



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

Town Hall - 242 Union Street, Rockland, Massachusetts 02370
Phone: 781-871-0154, ext. 1195; E-MAIL: zoning@rockland-ma.gov

FINDINGS and DECISION of the BOARD of APPEALS

Modification to Special Permit Recorded at Plymouth County Registry of Deeds Book 56794, Page 107

DATE: November 1, 2022

Site Address: 61 Accord Park Drive
Assessor's Map: 5, Lot: 11

Owner: W.N. Realty, LLC
Address: 61 Accord Park Drive, Rockland, MA 02043

Applicant: W.N. Realty, LLC
Address: 61 Accord Park Drive

Representative: Stephen Guard, Esq.
Guard Law LLC
1165 Washington Street, Hanover, MA 02339

Hearing Date: October 18, 2022

Advertised: September 27, 2022, and October 4, 2022, in the Patriot Ledger

Zoning District: Business II Zoning District and Route 3 Corridor Sign Overlay District

Board Members:

Chairman Robert C. Rosa, III, Timothy Haynes, Robert Baker, Jr., Robert Baker, Sr., Gregory Tansey, and alternate members Stephen Galley and Nicole Clement-Gomez, who joined the hearing at 7:41 p.m.

Also present:

Land Use Counsel Attorney Anthony Riley
Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

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Members Voting:

Chairman Robert C. Rosa, III, Stephen Galley, Timothy Haynes, Robert Baker, Jr., Gregory Tansey.

Decision: Modification to Special Permit.

(All Board Members were participating remotely.)

At a remotely held public hearing at 7:30 p.m. on October 18, 2022, the Zoning Board of Appeals:

Considered a review of the application submitted by W.N. Realty, LLC c/o Steven M. Guard, Esq., Guard Law LLC, 1165 Washington Street, Hanover, MA 02339 for a Special Permit pursuant to Sections 415-21.3, Route 3 Corridor Sign Overlay District, and 415.24, Nonconforming uses, *et seq* to allow applicant to construct and maintain a monopole, off-premises electronic billboard pursuant to Zoning ByLaw Section 415-21.3 and the Development and Impact Fee (Host Community) Agreement by and between the applicant and the Town of Rockland dated December 7, 2021, being a portion of the real property at the premises known as and numbered 61 Accord Park Drive, Rockland, Massachusetts.

The Chairman advised that the remote meeting is being recorded and all members were participating remotely.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board and the Building Department pursuant to MGL c. 40A, Section 11.

The Board lastly has taken into consideration testimony of the applicant, the application materials, plans and revised plans, if any, and communications from various Town boards, abutters, and with interested parties.

DISCUSSION

The Chairman of the Zoning Board welcomed the attendees and advised that everybody should be aware that this open meeting is being recorded and live streamed on YouTube and explained the Rules of the meeting.

The Chair then introduced the members of the Board advising the public that all are participating remotely. The Chairman then asked the members of the ZBA for roll call vote to open the public meeting. Robert Baker, Jr. makes a motion to open the public hearing. Timothy Haynes seconds.

The ZBA members take a roll call vote: Robert Baker, Sr. - Yes, Rob Rosa - Yes, Stephen Galley – Yes, Robert Baker, Jr. – Yes, Timothy Haynes – Yes, Gregory Tansey – Yes. The vote is unanimous, and the public meeting was opened at 7:30 p.m.

The Chair then read the advertised legal notice in the Patriot Ledger with a Public Hearing Date of October 18, 2022. The Applicant's representative is present at the hearing. Members who were

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identified as slated to vote on this matter were Mr. Rosa, Mr. Galley, Mr. Baker, Jr., Mr. Haynes, and Gregory Tansey.

Attorney Steven Guard introduced himself and explained that after the public notice and the public hearing and the approval, there was a technical defect in the notification in that some of the abutters in Norwell were not notified. The purpose of this hearing is to give those Norwell abutters an opportunity to speak on the application. This hearing corrects that. There are no changes requested in this public hearing but there are a couple of housekeeping matters based on the Mass DOT public hearing. The Decision references that the board is allowed to change no fewer than every 8 seconds. Mass DOT regulations allow the board to change no less than every 10 seconds; Condition #7, and Conditions #s 2 and 3 which DOT wanted further clarification on.

Mr. Rosa agrees with what Attorney Guard and opens it up to members of the Board for questions.

Timothy Haynes talked about the wording coming out of the ByLaw regarding Conditions 2 and 3 and that it needs to be worded in a way more affirming.

Attorney Guard explained that that is exactly how DOT explained it and that they are concerned about the residential neighborhoods.

There were no other questions from the Board.

Mr. Rosa then opened up the hearing to the Norwell abutters and apologized for the late notice. No one spoke either for or against.

Mr. Rosa then asked the public if anyone had any comments. No one spoke either for or against.

The Chairman entertains a motion to close the public portion of the hearing. Mr. Baker, Jr. made a motion to close the public portion of the hearing which was seconded by Mr. Tansey. The ZBA Members take a roll call vote: Mr. Rosa - Yes, Mr. Galley - Yes, Mr. Haynes - Yes, Mr. Baker, Jr. - Yes, Mr. Tansey - Yes.

