

## **BOROUGH OF ALPHA LAND USE BOARD -**

August 17, 2022- Regular Meeting

Municipal Building 1001 East Blvd., Alpha, New Jersey

The regular meeting of the Borough of Alpha Land Use Board was called to order at 7:00 p.m., by Chairman Fey.

### NOTICE

Pursuant to the Open Public Meeting Act, Chapter 231, P.L. 1975, adequate notice of this meeting has been provided by mail to the Star Ledger and the Hunterdon County Democrat; a notice of this meeting and all other regular meeting of the Land Use Board of the Borough of Alpha, which notice sets forth the time, date, and location of this meeting by posting said notice on the bulletin board outside the municipal clerk's office.

### Roll Call:

Present: Mr. Cartabona, Mr. Dragotta, Ms. Dalrymple, Mayor Dunwell, Mr. Fey, Mr. Schwar, and Mr. Seiss. Absent: Mr. Mr. Gable and Mr. Fritts.

### Approval of Minutes:

Motion made by Mr. Schwar to approve the regular meeting minutes of June 15, 2022. Motion seconded by Mr. Seiss. All were in favor. Absent: Fritts and Gable.

### Completion and Possible Public Hearing:

Sterner Outdoor Advertising – Application # 2022-04, Block 23, Lot 8

Attorney Gruenberg stated that this application is a 'd' variance and asked the Mayor Dunwell and Councilman Cartabona step down from participating in this review process. With that, Attorney Gruenberg advised Attorney Edleston that this leaves us with five voting members and not the full complement of seven. He asked if he would elect to move forward with the testimony given that there are only five members present to vote. Attorney Edleston said he would still like to move forward on testimony but would prefer to have the full complement of the board when it comes to voting on this application. The absent members would listen to the recording, so they are eligible to vote at the next meeting.

It was then stated by Attorney Gruenberg that the application was deemed complete at the 5/18/22 meeting and the proof of service was reviewed, and he finds that the board does has jurisdiction to proceed.

Attorney Edleston stated that the applicant is asking the board to consider reapproving 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 boarder. He also made the applicant and the board aware that he is relying on the resolution previously passed by this board as part of the presentation tonight.

Attorney Gruenberg swore in Mr. Gerry Besko of Sterner Outdoor Advertising. Upon questioning from Attorney Edleston, Mr. Besko stated that he is a managing partner with the firm. He stated that Sterner Outdoor Advertising specializes in the building of sign boards additionally known as billboards. Mr. Besko proceeded to give a summary of this application and why he is here tonight. He stated that back 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 we hit a recession and a few years went by. Norfolk Southern, the owner of the right-of-way, parted ways with CBS. Subsequently, CBS was sold off. Around 2014 Norfolk Southern approached Mr. Besko to move forward with construction of this signboard. They then 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. Several months pass and he stated he is struggling to get in touch with our construction official. Early summer of 2018 the construction official tells him that it's still under review. In October of 2018 the construction official informs Mr. Besko that he can no longer issue the permit because too much time had passed.

He is here tonight seeking 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.

Upon questioning from Attorney Edleston, Mr. Besko brought 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 packet 'a1'. Copies of 'a1' were distributed to the board members for their review. Mr. Besko preceded to describe each page

for the board. He also stated that this 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.

Upon further questioning from Attorney Edleston, Mr. Besko stated that there could be many types of businesses who 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. He also anticipates that access to the sign could be anywhere from three to six to 12 months during the year. He also reviewed the prior resolution and the findings of the board and what the board found as special reasons that warranted the grant for the use variance for the height. Mr. Besko agrees with those opinions in the findings. He also stated that the lighting would not spill over into any neighboring areas or be a nuisance.

Attorney Edleston opened questions from the board.

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.

At this time the Borough's Engineer, Tim O'Brien reviewed the technical review report dated April 14, 2022.

### **Bulk Variances**

- a. §410-51.B(1) Signs – Industrial Zones – Maximum Sign Area**  
Variance Required – The Applicant proposes a maximum sign area of 1,000 sq. ft. per side (2,000 sq. ft. for both sides) whereas 250 sq. ft. is the maximum permitted; therefore, a variance is required.
  
