

**Whitpain Township
Conditional Use Hearing**

DECISIONS FOR January, 2016

CASE NO.	APPLICANT	REQUEST	LOCATION	DECISION
CU29-15	Outfront Media, Inc.	Billboard	1625 Union Meeting Road	Approved March 1, 2016

The full decisions may be examined at the Whitpain Township Code Enforcement Department.

**BEFORE THE BOARD OF SUPERVISORS
OF WHITPAIN TOWNSHIP, PENNSYLVANIA**

IN THE MATTER OF:

THE CONDITIONAL USE APPLICATION OF OUTFRONT MEDIA, INC.

DECISION AND ORDER

FINDINGS OF FACT

1. Applicant, Outfront Media, Inc. (hereinafter referred to as the “Applicant”) is the lessee of a tract of land located at 1625 Union Meeting Road in Whitpain Township, Montgomery County, Pennsylvania, which tract is more specifically identified as Montgomery County Tax Parcel No. 66-00-06080-00-1 (hereinafter the “Property”).

2. The Property consists of approximately 14,927 square feet.

3. The Property is zoned R-E Research and Engineering District, and is located entirely within the Off-Premises Advertising Sign Overlay District.

4. In the subject conditional use application (the “Application”), the Applicant has requested conditional use approval pursuant to Section 160-191.2 of the Whitpain Township Zoning Ordinance (the “Zoning Ordinance”), in order to construct a 300 square foot, double-faced, off-premises advertising sign on the Property, and is further seeking modifications of the requirements contained in Sections 160-191.2.B. and D. of the Zoning Ordinance to permit a sign that is: (1) thirty (30) feet in length, which exceeds the maximum length of twenty (20) feet permitted by the Zoning Ordinance; and (2) located within 1,000 feet of an existing residential dwelling. The off-premises advertising sign shall hereinafter be referred to as the “Proposed Sign”.

5. The Applicant waived the requirement that a conditional use hearing must be held within sixty (60) days from the time the Township received the Application, by letter from

the Applicant's attorney, Loren D. Szczesny, Esquire, of Fox Rothschild, LLP, dated August 17, 2015. (Exhibit T-7).

6. A hearing on the Application was originally advertised for October 6, 2015 and was continued by letter dated October 5, 2015 from Mr. Szczesny. (Exhibit T-8).

7. A hearing on the Application was subsequently advertised for November 17, 2015, which was continued on the record to January 19, 2016 by agreement of the Applicant.

8. A hearing on the Application was finally held on January 19, 2016 (the "Hearing"). The Hearing was attended by Chairman of the Board of Supervisors, Adam D. Zucker, Vice Chair Melissa Murphy Weber, Esquire, and Supervisors Frederick R. Conner, Jr., Kenneth Wollman, and Anthony F. Greco. Township Manager Roman P. Pronczak, Assistant Township Manager David J. Mrochko, Township Engineer James Blanch and Township Solicitor James J. Garrity, Esquire also attended the Hearing. The Applicant was represented by Mr. Szczesny of Fox Rothschild, LLP, which has offices located at 10 Sentry Parkway, Suite 200, P.O. Box 3001, Blue Bell, PA 19422.

9. The following exhibits were admitted into evidence:

From the Township:

- T-1 Conditional Use Application and Addendum from Outfront Media, Inc., received by the Township on July 8, 2015.
- T-2 Copy of lease for 1625 Union Meeting Road between CBS Outdoor, Inc. and Jasmine Associates, LLC.
- T-3 Consent letter from the property owner, Jasmine Associates, LLC, for the filing of the Application.
- T-4 Sign Plan (one sheet), prepared by Tantala Associates, LLC, dated July 25, 2014, and last revised February 12, 2015.
- T-5 Email from Loren Szczesny, Esquire, dated January 15, 2016 requesting an amendment to the Application and enclosing a revised Sign Plan.

