

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

**IN RE: KEYSTONE NOVELTIES DISTRIBUTORS, LLC
(TANGER PROPERTIES LP)**

(Case No. 12570)

A hearing was held after due notice on June 7, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for a special use exception to place a tent for special events.

Findings of Fact

The Board found that the Applicant is requesting the special use exception for a period of five (5) years during the 4th of July season. This application pertains to certain real property located on the northeast side of Coastal Highway (Route 1) approximately 0.24 miles northwest of Holland Glade Road (911 Address: 36470 Seaside Outlet Drive, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-325.16. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, photographs, schematics of the tent, a letter from the Applicant, a license agreement, a certificate of insurance, 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 Fred Young was sworn in to testify about the Application.
4. The Board found that Mr. Young testified that the request is for a special use exception for Keystone Novelties to operate a tent at the Tanger Outlet.
5. The Board found that Mr. Young testified that there is a limit of three days per County Ordinance for a special event and this request is to begin sales on June 22 and the final sales to be on July 4. He anticipates that three days before and three days after the sales event are needed to set up and tear down.
6. The Board found that Mr. Young testified that the tents are rented and an inspection would be conducted to ensure that the tent is structurally sound.
7. The Board found that Mr. Young testified that the Property is in a commercial zone and will be in operation during this time.
8. The Board found that Mr. Young testified that the owner of the Property has approved the request and agreed to it for the next several years.
9. The Board found that Mr. Young testified that the tent will take 8-9 parking spaces and there will no parking in an area of approximately 20 feet around the perimeter of the tent for safe ingress and egress for customers.
10. The Board found that Mr. Young testified that the tent will not create any visibility issues for traffic on Route 1.
11. The Board found that Mr. Young testified that there would be a pod storage for inventory.
12. The Board found that Mr. Young testified that, if County Ordinance requires a handicapped parking spot, the Applicant would bring in a temporary handicapped sign and place it close to the tent.
13. The Board found that Mr. Young testified that tents cannot be locked so there are employees in the tent at all times for security. He noted that usually 2 employees are on staff at all times.

14. The Board found that Mr. Young testified that all the fireworks are ground-based fireworks such as sparklers.
15. The Board found that Mr. Young testified that this special use exception will not substantially adversely affect the uses of neighboring and adjacent properties.
16. The Board found that Mr. Young testified that the Applicant has been in business for 25 years in 10 states.
17. The Board found that Mr. Young testified that the tent will measure 20 feet by 40 feet.
18. The Board found that Mr. Young testified that it should help the adjacent businesses as people stop to shop in the tent they generally patronize some of the nearby businesses.
19. The Board found that Mr. Young testified that the hours of operation are from 9:00 am through 9:00 pm daily and 9:00 am through 10:30 pm on July 3 and 4.
20. The Board found that no one appeared in support of or in opposition to the Application.
21. 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 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. The Applicant runs a fireworks sales business that will sell ground-based fireworks during the July 4th holiday season. The Applicant has leased space at a portion of the Property used for the Tanger Outlet.
 - b. The Applicant intends to erect the tent for sales to run from July 22 to July 4th on an annual basis. The Applicant anticipates that three days before and after the sale will be needed for the setup and tear down of the tent.
 - c. The tent will not block the visibility of any neighboring businesses or signs.
 - d. The Applicant will still have adequate parking even with the tent in place.
 - e. The tent will be used only on a temporary basis during limited times of the year.
 - f. The approval is conditioned on the following:
 - i. The Applicant shall provide the Office of Planning & Zoning with a copy of the signed lease with the property owner.
 - ii. The tent shall be no larger than 20 feet by 40 feet in size.
 - iii. The tent shall be located in the approximate area as shown on the documentation presented by the Applicant to the Board.
 - iv. The tent shall only be used for sales from June 22 to July 4 on an annual basis. The Applicant shall have three days prior to and three days after the sale to erect and tear down the tent.
 - v. The Applicant may use a portion of the parking lot for limited pod storage of inventory related to the sale. The pod storage shall be removed at the end of each sales event.
 - vi. The approval is valid for a period of three (3) years.

The Board granted the special use exception application for a period of three (3) year 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 with conditions for a period of three (3) years. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. Jordan Warfel, Mr. John Williamson. No Board Member voted against the Motion to approve the special use exception application with conditions.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Williamson
Chair

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

Date August 16, 2021