

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: EAST-SIDE DEVELOPERS GROUP, INC.

(Case No. 12525)

A hearing was held after due notice on April 12, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for special use exceptions to place an off-premises sign and an off-premises electronic message center.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to place an off-premises sign which will measure 15 feet by 30 feet with two sides. The south side of the sign will be an off-premises electronic message center and the north side of the sign will be a static, off-premises sign. This application pertains to certain real property located on the east side of DuPont Boulevard (Route 113) approximately 579 feet south of Frankford Avenue (911 Address: 34425 DuPont Boulevard, Frankford) said property being identified as Sussex County Tax Map Parcel Number 4-33-11.00-21.01. 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 DelDOT, schematics of the signs, a site plan dated November 12, 2020, a letter from the Applicant, an aerial photograph of the Property, 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 James Parker was sworn in to give testimony about the Application.
4. The Board found that Mr. Parker testified that the Property is vacant but is zoned General Commercial (C-1) and consists of 1.028 acres.
5. The Board found that Mr. Parker testified that the request is for an off-premises billboard where one side would be static vinyl and the other side would be an electronic message center.
6. The Board found that Mr. Parker testified that DelDOT has issued a letter of no objection to the proposed billboard.
7. The Board found that Mr. Parker testified that the sign area would measure 15 feet tall by 30 feet wide totaling 450 square feet and the billboard is under the maximum size allowed by code for a sign along a four-lane highway.
8. The Board found that Mr. Parker testified that the sign structure would have a maximum height of 33 feet and be mounted on a 20 inch diameter steel monopole.
9. The Board found that Mr. Parker testified that the billboard will be installed 40 feet from the front property line which fronts along Route 113 and that the proposed sign will meet all setback requirements.
10. The Board found that Mr. Parker testified that the proposed sign is 2,112 feet from an existing billboard on the north and 556 feet from an existing billboard on the south on the opposite side of the highway.
11. The Board found that Mr. Parker testified that the sign will be V-shaped.
12. The Board found that Mr. Parker testified that there are no off-premises electronic message centers within four miles of this property.

13. The Board found that Mr. Parker testified that there are no properties with dwellings, churches, or public buildings within 150 feet of the proposed sign.
14. The Board found that Mr. Parker testified that the proposed sign will not substantially adversely affect the uses of neighboring or adjacent properties.
15. The Board found that Mr. Parker testified that the property to the south is commercially zoned and is currently being used for agricultural purposes and that the property to the north is a commercial building complex which is owned by the Applicant.
16. The Board found that Mr. Parker testified that the billboard poses no fire or other hazard and will not affect property values or traffic.
17. The Board found that Mr. Parker testified that the sign will not be a public nuisance and will meet all the brightness standards required by Sussex County Code.
18. The Board found that Mr. Parker testified that the billboard will have a maximum of eight ads on the electronic side and one on the static side and each electronic sign copy will be fixed for a minimum of ten seconds.
19. The Board found that Mr. Parker testified that the sign will default to shut down should there be any malfunctions.
20. The Board found that Mr. Parker testified that sign messaging will be still and will not have flashing lights or animation.
21. The Board found that Mr. Parker testified that the electronic message center will have automatic dimmer controls to control lighting level during darkness hours to comply with the illumination standards required by Sussex County.
22. The Board found that Mr. Parker testified that the electronic message center will emit no audio or noise.
23. The Board found that Mr. Parker testified that the off-premises sign will be an opportunity for local businesses to advertise.
24. The Board found that Mr. Parker testified that the billboard will not be leased for advertisement until the Board makes a decision.
25. The Board found that Mr. Parker testified that there are no plans at this time to develop the property further.
26. The Board found that Mr. Parker testified that the property line of the nearest dwelling is over 150 feet from the proposed location of the sign and there is an intervening commercial property between the properties.
27. The Board found that no one appeared in support of or in opposition to the Application.
28. 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 sign and 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 an off-premises sign which will meet the setback and height limitations for off-premises signs and off-premises electronic message centers. One side of the sign will be a static billboard and the other side of the sign will be an off-premises electronic message center.
 - 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 113 on a commercial property near other commercially zoned properties.
 - d. DeIDOT has submitted a letter of no objection to the proposed billboard.
 - e. The sign will emit no noise, emissions, odor, or vibrations.

- f. The Applicant intends to construct the off-premises sign and off-premises electronic message center so that the sign comply with all setback, height, size, and separation distance requirements.
- g. No evidence was presented which convinced the Board that the off-premises sign and the off-premises electronic message center would have a substantial adverse effect on neighboring and adjacent properties.

The Board granted the special use exception application 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. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Williamson
Chair

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

Date June 7, 2021