- T-6 Sign Plan (one sheet), prepared by Tantala Associates, LLC, dated July 25, 2014, with an unknown last revision.
- T-7 First Continuance Request Letter from Loren Szczesny, Esquire, dated August 17, 2015.
- T-8 Second Continuance Request Letter from Loren Szczesny, Esquire, dated October 5, 2015.
- T-9 Whitpain Township Planning Consultant Report, dated September 4, 2015.
- T-10 Minutes of the September 8, 2015 work session of the Whitpain Township Planning Commission.
- T-11 Minutes of the September 8, 2015 meeting of the Whitpain Township Planning Commission.
- T-12 Proof of Publication of Public Notice in the *Times Herald* verifying that notice of the October 6, 2015 hearing (subsequently rescheduled) was advertised on September 15, 2015 and September 22, 2015.
- T-13 Proof of Publication of Public Notice in the *Times Herald* verifying that notice of the November 17, 2015 hearing (subsequently rescheduled) was advertised on October 20, 2015 and October 27, 2015.
- T-14 Certificate of Posting and a copy of the Public Notice posted at 1625 Union Meeting Road on September 14, 2015 for the October 6, 2015 hearing (subsequently rescheduled).
- T-15 Certificate of Posting and a copy of the Public Notice posted at 1625 Union Meeting Road on October 15, 2015 for the November 17, 2015 hearing (subsequently rescheduled).
- T-16 List of properties and persons that were mailed notice of the Hearing by first class mail (including an illustrative map identifying such properties).
- T-17 Letter dated January 19, 2016 from Ameer Farrell, Esquire on the behalf of Aetna Life Insurance Company.

From the Applicant:

- A-1 Sign location lease between Jasmine Associates and CBS Outdoor, Inc.
- A-2 Consent letter from the property owner, Jasmine Associates, LLC, for the filing of the Application.
- A-3 Sign Plan (one sheet), prepared by Tantala Associates, LLC, dated July 25, 2014, with last revision date of January 13, 2016 (hereinafter, the "Plan").

- A-4 Access easement agreement between PECO Energy Company and Outfront Media, LLC, dated December 2, 2015.
- A-5 *Curriculum Vitae* of Michael W. Tantala, P.E.
- A-6 Whitpain Township Zoning Map, last revised April 6, 2012.
- A-7 Whitpain Township Zoning Map depicting the setbacks applicable to properties within the Off-Premise Advertising Sign Overlay District.
- A-8 Illustrative photograph of the visibility of the Proposed Sign from the properties across I-476.
- A-9 Drawing "A", prepared by Tantala Associates, LLC, detailing proposed sign illumination.
- A-10 Conditional Use Application (#CU29-15) Booklet, containing Applicant's pre-marked Exhibits A-1 through A-15.
- A-11 Photograph with superimposed, yellow-highlighted image of Proposed Sign.
- A-12 Example photograph of existing sign with digital sign face from opposing traffic lanes.
- A-13 Example photograph of existing sign with digital sign face from abutting traffic lanes.
- A-14 Public service articles about the benefits of billboards.
- A-15 Overall fact documents containing information about digital billboards.

10. Amy Williams testified on behalf of the Applicant. Ms. Williams is employed by the Applicant as a real estate manager. (N.T. p. 27).

11. Ms. Williams testified that her role with the Applicant is to identify locations for the potential placement of off-premise advertising signs. She identified the Property as a potential location for the placement of such a sign by the Applicant. (N.T., p. 28).

12. The Property has an address of 1625 Union Meeting Road, Whitpain Township, and is owned by Jasmine Associates, LLC. (N.T., pp. 28, 30).

13. The Property is landlocked between property owned by the Philadelphia Electric Company (“PECO”) and property owned by Aetna Life Insurance Company (“Aetna”). (N.T., p. 28).

14. The Property is triangle shaped and adjoins the right-of-way of the Northeast Extension of the Pennsylvania Turnpike (Interstate 476) (hereinafter referred to as “I-476”). (N.T., p. 29).

15. The Proposed Sign will be directed toward, and is intended to be viewed from I-476. The Proposed Sign is not intended to be viewed from Union Meeting Road, or any other road or street within the Township. (N.T., pp. 29-30).

16. The Applicant has a lease with Jasmine Associates, LLC to use the Property for the installation and operation of the Proposed Sign. (N.T., p. 30).

17. Ms. Williams testified that the Applicant notified Jasmine Associates, LLC of the Applicant’s intent to install an off-premise advertising sign on the Property. Jasmine Associates, LLC has consented to the filing of the Application. (N.T., pp. 32-33; Exhibit A-2).

18. Since the Property is completely landlocked with no direct access to a public street or road, the Applicant obtained an access easement to the Property over the adjoining property owned by PECO, which access easement is reflected on the Plan and memorialized in the access easement agreement presented by the Applicant at the Hearing. (N.T., pp. 36-37, 89; Exhibits A-3 and A-4).

