

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: COLONIAL EAST, LP (Case No. 11051)

A hearing was held after due notice on October 1, 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 a special use exception to place a billboard and a variance from the required side yard setback, a variance from the maximum square footage requirement, a variance from the maximum height requirement and a variance from the distance from another billboard requirement.

Findings of Fact

The Board found that the Applicant was seeking the following: 1) a special use exception to place a billboard, 2) a 600 square-foot variance from the maximum 300 square-foot requirement, 3) a 15 foot variance from the maximum 25 foot height requirement for a billboard, 4) a 40 foot variance from the 50 foot side yard setback requirement for a billboard exceeding 200 square feet, 5) a 10 foot variance from the 300 foot distance from another billboard requirement, and 6) a 110 foot variance from the 300 foot distance from another billboard requirement. The Applicant has requested that the aforementioned requested special use exception and variances be granted as it pertains to certain real property located north of Road 270 (Wolf Neck Road) east of Route 1 (Coastal Highway); said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-335.01. After a hearing, the Board made the following findings of fact:

1. Steve Class was sworn in and testified on behalf of the Applicant.
2. David Hutt, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Hutt submitted exhibits which included aerial photos, site plan, tax map and pictures.
4. The Board found that Mr. Hutt stated that the existing billboard was constructed between 1973 and 1974 and that it was reconstructed in the 1980's after a storm damaged the billboard.
5. The Board found that Mr. Hutt stated that the billboard was constructed prior to the adoption of the Sussex County Zoning Ordinance on billboards in 1995.
6. The Board found that Mr. Hutt stated that the existing billboard is a wooden pole structure and that the proposed billboard will be a steel monopole structure.
7. The Board found that Mr. Hutt stated that the proposed billboard will be a two (2) sided billboard and measure 12 feet by 50 feet.

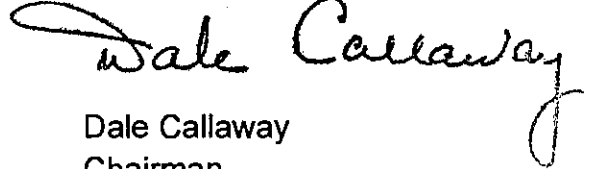
8. The Board found that Mr. Hutt stated that the proposed billboard is consistent with other billboards in the area.
9. The Board found that Mr. Hutt stated that the existing billboard is low and the proposed billboard will be raised to avoid interference with the sight lines of surrounding businesses in the area.
10. The Board found that Mr. Hutt stated that the development of signs around the site creates uniqueness.
11. The Board found that Mr. Hutt stated that the existing billboard was the first in the area along Route 1 to be built and many other signs have been built nearby.
12. The Board found that Mr. Hutt stated that the variances are needed to enable reasonable use of the Property.
13. The Board found that Mr. Hutt stated that the variances will not alter the essential character of the neighborhood as there are other billboards in the area.
14. The Board found that Mr. Hutt stated that the variances sought are the minimum variances to afford relief and that the proposed use will not substantially affect adversely the surrounding and adjacent properties.
15. The Board found that Mr. Hutt stated that there have been twenty (20) special use exceptions granted in the area for billboards.
16. The Board found that Mr. Hutt stated that the Applicant has rental agreements in place for the proposed billboard.
17. The Board found that Mr. Class, under oath, confirmed the statements by Mr. Hutt.
18. The Board found that no parties appeared in opposition to or in support of the Application.
19. The Board found that the Office of Planning & Zoning received nine (9) letters in opposition to the Application.
20. 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 special use exception and a variance. The proposed use does not substantially affect adversely the uses of the adjacent and neighboring properties. The Property is unique due to the history of the existing billboard. The variance will enable reasonable use of the Property. The difficulty was not created by the Applicant. The variances, if granted will not alter the essential character of the neighborhood. The variances sought are the minimum variances to afford relief.

The Board approved the special use exception application finding that it met the standards for granting a special use exception. 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 approved. 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 November 7, 2012