

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JAMES PARKER & MARY BETH PARKER

(Case No. 12398)

A hearing was held after due notice on March 16, 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 a special use exception to place an off-premise sign and an electronic message center off-premise sign.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to place an off-premises sign with an electronic message center. This application pertains to certain real property located on the north side of John J. Williams Highway (Route 24) approximately 0.26 miles northeast of Gravel Hill Road (Route 30) (911 Address: 29856 John J. Williams Highway, Millsboro) said property being identified as Sussex County Tax Map Parcel Number 2-34-32.00-40.01. 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 sign, pictures, a boundary survey plan dated December 27, 2019, 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 zoned commercial and is located outside of Millsboro. The Property consists of 1.628 acres.
5. The Board found that Mr. Parker testified that the Property is currently used for a mini-storage facility and office space for a roofing company.
6. The Board found that Mr. Parker testified that he proposes to construct a billboard where the west side of the billboard would be static and east side of the billboard would be an electronic message center.
7. The Board found that Mr. Parker testified that a letter of no objection from DelDOT was submitted with the Application.
8. The Board found that Mr. Parker testified that the sign will measure 10 feet tall by 25 feet wide and will consist of 250 square feet per side.
9. The Board found that Mr. Parker testified that the billboard will have a 20 inch steel diameter monopole and will be located 40 feet from the front yard. The proposed billboard will meet all setback requirements.
10. The Board found that Mr. Parker testified that the proposed billboard will be 642 feet from the nearest billboard to the east and 814 feet from the nearest billboard to the west and that there are no electronic message centers within three miles of the site.
11. The Board found that Mr. Parker testified that the proposed billboard will be back-to-back and will consist of two parallel signs.
12. The Board found that Mr. Parker testified that there are no dwellings, churches, or public lands within 150 feet of the proposed billboard.
13. The Board found that Mr. Parker testified that the billboard does not pose any fire hazards and the billboard will not have animation or noise associated with it.

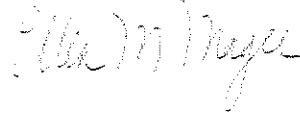
14. The Board found that Mr. Parker testified that the billboard will not affect traffic or neighboring property values.
15. The Board found that Mr. Parker testified that the electronic message center will meet County Code regarding brightness and will be dimmed based on the time of day. The billboard will have software and hardware to allow for automatic dimming controls.
16. The Board found that Mr. Parker testified that, should the sign malfunction, there is an automatic shut down feature.
17. The Board found that Mr. Parker testified that the advertisements on the electronic message center will be fixed for 10 seconds and will change copy within 1 second.
18. The Board found that Mr. Parker testified that the sign will not affect the uses of adjacent or neighboring properties.
19. The Board found that Mr. Parker testified that the property to the west is zoned C-1.
20. The Board found that Mr. Parker testified that the right-of-way along Route 24 is 100 feet wide and that there 65 feet from the edge of paving to Route 24.
21. The Board found that no one appeared in support of or in opposition to the Application and no additional comments were submitted electronically.
22. 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 with an 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 measure 25 feet wide by 10 feet tall and will be constructed on a steel monopole. The sign structure will meet the setback and height limitations for off-premises signs and off-premises electronic message centers. The sign will consist of 2 parallel signs; one of which will have static messaging and the other which will have an 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 outside of Millsboro on a commercial property near other commercially zoned property.
 - d. DelDOT 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 electronic message center so that it complies with all setback, height, size, and separation distance requirements.
 - g. No evidence was presented which convinced the Board that the off-premises sign with an 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 May 5, 2020.