- b. §410-51.B(2) Signs – Industrial Zones – Maximum Height of Sign Face**  
Variance Required – The Applicant proposes a maximum height of sign face of 20 ft.

whereas 10 ft. is the maximum permitted; therefore, a variance is required.

- c. **§410-51.B(2) Signs – Industrial Zones – Maximum Width of Sign Face**  
 Variance Required – *The Applicant proposes a maximum width of sign face of 50 ft.* whereas 25 ft. is the maximum permitted; therefore, a variance is required.
  
- d. **§410-51.B(3) Signs – Industrial Zones – Minimum Setback to Any Property Line**  
 Variance Required – *The Applicant proposes a minimum setback to any property line of 6.90 ft. for sign face 1 and 22.30 ft. for sign face 2* whereas 50 ft. is the minimum required; therefore, a variance is required.
  
- e. **§410-51.B(2) Signs – Industrial Zones – Maximum Height**  
 Variance Required – *The Applicant proposes a maximum height of 50 ft. whereas 20 ft. is the maximum permitted;* therefore, a variance is required.

**. Use Variance**

- a. **§410-34.A. All billboards signboards, advertising signs or devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this chapter.**  
 Variance Required – The Applicant proposes a billboard which is not related to the business being conducted on the premises.

**Zoning Review**

The project is located in the Industrial Zone “I” of the Borough and the table below describes the bulk standards required (per §410-Attachment 1 of the Borough code) for the district and what the applicant is proposing with this project:

**I - Industrial Zoning District**

	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Maximum Lot Area (acres)	2	Not Provided	No Change
Maximum Depth of Measurement (ft.)	400	Not Provided	No Change
Max. Street Line (ft.)	200	Not Provided	No Change
Max. Building Line (ft.)	200	Not Provided	No Change
Min. Front Yard (ft.)	75	N/A	N/A
Min. Side Yard (ft.) – (any)	50	N/A	N/A
Min. Side Yard (ft.) – (total both)	100	N/A	N/A
Min. Rear Yard (ft.)	75	N/A	N/A
Max. Lot Coverage (Building/Total) (%)	30%	Not Provided	No Change
Max. Building Height (ft./Stories)	35 ft. / 2	Not Provided	No Change
Max. Sign Area (sq. ft.)	250	N/A	1,000 per side (2,000 both sides) <b>(V)</b>
Max. Height of Sign Face (ft.)	10	N/A	20 <b>(V)</b>

Max. Width of Sign Face (ft.)	25	N/A	50 each side (V)
Min. Setback to Any Property Line (ft.)	50	N/A	Face 1: 6.90 (V) Face 2: 22.30 (V)
Max. Height (ft.)	20	N/A	50 (V)

(E) = Existing Non-Conformance

(V) = Variance Required

## Technical Review

1. Testimony should be obtained from the Applicant to address prior conditions of approval such as future modifications to sign and indicate how the applicant will comply with them, further billboard technology has changed to include use of LED screens and graphics that project form the billboard and/or result in a larger display size. Items from the prior resolution that should be revisited in detail include items no. 14, 15, 17, and 19.

Mr. O'Brien stated that they did provide testimony regarding the lighting source. And that the technology being used now vs when the applicant first came before the board is quite different. They confirmed that they are going to use a more traditional signboard as opposed to a digital type of signboard with moving lighting.

The applicant also provided testimony addressing some of the findings of the previous resolution, specifically items 14, 15, 17, and 19.

2. The Applicant shall provide a copy of the agreement with the property owner, Norfolk Southern Railroad, that permits the applicant to construct and use the proposed billboard. The Applicant shall also provide testimony regarding the terms of this agreement.

Applicant provided testimony indicating that this a joint partnership and that they do have permission to be on the railroad property and access through the property.

3. The Applicant shall provide testimony regarding how the billboard will be accessed for construction purposes and maintenance going forward. Testimony shall include whether driveways and/or construction entrances will be required for construction/general access purposes. The Applicant may need to acquire an access easement from the property owner.

The applicant provided testimony that they will be accessing this area from Norfolk Southern's Second Avenue access site

4. The Applicant shall provide testimony regarding whether lighting and/or landscaping will be provided for the proposed billboard.

Upon further clarification, the engineer stated that this is more of a reference to clearing out any trees that will need to be at least branched for the construction of the sign. This is across the railroad side.

