

ROCKLAND ZONING BOARD OF APPEALS  
TOWN OF ROCKLAND  
Town Hall - 242 Union Street, Rockland, Massachusetts 02370  
Phone: 781-871-1874, ext. 1195  
Email: [zoning@rockland-ma.gov](mailto:zoning@rockland-ma.gov)

TOWN CLERK, ROCKLAND  
APR 14 '22 PM 1:22

**FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS**

DATE: April 14, 2022

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

Owner: W.N. Realty, LLC  
Address: 24 Summit Drive, Hingham, 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

Filing Date: December 15, 2021

Hearing Date: March 8, 2022

Advertised: February 22, 2022, and February 28, 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,  
Stephen Galley

Also present:

Land Use Counsel Attorney Robert W. Galvin and Attorney Anthony Riley  
Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

Members Voting:

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

Decision: Special Permit with Conditions

(All Board Members were participating remotely)

At a public hearing via remote at 7:30 p.m. on March 8, 2022, the Zoning Board of Appeals:

Considered the 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 who was 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 explains the Rules of the meeting: everybody that does not have their full name in the title bar, you're going to have to have that in there. If not, I'm going to have to bounce you and you're not going to be able to get back into the meeting, so I would suggest that anybody that does not have their full name, excluding Deb Shettlesworth, in the title block you're going to have to log out and log back in with your full name.

The Chair then introduced the members of the Board advising the public that all are participating remotely and that Mr. Gregory Tansey will be late. The Chairman then asked the members of the ZBA for roll call vote to open the public meeting. I got a second.

The ZBA members took a roll call vote: Robert Baker, Sr. - Yes, Rob Rosa as a Yes, Stephen Galley – Yes, Robert Baker, Jr. – Yes, Timothy Haynes - Yes. The vote is unanimous, and the public meeting was opened at 7:32 p.m. Mr. Galley was asked to vote in the absence of Mr. Tansey and agreed to do so.

The Chairman then read the advertised legal notice in the Patriot Ledger with a Public Hearing Date of March 8, 2022. The Applicant is present at the hearing. Members who were identified as slated to vote on this matter were Mr. Baker, Sr., Mr. Rosa, Mr. Galley, Mr. Baker, Jr. and Mr. Haynes. Mr. Tansy was not yet present at the commencement of the hearing.

Attorney Steven Guard introduced himself and his client, W.N. Realty, LLC for the billboard application sign in Rockland and expressed his client's excitement and for the Town of Rockland. He explained his submissions in the package and an extensive amount of documents, but directed the Board's attention to the narrative that he wrote in an effort to explain how the proposed project met the performance standards of the Route 3 Corridor Sign Overlay District for proposed billboards.

BACKGROUND: According to Attorney Guard and his narrative, the applicant proposes to construct, install, maintain and operate, pursuant to the Rockland municipal code section 415-21.3 a monopole

commercial double-sided electronic billboard sign which directs attention to a business, commodity, service or attraction sold, offered or existing elsewhere that upon the Premises (61 Accord Park Drive, Parcel 11 on Assessor's map no. 5) located within the Route 3 Corridor Sign Overlay District. The lot on which the billboard is proposed is located on the cul-de-sac at the end of Accord Park Drive and contains 59,475 +/- square feet of upland and 68.47 feet of frontage along the cul-de-sac. The site is occupied by The Collision Center (an automotive repair facility), which is operated by the ownership of the applicant, W.N. Realty, LLC, and an allowed use by special permit by the Zoning Board issued in 2015 in the underlying Business II Zoning District.

