

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ADBM HOLDINGS, LLC

(Case No. 12751)

A hearing was held after due notice June 21, 2021. The Board members present were: Mr. John Williamson, Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings and Mr. Jordan Warfel.

Nature of the Proceedings

This is an application for a blanket variance from the front yard setback requirements (Sections 115-82 and 115-182 of the Sussex County Zoning Code) for a property within the C-1 General Commercial Zoning District identified as 28362 DuPont Boulevard, Millsboro, DE (the "Property").

Findings of Fact

The Board found that the Applicant is requesting a variance of three (3) feet from the sixty (60) foot front yard setback requirement for a proposed addition for properties within the Combined Highway Corridor Overlay Zone. This application pertains to certain real property located on the southwest side of DuPont Boulevard (Rt. 113) at the intersection of North Oak Drive; said property being identified as Sussex County Tax Map Parcel Numbers 135-16.00-105.00 and 105.01. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a site plan dated April 2021, and a portion of the tax map of the area.
2. The Board found that the Office of Planning and Zoning received no letters in support of the Application and no letters in opposition of the Application, and no parties other than the Applicant and its witnesses appeared in favor of the Application and no parties appeared in opposition to it.
3. Chris Schaffner was sworn in and testified regarding the Application and testified that the property has been used as a vehicle dealership for several years and that the dealership building was previously constructed on this site.
4. The Board found that Mr. Schaffner testified that the exhibits include a site plan showing the existing building and the new façade that is proposed.
5. The Board found that Mr. Schaffner testified that Chrysler, the parent entity of Jeep, is working with the Applicant to build a new Jeep dealership on the Property.
6. The Board found that Mr. Schaffner testified that the Applicant desires to use the current Millsboro Auto Mart building for the Jeep dealership and that this existing building was constructed in compliance with the required sixty (60) foot front yard setback.
7. The Board found that Mr. Schaffner testified that Chrysler requires a new façade of aluminum composite material as part of the Jeep dealership design and branding requirements and that to construct this new façade in front of the existing building a three (3) foot variance is required.
8. The Board found that Mr. Schaffner testified that this new façade will not alter the lighting of the premises.
9. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board finds credible, persuasive, and un rebutted the Board approved the application for the front yard variance upon the Property. The findings below further support the Board's decision to approve the Application.
 - a. The Board found that there are unique physical circumstances or conditions, in that the Property is currently used as an automobile

dealership with an existing dealership building situated upon it that is compliant with front yard setbacks. However, to upgrade to a Jeep dealership, a new façade is required; the alternatives are to grant this minor (three-foot) variance or require the Applicant to demolish all or a portion of the existing, relatively new building to construct the façade.

- b. The Board found that there are unique physical circumstances that exist, since the large width of the front yard set back in the Combined Highway Corridor Overlay Zone is unique to certain specific areas along specific roadways in Sussex County. These conditions have created the unnecessary hardship and exceptional practical difficulty.
- c. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
- d. The Board found that the Property could not be improved with the necessary facade in strict conformity with the Sussex County Zoning Code and that the variance is necessary to enable the continued reasonable use of the Property. Without the minimal variance, the Applicant would not be able to redevelop its dealership as a Jeep dealership.
- e. The Board found that the exceptional practical difficulty and unnecessary hardship were not created by the Applicant. The existing dealership structure was designed and approved several years ago in compliance with the front yard setback. The current Jeep franchise requirements were not involved in that process. The redevelopment of this Property as a franchised Jeep dealership cannot necessarily occur without the variance. The property is unique due to the prior development thereof and the limited building envelope.
- f. The Board found that the unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
- g. The Board found that the variance will not alter the essential character of the neighborhood or district where it is located and will not substantially impair the appropriate use of development of adjacent properties, nor be detrimental to the public welfare. This front yard variance merely permits the front façade of the existing building to extend three (3) feet into the sixty (60) front yard setback. It will not be visually apparent from the adjacent streets or properties. No substantial evidence was presented to the contrary.
- h. The Board found that three-foot front yard variance sought is the minimum necessary to afford relief and the variance represents the least modification possible of the regulations at issue. The three-foot reduction of the front yard setback from sixty (60) feet to fifty-seven (57) feet is minor in scope. This variance will not alter any other part of the Property. The overall site and all parking, lot lines, roads, utilities, etc. will generally remain in their original design and location. Furthermore, the Applicant would not be able to meet the Chrysler requirements without encroaching into the front yard setback area.
- i. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

The Board approved variance application based upon the finding that it satisfied the necessary standards for approval.

Decision of the Board

Upon motion duly made and seconded, the front yard variance application was approved. The Board Members in favor were Mr. Warfel, Dr. Carson, Mr. Williamson, Mr. Hastings, and Mr. Chorman voting to approve the Motion to approve the variance application. No Board Member voted against the application.

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 September 13, 2021