

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FAHMI SMADI

(Case No. 11267)

A hearing was held after due notice on September 23, 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 retain a manufactured home type structure for storage and security for a period of five (5) years.

Findings of Fact

The Board found that the Applicant was seeking a special use exception to retain a manufactured home type structure for storage and security for a period of five (5) years. The Applicant has requested that the aforementioned requested special use exception be granted as it pertains to certain real property northwest of Road 224 (Fleatown Road) 150 feet southwest of Road 214 (Cabbage Pond Road) and east of Cabbage Way, a Subdivision Street; said property being identified as Sussex County Tax Map Parcel Number 2-30-13.00-166.02. After a hearing, the Board made the following findings of fact:

1. Fahmi Smadi was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Smadi testified that he operates a grocery business on the Property and that he has experienced multiple break-ins to his business which have been reported to law enforcement officials.
3. The Board found that Mr. Smadi testified that in 2004 the Board denied his request to place the unit on the Property.
4. The Board found that Mr. Smadi testified that he placed the unit on the Property without a permit in 2004 but he removed the unit from the Property after the Board denied his Application.
5. The Board found that Mr. Smadi testified that he would like to place the unit on the Property so that he can provide security for his business as he feels living on the Property will help deter crime.
6. The Board found that Mr. Smadi testified that he currently lives in the unit in a mobile home park nearby.
7. The Board found that Mr. Smadi testified that the store does have an alarm system but he has problems with responsiveness from law enforcement.
8. The Board found that Mr. Smadi testified that he plans to use the unit solely as a residence and storage for the business.
9. The Board found that Mr. Smadi testified that he does not otherwise intend to use the unit for the grocery store.
10. The Board found that Mr. Smadi testified that he does not currently live on the Property.
11. The Board found that Mr. Smadi testified that he has adequate parking on the Property.
12. The Board found that Mr. Smadi testified that the unit will use the existing well and septic system on the Property.
13. The Board found that Mr. Smadi testified that the unit will not be attached to the store and will be located behind the existing store.
14. The Board found that Mr. Smadi testified that the unit is in good condition and measures fourteen (14) feet by seventy (70) feet.

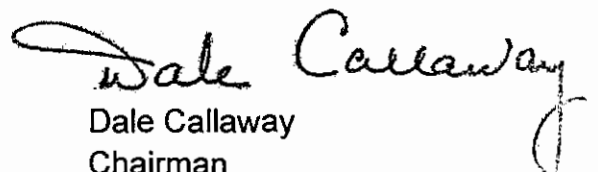
15. The Board found that Mr. Smadi testified that he purchased the unit in 2004 and was told it was a 1992 model but he is not sure if the unit is a 1992 model or a 1984 model.
16. The Board found that Mr. Smadi testified that the unit will be approximately ten (10) to fifteen (15) feet from the property line.
17. The Board found that Mr. Smadi testified that he would be able to place the unit on the Property without going onto his neighbor's property.
18. The Board found that Mr. Smadi testified that there are other manufactured homes in the area.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. The Board voted to leave the record open so that the Applicant could provide photographs of the proposed unit.
21. At its meeting on October 7, 2013, the Board reviewed the pictures that were submitted and voted to table its decision on the Application until October 21, 2013.
22. On October 21, 2013, the Board reviewed the photographs of the proposed manufactured home and discussed the Application.
23. 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 as the proposed use does not substantially affect adversely the uses of neighboring and adjacent properties. The special use exception was approved for a period of five (5) years with the stipulations that the approval is only for the Applicant's use and the microbial growth be removed from the siding and skirting of the manufactured home.

The Board approved the special use exception application for a period of five (5) years with stipulations finding that it met the standards for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the Application was approved for a period of five (5) years with stipulations. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Brent Workman. No Member voted against the Motion to Approve the Application. Mr. Norman Rickard was not present at the Board's meeting during the vote.

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 10, 2013