

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

**IN RE: HERTRICH PROPERTIES XI, LLC (Case No. 11029)**

A hearing was held after due notice on August 20, 2012. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances of the front yard setback requirement and from the buffer requirement in a highway corridor overlay zoning district.

Findings of Fact

The Board found that the Applicant was seeking a variance of 20 feet from the 25 foot front yard setback requirement for display and a variance of 20 feet from the 20 foot buffer requirement in a highway corridor zoning district. The Applicant has requested that the aforementioned requested variances be granted as it pertains to certain real property located east of Route 13 (Sussex Highway) approximately 300 feet north of Bethel Concord Road; said property being identified as Sussex County Tax Map Parcel Number 1-32-7.00-36.01 & 36.04. After a hearing, the Board made the following findings of fact:

1. Al Guckes, George Sapna, Barry Neal, and Brock Parker were present and sworn in to testify about the Application.
2. The Board found that Mr. Guckes testified that the Applicant seeks to place a leasing dealership and office on the Property and that the Applicant purchased the Property in December 2011.
3. The Board found that Mr. Sapna testified that he is the President of Freedom Rides, Inc., which is a leasing company that helps individuals purchase vehicles.
4. The Board found that Mr. Sapna testified that Freedom Rides, Inc., intends to lease the existing structure from the Applicant.
5. The Board found that Mr. Sapna testified that Freedom Rides, Inc., was founded in 2009 to help people with poor credit purchase vehicles.
6. The Board found that Mr. Sapna testified that Freedom Rides, Inc., has grown from two (2) employees to thirty (30) employees at their Cheswold sales lot and that the proposed expansion on the Property will result in the need for approximately 36 employees.
7. The Board found that Mr. Sapna testified that the Property was previously Burke Equipment as a sales and display area.
8. The Board found that Mr. Sapna testified that his company seeks to use the existing parking lot to maximize visibility for sales of vehicles and that the variance is necessary to help his company achieve its sales goals.
9. The Board found that Mr. Sapna testified that the Applicant will meet the signage requirements of Sussex County.
10. The Board found that Mr. Parker testified that he is a land use planner and designed the proposed site plan.
11. The Board found that Mr. Parker testified that there is currently no Storm Water Management area and the existing septic system is failing.
12. The Board found that Mr. Parker testified that the new septic system and Storm Water Management area will be to the rear of the Property.
13. The Board found that Mr. Parker testified that there will be an addition constructed to the existing building.
14. The Board found that Mr. Parker testified that the Applicant plans to pave the entire existing stone display area and that the paved area will stop approximately

46 feet from Route 13 thereby leaving nearly 50 feet of green space between the lot and the road.

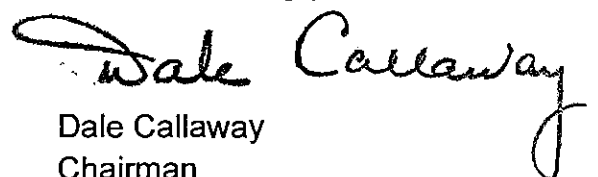
15. The Board found that Mr. Parker testified that the Applicant does not intend to pave outside the existing stone area and display area will not be closer to Route 13 than the existing stone display area.
16. The Board found that Mr. Parker testified that the existing stone display area is five (5) feet from the property line.
17. The Board found that Mr. Parker testified that the variance will enable reasonable use of the Property.
18. The Board found that Mr. Parker testified that the difficulty was not created by the Applicant as the prior owner used the Property in a similar manner to which the Applicant seeks to use the Property.
19. The Board found that Mr. Parker testified that the variances, if granted, will not alter the character of the neighborhood as there are other similar sites exist along Route 13 nearby the Property.
20. The Board found that Mr. Parker testified that the variances sought are the minimum variances to afford relief.
21. The Board found that Mr. Parker testified that there will be approximately 140 parking spaces available on the lot and that, without the variances, the Applicant will lose all available parking in the front of the Property.
22. The Board found that Mr. Parker submitted to the Board an aerial photograph of the Property and pictures of other similar sites along Route 13.
23. The Board found that three (3) parties appeared in support of the Application.
24. The Board found that no parties appeared in opposition to the Application.
25. The Board took the matter under advisement before voting on the matter at the end of the agenda.
26. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The project is unique due to the use of the Property by the prior owner. The variances will not alter the essential character of the neighborhood as the property has been used in this fashion for quite some time. The difficulty was not created by the Applicant. The variances will enable reasonable use of the Property. The requested variances are the minimum variances needed to afford relief.

The Board approved the variance application finding that it met the standards for granting a variance.

#### Decision of the Board

Upon motion duly made and seconded, the application was approve. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. No Member voted against the Motion to Approve the Application.

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 September 11, 2012.