

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

**IN RE: RICHARD H. BELL, III for COASTAL HIGHWAY, LLC**

**(Case No. 11843)**

A hearing was held after due notice on September 19, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception for an outdoor display or promotional activity.

Findings of Fact

The Board found that the Applicant is requesting a special use exception for an outdoor display or promotional activity. This application pertains to certain real property located on the west side of Coastal Highway (Route 1) approximately 0.21 miles south of Cave Neck Road (911 Address: 16192 Coastal Highway, Lewes); said property being identified as Sussex County Tax Map Parcel Number 2-35-23.00-54.06. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from the Applicant, an aerial photograph of the area, and a portion of the tax map of the area.
2. The Board found that the Office of Planning and Zoning received one (1) letter of opposition and no correspondence in support of the Application.
3. The Board found that Richard Bell, III, was sworn in and testified regarding the Application. Mr. Bell submitted a picture to the Board to review.
4. The Board found that Mr. Bell testified that the display is a fiberglass pool placed at the front of the Property and the display has been great for business.
5. The Board found that Mr. Bell testified that the Board approved a special use exception for the display five (5) years ago. The Applicant seeks approval for another five (5) years.
6. The Board found that Mr. Bell testified that the Applicant switches out the model each year to show various sizes and colors available.
7. The Board found that Mr. Bell testified that there is no negative impact to the surrounding properties or obstruction of visibility to and from the Property.
8. The Board found that Mr. Bell testified that the Property is a commercial property.
9. The Board found that Mr. Bell testified that there have not been any complaints from neighboring properties.
10. The Board found that Mr. Bell testified that a billboard was proposed on a nearby property some time ago.
11. The Board found that Mr. Bell testified that the display is approximately eighteen (18) to twenty (20) feet from the side property line and twenty (20) feet from the front property line.
12. The Board found that Mr. Bell testified that the use does not substantially adversely affect the uses of the neighboring and adjacent properties.
13. The Board found that no parties appeared in support of or in opposition to the Application.
14. Based on the findings above and the testimony and evidence 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 proposed outdoor display or promotional activity will not substantially affect adversely the uses of neighboring and adjacent properties. The findings below further support the Board's decision to approve the Application.

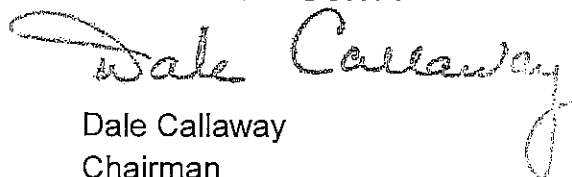
- a. In 2011, the Applicant received approval for a special use exception to use the Property for a promotional display. This approval was for a period of five (5) years and the Applicant has displayed a fiberglass pool on the Property pursuant to that special use exception since that time.
- b. The Applicant proposes to renew its approval for a promotional display for a fiberglass pool.
- c. The Property is a commercial property in a commercially zoned area. There was no substantial evidence presented which indicates that the display has caused any traffic or parking problems during the past five years. Rather, the Applicant has presented un rebutted testimony that the display has been a benefit to his business. The pictures presented to the Board indicate that the display is reasonable in size and appearance. The Board also notes that the display is rotated on a yearly basis.
- d. The only letter in opposition to the Application referred to opposition to a billboard but there was no billboard being proposed with this application. It was also unclear to the Board as to whether the opposition was aware that the promotional display was already located on the Property. The Board notes that the opposition did not present any substantial evidence which demonstrates that the existing promotional display had any substantial adverse effect on neighboring and adjacent properties. To the extent concerns were raised by the opposition, the Board finds those concerns speculative.
- e. The Applicant has demonstrated that the promotional display has not substantially affected adversely the uses of neighboring and adjacent properties. The Applicant testified that he has not received any complaints about the display and no evidence was presented which would demonstrate that the display has had a substantial adverse effect on neighboring and adjacent properties. Specifically, there was no evidence of an adverse effect on property values, traffic, views, or uses of neighboring properties.
- f. Per the Applicant's request, the Board approved the special use exception for the promotional display for a period of five (5) years.

The Board granted the special use exception application for a period of five (5) years finding that it met the standards for granting a special use exception.

#### Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved for a period of five (5) years. 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 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 22, 2016