**IMPROVEMENTS TO PREMISES:** The proposed project includes the construction of a new freestanding monopole two-sided electronic billboard sign with an overall height 59 feet above the average grade of the site with the bottom of the sign 45 feet above grade. The following is a table of dimensions for the district according to Attorney Guard:

DIMENSION:	REQUIRED:	PROPOSED:	DIFFERENTIAL:
<b>BILLBOARD</b>			
FACE:	</= 672 square feet	672 square feet	0.0 sq. feet
HEIGHT:	</= 14 feet	14 feet	0.0 feet
WIDTH:	</= 48	48 feet	0.0 feet
SIDES:	</= 2	2	0
<b>SUPPORT STRUCTURE:</b>			
HEIGHT:	</= 50 feet*	49.5 feet	-0.5 feet
HEIGHT:	</= 70 Feet**	45 feet	-25 feet
DISTANCE FROM STATE HIGHWAY L/O	</= 100 feet	33.4 feet	-66.6 feet
SIDELINE SETBACK	>/= 30 feet	33.7 feet	+3.7 feet

DISTANCE FROM RESIDENTIAL: 650 feet (across Route 3)

\*Maximum overall sign height above the elevation of State Highway, Route 3

\*\*Maximum elevation of bottom of sign above grade

**PERFORMANCE STANDARDS:** According to Attorney Guard, the applicant meets the performance standards of the zoning bylaw as follows:

415-21.3 D (1) Special Permit Use: Off-premises billboard is proposed for a term of fifty (50) years.

415-21.3 E (1) The Billboard is greater than 100 feet from the Route 3 Highway Layout

415-21.3 E (2) The Billboard will be located in a commercial zoning district and will not create any material visual impact on residential property, the nearest of which is 650 feet away and separated by the Route 3 State Highway. N.B. The next nearest residential neighborhood use is in Rockland 1,055 feet from the Billboard and separated by the State Highway Route 3 interchange with Pond Street. See plan locus map on Page 1 of the plan set filed with the application.

415-21.3 E (3) The Billboard will be affixed to a permanently installed support structure from the ground.

415-21.3 E (4) The Billboard will employ electronic technology that will automatically control the light level of the sign faces at night or other reduced lighting conditions.

415-21.3 E (5) The Billboard back and support structures will be of a color to blend in with the background agreeable with the Board.

415-21.3 E (6) (a) The Billboard will not be animated, projected, moving or give the illusion of movement and will otherwise comply with this section.

415-21.3 E (6) (b) The Billboard will not have physical movement of any kind.

415-21.3 E (6) (c) The Billboard copy will not change more than once every eight (8) seconds and will otherwise comply with this section.

415-21.3 E (6) (d) The Billboard is not a Tri-vision billboard.

415-21.3 E (6) (e), (f), (g) The Billboard will not display video, will not have sound and will not have pyrotechnics and will otherwise comply with these sections.

415-21.3 E (6) (h) The Billboard is proposed to be located in a business district, at the rear of an existing commercial property away from parking areas, traffic and traffic controls, in compliance with the local zoning bylaw and will not impair or be confused with any traffic control signal or interfere with traffic.

415-21.3 (12) There is no lighting or other illumination proposed other than the electronic faces of the Billboard.

415-21.3 (13) A ten-foot wide landscaped buffer around the base of the support structure is proposed, the plan for which is filed with the application plan set at page "L1".

According to Attorney Guard, one of the things the performance standard did require was to show the full site plan so that it shows the layout of the parking on the site and the travel routes in both the automobile travel routes and pedestrian travel routes, which he claimed The Board could see is already well laid out with circular access around the building and then of course parking laid out in front.

According to Mr. Rosa: Mr. Tansey signed in at 7:52 p.m. and was advised that Steve was voting tonight so his opinion was always welcome but Steve would be voting which was acceptable to Mr. Tansey.

There were various questions from the Board members including the following:

Rob Rosa: All right, with that I'm going to open up to the Board, Mr. Baker Sr.

Bob Baker: No questions.

Rob Rosa: Mr. Galley

Stephen Galley: Is it like an electric sign that you change remotely?

Steve Guard: It's all pre-programmed remotely off site.

Stephen Galley: That's all I have for now.

