

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: D & A BRITTINGHAM FAMILY LIMITED PARTNERSHIP

(Case No. 11972)

A hearing was held after due notice on June 19, 2017. 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 place a billboard.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to place a billboard. This application pertains to certain real property located on the east side of Coastal Highway (Route 1) northbound at Broadkill Road (Route 16) (911 Address: Not Available); said property being identified as Sussex County Tax Map Parcel Number 2-35-8.00-83.00. 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, an aerial photograph, a letter of no objection from the Delaware Department of Transportation ("DeIDOT"), and a survey dated November 4, 2016.
2. The Board found that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Chris Kalie was sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review including a deed, a Google Earth view of the Property, documents regarding the SR 1 / SR 16 Grade Separated Intersection Project, and a rendering of the proposed billboard.
4. The Board found that Mr. Hutt stated that the Property is located at the corner of Route 1 and Route 16 (Broadkill Road) and the Property is adjacent to the Rookery Golf Course.
5. The Board found that Mr. Hutt stated that the Property is surrounded by roads on three (3) sides and the Property is uniquely shaped. The Property is currently being used as farmland.
6. The Board found that Mr. Hutt stated that the billboard will comply with all setback, separation distance, size, and height requirements. No variances will be needed.
7. The Board found that Mr. Hutt stated that DeIDOT has plans to improve the Route 1 / Route 16 intersection and DeIDOT has submitted a letter of no objection to the proposed billboard.
8. The Board found that Mr. Hutt stated that the billboard will measure 12 feet by 48 feet and will be 35 feet tall. The proposed billboard will be a static billboard and will not use LED features.
9. The Board found that Mr. Hutt stated that the use will not substantially affect adversely neighboring and adjoining properties.
10. The Board found that Mr. Hutt stated that the Property is not immediately adjacent to any residential property. The billboard will be more than 300 feet from the nearest dwelling. The dwellings on the north side will be acquired by DeIDOT. The Property is located to the west of a fully developed golf course.
11. The Board found that Mr. Kalie, under oath, affirmed the statements made by Mr. Hutt.
12. The Board found that no parties appeared in support of or in opposition to the Application.

13. 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 special use exception because the proposed off-premise sign 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. The Property is located at the intersection of Route 1 and Broadkill Road in a well-traveled area.
 - b. The Property is surrounded on all sides by roads and is located near a fully developed golf course.
 - c. The proposed billboard is located over 300 feet from the nearest dwelling.
 - d. The billboard will be located closer to Route 1 than from the portions of the Property which are closest to the dwellings.
 - e. The billboard will not have LED capability.
 - f. DeIDOT, which is considering intersection improvements in the area, has submitted a letter of no objection to the proposed billboard.
 - g. The Applicant intends to construct the billboard so that it complies with all setback, height, size, and separation distance requirements.
 - h. No evidence was presented which convinced the Board that the billboard would have a substantial adverse effect on neighboring and adjacent properties.

The Board granted the special use exception application 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. The Board Members in favor were Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, and Mr. Norman Rickard. No Board Members voted against the Motion to approve the special use exception. Ms. Ellen Magee did not participate in the discussion or vote on this 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 August 22, 2017