19. Ms. Williams testified that the minimum any portion of Proposed Sign will be set back from the I-476 right-of-way will be twenty-five (25) feet. (N.T., p. 37).

20. The Proposed Sign will have a sign area of 300 square feet. The Applicant is requesting approval for the Proposed Sign to have dimensions of thirty (30) feet by ten (10) feet,

where the Zoning Ordinance permits a sign length of no more than twenty (20) feet. (N.T., pp. 37-38, 102).

21. Ms. Williams testified that the industry standard length for the size of the sign proposed by the Applicant is thirty (30) feet, and the Applicant does not have available to it off-premises advertising signs with a sign length of less than thirty (30) feet. When the Applicant met with Township staff prior to filing the Application, the Applicant had proposed a fourteen (14) foot by forty-eight (48) foot sign, which did not comply with the sign area requirement in the Zoning Ordinance. The Applicant requested a smaller sign area than desired in order to comply with the Zoning Ordinance requirements. (N.T., p. 37-38).

22. The grade of the portion of the Property immediately adjacent to the base of the Proposed Sign is fifteen (15) feet above the grade of I-476. The Proposed Sign will have a height of twenty (20) feet from grade immediately adjoining the base of the Proposed Sign to the top of the Proposed Sign (consisting of a ten (10) foot sign face supported by a ten (10) foot pylon pole). Due to the difference in grade between the Property and the I-476 travel lanes, the Proposed Sign will have a total height of thirty-five (35) feet, in accordance with the provisions of the Zoning Ordinance. (N.T., pp. 37-38).

23. In addition to the sign length requirement, the Applicant is requesting a modification of the Zoning Ordinance provision which requires all off-premise advertising signs to be located no less than 1,000 feet from an existing residential dwelling. (N.T., pp. 39-40).

24. Ms. Williams testified that the Proposed Sign will comply with all of the provisions of the Zoning Ordinance, except for the Section 160-191.2.B (related to sign length) and Section 191.2.D. (related to distance from an existing residential dwelling), from which modifications are requested by the Applicant. (N.T., p. 40).

25. The Applicant agreed to provide the Township with the ability to utilize the Proposed Sign to announce community service, emergency warnings and road closure notices without compensation. (N.T., pp. 36-37).

26. The Applicant owns and operates an off-premise advertising sign facing Route 202 in Bridgeport Borough, Montgomery County, Pennsylvania, which sign has the same dimensions (300 square feet; 30 feet by 10 feet) as the Applicant proposes to install on the Property. (N.T., pp. 43, 46, 55-56).

27. The Applicant has not prepared a landscape plan for the area surrounding the Proposed Sign to demonstrate compliance with Section 160-191.2.M. However, the Applicant agreed to work with the Township to determine appropriate locations and species for the required landscaping. (N.T. p. 56).

28. The Applicant entered into an agreement with Aetna whereby the Applicant agreed to plant, at its own cost, six (6) evergreen trees, each with a height of no less than ten (10) feet at the time of planting, along the common boundary line between the Property and the Aetna property. The Applicant did not provide any detail regarding the specific species of evergreen trees to be planted, the exact location of the landscaping, or maintenance and replacement obligations on the part of the Applicant, Aetna or both parties. (N.T. pp. 40, 57-59; Exhibit T-17).

29. In response to a question from George Beaumont, with an address of 1673 Sheffield Drive, Whitpain Township, Ms. Williams testified that none of the content to be displayed on the Proposed Sign will be obscene, sexually-oriented, race-oriented or generally demeaning. The Zoning Ordinance prohibits certain content, as set forth in Section 160-191.2.F. (N.T., pp. 60-61).

30. The Proposed sign will be in operation from 6:00 AM to 10:00 PM only, and will be turned off during the hours that it is not in operation. (N.T., p. 62).

31. In addition to conditional use approval from the Township, the Applicant must also receive approval from the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission before it is permitted to install the Proposed Sign along I-476. (N.T., pp. 63, 169-170).

32. In response to a question from Elizabeth Armento, with an address of 1686 Sheffield Drive, Whitpain Township, Ms. Williams testified that other than for the Aetna property, the Applicant has not made any plans to provide trees to the owners of properties surrounding the Property to address any visual impact from the Proposed Sign. (N.T., p. 73).

33. In response to a question from Judy Kane, with an address of 1093 Stony Brook Drive, Whitpain Township, regarding the visibility of the Proposed Sign from Union Meeting Road, Ms. Williams testified that drivers proceeding northbound on Union Meeting Road will not be able to see the face of the Proposed Sign. (N.T., p. 80).

