

# BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

## IN RE: THOMAS E. REAM

(Case No. 11330)

A hearing was held after due notice on February 3, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Brent Workman and Mr. Norman Rickard.

### Nature of the Proceedings

This is an application for a special use exception to place an off-premise sign.

### Findings of Fact

The Board found that the Applicant was seeking a special use exception to place an off-premise sign. This application pertains to certain real property south of Route 9 (Lewes Georgetown Highway) 1,700 feet east of Road 262 (Fisher Road) and north of Penn Central Railroad said property being identified as Sussex County Tax Map Parcel Number 2-35-31.00-11.04. After a hearing, the Board made the following findings of fact:

1. Thomas Ream and Joseph Crispen sworn in to testify on behalf of the Application and testified about the Application.
2. The Board found that Mr. Ream testified that the proposed two-sided billboard will measure ten (10) feet by twenty-five (25) feet and will be on a steel monopole structure.
3. The Board found that Mr. Ream testified that he plans to put the billboard in the grass area near the entrance.
4. The Board found that Mr. Ream testified that the proposed billboard will also help light up the dark entrance to the Property.
5. The Board found that Mr. Ream testified that the Property is zoned commercial and has a liquor store, sandwich shop and a doctor's office located thereon.
6. The Board found that Mr. Ream testified that there are three (3) other billboards in the area.
7. The Board found that Dr. Uday Jani, Dr. Edward S. Abou-Jaoude, and Randy Reed were sworn in and testified in opposition to the Application.
8. The Board found that Dr. Jani testified that his office is located on the Property.
9. The Board found that Dr. Jani testified that the proposed location of the billboard is in the middle of the entrance to the Property.
10. The Board found that Dr. Jani testified that there are nine (9) businesses to one side of the entrance and three (3) businesses to the other side of the entrance and that all businesses are accessed through the one (1) entrance.
11. The Board found that Dr. Jani testified that there are numerous cars entering and exiting the Property throughout the day due to the businesses.
12. The Board found that Dr. Jani testified that there have been three (3) major accidents in front of the Property, including two (2) which resulted in fatalities.
13. The Board found that Dr. Jani testified that there are five (5) signs on the Property which already make visibility difficult.
14. The Board found that Dr. Jani testified that the billboard will be an additional distraction and safety issue to the already busy area.
15. The Board found that Dr. Jani testified that there is a nearby railroad track where school buses and DART buses must stop.
16. The Board found that Dr. Jani testified that the Property is located on Route 9 which is a busy road.
17. The Board found that Dr. Jani testified that there is plenty of lighting in the area.
18. The Board found that Dr. Jani testified that the Property is zoned commercially.
19. The Board found that Dr. Jani testified that the billboard is a big distraction and further creates problems for his patients who pull out onto the busy road.
20. The Board found that Dr. Jani testified that the entrance is very small.

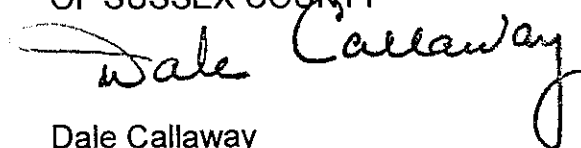
21. The Board found that Dr. Jani submitted pictures of the Property for the Board to review.
22. The Board found that Dr. Abou-Jaoude testified that there are three (3) large billboards in the area.
23. The Board found that Dr. Abou-Jaoude testified that the nearby railroad has buses and trucks stopping traffic flow.
24. The Board found that Dr. Abou-Jaoude testified that the entrance is very small even though there are numerous businesses on the Property.
25. The Board found that Dr. Abou-Jaoude testified that there is no deceleration lane available for motorists entering the Property and that the speed limit on Route 9 is 50 miles per hour so cars drive fast by the Property.
26. The Board found that Dr. Abou-Jaoude testified that there are numerous signs along the Property and that there are numerous distractions along the Property which already create a safety concern.
27. The Board found that Dr. Abou-Jaoude testified that additional lighting is not needed.
28. The Board found that Mr. Reed testified that he owns the Oak Creek Wine & Spirits on the Property.
29. The Board found that Mr. Reed testified that he is also concerned for the safety of customers entering and exiting the Property because the proposed location of the billboard poses visibility concerns.
30. The Board found that no parties appeared in support of the Application.
31. The Board found that three (3) parties appeared in opposition to the Application.
32. The Board tabled its decision on the matter until February 17, 2014.
33. Based on the findings above and the testimony and evidence presented at the public hearing, the Board determined that the Application failed to meet the standards for granting a special use exception because the use will substantially affect adversely the uses of adjacent or neighboring properties. The Applicant proposes to place the billboard near a narrow entrance to a busy commercial property which houses many businesses. Unrebutted testimony from the opposition business owners clearly demonstrates that customers, patients, and others visiting their businesses have experienced great difficulty entering and leaving the Property. The Applicant admitted that there are three (3) other billboards in the area and the opposition expressed concerns about adding another sign to an already busy intersection. After weighing the evidence, the Board found that the opposition's concerns about the effect of the billboard on visibility for those entering or leaving the Property are justified. It is clear that the proposed billboard will have a substantial and adverse effect on neighboring and adjacent properties.

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

#### Decision of the Board

Upon motion duly made and seconded, the special use exception application was denied. The Board Members in favor of the Motion to Deny the Application 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 Deny the special use exception application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



Dale Callaway  
Chairman

Date March 25, 2014