5. Approval is required from Warren County Planning Board.
6. Applicant shall provide stormwater management determination for compliance with NJDEP major stormwater development requirements, the application did not address this requirement, our office did not make a determination if the project is grandfathered. Due to the unknown compliance status any condition of approval should include the applicant shall comply with NJDEP current requirements unless exemption is verified by NJDEP.

Attorney Gruenberg asked Attorney Edleston if they are willing to make the engineer's correspondence conditional of approval, marked as exhibit 'b1'. Attorney Edleston and Mr. Besko both stated 'yes'.

Mr. Fey opened this time to the public for any questions. There were none.

Attorney Gruenberg opened this time to the public to provide any testimony. There was none.

There were no further witnesses.

Attorney Gruenberg stated that there are five voting members currently who will vote and that since this is a use variance, they would need five affirmative votes to move forward. It is up to the applicant to proceed with voting this evening or wait until they get additional members present. Attorney Edleston indicated that the applicant is willing to have the vote tonight.

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.

Motion made by Mr. Schwar to approve Sterner Outdoor Advertising Application #2022-01, Block 200, Lot 1 subject to the conditions that were discussed. 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.

Completion and Possible Public Hearing:

Shoudt – Application #2022-04, Block 23, Lot 8

Mr. Cartabona and Mayor Dunwell reenter council chambers.

Attorney Gruenberg stated that this is an application for ‘c’ variance relief and has not been previously deemed complete. Our engineer, Mr. O’Brien has prepared a completeness and technical review for this applicant. There was a question as to whether this type of application requires a separate site plan application or whether it is exempt. Attorney Gruenberg stated that under the Municipal Land Use Law this wouldn’t require this type of application. He stated that this application is exempt from site plan approval; however, they still need to present a variance plan and a variance application which they have done.

Mr. O’Brien stated that the completeness issue has been resolved and recommends that the board should find this application complete based on the interpretation provided by Attorney Gruenberg that there is no need for a site plan.

Motion made by Mr. Seiss to deem the application complete. Motion seconded by Mr. Dragotta. Roll Call: Ayes: Mr. Cartabona, Mr. Dragotta, Ms. Dalrymple, Mayor Dunwell, Mr. Fey, Mr. Schwar, and Mr. Seiss. Nays: None. Absent: Fritts, and Gable.

At this time, Attorney Gruenberg swore in the applicant, Ms. Shoudt and the Chris Nusser, the engineer.

Upon questions from Attorney Edleston, Mrs. Shoudt described the project as an expansion of an existing home to accommodate Ms. Shoudt’s family due to Ms. Shoudt being her grandmother’s primary caregiver. They would like to put a second story on to the home which would house bedrooms and a full bath. They would also like to connect the house to the detached garage. There will be a staircase to reach the second floor where the laundry room will be located as well as a half bath. There will be no additional kitchen facilities or separate entrances. They also will agree as a condition of approval that the home would never be used for a two-family other than just the addition living quarters for her grandmother. Attorney Edleston also stated that they will agree to a deed restriction. There will be three bedrooms on the second floor and a single master bedroom on the first floor with handicap access.

Mr. Cartabona had questions about the existing bathroom and confirmed that the current two bedrooms will be converted to one master bedroom.

At this time, the board accepts Mr. Nusser as an engineer and planner for this application.

Mr. Nusser displays and describes the variance plan dated 7/22/22 to the board. The proposal is to add a second story and to fill the gap between the garage and the existing home. There are several existing nonconforming conditions outlined in the technical review letter listed below.

### III. Zoning Review

The project is located in the “R-4 Medium Density (1 Family) Zoning District” of the Borough where which permits single family dwellings.

#### R-4 Residence Zone (1 Family Dwelling) Zoning District

	Required	Existing	Proposed
Maximum Lot Area (sq. ft.) – corner lot	9,375	6,210 (E)	6,210 (E)
Maximum Depth of Measurement (ft.) – Corner Lot	125		
- Schley Avenue		138 (E)	138 (E)
- Frace Street		45	45
Max. Street Line (ft.) – Corner Lot	60		
- Schley Avenue		45	45
- Frace Street		138 (E)	138 (E)
Max. Building Line (ft.) – Corner Lot	75		
- Schley Avenue		45	45
- Frace Street		138(E)	138(E)
Min. Front Yard (ft.)	20		
- Schley Avenue		24.8	24.8
- Frace Street		7.5(E)	7.5(E)
Min. Side Yard (ft.) – (any)	10	2.9	1.7 (V)
Min. Side Yard (ft.) – (total both)	25	N/A	N/A
Min. Rear Yard (ft.)	35	88.7	59.2
Max. Lot Coverage (Building / Total) (%)	25%	35.02	39.90 (V)
Max. Building Height (ft./Stories)	35 ft. / 2 1/2 stories	<35'	<35'