34. Michael Tantala, P.E., Tantala Associates, LLC, testified on the behalf of the Applicant and was recognized by the Board as an expert in civil engineering, specifically with regard to off-premise advertising signs. (N.T., pp. 93-99).

35. Mr. Tantala testified that the Property is triangular in shape, and that the Plan designates twenty (20) foot setbacks on the two sides of the Property facing Union Meeting Road, and a twenty-five (25) foot setback on the side of the Property adjoining I-476, which is consistent with Section 160-191.2.D. of the Zoning Ordinance. (N.T., p. 100).

36. The Property has slightly more than 300 feet of frontage along the I-476 right-of-way. (N.T., pp. 100-101).

37. The Proposed Sign will be located entirely within the Off-Premise Advertising Sign Overlay District. (N.T., p. 101).

38. Mr. Tantala reaffirmed that the grade of the portion of the Property immediately adjacent to the base of the Proposed Sign is fifteen (15) feet above the grade of I-476, and the Proposed Sign will have a height of twenty (20) feet from grade immediately adjacent to the base of the Proposed Sign, resulting in a total sign height from the grade of the I-476 of thirty-five (35) feet. (N.T., pp. 101-102, 111).

39. The Proposed Sign will be double-sided in a "V" configuration with fifteen (15) feet between the sign faces at the farthest point. (N.T., p. 102).

40. The Proposed Sign will be supported by a single, center mounted, upright, pylon pole. (N.T., p. 102).

41. In response to a question from Ms. Armento, Mr. Tantala testified that each sign face of the Proposed Sign will have a LED display with static images that will change once per minute in accordance with the Zoning Ordinance. (N.T., pp. 104, 166-167).

42. The brightness of the LED sign faces will be controlled by a photocell (measuring ambient light during all hours of operation) that limits the sign illumination to certain brightness limits, and automatically adjusts the brightness of the Proposed Sign based upon ambient light conditions at any given time. (N.T., pp. 104-105).

43. The LED sign faces will be made up of a number of smaller LED panels which will contain three colors of light (red, blue and green). The panels will contain structural louvers so that the light will be directed downward to the roadway of I-476, thereby limiting the potential for any "spill over" light from the Proposed Sign when viewed from less than perpendicular angles. (N.T., pp. 106, 133-134; 145).

44. Mr. Tantala testified that LED signs with changeable text do not present an unsafe distraction to motorists provided that the LED display changes at set intervals and does not have any sweeps, animations or fluctuations in brightness. (N.T., pp. 109-110).

45. In Mr. Tantala's opinion, based upon studies of the technology to be used, the Proposed Sign does not present a traffic or safety concern. (N.T., p. 110).

46. The location of the Proposed Sign on the Property was determined by identifying a location where a sign with a length of thirty (30) feet would fit entirely within the building envelope. (N.T., pp. 111-112).

47. The Property is an existing lot which is zoned RE – Research and Engineering District and is located entirely within the Off-Premises Advertising Sign Overlay District. (N.T., pp. 112-113).

48. The Property is nonconforming as to minimum lot area under the RE – Research and Engineering District provisions of the Zoning Ordinance because it has a lot area of 14,927 square feet, which is below the required minimum lot area of five (5) developable acres in the RE – Research and Engineering District. However, the Property complies with the 10,000 square foot minimum lot size requirement in the Off-Premise Advertising Sign Overlay District. (N.T., pp. 114-115, 117; Exhibit A-3).

49. Due to its size, location and zoning classification, the use of the Property is significantly limited under the provisions of the Zoning Ordinance. (N.T., p. 116).

50. Despite the Property being located in the Off-Premises Advertising Sign Overlay District, the Proposed Sign cannot comply with the required setback from residential dwellings as established in the Zoning Ordinance. (N.T., pp. 117-118).

51. The Applicant presented photographs taken with a pole-mounted camera (with a pole length of 25 feet – five (5) feet higher than the actual height to the top of the Proposed Sign) which depicted the visibility of the Proposed Sign from residences on the other side of I-476. Based on such photographs, it appears that the Proposed Sign will be visible from the upper-

floor windows of one (1) residential dwelling on the opposite side of I-476. (N.T., pp. 121-122; Exhibit A-8).

