

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: AMERICAN LEGION, POST 28

(Case No. 12381)

A hearing was held after due notice on June 1, 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 exceptions to place an off-premise 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 two off-premises signs. One off-premises sign will be a static billboard and the other off-premises sign will be an off-premises electronic message center. This application pertains to certain real property located on the southeast corner of Legion Road and John J. Williams Highway (Route 24) (911 Address: N/A) said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-263.00. 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 DelDOT, schematics of the signs, 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 Steve Snyder and Steve Sarkady were sworn in to give testimony about the Application.
4. The Board found that Mr. Snyder testified that the Applicant proposes to build one electronic message center and one static billboard on the Property.
5. The Board found that Mr. Snyder testified that all criteria required by Sussex County is being followed regarding separation distance between signs, distance between properties, and dwellings.
6. The Board found that Mr. Snyder testified that DelDOT has approved the Application pending approval by Sussex County.
7. The Board found that Mr. Snyder testified that they are aware of pending road improvements and the site plan was based on DelDOT's plans.
8. The Board found that Mr. Snyder testified that one billboard will be a back-to-back electronic message center and will be located in the area identified as "Site A" on the site plan and the static billboard will be located in the area identified as "Site B" on the site plan.
9. The Board found that Mr. Snyder testified that the signs will be owned by Legend Outdoor.
10. The Board found that Mr. Snyder testified that these signs will not substantially adversely affect the uses of neighboring or adjacent properties.
11. The Board found that Mr. Snyder testified that the electronic message center will not blink, flash, or have motion and the message will be fixed on the electronic message center for 10 seconds.
12. The Board found that Mr. Snyder testified that the signs will not project any noise or smell and the signs will not have an adverse impact on traffic.

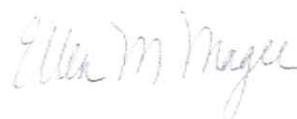
13. The Board found that Mr. Snyder testified that both signs will be lit but the electronic message center will have a timer to dim it based on the time of day and the static sign will be illuminated with a light shining on the sign.
14. The Board found that Mr. Snyder testified that the electronic sign can be programmed for public service messages such as amber alerts.
15. The Board found that Mr. Snyder testified that there has been no opposition from neighbors.
16. The Board found that Mr. Sarkady testified that they have checked with DeIDOT regarding roadwork in the area and have planned the position of the signs based on the future roadwork and the right-of-way.
17. The Board found that Mr. Sarkady testified that the electronic message center will dim down at dusk so that it is not intensely bright and will meet the automatic dimming requirements in the Code.
18. The Board found that Mr. Sarkady testified that each sign will measure 25 feet tall.
19. The Board found that Mr. Sarkady testified that the messaging on the electronic message center will be fixed in regular intervals to meet the Code requirements.
20. The Board found that no one appeared in support of or opposition to the Application.
21. 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 two off-premises signs which will meet the setback and height limitations for off-premises signs and off-premises electronic message centers. One sign will be a static billboard and the other 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 24 on a commercial property. The Applicants have designed the signs 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 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 signs 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, Ms. Ellen Magee, 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



Ellen M. Magee
Chair

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

Date July 7, 2020.