

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: 26 CENTRE, LLC (Case No. 11155)

A hearing was held after due notice on February 4, 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 variances from the minimum side yard setback, the minimum square footage, maximum height requirement, and a variance from the setback requirement from a dwelling.

Findings of Fact

The Board found that the Applicant was seeking a special use exception for a billboard, a variance of 600 square feet from the 600 square-foot maximum square-foot requirement, a variance of 15 feet from the 25 feet height requirement, a variance of 10.6 feet from the 300 feet setback requirement from a dwelling, a variance of 39.2 feet from the 300 feet setback requirement from a dwelling, a variance of 223.2 feet from the 300 feet setback requirement from a dwelling, a variance of 100.3 feet from the 300 feet setback requirement from a dwelling, and a variance of 93.7 feet from the 300 feet setback requirement from a dwelling for a proposed billboard. This application pertains to certain real property located northeast corner of Route 113 (DuPont Boulevard) and Cricket Street; said property being identified as Sussex County Tax Map Parcel Number 2-33-5.00-166.01. After a hearing, the Board made the following findings of fact:

1. Andrew Timmons was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Timmons testified that the Property is zoned commercial (C-1) and that the surrounding properties are zoned C-1.
3. The Board found that Mr. Timmons testified that the Property is an ideal location for advertising and that the Property is located near a shopping center.
4. The Board found that Mr. Timmons testified that the non-conforming lot is 19,500 square-feet in size and is smaller than a traditional commercial lot.
5. The Board found that Mr. Timmons testified that there is no public water or sewer service available to the Property.
6. The Board found that Mr. Timmons testified that the highest and best use for the Property is commercial.
7. The Board found that Mr. Timmons testified that DelDOT will not approve and entrance for the lot from Route 113.
8. The Board found that Mr. Timmons testified that these factors have made the Property impossible to sell.
9. The Board found that Mr. Timmons testified that DelDOT has taken a portion of the Property creating an even more narrow lot.
10. The Board found that Mr. Timmons testified that the septic area is located within the building envelope where parking and building would be located.
11. The Board found that Mr. Timmons testified that there are four (4) dwellings affected by the proposed billboard.
12. The Board found that Mr. Timmons testified that three (3) of the dwellings near the Property are owned by the Applicant and that they have a letter of no objection from the owner of the other nearby dwelling.
13. The Board found that Mr. Timmons testified that the proposed billboard will be forty (40) feet tall.
14. The Board found that Mr. Timmons testified that the proposed billboard will be a double-sided, steel monopole structure.

15. The Board found that Mr. Timmons testified that there are 25 billboards between Dagsboro and Georgetown.
16. The Board found that Mr. Timmons testified that 16 billboards are owned by Clear Channel and that 14 of those billboards are double-sided steel monopole structures.
17. The Board found that Mr. Timmons testified that the variances are needed to enable reasonable use of the Property.
18. The Board found that Mr. Timmons testified that the proposed billboard will not interfere with traffic visibility.
19. The Board found that Mr. Timmons testified that the proposed billboard is not within 300 feet of another billboard.
20. The Board found that Mr. Timmons testified that the difficulty was not created by the Applicant and that the variances are the minimum to afford relief.
21. The Board found that Mr. Timmons testified that the lot cannot be otherwise developed.
22. The Board found that Mr. Timmons testified that the height variance is needed to prevent obstruction of a neighboring properties sign.
23. The Board found that Mr. Timmons testified that the variances will not alter the essential character of the neighborhood and that the proposed billboard will meet the required setback requirements.
24. The Board found that Mr. Timmons testified that he has a waiting list of potential advertisers for the proposed billboard.
25. The Board found that Mr. Timmons testified that a larger billboard is necessary in order to be competitive with other billboards in the area.
26. The Board found that Mr. Timmons testified that there are other double-sided billboards in the area so the character of the neighborhood will not be altered.
27. The Board found that Mr. Timmons testified that the billboard will not adversely affect neighboring properties
28. The Board found that Mr. Timmons submitted a packet of information to the Board for review.
29. The Board found that no parties appeared in support of or in opposition to the Application.
30. The Board tabled its decision on this Application until February 18, 2013.
31. At its meeting on February 18, 2013, the Board discussed the Application.
32. 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 special use exception because the uses will substantially affect adversely the uses of adjacent or neighboring properties.
33. 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.

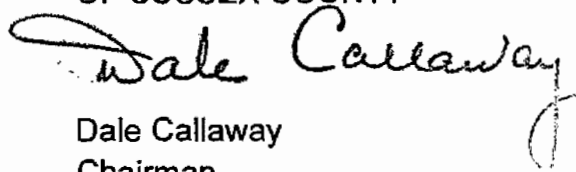
The Board denied the special use exception application and the variance application finding that the application failed to meet the standards for granting a special use exception and a variance.

Decision of the Board

Upon motion duly made and seconded, the special use exception application and the variance application were denied. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman. Mr. John

Mills voted against the Motion to deny the special use exception application and the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

Date March 19, 2013