

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JKJ PROPERTIES, LLC

(Case No. 12209)

A hearing was held after due notice on October 1, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, 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 an off-premise sign.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to place an off-premise sign. This application pertains to certain real property located on the east side of DuPont Boulevard (Route 113), approximately 1,482 feet north of Beach Highway (Route 16) (911 Address: 12461 DuPont Boulevard, Ellendale); said property being identified as Sussex County Tax Map Parcel Number 2-30-26.00-36.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter of no objection from the Delaware Department of Transportation ("DeIDOT"), an application to DeIDOT for an outdoor advertising permit, a site plan dated August 1, 2018, an aerial photograph of the Property, 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 Lynn Rogers, James Weller, and Mark Davidson were sworn in to testify about the Application. Mr. Davidson is the engineer for the project and he submitted exhibits for the Board to review.
4. The Board found that Mr. Davidson testified that the Property is zoned General Commercial (C-1) and consists of 1.79 acres.
5. The Board found that Mr. Davidson testified that the Applicant seeks the special use exception to erect an off-premises electronic message center. The proposed sign will be a V-style sign measuring 10 feet by 30 feet and will have two sides. The signage will measure 300 feet per side and the sign will be placed on a steel monopole.
6. The Board found that Mr. Davidson testified that the Property is currently used for a thrift shop.
7. The Board found that Mr. Davidson testified that DeIDOT has issued a letter of no objection to the Application.
8. The Board found that Mr. Davidson testified that the sign will be approximately 41 feet from the front property line and the sign will meet the setback requirements. A nearby property to the south has a billboard but the requested sign will be 601 feet away from that billboard. The sign will be 1,500 feet from the intersection of Route 113 and Route 16 and the sign will be greater than 2,500 feet from the nearest off-premises electronic message center. There are no dwelling, churches, or public lands within 150 feet of the sign.
9. The Board found that Mr. Davidson testified that the sign will not substantially affect adversely the uses of adjacent or neighboring properties.
10. The Board found that Mr. Davidson testified that the adjacent property is wooded and vacant and that the next property used commercially.
11. The Board found that Mr. Davidson testified that the sign poses no fire or other hazard.

12. The Board found that Mr. Davidson testified that the sign will not affect property values or traffic and the sign will not be a public nuisance.
13. The Board found that Mr. Davidson testified that the sign will meet the brightness standards.
14. The Board found that Mr. Weller testified that he has many business interests in Sussex County and he will use this messaging center to advertise his businesses located off-site. He will not use the sign to advertise on-site businesses.
15. The Board found that Mr. Rogers testified that the sign can be programmed to meet the brightness standard and that the sign will meet all the requirements in the ordinance.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. 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 along the east side of Route 113 in a well-traveled area.
 - b. The Property is used for commercial purposes and nearby properties are also commercial. The sign will be used to advertise businesses on other properties.
 - c. The billboard will be an electronic message center but will be programmed to meet all brightness standards and will meet all setback requirements. The Board also notes that the billboard will be smaller than allowed under the Code so its visual impact should be reduced.
 - d. DeIDOT has submitted a letter of no objection to the proposed billboard.
 - e. The Applicant intends to construct the off-premises electronic message center so that it complies with all setback, height, size, and separation distance requirements. Compliance with those regulations is required.
 - f. There was no evidence that the off-premises electronic message center would result in increased fire, safety, traffic, or other hazard risks.
 - g. No evidence was presented which convinced the Board that the off-premises electronic message center 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, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Mills
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date December 11, 2018