

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CAPE INVESTMENT, LLC

(Case No. 11255)

A hearing was held after due notice on August 19, 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 variance from the rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of twenty five (25) feet from the thirty (30) feet rear yard setback requirement for a lot in a C-1 General Commercial District adjacent to an AR-1 Agricultural Residential zoned property. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property northeast of Delaware Route One 700 feet northwest of Old Mill Road (Road 265A); said property being identified as Sussex County Tax Map Parcel Number 3-34-1.00-12.00. After a hearing, the Board made the following findings of fact:

1. Ken Christenbury was sworn in to testify on behalf of the Application.
2. Eugene Bayard, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Bayard stated that the Property is zoned C-1 General Commercial District.
4. The Board found that Mr. Bayard stated that the Property is the site of the Meineke store.
5. The Board found that Mr. Bayard stated that the business is growing and the Meineke headquarters have requested that two (2) more service bays be constructed.
6. The Board found that Mr. Bayard stated the Applicant plans to relocate the existing storage building to the rear of the Property and needs a variance from the rear yard setback in order to do so.
7. The Board found that Mr. Christenbury testified that the proposed location is the only available space for the building due to location of other buildings and the Storm Water Management area on the Property and that there is no other place on the Property to place the storage facility.
8. The Board found that Mr. Bayard stated that a neighboring property owner supports the Application.
9. The Board found that Mr. Bayard stated the Applicant plans to install a fence between the property lines where the variance is needed.
10. The Board found that Mr. Bayard stated the uniqueness to the Property is that there is no other location for the building.
11. The Board found that Mr. Bayard stated the success of the business has created a practical difficulty.
12. The Board found that Mr. Bayard stated the difficulty was not created by the Applicant.
13. The Board found that Mr. Bayard stated that the stormwater regulations have limited the space for the relocation of the storage facility.
14. The Board found that Mr. Bayard stated the variance will not alter the essential character of the neighborhood.
15. The Board found that Mr. Bayard stated the variance sought is the minimum variance necessary to afford relief.

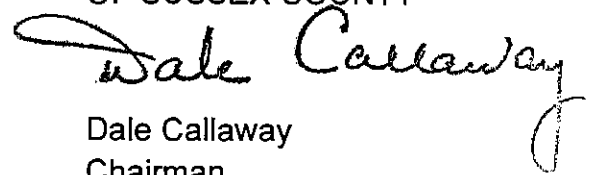
16. The Board found that Mr. Bayard stated the building will be approximately 2,000 square feet.
17. The Board found that Mr. Bayard stated the neighbors are in support of the Application and that there are other commercial businesses in the area.
18. The Board found that Mr. Bayard stated the use is consistent with other uses in the neighborhood.
19. The Board found that Mr. Bayard stated that parts, vehicles, and automotive materials will be stored in the facility
20. The Board found that Mr. Christenbury confirmed the statements made by Mr. Bayard.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. The Board found that the Office of Planning & Zoning received one (1) letter in support of the Application.
23. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The physical conditions of the Property create a unique situation. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief. The requested variance represents the least modification possible of the regulation at issue.

The Board approved the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the Application was approved. The Board Members voting to approve the Application 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 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 October 8, 2013