

**DELRAN TOWNSHIP
ZONING BOARD
MUNICIPAL BUILDING
REGULAR MEETING MINUTES
SEPTEMBER 15, 2022 - 7PM**

OPEN PUBLIC MEETINGS ACT

The Delran Township Zoning Board regular meeting of Thursday, September 15, 2022 was called to order by Mr. Mormando at 7:00 PM in the Delran Township Municipal Building.

The Open Public Meetings Act Announcement was read by Mr. Mormando and the Pledge of Allegiance was performed.

OATH OF OFFICE

Mr. Chris Aleszczyk was sworn in by Ms. Garty.

ROLL CALL

Present: Mr. Mormando, Mr. Merced, Mrs. Parento, Mr. Moore & Mr. Aleszczyk

Absent: Mr. Anderson & Mrs. Iezzi

Professionals: Lou Garty, Attorney, Mr. Ed D'Armiento, Engineer & Jenizza Corbin, Planner

Ms. Garty stated that the 69 Hartford Road, LLC, Block 120, Lots 38 & 38.01 will now be adjourned to the October 20, 2022 meeting with no further notice just in case there were people from the public there. They had previously carried it over from the August 18, 2022 meeting agenda to the September 15, 2022 meeting agenda.

NEW APPLICATIONS

Berk & Berk (Hunters Glen) (Carried over to the October 20, 2022 agenda with notice)
3001 Route 130 South
Block 9, Lots 44 & 45
ZZ2017-01
Final Major Site Plan – Phase IV-B Section 2

C. A. Enterprises, Inc.
4037 Route 130 South
Block 9, Lot 41.24
ZZ2021-02
Use Variance & Minor Site Plan

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EXHIBITS

- A-1 - Color photo representative of the appearance of the billboard.**
- A-2 - Color rendering submitted with the Use Variance application.**
- A-3 – Aerial view of Rt. 130 corridor with (2 other) billboards.**
- A-4 – Color rendering of the Site Plan with enlargement of area.**

Mr. Eric Berger, Attorney and principal owner of the property for the Applicant was made aware from Ms. Garty that there are only 5 board members and that his client wanted to proceed with the application tonight. Mr. Berger stated yes.

Mr. Berger stated that this application for a digital billboard was in a C-2 general commercial zone and that it is not a permitted use in that zone. Mr. Berger presented Exhibit A-1 which is the color photo an example of a typical digital billboard screen.

Mr. Mark Malinowski, Professional Engineer from Stout & Caldwell was sworn in and his credentials were accepted as an expert in Civil Engineering and Site Design. He presented Exhibit A-2 which is a color rendering of the site which was part of the application.

Mr. Malinowski provided testimony as to the completeness given, that the Applicant sought waivers from various submission requirements for the application. He went through each item noted from the review letter, explaining that the plans will show the easements for the utilities and drainage. The Applicant is not proposing any new draining as the area of disturbance is less than one acre. They did provide details of the sign, landscaping and curbing. As to the site triangles, the Southbound traffic on Rt. 130 would not be affected as the sign is directed towards traffic on the Northbound side. He stated that the traffic patterns will not change or be affected by the digital billboard.

Mr. Malinowski provided testimony as to the submission waivers requested, noting that the zoning setbacks can be provided. He noted that the development is in a limited area and the plans show Rt. 130 and provided relevant portions of the area. There will be no new drainage necessary or proposed. There will be no new utilities other than the underground electric lines which are proposed and the plans will show the PSE & G easement. This does not warrant a new Subdivision or any new lighting, no solid waste, no change in the traffic controls, no changes to the parking lot, and no new building is proposed. No architectural renderings are required since this is already a developed site.

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Mr. D'Armiento asked about the pedestrian circulation and if the overhead wires would be within the area for the landscaping. Mr. Malinowski stated that they would agree to move some of them which would interfere with the power lines. They also agreed to remove four shade trees and will replace them with five ornamentals trees. As to the guidewire in front of the billboard, Mr. Malinowski stated that the Applicant is not proposing to relocate the guidewire.

