

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE:            CHRISTOPHER C. BRASURE**

**Case No. 10790 – 2011**

A hearing was held after due notice on May 2, 2011. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson.

Nature of the Proceedings

This is an application for a special use exception for a billboard, variance from the setback requirements, maximum square footage and height requirements.

Finding of Facts

The Board found that the Applicant was requesting a special use exception for a billboard, and variances from setback requirements, maximum square footage and height limits for a billboard, on a parcel south of Zion Church Road, 300' east of Gum Road. After a hearing, the Board made the following findings of fact:

1. The Applicant was requesting a special use exception for a billboard, as well as the following variances: a 600 sq. ft. variance from the maximum 300 sq. ft. limit for a billboard, a 4' variance from the 25' height limit for a billboard, a 167.60' variance from the required 300' setback from a dwelling, a 125.50' from the required 300' setback from a dwelling, a 120.9' variance from the required 300' setback from a dwelling, and a 167.20' variance from the required 300' setback from a dwelling.
2. The Applicant is proposing a 29' high double stacked billboard.
3. The property is zoned commercial, and is the anticipated future site for the Applicant's business, which is currently located elsewhere. There are a number of businesses in the area, and the Applicant's family owns a number of surrounding properties.
4. Carol Buchler testified in opposition, on her behalf and on behalf of a number of other individuals. She pointed out that the Board's approval of a previous billboard application nearby, to which the residents did not object, had drastically altered the character of the neighborhood. At the time, the neighbors did not study the proposal closely enough, and did not oppose it. She believes that the previously approved billboard has proven to be an eyesore. She also pointed out that although there are other businesses in the area, all of them utilize small on-site signs, which would be overwhelmed by the size and height of the proposed billboard. Ms. Buchler and those opposing the application are not opposed to the business moving to the property and utilizing an approved on-site sign which will be significantly smaller than a billboard, but they believe the approval of another billboard, within ¼ to ½ mile from the existing one, will set a precedent and destroy the character of the neighborhood altogether.
5. Dale Yost also testified in opposition. Mr. Yost had signed a petition in support of the application without realizing what the Applicant was proposing was a billboard. He was under the impression that it was for a smaller sign to advertise the Applicant's business.
6. James Harrington also appeared in opposition, testifying that he too was misled into supporting the application because of the lack of specificity provided by the Applicant. He also believes the billboard will create a traffic hazard. A total of 10 persons appeared in opposition.
7. The Board determined that the Applicant had not met the burden for a special use exception. The Board was persuaded by the testimony of the objectors that a previously approved billboard had made a significant adverse impact on other properties, and that approval of the current application would make things worse. The Applicant failed to rebut that testimony, and in short, the Applicant failed to submit sufficient persuasive evidence that the billboard would not have a substantial adverse effect on uses of neighboring properties.
8. In addition, the Board noted the proximity of the proposed billboard to several dwellings, and for which variances were requested. The Board determined that

the Applicant failed to meet his burden with respect to the variances. The lack of a billboard would not create an exceptional practical difficulty, as the owner will be entitled to signage for its business since it is a commercial property. Other businesses in the area utilize smaller signs which meet the Code, and the Applicant failed to show the need for a billboard at the particular location in the application. In addition, the property can be reasonably used now and in the future, without the variances requested. The billboard and the variances would alter the essential character of the neighborhood, and any difficulty will have been created by the Applicant.

The Board denied the special use exception and the variances.

Decision of the Board

Upon motion duly made and seconded the application was denied. The Board members voting in favor of denial were: Mr. Callaway, Mr. McCabe, Mr. Mills, Mr. Workman, and Mr. Hudson; voting against denial – none.

**BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY**



Dale Callaway  
Chairman

Date June 20, 2011