

Office of Outdoor Advertising
Public Meeting

October 11, 2018

11:00 AM

Ten Park Plaza
Conference Rm 5 & 6
Boston, MA 02116

Present:

John Romano, Executive Director

Office of Outdoor Advertising October 11, 2018

1 P R O C E E D I N G S

2
3 JOHN ROMANO: Good morning everyone.

4 My name is John Romano I am the Director of Outdoor
5 Advertising for MassDOT. We are here for the October
6 11, 2018, Public Hearing. I am sorry it is 11:02 and
7 usually the hearing is over by now.

8 A couple of housekeeping items. There
9 is a sign in sheet on the table to my left along with
10 a copy of today's agenda and the meeting minutes from
11 September 13, 2018 hearing.

12 This meeting is accessible to people
13 with disabilities and individuals of limited English
14 proficiency. If you filed a request with us for
15 assistive technologies, sign language, alternate
16 format documents, an interpreter, translated
17 documents, or other such services to be available here
18 today, please see Lydia who is sitting in the front
19 row if you have not yet received the assistance you
20 had asked for. I do not believe we received any
21 requests in advance. We can also make amplification
22 devices available for anyone who needs them. If you
23 need any other similar assistance to participate

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1 today, please let Lydia know and we will do our best
2 to help you today. Of course, if we get a request in
3 advance it is always helpful and we make sure they are
4 here for your needs. Seeing none.

5 Next item on the agenda is the Meeting
6 Minutes approval from September 13, 2018. Any
7 questions, comments, corrections?

8 (No comments)

9 JOHN ROMANO: Seeing none, we will mark
10 those minutes of September 13 approved. First item on
11 the agenda is an application for permit transfers
12 between Outfront Media, LLC and Motivate International
13 Inc. These are for ten bicycle kiosks street
14 furniture units in the City of Somerville. These are
15 all existing. There are no new permits. They are all
16 in their existing locations. These are just transfer
17 of permits from one licensee to another.

18 The application numbers are 2014023
19 through 2014032. The locations are listed on the
20 agenda. They are all in Somerville. I am going to do
21 these as a group unless there is any objection to
22 that. If you have a specific question about any
23 specific location, please let me know. We will do

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1 them as a group. Is there anyone here from either
2 Outfront and/or Motivate?

3 ANGELA RUFO: Angela Rufo from
4 Outfront.

5 JOHN ROMANO: Thank you. So we have
6 reviewed the transfer application. It appears that
7 everything is in order here. The fee for transfer has
8 been submitted. My inspector Chris Chaves has
9 inspected all of the locations. Chris based on your
10 report that you submitted no issues.

11 CHRIS CHAVES: No issues.

12 JOHN ROMANO: They will be transferred
13 as is to Motivate. Does anyone have any questions on
14 these applications?

15 (No response)

16 JOHN ROMANO: Angela, anything to add
17 at this point?

18 ANGELA RUFO: No.

19 JOHN ROMANO: Okay. We will take these
20 under advisement and we will get back to you. Thank
21 you.

22 Next up on the agenda is an application
23 for an electronic permit. RSA Media, Inc. 10 Merchant

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1 Street in Sharon. This is a single sided digital
2 structure facing North. Application number 2018D019.
3 Notification was sent to the municipality by my office
4 on September 10 to the Town Administrator and the Town
5 Clerk. Is the applicant present?

6 JIM LACK: Yes, sir. Jim Lack for RSA
7 Media.

8 JOHN ROMANO: Thank you, sir. Is there
9 anybody here representing the municipality where the
10 sign is proposed?

11 (No response)

12 JOHN ROMANO: None. Are there any
13 abutters present today?

14 (No response)

15 JOHN ROMANO: Is there anyone present
16 from the district office?

17 (No response)

18 JOHN ROMANO: No. Mr. Lack, I just
19 want to let you know that we did get a note from the
20 district office, Mr. Bill Travis. Just to let you
21 know that if any tree cutting or trimming is required
22 that would require a separate permit from the district
23 office.

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1 JIM LACK: Right. We are going to be
2 applying.

3 JOHN ROMANO: Okay, that is separate
4 from the permit that you receive here. If you should
5 receive this permit it does not guarantee anything
6 from the district. You know.