52. The windows of the residential dwelling are visible from the Property at eye-level. According to Mr. Tantala, it is, therefore, impossible to lower the Proposed Sign to a height where it would not be visible from the second floor windows depicted in the photographs. (N.T., pp. 123-126).

53. Mr. Tantala testified that the view of the Proposed Sign from the second floor of the residence depicted on the aforementioned photographs will be a side-view (i.e. the sign face will not be directly facing the dwelling). (N.T., pp. 126, 130).

54. Mr. Tantala further testified that, in his opinion, persons standing at grade in the rear yards of the properties along Sheffield Drive will not be able to see the Proposed Sign because of the sound-barrier erected on the Sheffield Drive side of I-476. (N.T., pp. 126-127).

55. According to Mr. Tantala, a driver has eight (8) seconds to notice, see, read and ignore the sign face, at a distance of 500 feet from an off-premises advertising sign of a type consistent with and similarly situated to the Proposed Sign. (N.T., p. 131).

56. The "light footprint" of either sign face of the Proposed Sign will not exceed 0.3 footcandles over ambient light levels at a distance of 200 feet from the Proposed Sign. (N.T., p. 132).

57. The three (3) residential dwellings closest to the Proposed Sign are located 310 feet, 326 feet and 380 feet, respectively, from the location of the Proposed Sign. (N.T., p. 134; Exhibit A-9).

58. Mr. Tantala further testified that, if there was a clear line of sight between such dwellings and the Proposed Sign (i.e. no trees, sound barrier or other blockages), there would

be between approximately 0.1 and 0.01 footcandles of light over surrounding ambient light levels on those properties. (N.T., pp. 134-135; Exhibit A-9).

59. Footcandles are measured when the entire sign face is illuminated in its entirety with a white color. Since such illumination is rarely used under normal operating conditions, the actual footcandle readings when the Proposed Sign is in normal operation should be lower than the calculations provided by Mr. Tantala. (N.T., p. 136).

60. The Proposed Sign will not emit any noise. (N.T., p. 136).

61. Mr. Tantala testified that the limitations on the size of the sign faces, image refresh rate and hours of operation in the Zoning Ordinance are much more restrictive than in many other municipalities' zoning ordinances with which Mr. Tantala is familiar. (N.T., pp. 137-140).

62. Mr. Tantala testified that the Proposed Sign will not:

a. alter the essential nature of the neighborhood, substantially injure or detract from the neighboring properties or from the character of the neighborhood (N.T., pp. 141-142);

b. cause undo pedestrian or vehicular traffic or otherwise adversely affect motorists or pedestrians along Union Meeting Road or I-476 (N.T., p. 142);

c. endanger the safety of persons or property by interfering with existing ingress or egress from the Property (N.T., pp. 142);

d. increase the likelihood of fire or otherwise endanger the public safety (N.T., p. 142-143);

e. overcrowd the land or create undo concentration of the population (N.T., p. 143);

f. impair the adequate supply of light and air to adjacent properties (N.T., p. 143);

- g. disturb transportation or unduly burden public facilities (N.T., p. 143); or
- h. adversely affect the public health, morals, safety, or the general welfare of the community (N.T., p. 143, 164-165).

63. Mr. Tantala testified that he did not expect the sign faces of the Proposed Sign to be visible from Union Meeting Road or Township Line Road and, if any portion of the sign were to be visible from those locations, it would be *de minimus*. (N.T., pp. 144, 171-172).

64. The Proposed Sign will not substantially increase the chance of an accident on I-476. Studies show that drivers look at signs similar to the Proposed Sign for approximately 0.2 seconds, and the same studies indicate that it is not until a distraction lasts for two (2) or more seconds that there is an increase of the chance of an accident as a result of such distraction. Therefore, the average time that a motorist will look at the Proposed Sign will be significantly below the distraction time threshold that leads to increased accidents. (N.T., pp. 153-154, 160-161, 174-176).

65. In response to a question from Ms. Armento, Mr. Tantala testified that the Proposed Sign will not contribute to any electrical concerns in the surrounding area. (N.T., pp. 168-169).