Mr. Rosa then told the applicant the Board would deliberate tonight and welcomed them to be present and informed them they will receive a decision in the mail with a date stamp and informed them of their obligations to request a certificate of no appeal. If no one has appealed to the Town Clerk, Certification and a copy of the original decision, record the decision at the Registry of Deeds, and provide proof of recording.

DELIBERATION

The Board discussed the requested changes and the Chairman entertained a Motion.

Timothy Haynes made a motion (1) to change Condition #7 from 8 seconds to 10 sections; (2) change Condition #s 1, 2 and 3 to findings; and (3) change and renumber Condition #4 to Condition #1 and renumber the remainder of the conditions.

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Seconded by Robert Baker, Jr.

VOTE: Mr. Rosa - Yes, Mr. Galley - Yes, Mr. Haynes – Yes, Mr. Baker. Jr. - Yes, Mr. Tansey - Yes. This motion carried unanimously.

Upon a motion duly made and seconded by the Board, in the exercise of its discretionary authority, voted unanimously (5-0) via roll call vote to GRANT a Modification to the Special Permit, with members Robert C. Rosa III, Timothy Haynes, Stephen Galley, Robert Baker, Jr., and Gregory Tansey in favor, subject to conditions set forth below.

REASON FOR DECISION/FINDING

The Applicant presented evidence and the Board was able to determine the proposed plans contained sufficient information for the Board to make the required findings to permit the construction and maintenance of a monopole, off-premises electronic billboard pursuant to Zoning ByLaw Section 415-21.3, Route 3 Corridor Sign Overlay District, including but not limited to including a copy of the Development and Impact Fee (Host Community) Agreement by and between the applicant and the Town of Rockland dated December 7, 2021. The Board finds (1) that the site is an appropriate location for the proposed billboard and the design and layout as depicted in the plans complies with the standard requirements set forth in this ByLaw and all plans with the last revision date of January 12, 2022 shall be adhered to; (2) that the proposed billboard does not have any material visual impact to any abutting or adjacent residential zone; and (3) that the proposed lighting or other illumination related to the proposed billboard does not project, glare or negatively impact abutting properties or shine onto abutting roadways.

CONDITIONS:

The Board specifically determined that the following conditions shall be imposed on the proposed project:

1. MODIFIED CONDITION: that changeable copy or message on the proposed billboard shall change at intervals of not more than once every ten (10) seconds and images shall change instantaneously as seen to the human eye and not use fading, rolling, window shading, dissolving or similar effects;
2. that the applicant's plans depicted a ten-foot wide landscaped buffer around the base of the support structure to minimize its visual impact and that this buffer will be maintained in good condition during the duration of the time the billboard exists on site;
3. that the proposed sign maintenance/removal will comply with the requirements set forth in Section 415-21.3 G (1), (2), (3);
4. that the proposed billboard is permanently affixed to a main support structure and shall not be portable;
5. that the applicant committed to and shall maintain the proposed billboard and structure in good repair and free from wear and tear, rust and other indices of deterioration and that a

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maintenance and inspection plan will be provided to the Building Commissioner/Zoning Enforcement Officer prior to commencement of any work and all repair and maintenance reports required by the Commonwealth shall be submitted to the Building Inspector/ Zoning Enforcement Officer when filed with the state;

6. that a written structural maintenance review by a structural engineer shall be submitted to the Building Inspector/Zoning Enforcement Officer every 5 years;

7. that the applicant shall obtain all other local, state or federal permits and approvals prior to the commencement of any work and thereafter comply with any and all necessary approvals, restrictions and conditions required and or issued by the town, state and/or the federal government;

8. that there shall be in place at all times as a condition of continued operation, a valid Community Host Agreement between the Applicant and the Town of Rockland;

9. that there shall be full access to the fire lane/access road as shown on the approved plan at all times so that the fire lane/access road shall remain free and clear of all obstructions and there shall be no parking in said fire lane/access road;

10. the billboard hours of operation shall be limited and be operable from 5:00 a.m. to 1:00 a.m. daily and turned off at all other hours;

11. there shall be compliance with Section 415-21.3(G) and (H) with respect to abandoned, etc. billboards, billboard maintenance and removal requirements and all security requirements; and

12. that this special permit is personal to this applicant and shall not run with the land; and that this decision shall not take effect until after it is recorded and proof of recording is filed with the Building Inspector.

NOTE:

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

THIS DECISION, ALONG WITH THE CERTIFICATION FROM THE TOWN CLERK THAT NO APPEAL HAS BEEN FILED, MUST BE

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RECORDED WITH THE PLYMOUTH COUNTY REGISTRY OF DEEDS
PRIOR TO OBTAINING A BUILDING PERMIT AND PROOF OF
RECORDING MUST BE FILED WITH THE BUILDING COMMISSIONER.

FOR THE ZONING BOARD OF APPEALS

By: 
Robert C. Rosa, III
Chairman