7 JIM LACK: We are going to be applying.
8 We are just getting the arborist to do all the work
9 before we apply.

10 JOHN ROMANO: Great. Perfect, thank
11 you. Is anybody present from Traffic Operations
12 MassDOT?

13 (No response)

14 JOHN ROMANO: No. However, I do have a
15 memo from the State Traffic Engineers Office that no
16 traffic study will be required for this site per their
17 review.

18 Mr. Lack, was certified mail notice to
19 abutters sent out by you at least 30-days prior to
20 submitting your application to my office?

21 JIM LACK: Yes sir.

22 JOHN ROMANO: I do have copies of the
23 Post Office receipts, thank you for submitting those.

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1 Also, you did provide us with a copy of the letter
2 that was sent. I have that as well. Have you
3 received any written comments in support or opposition
4 of this application?

5 JIM LACK: No.

6 JOHN ROMANO: We have not either. A
7 special permit or variance required from the town?

8 JIM LACK: Yes, we did receive a
9 variance from the town.

10 JOHN ROMANO: I do have a copy of that
11 variance. Thank you for submitting it. At this time
12 I will have my inspector Marc Plante give his report.

13 MARC PLANTE: Thank you, John. This is
14 an application for a one-sided digital sign facing I-
15 95 in the Town of Sharon. It will be facing to the
16 North. It is of business character and there are two
17 businesses within 500-feet. The situation with
18 playgrounds, parks, and recreational use there is
19 nothing within 30-feet.

20 Spacing issue, there is a digital sign
21 to the North. The measurement is 1,012-feet. There
22 is also an application that has been approved but has
23 not been built to the South a single face digital but

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1 the measurement is 1,081-feet. So this spot is
2 conforming to the regulations.

3 JOHN ROMANO: Great, thanks. Anything
4 else to add on that?

5 MARC PLANTE: No.

6 JOHN ROMANO: Mr. Lack, anything else
7 you would like to add to the application at this time?

8 JIM LACK: No sir.

9 JOHN ROMANO: Thank you. Any
10 questions, comments, from the audience?

11 (No response)

12 JOHN ROMANO: Seeing none Mr. Lack just
13 a reminder should this permit be issued you will need
14 to follow all the items in 700 CMR 3.17 regarding
15 brightness, the 10-second static display, 15-hour
16 public service requirement per month, etcetera.

17 JIM LACK: Yes.

18 JOHN ROMANO: I know you are familiar
19 with those from previous. Mr. Kelleher from my office
20 will be in touch with you guys should the permit be
21 done on the PSA.

22 JIM LACK: He promptly gets in touch
23 with us on the first of each month.

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1 JOHN ROMANO: Great. Okay, we will
2 take this under advisement and we will get back to
3 you.

4 JIM LACK: Thank you.

5 JOHN ROMANO: Next up on the agenda we
6 have an application from Harbor Outdoor LLC 290 Wood
7 Road in Braintree. This is for a two-sided digital
8 application. Number 2018D020 and 2018D021.
9 Notification was sent to the Mayor and the Town Clerk
10 on September 10, 2018, by my office. Is the applicant
11 present?

12 BRIAN HANEY: Yes sir Brian Haney from
13 Sweder and Ross.

14 JOHN ROMANO: Is there anybody here
15 representing the municipality where the sign is
16 proposed?

17 (No response)

18 JOHN ROMANO: Are there any abutters
19 present today?

20 TOM AYLESWORTH: Yes, Mr. Romano, Tom
21 Aylesworth, A-Y-L-E-S-W-O-R-T-H. I am the attorney for
22 the abutter Wood on Wood Road Inc.

23 JOHN ROMANO: We will give you a time

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1 to speak at the end of my questions. Is anyone here
2 from the District Office?

3 (No response)

4 JOHN ROMANO: Is anybody present from
5 MassDOT Traffic Operations?

6 (No response)

7 JOHN ROMANO: Mr. Haney, I do have a
8 memo from the State Traffic Engineers Office that says
9 no traffic study would be required should the permit
10 be issued on this. Mr. Haney, was certified mail
11 notice sent to abutters at least 30 days prior to
12 submitting your application to my office?

13 BRIAN HANEY: Yes it was, Mr. Romano.

14 JOHN ROMANO: And I do have copies of
15 the Post Office receipts, so thank you. Also, the
16 letter that you sent out you did provide a copy to my
17 office as well. Thank you. Has the applicant
18 received any written comments in support or opposition
19 to the application?