Rob Rosa: Thank you Steve, Mr. Baker, Jr.

Robert Baker: Thank you, Mr. Chairman, the layout of the sign - it's V shaped. Is that correct?

Steve Guard: It's really designed to maximize the visibility from the highway and minimize the way the sign will project any light, that's why the V shape.

Robert Baker: In that regard I assume the same message is going to be flashing the same message on each side, at the same time.

Steve Guard: I don't think that that's actually necessary. You sell it by time an hour, so there may be, it may be someone prefers a northbound sign.

Robert Baker: But whatever is being displayed is the display on each side, going to be changing at the same time.

Steve Guard: I don't know the answer.

Robert Baker: Okay, and just to clarify something that Mr. Guard mentioned, you mentioned a rotating sign. I assumed by that you mean the message. Not the sign.

Steve Guard: No moving parts on the sign.

Robert Baker: The license you have from the state, is that something that needs to be renewed every year.

Steve Guard: Yes.

Robert Baker: Winding down here, you had mentioned the buffer. Is the base of the same going to be fenced?

Steve Guard: No, we didn't plan on a fence around the base.

Robert Baker: Okay, thank you, Mr. Chairman, thank you, Mr. Guard. That is it for me.

Rob Rosa: Thank you, Mr. Baker, appreciate that. Mr. Haynes, you're up Sir.

Tim Haynes: I wanted to ask about the photo metrics. I was curious about the light levels and how far they were traveling and I'm particularly sensitive to our closest residential area. And I just want to make sure that they're not inundated with light and you know, looking at the billboard you know from their homes.

Steve Guard: There's not a photo metric plan like you would typically see in a commercial building where we could show you where that line is going to end up. The light is up so high it's not going to spill over onto the neighboring properties. The only way you can see it as if you are looking up at it from a distance but it's not going to shine into any residential homes. It's not going to cast the light into their homes or onto the street. The state process has pretty heavy regulations under the Code of

Mass Regulations 700 CMR 3.00 et al, and it mandates light levels. It also takes into account for approval at the state level the character of the neighborhood, the character of the Community where the board is. In this case being where it is, the industrial zone with houses no closer than 1,000 plus feet away, it would fit under the state regulations very well and the technology is such that the signs are backlit and they really just project.

Tim Haynes: That's the main thing, one of our criteria for approval is finding that it's not adversely affecting our neighbor or abutting neighborhoods, and so I want to make sure that we've taken that into consideration.

Rob Rosa: Mr. Tansey. Any questions?

Greg Tansey: Have pretty much been answered. No, that's it.

Rob Rosa: My turn.

Rob Rosa: What is the building use right now, what goes on in that building currently and what happens to all the cars stored in there?

Steve Guard: It's a high-end body shop for the dealership. When you go back there, you know previously, you'll see cars park, because we have parking back there, but we have sufficient parking to accommodate the service vehicles. There'll be parking around the pole, that fire road will still have access around the building. It's very well marked and there will be no parking there. We actually had a conversation with the general manager of it, making sure that he understands that everything needs to be left open when the pole goes then there'll be able to park around the pole but they won't be able to block access between the fire lane and the pole, obviously.

Rob Rosa: How often are people going to need to come in and maintain this? The access to pole.

Steve Guard: It's very minimal that they actually go to the pole once it gets built; everything is done remotely through the computer unless there's some physical malfunction with a defect like a LED goes out or something, but as far as routine maintenance goes, I would say once or twice a year tops.

Rob Rosa: Who is the owner of the property?

Steve Guard: W.N. Realty, LLC.

Rob Rosa: Placement on this right of way, is all over the place back there, there's the fire lane and you're proposing to be outside of all of that, and I see that.

Steve Guard: Oh purposely in the right of way, not exclusive to the benefited party, we still have control of that land, you know. It's on our land, it's just for the benefit of the other building they get to go around back because they need fire access to their back.

