

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GERALD W. HOCKER

Case No. 10810 – 2011

A hearing was held after due notice on June 20, 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 to place a billboard, a variance from the setback requirement and the height requirement.

Finding of Facts

The Board found that the Applicant was seeking a special use exception to place a billboard on a parcel east of Road 17, 609' south of Route 26, together with a variance from setback requirements and the height limit for a billboard. The Applicant was requesting a 13' variance from the required 25' height limit, an 8.8' variance from the required 25' setback for a billboard, and a 180.1' variance from the required 300' setback from another billboard. After a hearing, the Board made the following findings of fact:

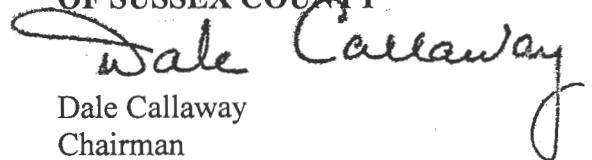
1. The property in question is zoned C-1, and there are numerous billboards in the area.
2. Since the billboard will be placed in an existing parking lot, a height variance will allow larger vehicles to park underneath it without hitting it.
3. The Applicant indicated that after speaking to DelDOT, the 25' setback can be met.
4. The billboard will be on a steel monopole, with LED message capability. The Applicant has an arrangement with the State to advertise amber alerts and other emergency-type messages.
5. No persons appeared in opposition.
6. Subsequent to the hearing Planning and Zoning staff raised the question as to whether a billboard could utilize electronic messaging. The recently-enacted sign ordinance permits electronic messaging only for on-premise signs, and the zoning office has rejected several such applications in the past. Upon review between the County legal staff and the zoning staff, it was determined that the current code does not permit electronic messaging on a billboard or other off-premise sign, and that to issue such a permit would be void and illegal.

The Board granted the special use exception (without electronic messaging), finding that it would not affect adversely the uses of neighboring and surrounding properties, as well as the variances for height, and from another billboard.

Decision of the Board

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

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date August 10, 2011