Mr. Mormando made a motion to deem the application complete based upon the testimony. Mr. Moore second the motion. The results of the motion are as follows:

Ayes: Mr. Mormando, Mr. Merced, Mrs. Parento, Mr. Moore & Mr. Aleszczyk

Absent: Mr. Anderson & Mrs. Iezzi

Mr. Malinowski provided testimony as to the proposed digital billboard design which is for a 50 ft. high digital billboard with 2 sides, V shaped in which one side will face Southbound traffic and the other facing Northbound traffic on Rt. 130. The billboard is a static digital billboard, 48 ft. wide by 14 ft. high that will change image approximately every 8 seconds. He stated that there are other billboards along Rt. 130 which he identified as Exhibit A-3 is an aerial view of Rt. 130 corridor with 2 other billboards. He testified as to the location of the billboard near Bridgeboro Road which is by the Breeze Motors business. It has the same size and dimensions of the proposed billboard. Also, there is another billboard about 1000 ft. south with a similar height and size. He testified that the closest billboard to this site is about a mile from the proposed location.

Exhibit A-4 shows a colorized rendering of the Site Plan focusing on the area near the sign) and provided testimony as to the setbacks proposed and the variance relief required for these bulk variances. He stated that the site is next to a self-storage facility so it is not blocking the view of the adjacent property. He testified that the billboard will be 50 ft. high which will require a variance for relief to permit the height of the structure because the maximum sign height under the Applicable Ordinance is 20 ft. It was stated that the billboard is set back further from the existing identification sign, and the setbacks were described as a front yard set-back of 15 ft. where 75 ft. is required for buildings; a side yard setback of 6.5 ft. where 15 ft. is required. The Applicant is also seeking a bulk variance to permit an additional identification sign on the site as there already exists signage on the site so the billboard would be an additional sign on the site.

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Mr. Malinowski testified that the billboard would comply with the Township's Ordinance as to the lack of flashing lights and animation, because it is a static digital billboard that will change image approximately every 8 seconds which is a national standard practice. As to the trees proposed to be planted, the Applicant will plant mature trees to replace the existing trees which are blocking the view of the existing businesses on the site. The Applicant was seeking a waiver from requirement to install 3.5-inch caliper trees due to the availability. They are specifying to plant 1.5 inch but are flexible if able to obtain the 3.5 inch. If had to go with the smaller trees, overtime they will mature to a decent size.

Mr. Malinowski responded to the Board's Engineer's review letter, addressing comment #12, that the Mechanical equipment will be located at the base of the billboard pole which will be screened by shrubbery; comment #13, there will be a distance of at least 10 ft. from the electrical lines; as to the Burlington County Planning Board, the County has waived its review of the plan; as to NJ DOT, the Applicant received an approval, contingent upon approval by the Delran Township Zoning Board. Mr. Malinowski also addressed Fire Marshal's comments as to the side yard setback, that the noted standards only pertain to buildings and structures and is not applicable since no building is being installed. There was a discussion about the location of the sign and the placement of the utilities. Mr. Berger stated that the bottom corner of the sign is 35 ft. in the air and is 6.5 ft. from the property line, which would not interfere with the mechanical structure or the base.

Mr. D'Armiento asked about the landscaping and the berm required, given that trees would be being removed, in that the Applicant's design proposes removing seven trees. As a condition of approval, the Applicant agreed to add landscaping by working with the Planner to supplement. They agreed to include a 2-year maintenance guarantee for the landscaping installed. Mr. Malinowski indicated that he will add the sidewalk details and grading details per the Engineer's comments on the construction details to the final design plans.

Mr. Chet Atkins President and CEO of CA Enterprises since 1997 was sworn in and testified as to his experience in developing billboards in NJ, DE, PA, MD, NY, FL, IL, and CA. He testified that the Applicant offers free advertising to towns where their digital billboards are located (an eight second spot every other minute which is 770 spots per day) and that they will display emergency announcements such as weather events, other Silver or Amber alerts and will also provide free messaging about community events at the request of the Township. He also agreed that the Applicant will provide free training for the Township to display its messages as well as to provide information for a contact person to provide the training. Mr. Atkins testified about how a digital

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billboard allows local businesses to advertise through digital advertising and be able to change the message easily by use of digital ads, which the business advertiser can update on its own so that the digital billboard provides flexible messaging. He provided testimony as to his understanding of NJ regulations as to the minimum distance between digital billboards, namely that they are not permitted to be located within 3000 ft. of one another. He also testified that the host municipality (Delran) can advertise events and provide important information to its residents. He testified about how the technology works, that the message can be changed by the advertiser. Mr. Atkins testified that all content is screened through the separate organization which reviews the content to ensure that no inappropriate content is displayed.