66. The Applicant stipulated that all persons that spoke at the Hearing and provided their addresses could be granted party status, if so desired. (N.T., pp. 197-198). The following persons were granted party status:

- a. George Beaumont, 1673 Sheffield Drive. (N.T., p. 59).
- b. Elizabeth Armento, 1686 Sheffield Drive. (N.T., p. 65);
- c. William Travers, 932 Netherwood Drive. (N.T., p. 73);
- d. Judy Kane, 1093 Stony Brook Drive. (N.T., p. 79);
- e. Dean Uhle, 1654 Sheffield Drive. (N.T., p. 163);

- f. Jim Nutt, 75 Skippack Pike. (N.T., p. 171);
- g. Susan Mudambi, 680 Cedar Drive. (N.T., p. 174);
- h. Amy Fruncillo, 861 Valley Road. (N.T., p. 188); and
- i. Joe Antonello, 1030 Blue Rock Lane. (N.T., p. 191).

CONCLUSIONS OF LAW

1. A conditional use is a special exception which falls within the jurisdiction of the municipal body rather than the zoning hearing board. Section 603(c) of the Pennsylvania Municipalities Planning Code (MPC), Act of July 31, 1968, P.L. 805, *as amended*, 53 P.S. §10603(c).

2. A municipal body may grant a conditional use pursuant to its police powers to regulate land use. Id.; Clinton County Solid Waste Authority v. Wayne Township, 643 A.2d 1162, 1168 (Pa. Commw. 1994).

3. The fact that a use is permitted as a conditional use, rather than prohibited, reflects a legislative decision that the use is not *per se* adverse to the public interest. K. Hovnanian Pennsylvania Acquisitions, LLC v. Newtown Township Board of Supervisors, 954 A.2d 718, 725 (Pa. Commw. 2008); Susquehanna Township Board of Commissioners v. Hardee's Food Systems, Inc., 430 A.2d 367, 369 (Pa. Commw. 1981).

4. In order to demonstrate that the Applicant is entitled to the conditional use, the Applicant initially bears the burden of establishing that the Application complies with the objective standards and criteria of the particular ordinance. Visionquest National, Ltd. v. Board of Supervisors of Honey Brook Township, Chester County, 569 A.2d 915, 917 (Pa. 1990); City of Hope v. Sadsbury Township Zoning Hearing Board, 890 A.2d 1137, 1147 (Pa. Commw. 2006).

5. Satisfaction of the Applicant's burden establishes a legislative presumption that the use is consistent with the health, safety, and welfare of the community. Id.; Susquehanna Township, 430 A.2d at 369.

6. If the Applicant satisfies this initial burden, the burden shifts to the objectors to rebut this presumption by establishing that the use will have a detrimental impact on the surrounding community. Joseph v. North Whitehall Township Board of Supervisors, 16 A.3d 1209, 1215 (Pa. Commw. 2011); Sheetz v. Phoenixville Borough Council, 804 A.2d 113, 115 (Pa. Commw. 2002).

7. It is unconstitutional for a municipality to prohibit off-premises advertising signs unless a very strong justification is demonstrated. Township of Exeter v. Zoning Hearing Board of Exeter Township, 962 A.2d 653, 661 (Pa. 2009). Furthermore, aesthetic reasons are not a sufficient basis for billboard regulation. Id. In addition, where the extent of the conditions placed on the installation of off-premise advertising signs are unreasonable, such regulation is considered to be a *de facto* exclusion of billboards in a municipality. Id. at 662.

8. After reviewing all of the testimony and exhibits submitted, the Board finds that the Applicant has met its burden by demonstrating general compliance with the specific conditional use criteria set forth in Article XXVIA (Off-Premises Advertising Sign Overlay District) of the Township's Zoning Ordinance. The Applicant demonstrated compliance with:

- a. Height from grade of immediately adjoining roadway (§160-191.2.C.);
- b. Setbacks of 25 feet from roads and 20 feet from boundary lines (§160-191.2.D.);
- c. Minimum distance from other off-premise advertising signs (§160-191.2.D.);

- d. Minimum distance from the rights-of-way of any interchanges (§160-191.2.D.);
- e. Prohibition on location within clear-sight triangle of any intersection (§160-191.2.D.);
- f. Minimum distance from the boundary lines of any historic site, school, church or other religious institution, retirement or nursing home, cemetery, government building, community center or park, playground or recreational area (§160-191.2.D.);
- g. Limit of one (1) off-premises advertising sign per lot (§160-191.2.E.);
- h. Content limitations (§160-191.2.F.);
- i. Lighting and luminance standards (§160-191.2.G. & H.);
- j. Minimum lot size (§160-191.2.I.);
- k. Sign arrangement (§160-191.2.K); and
- l. Consent of Property owner (§160-191.2.L.).

