

LAW OFFICE
CHARLES H. SARLO †
Attorney At Law

HEIGHTS PLAZA
777 TERRACE AVENUE
SIXTH FLOOR – SUITE 607
HASBROUCK HEIGHTS, N.J. 07604

TELEPHONE 201-288-2665
FACSIMILE 201-288-2662
Charles.sarlo.esq@gmail.com
† NJ & NY Admission

June 7, 2025

Via E-Mail

Mr. Ed Alter
Municipal Land Use Clerk
Borough of River Edge
705 Kinderkamack Road
River Edge, NJ 07661

Re: Applicant: IAAT Services LLC
Property: 41 Grand Avenue (Block 1405, Lot 4), River Edge, New Jersey
Hearing Date: July 9, 2025

Dear Mr. Alter:

This office represents Dark Star Development, LLC, the owner of the real property commonly known as 335 Johnson Avenue (Block 1405 Lot 3), and Let-It-Grow, Inc., the tenant of record for the said Property, in opposition to the above referenced land use application for a proposed billboard.

Kindly accept this correspondence in response to a letter, dated May 21, 2025, submitted by Stephen Sinisi, Esq., Applicant's counsel, which is addressed to Marc E. Leibman, Esq., the Board's counsel. Mr. Sinisi's letter alleges that the Borough's ordinance prohibiting billboards (i.e., §416-44.A(1)) is unconstitutional. The said letter contains five points and cites various case law. Although the said letter does not explicitly state his desired action of the Zoning Board, presumably Mr. Sinisi's position is that the Board should ignore §416-44.A(1) of the Zoning Code in considering the subject application based on his allegation that the provision is unconstitutional.

While the Zoning Board has the authority "to reach 'conclusions of law' concerning the application . . . [i]t is not the function of the board of adjustment . . . to decide constitutional questions . . . Questions of law are the peculiar province of the courts." Messer v. Burlington Tp., 172 N.J. Super. 479, 487 (Law Div. 1980) *citing* Honigfeld v. Byrnes, 14 N.J. 600, 603-604 (1954); Jantausch v. Verona, 41 N.J. Super. 89, 96 (Law Div. 1956), *aff'd* 24 N.J. 326 (1957).

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Based on the foregoing, the Zoning Board has no legal authority to declare §416-44.A(1)) of the Zoning Code to be unconstitutional. The Board must consider that the Borough expressly prohibits billboards pursuant to §416-44.A(1)) in addition to the fact that billboards are not listed as a permitted use in the B-1 Zoning District and, thus, are a prohibited use, as per the Borough's Ordinance.

Kindly ensure that this correspondence is part of the record for this matter.

Very truly yours,
Charles H. Sarlo

[Electronically executed]
CHARLES H. SARLO

Cc: Stephen P. Sinisi, Esq. – Attorney for Applicant
Marc Leibman, Esq. - Chiesa Shahinian & Giantomasi PC - Conflict Board Attorney
Robert S. Peckar, Esq. - Peckar & Abramson, P.C. - Counsel of Record
Client