

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CEDAR CREEK LANDING CAMPGROUND

(Case No. 11556)

A hearing was held after due notice on April 20, 2015. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Norman Rickard and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to replace an existing non-conforming off-premise sign by applying for a determination of existence for a non-conforming sign.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to replace a non-conforming off-premise sign by applying for a determination of existence for a non-conforming sign. This application pertains to certain real property located at the intersection of Route One (Coastal Highway) and southwest of Route 14 (Argo's Corner Road) (911 Address: 23228 Argo's Corner Road, Milton, DE); said property being identified as Sussex County Tax Map Parcel Number 2-30-8.00-19.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, portions of the Sussex County Code, and minutes of the Board meeting from October 2, 2006, and October 6, 2008.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and one (1) letter in opposition of the Application.
3. Michael Fannin and Richard Haxton were sworn in and testified regarding the Application and submitted exhibits to the Board which included renderings of the proposed sign, a survey dated September 3, 2014, and a letter of support from Key Properties Group, LLC.
4. The Board found that Mr. Fannin testified that the Applicant plans to replace the existing sign with an LED sign because the existing sign is not visible to passing traffic.
5. The Board found that Mr. Fannin testified that the Applicant rents the Property for the sign and that the owner supports the Application.
6. The Board found that Mr. Fannin testified that the original, wooden sign will be removed and a new sign will be erected in the same location but will be larger than the existing sign.
7. The Board found that Mr. Haxton testified that the sign will have a masonry pad at its base.
8. The Board found that Mr. Haxton testified that the middle portion of the sign will be an LED sign and that the sign would comply with the LED requirements in the Sussex County Zoning Code.
9. The Board found that Mr. Fannin testified that there is a similar sign located across from the proposed site at Taylor Marine.
10. The Board found that Mr. Haxton testified that two signs are being proposed by the Applicant (one sign for this case and one sign for Case No. 11557).
11. The Board found that Mr. Fannin testified that there is an occupied, single family dwelling on the Property but the sign is along Route 1 near marshland.
12. The Board found that Mr. Fannin testified that the LED sign will allow the campground to advertise upcoming events and that it would be expensive to change the sign weekly to advertise their events.

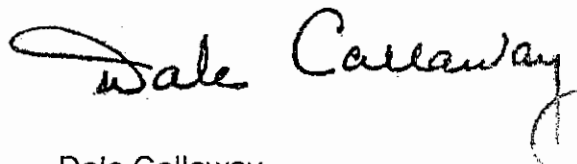
13. The Board found that Mr. Fannin testified that the LED sign will better allow them advertise the business.
14. The Board found that Mr. Fannin testified that the sign for this property reads "Second Left."
15. The Board found that no parties appeared in support of or in opposition to the Application.
16. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board denied the application for a special use exception to replace an existing non-conforming off-premise sign by applying for a determination of existence for a non-conforming sign. The findings below further support the Board's decision to deny the Application.
 - a. The Applicant originally obtained approval for a wooden off-premises sign on the Property prior to a change in the sign ordinance. This sign is currently located on the Property.
 - b. Pursuant to the change in the sign ordinance, no off-premises signs are allowed in a GR district. The Property is located in a GR district.
 - c. The Applicant is not seeking to repair or reface the existing sign. Rather, the Applicant seeks to remove the original sign and to build a substantially larger, LED sign on a masonry pad. The original sign was approved as an 8 feet wide by 8 feet tall sign. The proposed sign is significantly larger as evidenced by the schematics presented by the Applicant. The Board finds that the proposed sign is not a repair of an existing sign but, rather, is an entirely new sign. As such, the proposed LED sign does not constitute a non-conforming sign and the Board must deny the Applicant's request.
 - d. Furthermore, since off-premises signs are not permitted in a GR district, the Board cannot approve the Applicant's request.
 - e. Though no testimony or evidence of opposition to the Application was submitted, the denial of this application is consistent with the Sussex County sign ordinance which prohibits off-premises signs in a GR district. The purpose of the GR district is to provide for medium-density residential use and the sign ordinance specifically prohibits the placement of off-premises signs in a GR district. The Applicant has testified that the proposed sign will be located on a property that is already developed by an occupied, single-family dwelling. This proposed sign, which is larger than the existing sign, is out of character with the purpose of the GR district and the Sussex County Zoning Code.
 - f. The Applicant stated that a nearby property has a similar LED sign but the property which the Applicant referenced is located on the same property where the business is located and is not an off-premises sign.

The Board denied for a special use exception to replace an existing non-conforming off-premise sign by applying for a determination of existence for a non-conforming sign finding that it failed to meet the necessary standards for approval.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was denied. The Board Members in favor were Mr. Dale Callaway, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to deny the special use exception application. Mr. Jeff Hudson did not participate in the discussion or vote of this application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY

A handwritten signature in black ink that reads "Dale Callaway". The signature is fluid and cursive, with the first name "Dale" and last name "Callaway" clearly distinguishable.

Dale Callaway
Chairman

Date June 9, 2015