

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

**IN RE: NASSAU INVESTMENTS, LLC**

**(Case No. 11179)**

A hearing was held after due notice on April 1, 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 non-conforming billboard, a variance from the side yard setback requirement for a billboard, a variance from the distance requirement from another billboard, and a variance from the distance requirement from a dwelling to a billboard.

**Findings of Fact**

The Board found that the Applicant was seeking a special use exception to replace an existing non-conforming billboard, a variance of 29.7 feet from the 50 feet side yard setback requirement for a billboard, a variance of 279.3 feet from the 300 feet setback requirement from another billboard, a variance of 61.2 feet from the 300 feet setback requirement from a dwelling for a billboard, and a variance of 43.3 feet from the 300 feet setback requirement from a dwelling for a billboard. This application pertains to certain real property located south of Route 1 (Coastal Highway) approximately 2,125 feet northwest of Route 9 (Lewes Georgetown Highway); said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-95.00. After a hearing, the Board made the following findings of fact:

1. Bruce Geyer and Dale McCalister were sworn in to testify on behalf of the Application.
2. David Hutt, Esquire, presented the case on behalf of the Applicant.
3. The Board found that Mr. Hutt stated that Bruce Geyer is the managing member of Nassau Investments, LLC, and that Dale McCallister is a representative of First State Signs.
4. The Board found that Mr. Hutt stated that the Property is located near Nassau Bridge and is zoned commercial.
5. The Board found that Mr. Hutt stated that the existing billboard has been on the lot for at least twenty five (25) years and is a pre-existing, non-conforming structure.
6. The Board found that Mr. Hutt stated that the existing structure is in need of repair and that the Applicant wants to replace the wooden structure with a steel mono-pole structure.
7. The Board found that Mr. Hutt stated that the proposed billboard will be safer and stronger, and provides a better site line.
8. The Board found that Mr. Hutt stated that the monopole structure is better equipped to handle high winds.
9. The Board found that Mr. Hutt stated that the billboard will meet the required square-footage and height requirements for a billboard.
10. The Board found that Mr. Hutt stated that the existing billboard is only twenty (20) feet tall and that the proposed billboard will be twenty five (25) feet tall.
11. The Board found that Mr. Hutt stated that the neighboring property has two (2) billboards and there are numerous billboards in the area so the use is consistent with the neighborhood.
12. The Board found that Mr. Hutt stated that neighboring communities were built after the billboard was put in place.


13. The Board found that Mr. Hutt stated that units in neighboring Carabino Place were built in 2000 and are within 300 feet of the billboard.
14. The Board found that Mr. Hutt stated that the proposed billboard will be in the exact location as the existing billboard.
15. The Board found that Mr. Hutt stated that the non-conforming billboard and neighboring non-conforming billboards create a uniqueness.
16. The Board found that Mr. Hutt stated that the variances will enable reasonable use of the Property as they will allow for a safer and improved billboard on the Property.
17. The Board found that Mr. Hutt stated that the difficulty was not created by the Applicant because the billboard is a pre-existing billboard and the neighboring townhouses came after the placement of the billboard.
18. The Board found that Mr. Hutt stated that the variances will not alter the essential character of the neighborhood.
19. The Board found that Mr. Hutt stated that the billboard has not stopped development of adjacent lands.
20. The Board found that Mr. Hutt stated that the variances sought are the minimum variances necessary to afford relief.
21. The Board found that Mr. Hutt stated that the billboard has current leases for at least one (1) year and there will not be a vacancy issue.
22. The Board found that Mr. Hutt submitted exhibits for the Board to review.
23. The Board found that Mr. Geyer and Mr. McCalister, under oath, confirmed the statements made by Mr. Hutt.
24. The Board found that no parties appeared in support of or in opposition to the Application.
25. 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 use will not substantially affect adversely the uses of adjacent or neighboring properties. The Board also determined that the Application met the standards for granting a variance for the following reasons. The Property is unique due to the existence of the non-conforming billboards thereon for over twenty five (25) years. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant because the billboard pre-dates the code provisions pertaining to billboards and neighboring dwellings were placed after the billboard was constructed. The variances will not alter the essential character of the neighborhood. The billboard has not had a negative impact on the neighborhood. The variances sought are the minimum variances necessary to afford relief as the billboard is a standard sized billboard.

The Board granted the special use exception and variance application because the Applicant has met the standards for granting approval.

Decision of the Board

Upon motion duly made and seconded, the special use exception application and the variance application were approved. 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 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