

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: J&Y PARKER FAMILY, L.P. (Case No. 11137)

A hearing was held after due notice on January 7, 2013. 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 for variances from the required square footage requirement, the maximum height requirement, and the required setback for a billboard from a dwelling.

Findings of Fact

The Board found that the Applicant was seeking a special use exception to place a billboard and for a variance of 600 square feet from the 300 square feet maximum allowable square footage for a billboard requirement, a variance of 15 feet from the 25 feet maximum height requirement for a billboard, and a variance of 72.6 feet from the requirement that all billboards be at least 300 feet from a dwelling. This application pertains to certain real property located northeast of Route 113 (DuPont Boulevard) west of Road 83 (Mitchell Road)(A thru lot); said property being identified as Sussex County Tax Map Parcel Number 2-33-5.00-98.00. After a hearing, the Board made the following findings of fact:

1. John Parker was sworn in to testify on behalf of the Application.
2. James Fuqua, Esquire, was present to present the Application on behalf of the Applicant.
3. The Board found that Mr. Fuqua stated that the Applicant has owned the Property for 25 years.
4. The Board found that Mr. Fuqua stated that the Property is triangular in shape and that there is road frontage on both sides of the Property.
5. The Board found that Mr. Fuqua stated that Route 113 borders the west side of the Property and County Road 83 borders the rear of the Property.
6. The Board found that Mr. Fuqua stated that the Property is zoned Commercial.
7. The Board found that Mr. Fuqua stated that there is an existing manufactured home sales lot and a seafood takeout business on the Property.
8. The Board found that Mr. Fuqua stated that the proposed billboard will meet the front yard and side yard setback requirements.
9. The Board found that Mr. Fuqua stated that the proposed billboard will be located north of the entrance to the manufactured home sales lot.
10. The Board found that Mr. Fuqua stated that there is an existing billboard on the Property.
11. The Board found that Mr. Fuqua stated that the billboard will be 227 feet from the neighboring dwelling.
12. The Board found that Mr. Fuqua stated that the neighboring dwelling is located on a commercial zoned property.
13. The Board found that Mr. Fuqua stated that the surrounding properties are zoned Commercial.
14. The Board found that Mr. Fuqua stated that the proposed billboard is a double billboard and is similar to other billboards in the area.
15. The Board found that Mr. Fuqua stated that the proposed height is to accommodate the proposed size of the billboard and to avoid unnecessary interference with the local businesses.
16. The Board found that Mr. Fuqua stated that the proposed billboard will not have an adverse effect the surrounding properties.

17. The Board found that Mr. Fuqua stated the stretch of Route 113 in the area is straight and the billboard should not have an adverse effect on visibility.
18. The Board found that Mr. Fuqua stated that the variances are necessary to enable reasonable use.
19. The Board found that Mr. Fuqua stated that the variances sought are the minimum variances necessary to afford relief.
20. The Board found that Mr. Fuqua submitted exhibits for the Board to review.
21. The Board found that Mr. Parker, under oath, confirmed the statements made by Mr. Fuqua.
22. The Board found that Mr. Parker testified that the proposed billboard will be a 12 feet by 50 feet double-sided billboard on a monopole structure.
23. The Board found that Mr. Parker testified that he has received three (3) inquiries into the proposed billboard.
24. The Board found that Mr. Parker testified that the existing billboard is 35-40 feet tall.
25. The Board found that Mr. Parker testified that the proposed billboard will be located north of the entrance of the manufactured sales lot to avoid issues with visibility on Route 113.
26. The Board found that Gil Fleming was sworn in and testified in opposition to the Application.
27. The Board found that Mr. Fleming testified that he is the General Manager of the existing manufactured home sales business on the Property.
28. The Board found that Mr. Fleming testified that he was not aware of the proposed billboard.
29. The Board found that Mr. Fleming testified that he has concerns what affect the proposed billboard will have to his existing business.
30. The Board found that no parties appeared in support of the Application.
31. The Board found that one (1) party appeared in opposition to the Application.
32. The Board tabled its decision on this Application until January 28, 2013.
33. At its meeting on January 28, 2013, the Board discussed the Application.
34. Based on the findings above and the testimony presented at the public hearing, the Board determined that the application met the standards for granting a special use exception because the uses do not substantially affect adversely the uses of adjacent or neighboring properties.
35. Based on the findings above and the testimony presented at the public hearing, the Board determined that the Application failed to meet the standards for granting a variance because the need for the variances has been created by the Applicant.

The Board granted the special use exception application finding that it met the standards for granting a special use exception.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was granted and the variance application was denied. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application and to deny the variance 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 February 19, 2013