Mr. David Shropshire, P.E., PTE sworn in and accepted as an expert in civil engineering with a specialized expertise in Traffic Engineering for site design. Mr. Shropshire addressed the comments in the Planner's letter, testifying that the billboard would not generate new or additional traffic and would not affect the safe flow of highway traffic. He provided testimony as to State standards, that a digital billboard cannot change messages more frequently than every 8 seconds, which is for safety purposes. Mr. Shropshire referred to a national study that the presence of a billboard does not cause a change in driver behavior for speed or lane keeping. The proposed sign will not have any animation or scrolling text and will comply with the Township's requirements as to no tracer or moving animated depictions. Mr. Shropshire also described traffic studies which found that other driver behaviors (such as shaving, eating, and cell phone use) are much more likely to cause safety issues than billboards. He indicated that the speed limit in that area for Rt. 130 is 55mph, which is the same as the other roadways studied. He described Rt. 130 as a well-traveled road, with many opportunities for a billboard to be seen and that with the existing features of the highway, which is a highly commercial thoroughfare, he doesn't think the addition of the billboard would impact traffic safety. Mr. Shropshire is not aware of any studies or information as to reflective impact of a billboard reflecting sunlight, but that based upon the height of the billboard, it is unlikely to cause a reflection which would be hazardous to the vision of drivers on the roadway. The proposed billboard would require State DOT approval as all Billboards are required to be approved by the NJ DOT. The DOT has conditionally approved the subject billboard, conditioned upon Township approval.

In response to questions by the Board's professionals, about the colors and whether there are restrictions based upon the proximity to the nearest traffic light, and the level of illumination, Mr. Shropshire testified that the proximity to traffic controls does not in his opinion represent a safety issue. Mr. Atkins responded that the billboard is on 24/7 and that the Applicant will present expert testimony on lighting. It was noted that the studies referred to were from 2003 and 2013 but that there is nothing on a national

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level which is more recent. Mr. Shropshire testified that the billboard is a “common size” but can go up to 1000 SF and still maintain safety. There was testimony that the billboard measures 672 SF.

Mr. John Tobias, P. E., of Electro Quest, was sworn in and accepted as an expert in lighting engineering. Mr. Tobias testified that he reviewed three issues relating to the proposed digital billboard: regulatory issues; compliance with industry standards; and potential glare. He reviewed the NJ Administrative Code requirements and testified that the proposed design does comply with the applicable provisions of the Administrative Code. He also reviewed the provisions of Delran Township’s lighting Ordinances and testified that the Applicant’s design will comply with the Township’s Code. In particular, he testified that for transitions between advertising images, the images or text will not scroll. He also testified as to the lighting measurements, that he reviewed the measurements of the intensity of the lighting for the type of sign proposed. The conclusion of the review was that it is relative based upon the darkness/lighting in the area from other sources and its contribution to ambient light in the area during hours of darkness is within standards specified in the lighting industry. With respect to the intensity or brightness, there is an auto-scale feature, so that the intensity is automatically reduced so that the result is that the sign will not be as bright in evening hours as it is during the day. Both daytime and nighttime glare is prevented by this feature, as well as through the construction of the digital billboard.

Ms. Tiffany Morrissey, PP, AICP was sworn in and accepted as an expert in Professional Planning and provided testimony to address the special reasons for granting the Use variance relief requested. Ms. Morrissey testified that she had reviewed the Township’s Master Plan, including the recently adopted Re-Examination report, applicable Township ordinances, and the features of the Application, for the proposed installation of a digital billboard for advertising purposes.

Ms. Morrissey testified as to the standard for granting a Use variance, describing the required showing of the existence of “special reasons” as to how the site is particularly suited for the proposed development. She testified that in her opinion, granting the Use variance would not cause or be detrimental to the zone plan or to the public good. Ms. Morrissey testified about the characteristics of the C-2 zone and noted that the C-2 zone provides for a variety of uses. The placement of the sign is in an existing shopping center across from the shopping center with a Target store, and is in the center with the Dollar Tree store which is next to a multi-story storage facility. Ms. Morrissey testified as to the setback relief required noting that a setback to the side yard would require relief. There was a discussion as to the placement of the sign during which the Applicant agreed to shift the placement of the billboard sign in order to reduce the

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setback and that it will comply with side yard setback requirement of 15 ft for a sign instead of 6.5 ft, such that relief from the setback requirement would not be necessary.

