

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: AMERICAN STORAGE OF DELAWARE, LLC**

**(Case No. 12733)**

A hearing was held after due notice on September 12, 2022. The Board members present were: Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for a special use exception to place an off-premises sign.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to place an off-premises sign. This application pertains to certain real property located on the southeast side of Route 1 approximately 0.35 miles south of Cave Neck Road (911 Address: 16262 Coastal Highway, Lewes); said property being identified as Sussex County Tax Map Parcel Number 235-23.00-51.00 ("the Property"). After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a deed to the Property, an off-premises sign plan, a letter of no objection from DeIDOT, a site plan of the Property, an exhibit showing the location of nearby signs, an application for an outdoor advertising permit from DeIDOT, 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 Alex Pires was sworn in to give testimony about the Application. Mackenzie Peet, Esquire, presented the Application on behalf of the Applicant.
4. The Board found that Ms. Peet stated that the Property consists of 2.61 acres more or less and is located on the south side of Route 1 near the Red Mill Inn, Harvard Business Services Inc., and Heritage Antique Store, all of which have on-premises signs.
5. The Board found that Ms. Peet stated that off-premises signs are regulated by the State of Delaware and the Applicant also filled out the necessary application for an off-premises sign permit as required by the State. She noted that Amber Godwin of DeIDOT reviewed the Application and exhibits, specifically for the advertisement, and prepared the letter of no objection which indicates DeIDOT has no objection for the proposed use of an off-premises sign. Ms. Peet stated that, if the Board approves the Application, a notice to proceed letter will be issued by DeIDOT.
6. The Board found that Ms. Peet stated that the sign exhibit submitted shows all on-premises and off-premises signs in the vicinity of the Property at issue and that the Code requires the Applicant show that there are no on-premises signs within 50 feet and no off-premises signs within 600 feet of the proposed off-premises sign. She noted that the sign exhibit confirms that the nearest on-premises sign is 340 feet away at the Red Mill Inn and the nearest off-premises sign is 1,000 feet north of the Property.
7. The Board found that Ms. Peet stated that the Property is zoned C-1 and is adjacent to properties zoned C-1, MR, and AR-1.
8. The Board found that Ms. Peet stated that the purpose of the C-1 zoning is to provide for retail, shopping, personal service, and a wide variety of commercial and miscellaneous service activities generally serving a community-wide area and that,

in the C-1 zoning district, an off-premises sign may be permitted as a special use exception.

9. The Board found that Ms. Peet stated that the proposed off-premises sign will meet all County Code requirements.
10. The Board found that Ms. Peet stated that the proposed use is consistent with the character of the neighborhood and adjacent properties.
11. The Board found that Ms. Peet stated that the Code defines an off-premises sign as a sign directing attention to a business, commodity, service, or entertainment conducted, sold or offered elsewhere than upon the premises when the sign is maintained and that the proposed off-premises sign will meet that definition.
12. The Board found that Ms. Peet stated that the sign will meet all height, size, and setback requirements of the Code. She noted that the proposed sign measures 576 square feet per side which is less than the 600 square feet per side that the Code allows.
13. The Board found that Ms. Peet stated that the sign will have a minimum front yard setback of 40 feet, a minimum side yard setback of 50 feet, and will comply with the minimum rear yard setback requirement for a C-1 property.
14. The Board found that Ms. Peet stated that the sign will measure 35 feet tall and the bottom of the sign will be 23 feet from ground level, making it less than the Code's height limitation.
15. The Board found that Ms. Peet stated that the sign will be back-to-back and will be wrapped in poster and / or painted.
16. The Board found that Ms. Peet stated that the sign will be illuminated but will not be an electronic message center.
17. The Board found that Ms. Peet stated that the sign will not adversely affect the use of neighboring properties because there are nearby commercial properties in the vicinity of the site and there are no dwellings, churches, schools, or public lands within 150 feet of the proposed off-premises sign.
18. The Board found that Ms. Peet stated that there is no adverse impact on fire, hazard, public health, or safety, and no variances are being requested.
19. The Board found that Ms. Peet stated that the sign will be 48 feet wide, which is made up of two (2) panels that are each 24 feet wide.
20. The Board found that Ms. Peet stated that the site is not currently being used but there is a proposal for it to be used as a storage facility which is in the site plan review process currently.
21. The Board found that Mr. Pires testified that Ms. Peet's statements are true and correct.
22. The Board found that no one appeared in support of or in opposition to the Application.
23. 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 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. Both sides of the sign will be static sign faces. No electronic message center is proposed.
  - b. The Property is located along Route 1 on a commercial property near other commercially zoned properties. The proposed sign is consistent with those uses.
  - c. DeIDOT has submitted a letter of no objection to the proposed billboard.
  - d. The sign will emit no noise, emissions, odor, or vibrations.

- e. The Applicant intends to construct the off-premises sign so that the sign comply with all setback, height, size, and separation distance requirements.
- f. No evidence was presented which convinced the Board that the off-premises sign 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. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



Jeffrey Chorman  
Chair

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

Date November 7, 2022