(E) = Existing Non-Conformance

(V) = Variance Required



Mr. Nusser states that given the existing nonconformities, it is constraining to the property to be able to meet the standards. The setback lines as they are shown on the plan are very narrow. Meeting those are not possible and they are staying within the existing footprint of the house set for that addition between the garage and the existing home. They are extending the line of the existing home and then in the forward section the line of the garage, which is maintaining what is already an existing setback. For the garage to meet the current requirements it would need to be demolished and reconstructed causing a large hardship for the homeowner to undertake in order to comply with the existing requirements. Mr. Nusser also states that the reason behind the request is more than appropriate, and they are not asking for something that is outsized for the neighborhood. It is his opinion that there is no substantial impact to the master plan or the surrounding properties.

#### **Technical Review**

1. Applicant shall apply for site plan approval should the Board not find the application is exempt from site plan application.

It was determined that this application is exempt from site plan approval.

2. Applicant shall ensure roof leaders are directed away from the adjacent residential property.

Applicant stated that they will be directed away from the adjacent residential property.

3. Applicant shall provide a copy of the property survey.

Applicant stated that they will provide a copy of the property survey.

Mr. O'Brien had no further questions and stated that the testimony addressed all his concerns in the technical review letter dated August 17, 2022.

Attorney Gruenberg had no further questions and requested that the letter be marked as exhibit 'b1'.

Mayor Dunwell had questions about the location of the existing 2.9 foot setback. Mr. Nusser stated it was to the north side. He also had additional questions about the 1.7 foot setback. Mr. Nusser confirmed that there is no planned expansion of the combined structure so that there is no further encroachment to the resident on the north side or any other sides of the structure.

Mr. Cartabona brought up concerns regarding additional parking needs. Mr. Nusser confirmed that the current driveway will stay and will be able to accommodate the additional parking.

There were no further questions from the board or the public.

Motion to close the public hearing made by Mr. Seiss. Motion seconded by Mr. Dragotta. Roll Call: Ayes: Mr. Cartabona, Mr. Dragotta, Ms. Dalrymple, Mayor Dunwell, Mr. Fey, Mr. Schwar, and Mr. Seiss. Absent: Mr. Gable and Mr. Fritts.

Attorney Gruenberg stated that after all the testimony given, if the board feels that the applicant has proven that the variance can be granted and will not cause a substantial detriment to the public good, the board can entertain a motion to approve the variances subject to conditions of compliance based on Mr. O'Brien's review correspondence marked as exhibit 'b1', together with the other standard conditions that are put on these type of applications.

Motion by Mr. Cartabona to approve the Shoudt Application #2022-04, Block 23, Lot 8 subject to the conditions as discussed including a deed restriction. Motion seconded by Mr. Schwar. Roll Call: Ayes: Mr. Cartabona, Mr. Dragotta, Ms. Dalrymple, Mayor Dunwell, Mr. Fey, Mr. Schwar, and Mr. Seiss. Absent: Mr. Gable and Mr. Fritts.

Mayor Dunwell asked Attorney Gruenberg to author a letter to Mr. Fey and himself with recommendations on how the Governing Body can change the ordinance to prevent any further issues in the future when it comes to interpretation of the current land use laws of the Borough. Mr. Gruenberg agreed to do so.

Mr. Dunwell also stated that there were two errors on the certifications of the 200 foot list for the Shoudt application, he noticed two errors. Two properties on Schley Avenue that were transferred but it still listed the prior owners names on both.

Next Meeting: September 21, 2022

Adjourn:

There being no other business on the agenda, Mr. Seiss moved to adjourn the meeting at 8:04 PM. Mr. Dragotta seconded the motion. The motion carried unanimously,

Respectfully submitted,

Donna L. Messina,

Land Use Board Secretary

Approved: \_\_/\_\_/\_\_