

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DE STORAGE REHOBOTH, LLC

(Case No. 11985)

A hearing was held after due notice on July 10, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the side yard setback requirement and the height requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance 10 feet from the twenty-five (25) feet height requirement for a proposed sign and a variance of 18.5 feet from the twenty (20) feet side yard setback requirement on the east side for a proposed sign. This application pertains to certain real property located at Bluebird Lane and Coastal Highway (Route 1) (911 Address: 19659 Bluebird Lane, Rehoboth); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-309.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, aerial photographs of the Property, a survey of the Property, a sign easement agreement, pictures of the Property and neighborhood, and an Executive Summary of the Application.
2. The Board found that the Office of Planning & Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Terry Strine and Casey Kenton were sworn in to testify about the Application.
4. The Board found that Mr. Strine, who is a member of Delaware Storage, LLC, testified that the Property is unique.
5. The Board found that Mr. Strine testified that, when the Applicant acquired the Property, the Applicant discovered that the existing sign advertising the Applicant's business encroaches onto the neighboring property by 1.8 feet. The previous owner failed to disclose the encroachment to the Applicant and the previous owner had been sending lease payments to the neighbor who owned the neighboring Crabhouse property until eight (8) years ago. The neighbor required a significant lease payment and the neighbor wants the existing sign off of its property.
6. The Board found that Mr. Strine testified that the existing sign is considered an off-premises sign and is non-conforming as to height, size, and setbacks.
7. The Board found that Mr. Strine testified that the sign has been in its present location for approximately 25 years and the Applicant proposes to remove the sign and erect a new sign on the Property.
8. The Board found that Mr. Strine testified that the proposed sign will meet the front yard setback requirement and the size requirement but will not meet the side yard setback requirement.
9. The Board found that Mr. Strine testified that the Applicant accesses Route 1 from Blue Bird Lane, which is a roadway measuring 30 feet wide and the sign will be located adjacent to that roadway. The Applicant's business is located approximately 575 feet from Route 1.
10. The Board found that Mr. Strine testified that the sign cannot be placed farther from the side property line without disturbing the Applicant's vehicular access to Route 1.
11. The Board found that Mr. Strine testified that the Applicant owns two-thirds (2/3) of Blue Bird Lane. The other owner of Blue Bird Lane has executed an easement agreement to allow for the proposed sign.
12. The Board found that Mr. Strine testified that the proposed sign will not comply as to height so as not to disturb the visibility of signage on neighboring property.

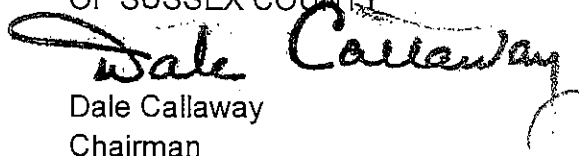
- d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the sign will have no effect on the character of the neighborhood. The sign will replace a larger and taller sign located on a neighboring property. The neighbor has requested the removal of the sign and the approval of the variance will allow the Applicant to remove that sign and make the necessary improvements. The Applicant has designed the sign to avoid blocking views of neighboring signs and the sign will be located so as to permit safe vehicular access along Blue Bird Lane. No evidence was submitted into the record that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant to relocate and replace an existing on-premises sign. The sign is located close to the property line but, due to the narrowness of the Property and the fact that it is used for vehicular access, the Board finds that the Applicant was severely limited in where it could place the sign. Likewise, the Board notes that the Applicant has taken great care in designing the height of the sign to avoid blocking views of neighboring signs. The sign, while taller than allowed under the ordinance, is much shorter than the previous sign and provides both the Applicant and its neighbor with adequate views thereof. The Board is convinced that the Applicant has taken the necessary steps to minimize the need for a variance.
- f. The existing sign on the neighboring property shall be removed.

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. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application. Mr. Norman Rickard 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