

Application #: 2022-04

Approved: 10/19/22

**RESOLUTION 2022-08  
BOROUGH OF ALPHA  
LAND USE BOARD**

**FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION  
REGARDING THE APPLICATION OF  
STERNER OUTDOOR ADVERTISING/PRISM HOLDINGS  
FOR VARIANCE APPROVAL PURSUANT TO  
NJSA 40:55D-70(D)(1) AND NJSA 40:55D-70(C) FOR  
BLOCK 200, LOT 1, ZONE I**

The Land Use Board of the Borough of Alpha, in the County of Warren and State of New Jersey, upon motion of Mr. Schwar, seconded by Mr. Seiss, adopts the following findings of fact, conclusions and resolution:

**Findings of Fact:**

1. The applicants, **STERNER OUTDOOR ADVERTISING/PRISM HOLDINGS** submitted this application seeking approval of variances for the property located at Block 200, Lot 1 (Route 78) which is considered Conrail Railroad right-of-way (Norfolk Southern RR Property). The subject property is located in the Borough's I - Industrial Zoning District. The applicant is requesting a use variance and various bulk variances to construct an outdoor billboard sign. The Applicants previously received approval memorialized in a Resolution for Application 207-03 adopted on March 19, 2008 ("Prior Resolution") for relief for use variances pursuant to N.J.S.A. 40:55D-70(d)(1) and (d) (6); bulk variances pursuant to N.J.S.A. 40:55D-70(c)(1) and (2) and preliminary and final site plan approval permitting an outdoor billboard sign. That sign was never constructed and the applicant is now proposing a sign it contends is consistent with that prior approval. The applicant has been advised that the prior approval had

expired necessitating relief from this Board.

2. The applicant seeks the following relief:

A. Preliminary and final site plan approval;

B. A d(1) variance to permit a use or principal structure in a district restricted against such use or principal structure;

C. A d(6) variance to permit the height of the structure to be 50 feet where 20 feet maximum is permitted which is more than 10 feet or 10% of the maximum height standard.

D. Relief pursuant to N.J.S.A. 40:55D-70(c) from the following bulk standards:

- i. Max. Sign Area (sq. ft.) 250 permitted, 1,000 per side (2,000 both sides) proposed
- ii. Max. Height of Sign Face (ft.) 10 permitted, 20 ft. proposed
- iii. Max. Width of Sign Face (ft.) 25 permitted, 50 each side proposed
- iv. Min. Setback to Any Property Line (ft.) 50 required, Face 1: 6.90, Face 2: 22.30 proposed

3. On May 18, 2022, the matter was entertained for purposes of completeness. A motion was moved and seconded to deem the application.

4. On August 17, 2022, the applicant was found to have provided appropriate proof of service and publication of the Notice of Hearing and the Board was deemed to have jurisdiction to proceed with the hearing.

5. The applicant was represented by William Edleston, Esq. Sworn testimony under oath was received from the following witnesses: Gerry Besko, managing partner for Sterner Outdoor Advertising.

6. The following exhibits were marked into evidence during the hearing process:

Exhibit A-1: Packet of materials submitted by applicant

Exhibit B-1 Engineering Completeness and Technical Review dated April 14, 2022

7. Attorney Edleston provided an overview of the application and stated that the applicant was essentially seeking a reapproval of what was previously approved in 2007, granting a use variance to allow a billboard on the eastern side of Route 78 just before the Pohatcong border. The applicant is essentially relying upon the proofs and findings of fact and conclusions of law set forth in that resolution.

8. Sworn testimony under oath was received from Mr. Gerry Besko of Sterner Outdoor Advertising. Mr. Besko is a managing partner with the firm. Sterner Outdoor Advertising specializes in the building of sign boards additionally known as billboards. In 2007 the previous partner of Norfolk Southern Railroad and their signboard contractor CBS moved forward with a variance request before this board. The request was granted and around 2008 the construction official was given notice the permits can be issued for the sign. In 2009, the project was deferred due to a recession and Norfolk Southern, the owner of the right-of-way, parted ways with CBS. Subsequently, CBS was sold off. In approximately 2014, Norfolk Southern approached Mr. Besko to move forward with construction of this signboard. The applicant approached our construction official at that time and submitted engineering to the Borough and permit requests. He was then told that they need to apply with their full engineering packet to move forward. Sometime in spring of 2018 a full engineering packet is submitted for the review of the construction official. In October of 2018 the construction official informs Mr. Besko that he can no longer issue the permit because too much time had passed and relief was required from this Board. The applicant essentially seeks a reapproval. He also stated that whenever they are approached to build a signboard such as this, they always consider residential impact. This particular site has minimal residential impact.

Mr. Besko submitted an aerial view rendering of the area marking the location and distance of the closest residential area as well as a set of engineering prints showing the size of the sign and a survey, marked as Exhibit A-1. The proposed sign does not differ in any way from the original proposal made in 2007. He describes the sign as a 20-foot tall by 50-foot-long display, double-sided sign structure with an overall height of 50 feet. He further states that the sign is 50 feet because they need to stay a certain amount of feet above the railroad bed; however, they are slightly above that for visibility reasons. The sign will be illuminated with a solar package. Access to the sign in the event of maintenance will be via Norfolk Southern's Second Avenue access site.

