

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

**IN RE: PRESTON AUTOMOTIVE GROUP**

**(Case No. 11517)**

A hearing was held after due notice on January 26, 2015. 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 landscaping buffer requirement within the highway corridor overlay zone.

**Findings of Fact**

The Board found that the Applicant was seeking a variance from the landscaping buffer requirement within the highway corridor overlay zone. This application pertains to certain real property located northeast of Coastal Highway (Route One) approximately 250 feet northwest of Melson Road at Midway Shopping Center (911 Address: 18489 Coastal Highway, Rehoboth Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-86.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a preliminary site plan of the Property dated December 2014, a statement from the Applicant regarding the standards for granting a variance, a letter of no contention from the Delaware Department of Transportation ("DelDOT"), a deed to the Property, a legal description of the Property, and portions of the Sussex County Zoning Code.
2. Zachary Crouch and David Wilson were sworn in to testify about the Application.
3. The Board found that Mr. Crouch testified that the Applicant has purchased the Boulevard Ford business and a vacant lot next to Wells Fargo along Route One.
4. The Board found that Mr. Crouch testified that the Highway Corridor Overlay Zone requires that a property owner provide a twenty (20) feet landscaping buffer.
5. The Board found that Mr. Crouch testified that the Applicant will not have traffic to this site.
6. The Board found that Mr. Crouch testified that the Applicant has received a letter of no objection from the Delaware Department of Transportation ("DelDOT").
7. The Board found that Mr. Crouch testified that will not be direct access to Route One from this lot and that all traffic will use the existing rear yard access.
8. The Board found that Mr. Crouch testified that the Applicant will be using the Property for inventory display.
9. The Board found that Mr. Crouch testified that the landscape buffer would defeat the purpose of using the Property for inventory as the buffer would block the view of inventory from the highway.
10. The Board found that Mr. Crouch testified that the variance is necessary to enable reasonable use of the Property.
11. The Board found that Mr. Crouch testified that the neighboring properties have little to no landscaping in the buffer requirement area.
12. The Board found that Mr. Crouch testified that only staff will drive automobiles to and from the inventory lot.
13. The Board found that Mr. Crouch testified that there will be no structures on this property but there will be a Storm Water Management Pond on the Property.
14. The Board found that Mr. Crouch testified that the Applicant will maintain the twenty-five (25) feet setback requirement.

15. The Board found that Mr. Crouch testified that there will be no vehicles parked in the buffer zone.
16. The Board found that Mr. Crouch testified that the landscape buffer would create a hardship to the dealership because the cars cannot be seen otherwise.
17. The Board found that Mr. Crouch testified that a landscape buffer is out of character for the neighborhood.
18. The Board found that Mr. Crouch testified that there are only a few bushes in front of the neighboring businesses.
19. The Board found that Mr. Crouch testified that the variance will not alter the character of the neighborhood.
20. The Board found that Mr. Crouch testified that the variance is the minimum variance necessary to afford relief.
21. The Board found that Mr. Wilson testified that the Applicant learned that it needs additional space for display of inventory.
22. The Board found that Mr. Wilson testified that there will be no direct access to the Property off of Route One.
23. The Board found that Mr. Wilson testified that there will be no parking in the buffer zone.
24. The Board found that Mr. Wilson testified that there are two businesses located between the Property and the dealership.
25. The Board found that no parties appeared in support of or in opposition to the Application.
26. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and unrebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
  - a. The Property is unique due to its limited access to Route One which limits the Applicant's ability to use the Property. The Applicant operates a car dealership and needs additional space to display its inventory. The Property is near the Applicant's business and would be an ideal location for the inventory display. The landscape buffering requirement, however, would defeat the purpose of using the Property for a display because the inventory would be difficult to see from the adjacent highway.
  - b. Due to its unique conditions, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant intends to use the Property for an inventory display, which is a reasonable use given the Applicant's business and the access restrictions imposed by DelDOT. The landscape buffering requirement, however, would make the display difficult to see. The ability of the consumers to see the display as they drive by the Property is vital to the Applicant's business. Accordingly, the variance is necessary to enable reasonable use of the Property.
  - c. The exceptional practical difficulty was not created by the Applicant. The Property has access restrictions due to DelDOT requirements and the Applicant intends to use the Property for an inventory display that would not require direct access to the highway. The landscape buffer requirement would defeat the purpose of the inventory display because it would be difficult for passersby to see the inventory. The Board is convinced that the Applicant did not create the exceptional practical difficulty.
  - d. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Property is located along Route One in a heavily commercialized area. The

inventory display will not have direct access to Route One and will use other roads for access. Neighboring commercial properties have little to no landscaping in their front yards so this variance is consistent with the neighborhood. No evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.

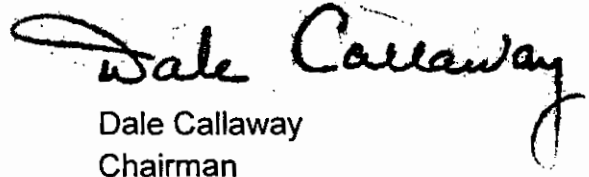
- e. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance requested will allow the inventory display to be seen from Route One.

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

Decision of the Board

Upon motion duly made and seconded, the 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 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 March 3, 2015.