9. The Applicant requested modifications of Subsections 160-191.2(B) and (D) to permit a sign length of thirty (30) feet and a sign to be located less than 1,000 feet from an existing residential dwelling. Based on the testimony and evidence presented at the Hearing, the Board finds that a sign length of thirty (30) feet is appropriate based upon the Applicant's uncontradicted testimony and evidence related to the industry standard for off-premises advertising signs at a size of 300 square feet, which is a sign area specifically permitted by the Zoning Ordinance for an off-premises advertising sign. In addition, based on the testimony and evidence presented at the Hearing, the Board finds that permitting the installation of a sign a distance of less than 1,000 feet from residential dwellings is warranted in this case due to the: (1) separation of the Proposed Sign from the residential dwellings by I-476; (2) the separation of the Proposed Sign from the residential community nearest thereto by a sound wall barrier and the

provision of a landscape buffer as set forth in the Board's Order below ; and (3) limited visual impact that the Proposed Sign will have on the residences across I-476 and motorists on Union Meeting Road, as demonstrated by the testimony and exhibits presented by the Applicant related to: (a) the orientation of the Proposed Sign on the Property so that such sign is generally perpendicular to the residential dwellings nearest to the Proposed Sign, (b) the construction details of the Proposed Sign, including, without limitation, the proposed louver construction and automatic brightness controls, and (c) the inability to see the Proposed Sign to any significant extent from Union Meeting Road after buffering in accordance with the Board's Order which follows. In addition, the Property has unique physical characteristic (including lot area, lot shape, grade and location), which significantly limit and impair the use of the Property under the Zoning Ordinance, despite of its existing zoning classifications. Therefore, the Board finds these permitted modifications, as specifically conditioned in the following Order, to be the minimum necessary to allow for a reasonable use of the Property for an off-premises advertising sign under the Zoning Ordinance.

10. In the opinion of the Board, the testimony and evidence presented at the Hearing establish that the requested conditional use and modifications related thereto, as conditioned in the following Order, will not adversely affect the public health, safety and welfare of the community generally. Further, sufficient evidence or testimony was not offered in contravention of any of the evidence or testimony presented by Applicant in support of the Application.

11. It is the Board's specific finding therefore that the requested conditional use to permit the construction of the Proposed Sign, as conditioned by the following Order, is not likely to result in any unanticipated adverse effect to the public, safety and welfare generally. We will, therefore, enter the following: End of Findings. Order Attached.

ORDER

AND NOW, this 1st day of March, 2016, the application of Outfront Media, Inc., for a conditional use under Section 160-191.2 of the Whitpain Township Zoning Ordinance, to permit the construction of a 300 square foot, double-face, off-premises advertising sign with a length of thirty (30) feet and within 1,000 feet of an existing residential dwelling, on a certain tract of located at 1625 Union Meeting Road in Whitpain Township, Montgomery County, Pennsylvania, is hereby is hereby **APPROVED**, subject to the conditions as follows:

1. Nothing in this Decision of the Board on this Conditional Use Application shall be construed as either an express or implied waiver of any provision of any applicable ordinance of Whitpain Township. No level of land development is guaranteed by virtue of this conditional Approval and the Proposed Sign shall be permitted only if the fully-engineered plans for the Property can demonstrate compliance with all applicable zoning and subdivision and land development regulations of the Township (unless strict compliance is waived by the Township) as well as any relevant statutes or regulations of any other governmental entity having jurisdiction over the development of the Property.
2. All development permitted by this conditional Approval shall be consistent with the plans, testimony and exhibits submitted to the Board at the public hearing held on January 19, 2016.
3. The Applicant shall participate in the posting of emergency alerts such as the Amber Alert program and other emergency alerts from official, governmental service agencies, including the Whitpain Township Police Department and the Pennsylvania State Police.
4. The Applicant shall install a “green screen” on the Property between the Proposed Sign and the right-of-way of I-476 in order to screen the Proposed Sign from view from properties on the opposite side of I-476 from the Property, and generally minimize the impact of