Ms. Morrissey testified as to three purposes of zoning and testified that they would be advanced by granting the requested Use variance in that it would promote the general welfare, promote safety, and would promote the goal for the development of individual municipality in view of other municipalities. Ms. Morrissey testified as to the advancement of these goals, in that digital advertising promotes commerce in areas where signs are not permitted such as scenic areas. The proposed sign is not within a scenic area or near the NJTP or Garden State Parkway, so it would not interfere with those restricted areas. It advances economic/commercial activity by providing the opportunity for both local and national businesses to provide messaging. The digital billboard also provides an opportunity to local government to provide event and informational messaging. She testified that the billboard meets standards of roadside standards act, so it meets safety requirements. Ms. Morrissey also addressed the location, her opinion that the sign doesn't conflict with welfare of neighboring towns or County or the State; that digital billboards provide advertising opportunities for small and local business. The sign is not proposed for a residential or downtown area. It is adjacent to Rt. 130 with 52,000 vehicles traveling on a daily basis so it is well suited for this site. She testified that the Township's Master Plan also encourages development which helps to establish the Township's economic base. She acknowledged that no local jobs would be created by this project.

Ms. Morrissey testified as to the basis for her opinion that the proposed digital billboard is "particularly suited" to this site because it meets NJ DOT standards for proximity, messaging, and enhances the regional shopping center by providing advertising opportunities for the support of local businesses. She also noted that the billboard can be used for public announcements. There was a discussion as to the 3000 Ft. linear restriction which prevents further billboards from being installed within 3000 linear feet and that the proposed location would not result in a neighboring billboard close to this location. She also provided testimony as to the physical features of the site which make it particularly suited for the proposed billboard use.

Ms. Morrissey testified as to the "Negative criteria," in view of the Township's Code provision regulating signs and testified that the billboard allows for communication for commerce pertinent to the zone, which is a commercial zone and stated her opinion that she does not believe that granting the use variance would impair the intent of the zoning ordinance or the zone plan.

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She testified that the billboard allows for communication for commerce pertinent to the commercial zone and testified as to her opinion that the sign will not impair the intent of the zoning ordinance or the Zone plan. As to the request for setback relief and a second sign, there is a need for a second identification sign, which will not cause substantial detriment to the public good because there is no impact to safety concerns as was testified to by the Applicant's traffic engineer. The Applicant agreed to work with the Board's Planner to provide additional landscaping which will work better with the overhead wires.

Ms. Jenizza Corbin was sworn in and provided planning comments as to the zone and inquired how the use would be consistent with the permitted uses of the C2 zone. Ms. Morrissey listed the permitted uses and the purposes of the Master Plan, which includes restoring commercial productivity. She testified as to her opinion that the billboard would not have a negative visual impact as balanced against the other goals.

A question was asked by the Board about the visual impact of a 50 ft. high sign. The Applicant's professionals responded that the site is already within a developed area, so that unlike Rt. 206 with its farmland, the billboard is higher than all of the buildings within the area. There was a question as to whether the Applicant considered a smaller sign. Mr. Atkins testified that the proposed sign is a standard size within the industry, based upon the technology. Mr. Shropshire testified that the uniformity in the size of signage promotes safety due to driver expectations. Mr. Shropshire addressed a question as to the proportionality of the sign size in comparison to the speed limit on the highway and whether the sign could be smaller. He testified that the other two billboards in Delran are same size and blend into the area on Rt. 130.

When asked, the Applicant's professionals did not know whether another billboard could be installed within Delran given that the minimum distance of 3000 ft. is ½ mile in length, such that another billboard could conceivably be constructed within the Township. Mr. Atkins offered his opinion that advertisers would not want to saturate Rt. 130 with multiple billboards, because doing so would not make sense in terms of the advertising revenue with multiple message boards. Mr. Berger offered his opinion that the pricing on a digital billboard is better than non-digital billboards which cannot compete with digital boards with remotely changed messaging.

Mr. Shropshire testified that there is less than 6000 ft. between the proposed site and the next one but that if the neighboring billboard is converted to a digital format, then under the proximity restrictions of the applicable state regulations, there could not be another billboard within that distance.

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Mr. Bauer, Fire Official, offered his testimony and comments as to site safety. His comments included his opinion that as a concept, the plan generally appears to be compliant as to emergency access, but that if the Applicant could revise the setback to 15 ft. instead of 6.5 ft., by shifting the sign slightly, that revision would address his concerns for emergency vehicle access, not with respect to this sign, but given the proximity to other buildings in the center, if there was a roof fire or other fire on the adjacent property, that type of incident might impact the billboard sign, so that he views the smaller setbacks as a safety concern. The Applicant's professionals responded that they could revise the position of the billboard so that the setback would be 15 ft. instead of 6.5 ft., by shifting or rotating the sign slightly.

