

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LOCKWOOD DESIGN & CONSTRUCTION CO., INC.

(Case No. 12440)

A hearing was held after due notice on July 6, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson and Mr. Brent Workman.

Nature of the Proceedings

This is an application for special use exception for an off-premises electronic message center.

Findings of Fact

The Board found that the Applicant is seeking a special use exception for an off-premises electronic message center measuring 25 feet tall with a panel measuring 30 feet by 12 feet. This application pertains to certain real property located on the southeast side of Broadkill Road (Route 16) approximately 380 feet northeast of Reynolds Road (911 Address: 26412 Broadkill Road, Milton) said property being identified as Sussex County Tax Map Parcel Number 2-35-15.00-24.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter of no objection from DeIDOT, schematics of the signs, a deed to the Property, an outdoor advertising permit application with DeIDOT, pictures, a site plan, an aerial photograph of the Property, information on the digital operation guidelines for the electronic message center, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Mark Davidson and Lynn Rogers were sworn in to give testimony about the Application. Mr. Davidson submitted an additional exhibit to the Board to review.
4. The Board found that Mr. Davidson testified that the Property measures 3.95 acres and is located off Route 16 near Milton. The Property is zoned general commercial (C-1) and has been occupied by the Lockwood Design and Construction Company for approximately 40 years.
5. The Board found that Mr. Davidson testified that the site is currently improved by 2 existing, static billboards which measure 35 feet tall. If this application is approved, the existing billboards will be removed and replaced with the proposed off-premises electronic message center.
6. The Board found that Mr. Davidson testified that the Property has an odd shape as it wraps around another commercial property.
7. The Board found that Mr. Davidson testified that the site is used for a self-storage facility, U-Haul business, and office.
8. The Board found that Mr. Davidson testified that there are no wetlands on the subject property.
9. The Board found that Mr. Davidson testified that the Applicant only seeks to have 1 electronic message center so there will be a reduction in the number of off-premises signs on the site.
10. The Board found that Mr. Davidson testified that Route 16 is a major collector road with a future right-of-way measuring 80 feet wide.

11. The Board found that Mr. Davidson testified that the Applicant has dedicated right-of-way to DelDOT for future expansion of Route 16 and has taken the expansion into consideration when designing this sign.
12. The Board found that Mr. Davidson testified that the sign will meet all the setback requirements.
13. The Board found that Mr. Davidson testified that the properties to the east and south are farm fields and the properties to the north are commercial.
14. The Board found that Mr. Davidson testified that there is a church located across Route 16 but the church property will be 154 feet from the sign.
15. The Board found that Mr. Davidson testified that the proposed sign will be 91 feet from the existing on-premises sign.
16. The Board found that Mr. Davidson testified that there have been no complaints about the existing signs.
17. The Board found that Mr. Davidson testified that there are no electronic message centers within one mile of this site and the only off-premises signs nearby are located greater than one mile from the site along Route 1.
18. The Board found that Mr. Davidson testified that the sign will be 25 feet tall and consist of 300 square feet of sign facing per side.
19. The Board found that Mr. Davidson testified that the sign will have a steel monopole.
20. The Board found that Mr. Davidson testified that the billboard messaging will stay static for at least ten seconds in compliance with federal law.
21. The Board found that Mr. Davidson testified that DelDOT has issued a letter of no objection.
22. The Board found that Mr. Davidson testified that the sign will not substantially affect adversely the uses of neighboring and adjacent properties.
23. The Board found that Mr. Davidson testified that such exception will not substantially increase the hazard from fire or other dangers to neighboring properties and the sign will not otherwise impair the public health, safety, comfort, morals or general welfare of the public.
24. The Board found that Mr. Davidson testified that the sign will not diminish or impair property values within the neighborhood.
25. The Board found that Mr. Davidson testified that the sign will not unduly increase traffic congestion on public highways, create a public nuisance or result in an increase in public expenditure.
26. The Board found that Mr. Rogers testified that the Applicant owns adjacent lands and that the neighbors have no objection to the electronic message center.
27. The Board found that Mr. Rogers testified that the lighting on the sign will meet County Code and will adjust according to weather and time of day.
28. The Board found that Mr. Rogers testified that the sign will meet the County Code requirements regarding change in message copy.
29. The Board found that no one appeared in support of or opposition to the Application.
30. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive and un rebutted, the Board determined that the application met the standards for granting a special use exception because the off-premises electronic message center will not substantially affect adversely the uses of neighboring and adjacent properties. The findings below further support the Board's decision to approve the Application.
 - a. The Applicant proposes to construct one off-premises electronic message center which will meet the setback and height limitations for off-premises electronic message centers.
 - b. The Applicant has demonstrated that the off-premises electronic message center will comply with all lighting and brightness standards and the standards set forth in §115-161.1 of the Sussex County Zoning Code.

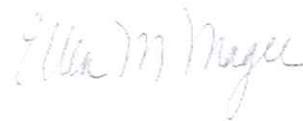
- c. The Property is located along Route 16 on a commercial property. The Applicant has designed the sign and orientation thereof while also taking into account DeIDOT's future road improvements.
- d. DeIDOT has submitted a letter of no objection to the proposed electronic message center.
- e. The sign will emit no noise, emissions, odor, or vibrations.
- f. The Applicant intends to construct the off-premises electronic message center so that the sign will comply with all setback, height, size, and separation distance requirements.
- g. The off-premises electronic message center will replace two (2) existing off-premises signs on the Property which will be removed by the Applicant.
- h. No evidence was presented which convinced the Board that the off-premises electronic message center would have a substantial adverse effect on neighboring and adjacent properties.
- i. This approval is conditioned as follows:
 - i. The two (2) existing off-premises signs on the Property shall be removed prior to the construction of the proposed off-premises electronic message center.

The Board granted the special use exception application with conditions finding that it met the standards for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved with conditions. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application with conditions.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date August 17, 2020.