Rob Rosa: I'm going to go to Mr. Ruble next.

Tom Ruble: Yes, I have a couple of questions on the design specs, what is on this - Douglas FIR.

Steve Guard: Number two. Is it an IMG design specs. In walkway. Would Douglas fir large number two no idea what that means. This is in the application not the plan. Okay, the application materials contains the design specifications by R&G Outdoor Inc, this is the big company and, if you look here, it says would Douglas fir large number two, I have no idea what that would be that would mean Tom I apologize.

Tom Ruble: The other concern I have is the maintenance on this. When does it get viewed from a structural engineer?

Edward O'Sullivan (Applicant): I don't know of a requirement that it's reviewed by structural engineers. It's built in a way that withstands 150 mile an hour winds to some crazy number. But the permit with the State is renewed every year, it's kind of a standard thing but there's a chance every year that the State could come out, look at it, if they so chose.

Tom Ruble: Okay and would I get that Report.

Edward O'Sullivan: The state issues a report at the time of the State hearing by their engineers, because they do come out, they do a site visit in advance of the approval process for the Board. They come out and they give their recommendation on whether or not the site fits the Commonwealth regulations, etc., so there's a bit of a report there that I haven't seen given out. I've not gotten one. I'm sure it's public record and maybe made available, but that's prior to the building. I would think you're building inspector is going to want to sign off on it before he issues final approvals.

Tom Ruble: I am the Building Commissioner. Talking years down the road. As far as the condition of it, the maintenance on it. Electrical, the structure itself.

Steve Guard: I don't know if there's something in the state regs that require it, but you could condition the permit that it gets inspected every five years.

TOM RUBLE: And that was it Mr. Chairman, that and the Douglas FIR I didn't know what is that just a template that they put in there all the time and not they don't use.

Rob Rosa: Tom brings up a good point about structural engineers. I don't see anything from a structural engineer on this. Now I don't see a stamp by any structural engineer, and that makes me a little bit nervous. I wonder about the civil engineering stamp on here because typically civil engineers don't stamp something like this, this would have been stamped by a structural engineer.

Steve Guard: I can't imagine that this design wasn't signed off by a structural engineer probably an in-house guy that does this for them, we could look into that for you to make sure that it's had some eyes on it from a structural engineer.

Rob Rosa: I go to my Vice Chair, Mr. Greg Tansey, would you be stamping something like this?

Greg Tansey: Well you bring up an interesting question and I actually discussed this with one of the board members of the Professional Engineering Licensure and a civil engineer can stamp a structural drawing if that engineer feels that he's competent to do so. But a civil engineer can't buy a stamp and put structural on it. But a civil engineer can stamp a structural drawing.

Rob Rosa: He's got all those counts on the side of the page and he's a Massachusetts registered civil engineer if he's willing to put a stamp on his name and everything on the line and find no problem with that. I see that there's other calculations that he also stamped on there so he's got his name all over this. I'm not too worried about it and at this point if nobody else on the Board has any questions, I'll open this up to the general public.

Rob Rosa: Does anybody want to speak in favor of this application? Does anybody want to be opposed?

Rob Rosa: Hearing none, we go back to the Board. There's the potential for another application that came to us that we voted on and approved. I don't remember it but the question has been open, so I don't know what to do here, I don't know if we need to continue and look into this, or why.

Robert Galvin: If it was granted it was at least when Bob Manzella was on the board and it's never been built.

Attorney Galvin: Tom Do you remember this.

TOM RUBLE: No. I can give him {Mr. Manzella} a call. It never came up when he was Chair.

Rob Rosa: All right. First and foremost, we need to close the open portion of this public hearing.

Rob Rosa: I got a motion and a second. Before I say that I want to make sure that everybody else's questions, is there any more questions from the Board.

Tim Haynes: One of the conditions, one of the findings, we have to make is that the special permit decision requires compliance with maintenance and inspection.

