

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BAK, LLC

(Case No. 11457)

A hearing was held after due notice on September 22, 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 an off-premise sign and for variances from the maximum square footage requirement, the height requirement and the side yard setback requirement.

### Findings of Fact

The Board found that the Applicant was seeking a special use exception to place an off-premise sign, a variance of 600-square-feet from the maximum allowable 600-square-feet requirement, a variance of 15 feet from the 25 feet maximum height requirement, and a variance of 26.64 feet from the fifty (50) feet side yard setback requirement for an off-premise sign. This application pertains to certain real property located northwest corner of Country Club Road (Road 273) and Coastal Highway (Route One) and being Lot 3 within Rehoboth Gateway Commercial Subdivision; said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-325.48. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.
2. Zak Crouch and Doug Motley were sworn in to testify about the Application.
3. The Board found that Mr. Crouch submitted exhibits for the Board to review.
4. The Board found that Mr. Crouch testified that the Applicant is seeking approval to relocate an existing billboard located on the Property and that the billboard needs to be moved pursuant to a site plan approved by the Sussex County Planning & Zoning Commission and related agencies.
5. The Board found that Mr. Crouch testified that the Delaware Department of Transportation ("DelDOT") requires the entrance to the proposed development be in a location that requires the existing billboard be moved.
6. The Board found that Mr. Crouch testified that the billboard will be relocated to a proposed concrete island approximately twenty (20) feet south and seventy-five (75) feet west from its existing location.
7. The Board found that Mr. Crouch testified that the billboard will be located 23.36 feet from the side property line but the variance from the side yard setback will be eliminated in the near future because the property line will be removed as part of the site plan process and the lots will be combined.
8. The Board found that Mr. Crouch testified that the site is pending final site plan approval for a shopping center.
9. The Board found that Mr. Crouch testified that the hardship was not created by the Applicant and that entrance requirements set forth by DelDOT created the hardship.
10. The Board found that Mr. Crouch testified that the size and height of the billboard will remain the same.
11. The Board found that Mr. Crouch testified that the billboard will be located further off of Route 1.

12. The Board found that Mr. Crouch testified that the billboard is a monopole structure.
13. The Board found that Mr. Crouch testified that there are other similarly sized billboards in the area and that the surrounding properties are zoned commercial.
14. The Board found that Mr. Motley testified that the size of the billboard is necessary to improve visibility of the billboard.
15. The Board found that Mr. Motley testified that it is more cost effective to relocate the existing billboard that was previously approved by this Board than to make changes to the size of the billboard.
16. The Board found that Mr. Motley testified that the Property is currently a grass field.
17. The Board found that Mr. Crouch testified that the use will not substantially adversely affect the uses of adjacent and neighboring properties.
18. The Board found that no parties appeared in support of or in opposition to the Application.
19. 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 because the use does not substantially affect adversely the uses of adjacent or neighboring properties. The area surrounding the Property is commercial in nature and other billboards are located nearby. Neighbors have indicated support of the Application and there was no evidence presented that would indicate that the billboard would substantially affect adversely the uses of adjacent or neighboring properties. Furthermore, the existing billboard has been located on the Property for several years and is being moved to a new location farther away from the existing intersection and Route 1.
20. 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 variance. The DeDOT requirements and proposed construction create a unique situation. The billboard is already located on the Property and the Applicant is moving the billboard to comply with the DeDOT requirements and other aspects of the site plan process of its development of the Property. The variances are necessary to enable reasonable use of the Property. The variances will allow the existing billboard to be moved on the Property. The height and size of the billboard also allow for improved visibility of the billboard advertisements. The difficulty was not created by the Applicant. The variances will not alter the essential character of the neighborhood. There are other similarly sized billboards in the area and the neighborhood is commercial in nature. The variances sought are the minimum variances necessary to afford relief and the variances represent the least modifications of the regulations at issue.

The Board granted the special use exception and the variance application finding that it met the standards for granting a special use exception and a variance.

Decision of the Board

Upon motion duly made and seconded, the special use exception and variance application was approved. 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 and 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 November 18, 2014.