the Proposed Sign on the residential community across I-476 from the Property. The "green screen" shall have dimensions and be sited on the Property to the reasonable satisfaction of the Township. The "green screen" shall be at least as high as the top of the Proposed Sign. The "green screen" is not intended to obstruct the view of the Proposed Sign from motorists within the view shed of such sign on I-476, but shall be of such size and in a location so that it screens or buffers the Proposed Sign from the residential properties and dwellings across I-476. The "green screen" shall be planted with a combination of Boston Ivy, Trumpet Honey Suckle, Blanche Sandman Honey Suckle, Climbing Rose or such other plant material as the Applicant and the Township shall mutually agree upon. The plant material shall be arranged on the "green screen" to the satisfaction of the Township, and the base of the "green screen" shall be planted with a combination of evergreen trees and shrubs, in number, species and locations reasonably satisfactory to the Township so that in time, the evergreen trees and shrubs shall, by themselves, screen the Proposed Sign. The Applicant shall also plant a combination of evergreen trees and shrubs, in number, species and locations reasonably satisfactory to the Township, which extend beyond the perimeter of the "green screen" so that in time, such evergreen trees and shrubs shall, together with the evergreen trees and shrubs planted at the base of the "green screen", screen the Proposed Sign to the greatest extent possible, without obstructing the view of the Proposed Sign by motorists within the view shed of the sign on I-476. The general area within which the "green screen" and landscaping outside the perimeter of the "green screen" is depicted on the plan attached to this Order as Exhibit "A".

5. The Applicant shall submit to the Township a plan which depicts the proposed location of the landscape buffer agreed to be planted to screen or buffer the Proposed Sign from the Aetna property. The plan shall list details related to the proposed buffer, including the species of the landscape material to be planted, and planting details such as spacing and

staggering requirements. The location and type of buffer shall be reasonably satisfactory to the Township. The Applicant shall also submit to the Township a maintenance agreement to assure the continuing maintenance of such screen or buffer by the then owner of the Proposed Sign, to the reasonable satisfaction of the Township.

6. The Applicant shall further submit to the Township a landscape plan which demonstrates compliance with the landscaping requirements contained in Section 160-191.2.M of the Zoning Ordinance, which shall be reasonably satisfactory to the Township. In addition to the landscaping required for the supporting structure of the Proposed Sign, as set forth in Section 160-191.2.M, the Applicant shall plant a landscape buffer between the Proposed Sign and Union Meeting Road within the area shown on Exhibit "A" to this Order. The buffer shall consist of a combination of evergreen trees and shrubs, in number, species and locations reasonably satisfactory to the Township so that in time, the evergreen trees and shrubs shall screen the Proposed Sign, without obstructing the view of the Proposed Sign by motorists within the view shed of the sign on I-476.

7. The Applicant shall enter into a maintenance agreement with the Township to assure the continuing maintenance of the "green screen" required by Condition No. 4 and the landscaping required by Conditions Nos. 5 and 6 above. The terms and conditions of the agreement shall be satisfactory to the Township Solicitor.

8. Compliance with the applicable provisions of the Whitpain Township Code, including, without limitation, the provisions of Article XXVIA (Off-Premises Advertising Sign Overlay District) shall be maintained at all times, except only to the extent modified by this Order.

9. Prior to issuance of a building permit by the Township for the construction of the Proposed Sign, the Applicant shall provide to the Township all approvals from any outside agencies having jurisdiction over the installation and operation of the Proposed Sign, including,

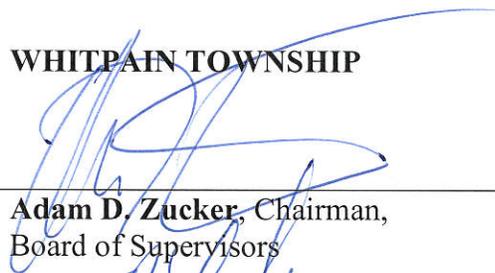
but not limited to, the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission.

10. The Proposed Sign shall not be placed into operation until the Township has approved, in writing the installation of the screening and landscaping required by this Order as well as the Applicant's compliance with all the dimensional representations and illumination levels described by the Applicant's witnesses or shown on the Applicant's plans. Failure to obtain such written approval from the Township prior to placing the signs in operation shall entitle the Township to request immediate injunctive relief from the Montgomery County Court of Common Pleas.

11. Except for structures necessary for the routine maintenance and repair of the Proposed Sign, nothing shall be attached to the Proposed Sign, including, but not limited to, wireless communications antennas, weather or traffic monitoring devices, video cameras and the like.

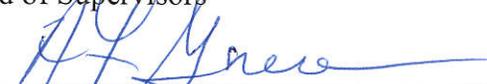
WHITPAIN TOWNSHIP

By:



Adam D. Zucker, Chairman,
Board of Supervisors

Attest:



Anthony F. Greco, Secretary

