

LOCAL NEWS

Judge rules for Phoenixville in billboard case

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WEST CHESTER – A Chester County Common Pleas Court judge has dismissed a billboard baron's challenge to the Phoenixville zoning ordinance that he claimed improperly excluded his signs from the borough.

In a May 20 ruling, Judge Mark Tunnell upheld a Phoenixville Zoning Hearing Board decision that the borough's zoning ordinance does allow for billboards and other large outdoor signs to be erected, just not in the location that Thaddeus Bartkowski III and his company, Chester County Outdoor, wanted to erect three digital billboards.

Bartkowski had filed a substantive validity challenge to the ordinance in 2011, claiming it unconstitutionally prohibited his type of business from the borough. In 2012, the zoning board ruled against Bartkowski, finding that the types of signs he wanted to erect were a permitted use, even if they were not specifically identified.

'The clear and unambiguous language of the zoning ordinance permits an occupant to have one freestanding sign per lot subject to the terms of the zoning ordinance,' Tunnell wrote in a 16-page decision. 'Billboards and



The decision was greeted with satisfaction by attorney Anthony Verwey of the West Chester firm of Unruh, Burke, Turner & Frees, who was appointed to act as special counsel for the Borough Council in the case before the zoning board.

‘Obviously, we are very pleased with it,’ Verwey said in an interview Wednesday. ‘I think it was the right decision, and consistent with the law.’

Even though both the zoning board and Tunnell determined that the type of advertising billboard that Chester County Outdoor had submitted plans for were permitted in Phoenixville, Verwey noted that several neighbors where the company sought to build the electronic boards had objected to them because of their size and lighting conditions.

The company had identified three sites along the historic Nutt Road downtown area where it intended to erect the V-shaped, 12-by-40-foot advertising signs. They were similar to a large sign located on the west side of Route 202 in Westtown.

‘It was nice to make a stand against these signs, and to be able to protect the folks in the borough from this type of intrusion,’ Verwey said.

According to Tunnell’s decision, Chester County Outdoor appealed the zoning board’s February 2012 decision, but did not offer any additional testimony or evidence than what was presented at hearings the board conducted in 2011.

The company had claimed that because the zoning ordinance did not allow for billboards in the district, including the Nutt Road locations, it went against state law that requires a municipality to provide zoning districts for all classes of people and businesses. Bartkowski has filed similar challenges in municipalities in Montgomery and Delaware counties, seeking permission to building the large electronic billboards.

At the hearings, however, the company’s expert testified on cross-examination that he could find no prohibition for signs that stood alone on monopoles, such as what the company was proposing, or free standing billboards anywhere in the ordinance.

In its response, the borough submitted three applications from another billboard firm, Lamar Advertising, seeking permits to build signs in Phoenixville. The applications were denied on the basis that they were electronic message display boards, and not because of a prohibition of billboards, Tunnell wrote.

Chester County Outdoor has filed a similar challenge to the East Pikeland zoning code, and that case is still awaiting trial in Common Pleas Court.

An attorney representing the billboard firm, Greg Adelman of the Kaplan Stewart firm in Blue Bell, could not be reached for comment on the decision. The zoning board was represented by Allan B. Greenwood of the _____