Attorney Gruenberg asked about how the sign will be illuminated. Mr. Besko stated LED light fixtures. Attorney Gruenberg stated that this is a little bit different than the original proposal. This was cleared up when Mr. Besko stated that this is not a digital-type board or anything flashy. These are just led light fixtures and the lighting would not spill over into any neighboring areas or be a nuisance. Attorney Gruenberg asked about the LED lighting and confirmed that there are no moving parts or digital-type illumination to the proposed LED-type lighting.

There could be many types of businesses that might utilize this sign for advertising, such as car dealerships with an emphasis on regional or local businesses. It would not be used for advertising of illegal nature. Mr. Besko reviewed the resolution and agreed to adhere to the conditions set forth therein with the clarification as to LED lighting.

The applicant agreed to make compliance with the Board Engineer's report a condition of approval.

9. The matter was opened to the public for questions of the witness. None were received.

10. The matter was opened to the public for public comment or testimony. None was received.

11. Motion to close the public hearing made by Mr. Seiss. Motion seconded by Mr. Dragotta. Roll Call: Ayes: Mr. Dragotta, Ms. Dalrymple, Mr. Fey, Mr. Schwar, and Mr. Seiss. Absent: Mr. Gable and Mr. Fritts. Not eligible to vote: Mr. Cartabona, and Mayor Dunwell.

12. Motion made by Mr. Schwar to approve Sterner Outdoor Advertising Application #2022-01, Block 200, Lot 1 subject to conditions. Motion seconded by Mr. Seiss. Roll Call: Ayes: Mr. Dragotta, Ms. Dalrymple, Mr. Fey, Mr. Schwar, and Mr. Seiss. Absent: Mr. Fritts, and Mr. Gable. Ineligible to vote: Mr. Cartabona, and Mayor Dunwell.

**Conclusions:**

13. The applicant seeks reapproval of the Board's granting of relief pursuant to the Resolution for Application 207-03 which granted the relief requested. The Board has reviewed the detailed prior resolution, findings of fact and conclusions of law contained within that resolution and adopt those findings as though fully set forth herein at length.

14. The Board notes that the only distinction between the prior proposal and the present is in the nature of lighting. Previously, condition 3 of the Resolution for Application 207-03 required the following:

“d. The sign shall remain as proposed, to wit: externally illuminated by floodlights, only, and shall not be altered, including same not being converted to an LED sign without subsequent application to, review and approval by this Board.”

The applicant clarified that while the sign will remain externally illuminated, the lighting shall be LED external illumination. The applicant confirmed that there are no moving parts or digital-type illumination to the proposed LED-type lighting.

15. The application otherwise being fully conforming to the Borough of Alpha ordinances; the applicant was found to be entitled to Preliminary and Final Site Plan Approval subject to conditions.

**Resolution:**

**RESOLVED**, that the Applicant, **STERNER OUTDOOR ADVERTISING/PRISM HOLDINGS** are granted the relief as set forth above, subject to the following conditions:

- A. The terms of this approval are to be strictly in accordance with the plans, testimony, and representations presented at the public hearings, and the same are incorporated into this resolution by reference.
- B. Compliance with the Board Engineer's Review correspondence marked Exhibit B-1 as clarified during the testimony.
- C. Compliance with the Board's Prior Resolution of Approval for Application 207-03 attached hereto with the clarification that the sign will be externally illuminated with LED lights. There shall be no digital illumination or moving lights without the need for returning to the Board for further relief.
- D. Applicant shall obtain any and all outside governmental agency approvals including but not limited to Warren County Planning Board, Upper Delaware Conservation District, Warren County Board of Health, NJ Highlands Approval to the extent required.

E. Applicant shall perform the work in accordance with the plans submitted in connection with the application and as to be revised subject to the Board's professionals' approval as set forth above and in the review correspondence.

F. Applicant shall maintain a positive balance in its escrow account to reimburse the Borough for its professional expenses in the review of this application and compliance with this approval.

BOROUGH OF ALPHA  
LAND USE BOARD  
APPLICATION #2022-04

SECRETARY: Donna L. Messina

APPROVAL DATE: 10/19/22

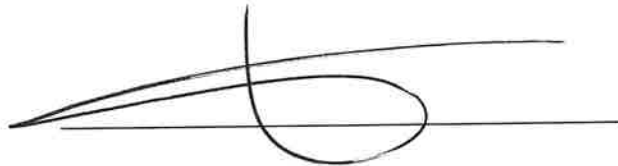
BLOCK 200, LOT 1

VOTE:

Ayes: Mr. Dragotta, Ms. Dalrymple, Mr. Schwar, and Mr. Seiss.

Nays: None.

I certify that this is a true copy of a resolution adopted by the Land Use Board of the Borough of Alpha, Warren County, on October 19, 2022, to memorialize the Board's action on August 17, 2022.

A handwritten signature in black ink, consisting of a large, stylized loop and a horizontal line extending to the right.

DONNA L. MESSINA, Secretary

Dated: 10/19/22