

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DANNY L. WILLEY

(Case No. 11200)

A hearing was held after due notice on May 6, 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 tent as a temporary facility for seasonal use over a five (5) year period.

Findings of Fact

The Board found that the Applicant was seeking a special use exception for a special use exception to place a tent as a temporary facility for seasonal use over a five (5) year period. This application pertains to certain real property located north of Route 24 (John J Williams Highway) 735 feet northeast of Road 297 (Mount Joy Road) & Oak Orchard Road Intersection; said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-263.07. After a hearing, the Board made the following findings of fact:

1. Danny Willey was sworn in to testify about the Application.
2. The Board found that Mr. Willey testified that the tent will be used for flower sales under the "Flower Tent" franchise.
3. The Board found that Mr. Willey testified that the tent measures thirty (30) feet by sixty (60) feet.
4. The Board found that Mr. Willey testified that the company is a franchise with over ninety eight (98) tent locations and that he currently has a location within the City of Seaford.
5. The Board found that Mr. Willey testified that this request is for a second location.
6. The Board found that Mr. Willey testified that the hours of operation are from 10:00 a.m. to dusk, seven (7) days a week beginning in April and ending in September.
7. The Board found that Mr. Willey testified that the tent is removed from the site when the season is over.
8. The Board found that Mr. Willey testified that there is no electric in the tent and that there are no lights associated with the tent.
9. The Board found that Mr. Willey testified that the tent meets specific requirements of the franchise and is consistent with other similar tents under the franchise.
10. The Board found that Mr. Willey testified that there will be no effect on neighboring properties.
11. The Board found that Mr. Willey testified that a pet business and a utility business are located nearby.
12. The Board found that Mr. Willey testified that the tent will be located approximately sixty (60) feet from the road.
13. The Board found that Mr. Willey testified that the Applicant will not sell Christmas trees in the winter on the Property.
14. The Board found that Mr. Willey testified that the tent will meet the required setback requirements.
15. The Board found that Mr. Willey testified that there will be adequate parking available.

16. The Board found that Mr. Willey testified that there is only one sign on the tent as permitted by the franchise and that there will be no roadside signage.
17. The Board found that Father Bob Burke, Peg Arnold, and Natalie Blakely were sworn in and testified in opposition to the Application.
18. The Board found that Father Burke testified that he is the clergyman of a church located next to the Property and that he is concerned that there is not enough parking on the Property once the tent is installed.
19. The Board found that Father Burke testified that he is concerned that customers will park on Route 24 and that people will make dangerous U-turns in traveling to and from the Property.
20. The Board found that Father Burke testified that five (5) years is too long for the special use exception.
21. The Board found that Father Burke testified that he was not aware the Property was zoned Commercial.
22. The Board found that Father Burke testified that there is a structure on the Property which is used by CHIMES but has had different uses over the years.
23. The Board found that Father Burke testified that the previous business was usually a weekday business not open on weekends.
24. The Board found that Father Burke testified that the church has been a neighbor for twenty five (25) years.
25. The Board found that Ms. Arnold testified that her three concerns are 1) congestion, 2) safety, and 3) parking.
26. The Board found that Mr. Willey testified that the existing structure will not be removed.
27. The Board found that Mr. Willey testified that the franchise requires six (6) parking spaces for customers and that there are approximately sixteen (16) parking spaces available.
28. The Board found that Mr. Willey testified that there will be one (1) to two (2) employees on the site and that there will be a portable toilet on site.
29. The Board found that no parties appeared in support of the Application.
30. The Board found that three (3) parties appeared in opposition to the Application.
31. 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 does not substantially affect adversely the uses of adjacent or neighboring properties and the Board granted the special use exception for a period of five (5) years.

The Board granted the special use exception application for a period of five (5) years finding that it met the standard for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved for a period of five (5) years. 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.

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 June 18, 2013