

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: J. DAVID AMOS**

**(Case No. 11451)**

A hearing was held after due notice on September 22, 2014. 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 for a garage / studio apartment.

Findings of Fact

The Board found that the Applicant was seeking a special use exception for a garage / studio apartment. This application pertains to certain real property located northeast of Oak Orchard Road (Road 297) and being southeast of Cannon Road 450 feet northeast of Fagan Street, aka Forest Drive, and being Lots 39 and 41 of the Addition to Charles C. Fagan and Delaware Oyster Farms Lots (911 Address: 28251 Cannon Street, Millsboro, DE); said property being identified as Sussex County Tax Map Parcel Number 2-34-35.05-18.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters regarding to the Application.
2. J. David Amos was sworn in to testify about the Application. Richard Berl, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.
3. The Board found that Mr. Berl stated that the Applicant is requesting a special use exception for a garage / studio apartment.
4. The Board found that Mr. Berl stated that his client purchased the Property in November 2012 to use for a rental property.
5. The Board found that Mr. Berl stated that the previous owners had converted the existing two-story garage into an apartment without building permits.
6. The Board found that Mr. Berl stated that the Applicant currently rents the existing dwelling and that the Applicant let someone live in the apartment rent free until the tenant became a problem.
7. The Board found that Mr. Berl stated that during the eviction process the Applicant was notified by the Planning and Zoning Department that the apartment was not permitted.
8. The Board found that Mr. Berl stated that the neighborhood is mixed with residential stick-built and manufactured homes.
9. The Board found that Mr. Berl stated that there is adequate parking to accommodate the tenants as there are three (3) parking spaces on the Property with one (1) space dedicated to the tenant in the apartment.
10. The Board found that Mr. Berl stated that the Applicant plans to renovate the apartment.
11. The Board found that Mr. Berl stated that the apartment consists of the second floor of the garage and part of the first floor of the garage.
12. The Board found that Mr. Berl stated that the apartment is under 800 square feet.
13. The Board found that Mr. Berl stated that the use does not substantially adversely affect the neighbors or adjacent properties.
14. The Board found that Mr. Amos, under oath, confirmed the statements made by Mr. Berl.

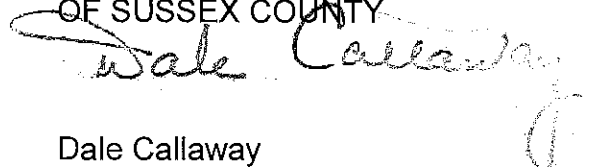
15. The Board found that no parties appeared in support of or in opposition to the Application.
16. Based on the findings above and the testimony and exhibits presented at the public hearing and the public record, the Board determined that the application met the standards for granting a special use exception because the use does not substantially affect adversely the uses of adjacent or neighboring properties. No evidence was presented that would indicate that the proposed use would substantially affect adversely the uses of neighboring and adjacent properties. Furthermore, the garage has been used as an apartment for some time in the residential neighborhood. The Property has adequate parking space, including a parking space dedicated to the tenant of the apartment.

The Board granted the special use exception application finding that it met the standard 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, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception 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 November 18, 2014.