

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

**IN RE: DALE MCCALISTER, FIRST STATE SIGNS**

**(Case No. 11171)**

A hearing was held after due notice on March 18, 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 replace an existing billboard, a variance from the square footage for a billboard requirement, the maximum height requirement, side yard setback requirement, and a variance from the separation requirement from a billboard and from a dwelling.

**Findings of Fact**

The Board found that the Applicant was seeking a special use exception to replace an existing billboard, a variance of 15 feet from the 25 feet maximum height requirement for a billboard, a variance of 46 feet from the 50 feet side yard setback requirement for billboard, a variance of 13 feet from the 300 feet separation requirement from another billboard, a variance of 58 feet from the 300 feet separation requirement from a dwelling, a variance of 65 feet from the 300 feet separation requirement from a dwelling, and a variance of 216 square feet from the requirement of the maximum square footage of a billboard. This application pertains to certain real property located southwest of Route 1 (Coastal Highway) approximately 1,980 feet northwest of Route 9 (Lewes Georgetown Highway); said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-96.00. After a hearing, the Board made the following findings of fact:

1. Dale McCalister was sworn in to testify on behalf of the Application.
2. Timothy Willard, Esquire, presented the case on behalf of the Applicant.
3. The Board found that Mr. Willard stated that the existing 912 square-foot billboard on the Property is non-conforming and that the proposed billboard will be 816 square-feet in size and is smaller than the existing billboard.
4. The Board found that Mr. McCalister testified that the existing billboard consists of two (2) 12 feet by 24 feet billboards on one side and one (1) 24 feet by 14 feet sign on the other side.
5. The Board found that Mr. McCalister testified that the billboard has been on the Property for over twenty (20) years.
6. The Board found that Mr. McCalister testified that the existing billboard was constructed prior to the adjoining development and trees.
7. The Board found that Mr. McCalister testified that the adjacent developer planted the trees blocking the billboard and that the height variance will allow better visibility to the billboard that the trees currently block.
8. The Board found that Mr. McCalister testified that the height variance will also allow better visibility to an existing doctor's office on the Property.
9. The Board found that Mr. McCalister testified that the proposed billboard will be smaller than the original billboard.
10. The Board found that Mr. McCalister testified that the existing billboard is 28 feet tall.
11. The Board found that Mr. McCalister testified that the height variance is necessary to enable reasonable use because the billboard is difficult to sell to advertisers due to the existing trees.

12. The Board found that Mr. McCalister testified that the creation of the neighboring development since the billboard's existence creates a unique situation.
13. The Board found that Mr. McCalister testified that the variances are necessary to enable reasonable use of the Property.
14. The Board found that Mr. McCalister testified that the difficulty was not created by the Applicant.
15. The Board found that Mr. McCalister testified that the proposed billboard will improve the neighborhood.
16. The Board found that Mr. McCalister testified that the variances will not alter the essential character of the neighborhood.
17. The Board found that Mr. McCalister testified that the proposed billboard will be a steel monopole structure and that this type of structure can better withstand wind and is a safer structure than the existing billboard.
18. The Board found that Mr. McCalister testified that the variances requested will not impair the development of adjacent properties.
19. The Board found that Mr. McCalister testified that the variances requested are the minimum variances to afford relief.
20. The Board found that Mr. McCalister testified that the proposed billboard will not have a substantial adverse effect to the neighboring and adjacent properties.
21. The Board found that Mr. McCalister testified that there are other billboards in the area.
22. The Board found that Mr. McCalister testified that square footage of the billboard needs to be larger than what is allowed under the Code because the sign will be raised.
23. The Board found that Mr. McCalister submitted pictures and a letter of support to the Board for review.
24. The Board found that no parties appeared in support of or in opposition to the Application.
25. The Board tabled its decision on this Application until April 1, 2013.
26. At its meeting on April 1, 2013, the Board discussed the Application.
27. Based on the findings above and the testimony presented at the public hearing, the Board determined that the application for the special use exception met the standards for granting a special use exception because the use will not substantially affect adversely the uses of adjacent or neighboring properties.
28. Based on the findings above and the testimony presented at the public hearing, the Board determined that the Application for the variance of 46 feet from the 50 feet side yard setback requirement for a billboard, the variance of 13 feet from the 300 feet separation requirement from another billboard, the variance of 58 feet from the 300 feet separation requirement from a dwelling for a billboard, and the variance of 65 feet from the 300 feet separation requirement from a dwelling for a billboard be approved for the following reasons. The billboard cannot be built in strict conformity with the Sussex County Zoning Code without the requested setback variances. The difficulty was not created by the Applicant. The variances granted are necessary to enable reasonable use of the Property. The variances will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary to afford relief.
29. Based on the findings above and the testimony presented at the public hearing, the Board determined that the Application for the requested 216 square-foot variance from the 600 square-foot requirement for a billboard and the 15 feet variance from the required 25 feet maximum height requirement for a billboard be denied for the following reasons. The difficulty is being created by the Applicant. The variances are not necessary to enable reasonable use of the Property.

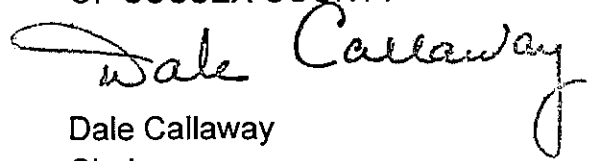
The Board approved the special use exception application finding that it met the standards for granting a special use exception and the Board approved in part and

denied in part the variance application finding that some of the requested variances met the standards for granting a variance and other requests did not meet the standards.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved and the variance application was approved in part and denied in part. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion to approve the special use exception application and to approve in part and deny in part 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 May 7, 2013