20 BRIAN HANEY: Indirectly we have
21 received written comments from the abutter Wood on
22 Wood Road in opposition.

23 JOHN ROMANO: We also have that. We

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1 have a submission from them as well. That is part of
2 the record. We have that here. Thank you. Did you
3 receive a special permit or variance from the Town of
4 which you are applying?

5 BRIAN HANEY: We did receive a special
6 permit a copy of which is included with the
7 application.

8 JOHN ROMANO: At this time I am going
9 to ask my inspector to give his report. Mr. Chaves.

10 CHRIS CHAVES: Thank you, John. This
11 is a proposed 14x48 two-sided monopole facing I93.
12 The proposed location does have two businesses within
13 500-feet. Also, it meets the requirement for ramps
14 from the on-ramp to the North. Also, it meets the
15 spacing requirement to the existing electronic permit
16 to the South. I have nothing else to report on this
17 location.

18 JOHN ROMANO: So the existing one is to
19 the South, Chris?

20 CHRIS CHAVES: Yes. It is permit
21 number 2016D008.

22 JOHN ROMANO: Great, thank you. Mr.
23 Haney, is there anything that you would like to add to

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1 your application at this time?

2 BRIAN HANEY: The only thing, Mr.
3 Romano, is a copy of the assignment that we have
4 conducted that assigns all rights granted under the
5 special permit to the Trust and to the LLC to Harbor
6 Outdoor. It is the same additional interest and it is
7 the same individual it is just memorializing that.

8 JOHN ROMANO: Okay, we will put that in
9 as part of the record as well. Mr. Aylesworth, did
10 you want to speak at this time?

11 TOM AYLESWORTH: Thank you, Mr. Romano.
12 Yesterday Judge Foster of the Land Court issued a
13 preliminary injunction ordering that no building
14 permit -- the applicant is not allowed to seek any
15 building permit or to otherwise construct this
16 billboard pending the final outcome of that appeal.

17 That appeal, Mr. Romano, there are
18 two appeals. The first one we thought was after the
19 applicant received its special permit and that was
20 from the Planning Board in the Town of Braintree.
21 That is also before Judge Foster and as of yesterday,
22 it is consolidated with the second appeal. That is
23 what we were in court on yesterday. That is an

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1 appeal for a decision by the Braintree Zoning Board of
2 Appeals. That is a second form of relief that was
3 obtained by this applicant.

4 After they got the special permit they
5 then went to the ZBA seeking a finding, not a variance
6 but a finding that this billboard could be constructed
7 at 290 Wood Road. The reason they needed the
8 additional relief in addition to the special permit is
9 because this lot is none conforming in terms of
10 setbacks, lot coverage and open space. Those non-
11 conformities were allowed by prior variances. So they
12 are not entitled to special protection as
13 grandfathered non-conformities they were allowed --
14 they are legal non-conformities by variance.

15 Under the law and this is what we
16 argued in the appeal. Under the law in order to put
17 in a new structure of a non-conforming lot where the
18 non-conformities are allowed by variance the applicant
19 needs another variance, not a finding. So we made
20 that argument in court yesterday and you have our
21 motion that we submitted. Judge Foster found that we
22 are likely to succeed on the merits of that argument,
23 of that claim. That the ZBA unlawfully issued a

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1 finding instead of a variance for the reasons I
2 articulated.

3 So I did inform Attorney Fenton of the
4 result yesterday. That hearing was in the morning in
5 the afternoon a decision hasn't been written yet by
6 Judge Foster but he did enter a docket marking
7 summarizing the decision. We received that by Courts
8 Clerk by email. I also reported that to Attorney
9 Fenton. That sets forth what the Court's conclusion
10 is on this preliminary junction that my client is
11 likely to succeed in proving that the ZBA relief is
12 unlawful.

13 Also, saying that the judge is not
14 taking any position on what should happen today,
15 remaining neutral. The judge made it very clear in
16 the hearing yesterday that he is not suggesting one
17 way or another what this office should do. That would
18 be of course up to you. But, if the permit were to
19 issue the sign can't be built at least not while the
20 preliminary junction is still in place. That is going
21 to remain in place until the case is over.