Mr. D'Armiento briefly reviewed the items in the Engineering review letter. The Applicant agreed to revise the plans consistent with the comments about the construction details. There was a discussion about the placement of the sign and the Board's Engineer inquired whether if the sign was lowered, whether it would impact the utility poles. Mr. Malinowski responded that lowering sign will not have a physical impact on the utilities but that doing so may cause other issues, including that one might have to look at sign through the utility lines. He indicated that there is a 5 ft. difference in elevation from where the base is from another building.

Ms. Corbin reviewed the issues in the Planning review about revising the landscaping and the plantings. There was a discussion about whether shifting the base of the sign 8.5 ft. to meet the 15 ft. setback on the side yard would affect the landscaping. The Applicant reiterated that they are going to work with the Board's Planner on enhancements to the plantings for a suitable landscaping design. Mr. Malinowski testified that the landscaping changes will not impact the sidewalk. The Applicant will revise the landscaping and revised site plans with the changes will be submitted which will reflect the changes made.

Ms. Corbin noted that the maximum size sign under the Ordinance [§355-94 E9] is 75 SF, and the maximum height for freestanding signs is 20 ft., so the Applicant needs variance relief as to these two features of the billboard. She noted that, consistent with Ms. Morrissey's testimony, the Applicant will need variance relief to permit a second sign since the billboard is to be located on a site where there is already an identification sign on the property.

A board member inquired whether there were options to make the sign smaller. Mr. Atkins testified that the Applicant could consider that but indicated that he doesn't know the exact dimensions of the sign, that a 14 ft. by 48 ft. sign is the standard in the advertising industry and that there is another size (10.6 ft. by 36 ft.) which was

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determined to be too small for this site. Following that discussion, the size of the sign requested as in the submissions (672 SF) was confirmed as the size being requested in the application as a reduction was not practical.

OPEN/CLOSE TO THE PUBLIC

Mr. Mormando opened this portion up to the public. Seeing no member of the public who wished to speak on the Application, he closed this public portion of the meeting.

Mr. Moore, a Board member stated that he drives through this area every day and does not see granting this relief as a negative, that having the billboard is not going to impact his commute or travel and does not foresee a negative impact since there are other billboards already existing along the same route.

After further discussion, Ms. Garty summarized the conditions that were discussed throughout this testimony regarding the revisions to the design plan for a Use Variance and site plan which were agreed upon by all for approval.

Mrs. Parento made a motion to approve the use variance and minor site plan changes based on the summary of the testimony and based upon the as stated. Mr. Moore second the motion. The results of the motion are as follows:

Ayes: Mr. Mormando, Mr. Merced, Mrs. Parento, Mr. Moore & Mr. Aleszczyk

Nayes: None

Absent: Mr. Anderson & Mrs. Iezzi **(5-0)** Application approved

RESOLUTIONS

Resolution # ZZ2022-08

TKO Installations, Inc.

5029 Rt. 130 S.

Block 46, Lot 17

ZZ2022-01

Use Variance/Minor Site Plan Amendment

Mr. Mormando made a motion to adopt Resolution #ZZ2022-08. Mrs. Parento second the motion. The results of the motion are as follows:

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Ayes: Mr. Mormando, Mr. Merced, Mrs. Parento & Mr. Moore

Abstain: Mr. Aleszczyk

Absent: Mr. Anderson & Mrs. Iezzi

MINUTES

Regular meeting minutes from May 31, 2022

Regular meeting minutes from June 16, 2022

Mr. Mormando made a motion to approve the regular meeting minutes from May 31, 2022 as written. Mr. Moore second the motion. The results of the motion are as follows:

Ayes: Mr. Mormando, Mr. Merced & Mr. Moore

Abstain: Mrs. Parento & Mr. Aleszczyk

Absent: Mr. Anderson & Mrs. Iezzi

Mr. Mormando made a motion to approve the regular meeting minutes from June 16, 2022 as written. Mrs. Parento second the motion. The results of the motion are as follows:

Ayes: Mr. Mormando, Mrs. Parento & Mr. Moore

Abstain: Mr. Merced & Mr. Aleszczyk

Absent: Mr. Anderson & Mrs. Iezzi

OPEN/CLOSE TO THE PUBLIC

Mr. Mormando opened this portion up to the public. Seeing no member of the public wishing to speak, he closed this public portion of the meeting.

ADJOURNMENT

Mrs. Parento made a motion to adjourn the meeting at 10:30. Mr. Moore second the motion. The results of the motion are as follows:

The motion passed with a unanimous voice vote.

Respectfully submitted,

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Kathy Phillips, Secretary
Zoning Board