

COMMUNITY BOARD 11 QUEENS

COMMITTEE REPORT

To: All Board Members

From: Mel Meer, Chair, Ad-Hoc Committee on Bayside High School Sign

Date: December 17, 2009

At the Community Board meeting of December 7, 2009 it was decided to form an ad-hoc committee to investigate and, if appropriate, make recommendations to the Board regarding the illuminated sign at Bayside High School. Volunteers were called for and eventually notified of an organizational meeting.

The committee met on December 14th. Present were Mel Meer, Frank Skala, Andrew Rothman, Ed Braunstein and Jack Oshier, a Bayside community member. Others who expressed an interest in committee membership but who could not attend the meeting are Janet McEaney, Robert Speranza, Victor Mimoni and Henry Euler.

A motion was made by Frank Skala and seconded by Andrew Rothman to elect Melvyn Meer chair of the ad-hoc committee. Meer was elected unanimously.

The committee reviewed the law, specifically the Zoning Resolution ("ZR"), on the issue of signs generally and illuminated signs in particular.

22-32

Permitted Non-Illuminated Accessory Signs

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, non-#illuminated accessory signs# are permitted as set forth in this Section, subject to the provisions of Section 22-34 (Additional Regulations).

22-331

Permitted illuminated accessory signs for hospitals and related facilities

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for hospitals and related facilities #illuminated# non-#flashing accessory signs# are permitted in all districts, subject to Section 22-34 (Additional Regulations). Any number of #illuminated# non-#flashing# identification or directional #signs# are permitted, provided that the total #surface area# in square feet of said #illuminated signs# or the combined total #surface area# in square feet of the #illuminated# and non-#illuminated# identification or directional

#signs# does not exceed 25 square feet on any one #street# frontage or 15 percent of such #street# frontage in feet, whichever is less, and provided further that the Commissioner of Buildings determines that such #signs# are so located as to cause a minimum amount of light to be projected onto abutting or adjacent #residences#. In addition to #illuminated# or non-#illuminated# accessory signs#, one illuminated non-flashing directory or bulletin board or combination thereof is permitted in lieu of a non-illuminated directory or bulletin board or combination thereof provided that the total #sign# area does not exceed 50 square feet and provided further that the Commissioner of Buildings determines that such #sign# is so located as to minimize the amount of light projected on the abutting or adjacent #residences#. (emphasis supplied)

Four members of the committee who are attorneys advised that there is no ambiguity at all in these provisions of the ZR as applied to the sign and that there is no reason, therefore, for any interpretation of their meaning. They all advised that, pursuant to these provisions, the illuminated sign at issue is clearly contrary to the ZR.

District Manager Susan Seinfeld advised that it is currently the position of the Department of Buildings (“DOB”) that Queens Commissioner Gluckman has interpreted the expression “related facilities” to mean community facilities generally. It is pursuant to that interpretation that DOB approved the sign.

This position of the DOB was discussed at length by the committee. It was pointed out that just a few years ago the DOB had been very helpful to the Community Board in applying the quoted statute and closing down two illuminated signs in front of community facilities in the District. One was an illuminated tooth at a dentist’s office near Bell Blvd. and 32nd Ave. Another was at a chiropractor’s office near Bell Blvd. and 33rd Road.

Members of the committee expressed a general concern that the precedent established by the Commissioner’s new interpretation would open the floodgates to new illuminated signs at community facilities in residential zones all over the Community District. Churches would advertise their Bingo games with illumination. Day care centers and professionals of all sorts, including medical and legal, would replace their present signs with illuminated ones to attract more attention to their businesses.

The committee next turned its attention, to the extent possible, to the process that resulted in the approval of the sign. The public record appears to indicate that the sign was at various times self-certified, that its application was initially denied by the DOB, and that it was eventually approved. Of particular concern to members of the committee were reported remarks of the Bayside High School Principal, Michael Athy, that the sign had the approval of the Community Board.

In making that remark, the committee considered that Athy probably relied upon a letter on Community Board letterhead signed by Steve Newman, then its Chair. The letter is addressed to the NYC Design Commission which is supposed to approve the appearance of a sign after it is assured that it has met all other legal requirements. It was assured of that only by a professional engineer hired by the school. As far as we can determine there was no DOB approval at that time.

Newman's letter begins, "I am writing to you on behalf of Bayside High School and its Assistant Principal . . ." It puts a very positive slant on the desirability of the sign. The complete letter is attached to this report. In fact, the Community Board had never taken a position on the sign, nor had the matter been brought to the Board's attention before the sign's eventual appearance.

Notwithstanding any approval by the Design Commission it appears that the DOB either had turned down, or was in the process of turning down, the application for the sign based on the ZR. Senator Frank Padavan was then approached by the sign company hired by Bayside High School to put up the sign. Padavan inquired at the Community Board office. He was advised by Susan Seinfeld that, among other things, the sign was probably illegal according to the ZR.

Nevertheless on May 4, 2009 Padavan wrote to Commissioner Gluckman, in part, as follows, "It appears that some adjustment should be made to your rulings on this matter. Today's need to quickly alert the public and students is important in light of past emergencies. I am asking you to consider some kind of compromise that would be helpful to the public at large." The complete letter from Senator Padavan is attached to this report. Shortly thereafter the application for the sign was approved.

After reviewing the law and the process the committee came to the following conclusions:

The sign is illegal and should be turned off immediately; it should be removed as soon as possible.

If the sign remains pursuant to the Commissioner's "interpretation," to wit, that community facilities can have illuminated signs, our community and all communities are exposed to an explosion of illuminated signs defacing the neighborhoods.

All discussion concerning who may like or dislike the sign, as well as to the sign's functionality are irrelevant in the face of its clear illegality.

The ad-hoc committee chair should seek a meeting with the Bayside High School Principal for the purpose of explaining the committee position, and seeking his cooperation.

The Community Board Chair and the Chair of the ad-hoc committee should seek a meeting with Commissioner Gluckman with a view to his reconsideration of the sign approval.