Edward E O'Sullivan: Well, maintenance in this sense that you understand it to be, is maintaining the property, maintaining and in good condition usually a lessor has provisions in the lease. In this case, since Mr. Walker is owner of both the property and he's the lessee there are provisions that require the lessee to maintain it in good stead, good condition; is responsible for the down taking of the sign when the project is done; return the property to its original form; that kind of thing.

Rob Rosa: All right. Anybody else, what else we got, everybody else good.

Rob Rosa: I have a motion and a second to close the opening portion of the hearing. But we were going to have to look at the, correct me, you applied for a potential variance because of the nonconforming nature.

Steve Guard: It was just a finding that it wasn't substantially more detrimental to add this structure to the site. I'm not convinced it's necessary. I think it's covered under the special permit, but I just didn't want to get here and have you go it's a non-confirming finding, you know what I mean.

Rob Rosa: I understand.

Steve Guard: I can certainly withdraw that if you think it's unnecessary. I can do that.

Rob Rosa: I think we're fine on it, I think we can make it work.

At the conclusion of the questions and in the absence of any questions from the public, Mr. Baker, Sr. made a motion to close the public portion of the hearing which was seconded by Mr. Baker, Jr. and then the ZBA Members took a roll call vote: Mr. Baker, Sr. - Yes, Mr. Galley - Yes, Mr. Haynes - Yes, Mr. Baker, Jr. - Yes, Mr. Rosa - Yes. This motion carried unanimously.

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**

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 Special Permit, with members Robert C. Rosa III, Timothy Haynes, Stephen Galley, Robert Baker, Jr., and Robert Baker, Sr. in favor, subject to conditions set forth below.

Rob Rosa mentioned that they were also asked to grant a Section 6 finding. Mr. Baker, Sr. made a motion to deny which was seconded by Mr. Baker, Jr. and voted unanimously to deny the requested finding by roll call vote as follows: Mr. Baker, Sr. - Yes, Mr. Rosa - Yes, Mr. Haynes - Yes, Mr. Galley – Yes, Mr. Baker, Jr. - Yes.

## **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 and 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.

### **CONDITIONS:**

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

1. 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, Section 415-21.3, and all plans with the last revision date of January 12, 2022 shall be adhered to;
2. that the proposed billboard may not have a material visual impact to any abutting or adjacent residential zone;
3. that the proposed lighting or other illumination related to the proposed billboard shall not project, glare or negatively impact abutting properties or shine onto abutting roadways.
4. that the proposed billboard shall not by reason of its position, wording, illustration, size, shape or color obstruct, impair, obscure, interfere with the view of, or may be confused with any traffic control signal or device or which may otherwise obstruct or interfere with traffic;
5. that the applicant agreed to comply with requirements relating to maintaining insurance and proof of insurance will be provided to the Building Inspector prior to construction and while in operation at least annually on the anniversary date of the Decision;
6. that the proposed billboards will have all permit numbers on them in a visible location for the Building Inspector;

7. that changeable copy or message on the proposed billboard shall change at intervals of not more than once every eight seconds and images shall change instantaneously as seen to the human eye and not use fading, rolling, window shading, dissolving or similar effects;
8. 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;
9. that the proposed sign maintenance/removal will comply with the requirements set forth in Section 415-21.3 G (1), (2), (3);
10. that the proposed billboard is permanently affixed to a main support structure and shall not be portable;
11. 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 maintenance and inspection plan will be provided to the Building Inspector/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;
12. that a written structural maintenance review by a structural engineer shall be submitted to the Building Inspector/Zoning Enforcement Officer every 5 years;
13. 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;
14. 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;
15. 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;
16. 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;
17. 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
18. 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.

**FOR THE ZONING BOARD OF APPEALS**

A handwritten signature in black ink, appearing to read "Robert C. Rosa, III", written over a horizontal line.

Robert C. Rosa, III  
Chairman