

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HOME DEPOT

(Case No. 12033)

A hearing was held after due notice on October 2, 2017. The Board members present were: Mr. Dale Callaway, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to place a tent for outdoor sale to exceed the maximum three (3) day requirement.

Findings of Fact

The Board found that the Applicant is requesting a special use exception seeking another five years to use a tent for outdoor sales twice a year. This application pertains to certain real property located on the southwest side of Coastal Highway (Route 1), approximately 298 feet southeast of Shady Road (Road 276) (911 Address: 17832 Coastal Highway, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-526.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, copies of the minutes for Case No. 11043, and a portion of the tax map of the area.
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 Edward Wade was sworn in and testified regarding the Application.
4. The Board found that Mr. Wade testified that the Applicant was approved for a special use exception for the tent five years ago.
5. The Board found that Mr. Wade testified that there have been no issues with the tent and the Applicant seeks permission to continue this use.
6. The Board found that Mr. Wade testified that the tent will be located in the front of the store in the same location.
7. The Board found that Mr. Wade testified that the tent is a high quality tent and the Applicant sells rugs in the tent.
8. The Board found that Mr. Wade testified that there have been no complaints from neighbors.
9. The Board found that Mr. Wade testified that the Applicant plans to use the tent at different points in the year and proposes to use the tent for 4-6 weeks in the fall and 4-6 weeks in the spring.
10. The Board found that Mr. Wade testified that the tent will not substantially affect adversely the uses of neighboring and adjacent properties.
11. The Board found that no parties appeared in support of or in opposition to the Application.
12. 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 tent 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 used for a Home Depot store and the Applicant proposes to use a portion of its parking lot for a sales tent for a period of six (6) weeks

in the spring and six (6) weeks in the fall of each year. The tent will sell merchandise and will be located in the Applicant's parking lot.

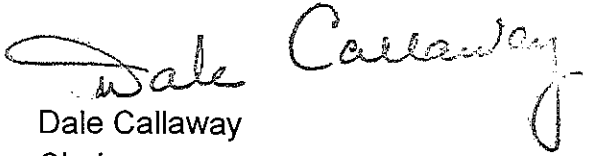
- b. The Property is a reasonably sized lot and can accommodate the tent. There was no evidence that the tent will adversely affect parking in the area.
- c. No evidence was presented which would demonstrate that the tent will have a substantial adverse effect on neighboring and adjacent properties.
- d. The special use exception was approved for a period of five (5) years with the condition that tent only be used for a period of no more than six (6) weeks each spring and no more than six (6) weeks each fall of each year.

The Board granted the special use exception application for a period of five (5) years with conditions 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 with conditions. The Board Members in favor were Mr. Dale Callaway, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application with conditions. Ms. Ellen Magee did not participate in the discussion or vote of 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 December 12, 2017.