22 We oppose the issuance of the permit
23 because what is the point of issuing the permit where

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1 number one, the court is already ruled that it is
2 likely that we will prevail on our claim that the
3 relief from the ZBA is unlawful. Number two, if it
4 does issue nothing can be done. So we submit that the
5 most logical way of proceeding would be either to deny
6 the permit and the application outright and let them
7 reapply when the case is over if they prevail. Or
8 alternatively, take your decisions under advisement;
9 keep it under advisement until Judge Foster issues a
10 final ruling. That seems to make sense because until
11 that time nothing can happen. So for those reasons,
12 we would oppose the issuance of a permit pending the
13 outcome of the appeal.

14 JOHN ROMANO: Thank you very much. Any
15 other comments or questions from the general public?

16 (No response)

17 JOHN ROMANO: Mr. Haney, would you like
18 to add anything before we close?

19 BRIAN HANEY: Just very briefly, Mr.
20 Romano. I think with respect to Mr. Aylesworth
21 position I think it is a slight mischaracterization of
22 what Judge Foster found. The specific wording is that
23 preliminary injunction will enter and allow to seek

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1 permit from Office of Outdoor Advertising, OOA but in
2 joining for applying for a building permit etcetera.

3 OOA may issue any decision deemed
4 appropriate under the law in regulations. Judge
5 Foster took no position on this agency, in fact saying
6 he has no jurisdiction over this agency. In fact,
7 saying at the hearing I don't want you to lose your
8 place at OOA. What this agency and this Board
9 determines is utterly irrelevant from what Braintree
10 has already determined except for Braintree has
11 already determined and issued a permit allowing us to
12 do exactly that which we are applying to this Board
13 for a permit to do. That is under appeal. That is
14 undeniable. There is now an injunction in that
15 process that is undeniable.

16 However, he hasn't won the appeal yet.
17 It has been merely -- there has been an order issued
18 as the injunction the appeal is pending. What this
19 organization does and should do is separate and apart
20 from that process. I would ask this Board to continue
21 to keep it separate and apart for this Board to
22 execute its functions and its obligations separate and
23 apart from that process.

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1 If we lose the appeal the permit will
2 be returned because we won't be able to build a
3 billboard. If we win the appeal we can move forward
4 with building the billboard because we will go get our
5 building permit. That is where it should stand.
6 Thank you very much.

7 TOM AYLESWORTH: Just a very brief
8 abuttal. I don't think I mischaracterized Judge
9 Foster's comments. I said he was neutral and was
10 giving no indication of what should happen as a result
11 of this proceeding. He made some comment about the
12 applicant not losing its place but that was not any
13 suggestion that the permit should issue. His stance
14 was very neutral and did not take a position one way
15 or another.

16 Finally, I would say this. There is no
17 point in issuing the permit if the sign can't be
18 built. There will be a decision eventually from the
19 court. That is number one but number two
20 independently this office should make its own
21 determination to whether that zoning relief that was
22 obtained by the applicant is lawful. We submitted the
23 papers to show you why it isn't. If they don't meet

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1 local zoning than the permit shouldn't issue. You
2 will make your own determination on whether that's the
3 case. Thank you.

4 JOHN ROMANO: Anything else?

5 (No response)

6 JOHN ROMANO: Great, we will take this
7 all under advisement as we do with all of our
8 applications. We will let you know what we decide.

9 BRIAN HANEY: Thank you very much.

10 TOM AYLESWORTH: Thank you.

11 JOHN ROMANO: Last piece of the agenda,
12 For the Record actions taken since the last Public
13 Hearing. Any questions, comments, or concerns from
14 anybody?

15 (No response)

16 JOHN ROMANO: Seeing none. Last piece
17 public comment. Any public comments on anything?

18 (No response)

19 JOHN ROMANO: None. Thank you all very
20 much. We are adjourned. Enjoy the rest of the day.

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Whereupon, the proceedings were
concluded on October 11, 2018, at 11:23 a.m.)

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C E R T I F I C A T E

I, Tammy A. Hillery, do hereby certify that the foregoing record is a true and accurate transcription of the proceedings in the above-captioned matter to the best of my skill and ability.

Tammy Hillery

Tammy A. Hillery

******All names not provided were spelled phonetically to the best of my ability.