not been terminated by BJR Properties on June 11, 2008, the petitioner would have been permitted to continue to use the existing non-conforming sign without penalty from the City. In addition, the subject property is in close proximity to Interstate 64, where taller pole signs are common.

10) Staff believes that the variance request protects the broader public interest. As stated previously, surrounding properties will likely not notice that the sign has been shifted north 32 feet. It will be the same sign located in the same general area, and is a minimal deviation

October 13, 2008
Findings of Fact entered this Date

via e-mail
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