

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ICM OF DELAWARE, INC

(Case No. 11230)

A hearing was held after due notice on July 1, 2013. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to renew an asphalt batching plant approval.

Findings of Fact

The Board found that the Applicant was seeking a special use exception to renew an asphalt batching plant approval. The Applicant has requested that the aforementioned requested special use exception be granted as it pertains to certain real property located north of Route 322 approximately 1,400 feet southwest of Route 113 (DuPont Boulevard); said property being identified as Sussex County Tax Map Parcel Number (1-33-6.00-53.09). After a hearing, the Board made the following findings of fact:

1. Jay Miller was sworn in to testify about the Application.
2. The Board found that Mr. Miller testified that the asphalt plant has existed on the Property for more than ten (10) years.
3. The Board found that Mr. Miller testified that the adjacent property has an existing sand plant.
4. The Board found that Mr. Miller testified that the previous approval expired in 2011.
5. The Board found that Mr. Miller testified that the Applicant has leased the Property from Tilcon since 2009.
6. The Board found that Mr. Miller testified that the Applicant was not aware the approval had expired.
7. The Board found that Mr. Miller testified that he believes the letter for renewal went to the property owner instead of the Applicant.
8. The Board found that Mr. Miller testified that the Applicant is making improvements to the plant and plans to change over to natural gas.
9. The Board found that Mr. Miller testified that there have been no complaints from the neighbors.
10. The Board found that Mr. Miller testified that the Applicant has a permit from the Department of Natural Resources and Environmental Control and the Applicant is compliant with that permit.
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 presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a special use exception. The proposed use will not substantially affect adversely the uses of neighboring and adjacent properties. The special use exception was approved for a period of five (5) years.

The Board approved the variance application finding that it met the standards for granting a special use exception for a period of five years.

Decision of the Board

Upon motion duly made and seconded, the Application was approved for a period of five (5) years. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard and Mr. Brent Workman. No Member voted against the Motion to Approve the 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 7, 2013