

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

**IN RE: THE VILLAGE AT HIGHWAY ONE, LLC**

**(Case No. 11382)**

A hearing was held after due notice on April 21, 2014. 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 and off-premise sign and a variance for the height requirement for an off-premise sign.

Findings of Fact

The Board found that the Applicant was seeking a special use exception to place and off-premise sign and a variance of ten (10) feet from the twenty-five (25) maximum height requirement for an off-premise sign. This application pertains to certain real property located east of Road 275A (Airport Road) at the intersection southwest of Route 1 (Coastal Highway); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-325.02. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters regarding to the Application.
2. Doug Motley was sworn in to testify about the Application and David Hutt, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Hutt submitted exhibits to the Board to review.
4. The Board found that Mr. Hutt stated that there are two (2) commercial buildings on the Property.
5. The Board found that Mr. Hutt stated that the Applicant purchased the Property in 2004 and that the buildings have been on the Property since 1954.
6. The Board found that Mr. Hutt stated that the Property is unique due to its odd shape.
7. The Board found that Mr. Hutt stated that under the current Zoning Ordinance the lot would be unbuildable due to a sixty (60) feet setback.
8. The Board found that Mr. Hutt stated that the area is predominately commercial.
9. The Board found that Mr. Hutt stated that the proposed billboard will meet all the required setback requirements and will not exceed the permitted square-footage for a billboard.
10. The Board found that Mr. Hutt stated that the use will not substantially adversely affect the uses of surrounding and neighboring properties.
11. The Board found that Mr. Hutt stated that there are other billboards in the area.
12. The Board found that Mr. Hutt stated that the closest off-premise sign is 763 feet away.
13. The Board found that Mr. Hutt stated that the proposed billboard will be placed further back on the Property to lessen the impact of the billboard and so as not to affect the nearby highway visually.
14. The Board found that Mr. Hutt stated that the proposed sign is consistent with the uses of the area.
15. The Board found that Mr. Hutt stated that the height variance is needed to allow the billboard to be seen over the existing buildings on the Property.
16. The Board found that Mr. Hutt stated that there are marquee signs on neighboring properties.

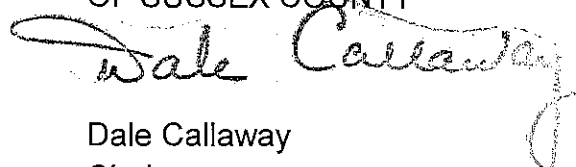
17. The Board found that Mr. Hutt stated that the proposed billboard will not alter the character of the neighborhood.
18. The Board found that Mr. Hutt stated that the use will not be detrimental to the public welfare.
19. The board found that Mr. Motley, under oath, confirmed the statements made by Mr. Hutt.
20. The Board found that Mr. Motley testified that all of the billboards owned by the Applicant are occupied and that the affiliate businesses of the Applicant will likely use the billboard.
21. The Board found that Sanford Lee Hazard was sworn in and testified in opposition to the Application.
22. The Board found that Mr. Hazard testified that he owns a business on the adjacent parcel to the rear of the Property.
23. The Board found that Mr. Hazard testified that he feels the Applicant's property is at full capacity and does not have adequate parking.
24. The Board found that Mr. Hazard testified that the proposed billboard will overshadow his business.
25. The Board found that Mr. Hazard testified that his sign meets the required twenty-five (25) height requirement.
26. The Board found that Mr. Hazard testified that the Applicant's proposed sign will be detrimental to neighboring properties.
27. The Board found that Mr. Hazard testified that the sign is not needed.
28. The Board found that no persons appeared in support of the Application.
29. The Board found that one (1) party appeared in opposition to the Application.
30. The Board tabled its decision on the Application until May 5, 2014.
31. On May 5, 2014, the Board discussed the Application.
32. Based on the findings above and the testimony and exhibits presented at the public hearing and the public record, the Board determined that the application met the standards for granting a special use exception but did not meet the standards for granting a variance. The proposed billboard at the height of twenty-five (25) feet does not substantially affect adversely the uses of adjacent or neighboring properties. The Property is located along Route 1 which is a predominantly commercial area. There are numerous signs in the area and the Property has businesses located thereon. The request to raise the height of the proposed billboard to thirty-five (35) feet, however, does not meet the standard for granting a variance. The Property is already heavily developed with two (2) commercial buildings and a marquee sign and the Applicant has demonstrated that the variance is needed so that the billboard can be seen over its existing buildings. By increasing the height of the proposed billboard, the Applicant is creating its own hardship. The billboard can be placed on the Property in strict conformity with the Sussex County Zoning Code and the variance is not needed.

The Board granted the special use exception request finding that it met the standard for granting a special use exception but denied the variance request finding that it did not meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved and the variance request was denied. The Board Members in favor of the Motion were Mr. Dale Callaway, Mr. John Mills, and Mr. Norman Rickard. Mr. Jeff Hudson and Mr. Brent Workman voted against the Motion to approve the special use exception application and to deny the variance request.

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 3, 2014.