

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LAURA RITTER

(Case No. 11559)

A hearing was held after due notice on April 20, 2015. The Board members present were: Mr. Dale Callaway, 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 and a variance from the maximum square footage for a garage / studio apartment.

Findings of Fact

The Board found that the Applicant is requesting a special use exception for a garage / studio apartment and a variance of 400 square-feet from the 800 square-feet maximum allowable square feet for a garage / studio apartment. This application pertains to certain real property located northwest of Road 285 (Beaver Dam Road) approximately 0.25 mile south of Road 280B Conley's Chapel Road) (911 Address: 22114 Ritter Lane, Harbeson, DE); said property being identified as Sussex County Tax Map Parcel Number 2-34-10.00-103.04. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a Violation Notice, a building permit, a photograph of the apartment, a portion of the tax map of the area, and portions of the Sussex County Code.
2. The Board found that the Office of Planning and Zoning received one letter in support of the Application and no letters in opposition to the Application.
3. The Board found that Karen Ritter and Brad Ritter were sworn in and testified regarding the Application. Ms. Ritter submitted to the Board photographs of the Property.
4. The Board found that Ms. Ritter testified that they built a three (3) car garage with an apartment and that the apartment is needed for her mother who is in declining health and needed to be closer to family.
5. The Board found that Ms. Ritter testified that the apartment has been made handicap accessible.
6. The Board found that Ms. Ritter testified that the detached three (3) car garage and apartment match the existing dwelling's exterior.
7. The Board found that Ms. Ritter testified that the Property is over seven (7) acres in size and that they own the adjacent fifty-seven (57) acre parcel. The Applicants' family members and a church own adjacent properties. The Property is surrounded by woodlands. A graveyard is also located nearby.
8. The Board found that Ms. Ritter testified that the structure is approximately 654 feet from Beaver Dam Road.
9. The Board found that Ms. Ritter testified that the size of the apartment needed to be larger to accommodate a wheelchair. The living space is located at ground level. The apartment has been designed with wider hallways, doors, and bathroom to give her mother room to maneuver the wheelchair.
10. The Board found that Ms. Ritter testified that she will have a parking space for her mother.
11. The Board found that Ms. Ritter testified that the use does not substantially adversely affect the surrounding and neighboring properties.
12. The Board found that Ms. Ritter testified that do not intend to add additional space to the apartment.

13. The Board found that Ms. Ritter testified that her mother's health creates a unique situation and that the exceptional practical difficulty was not created by the Applicant.
14. The Board found that Ms. Ritter testified that the variance is necessary to enable reasonable use of the Property and that the use is not detrimental to the public welfare.
15. The Board found that Ms. Ritter testified that the variance will not alter the essential character of the neighborhood.
16. The Board found that Ms. Ritter testified that the variance requested is the minimum variance to afford relief.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. 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 un rebutted, the Board determined that the application met the standards for granting a special use exception because the proposed garage / studio apartment 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 Board found the documentation submitted by the Applicant and the statements made by the Applicants to be credible and persuasive.
 - b. The Property consists of 7 acres, which is quite large, and the Applicants own an adjacent 57 acre parcel. Neighboring properties are owned by a church, which supports the application, and the Applicants' family. The apartment is located approximately 654 feet from the adjacent road and is far from neighboring properties. The Property is surrounded by nearby woodlands and there was no evidence that the garage apartment would substantially affect adversely those properties.
 - c. The apartment is located within the Applicants' garage and the structure is of a similar design and appearance as the nearby dwelling. From the pictures presented by the Applicants, the garage appears aesthetically pleasing.
 - d. The garage will be used by Mrs. Ritter's mother, who is in declining health, and will provide her with independence while still being close to her daughter for support and care.
 - e. No evidence was presented that the property values of neighboring and adjacent properties would be substantially adversely affected by the proposed tower.
 - f. No evidence was presented which convinced the Board that the garage / studio apartment would have any substantial adverse effect on neighboring and adjacent properties.
 - g. The Applicants have designated a parking area for the tenant of the apartment in accordance with the Sussex County Code.
19. 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 un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The situation is unique due the health of Mrs. Ritter's mother, who needs a wheelchair. Due to her mother's condition, Mrs. Ritter constructed an apartment which is larger than allowed under the Sussex County Zoning Code. The apartment has wider hallways and doorways and a larger bathroom than would otherwise be necessary so as to allow the tenant to

better navigate around the apartment in her wheelchair. This unique situation has created an exceptional practical difficulty for the Applicants.

- b. Due to the unique situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants seek to construct use a garage / studio apartment for their disabled mother but need additional space to allow her to safely maneuver a wheelchair in the apartment. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will provide the Applicants with enough space to accommodate their disabled mother. When reviewing the pictures of the property and the apartment, it is clear that the apartment is reasonable in size, shape, and location; particularly since the parcel is so large.
- c. The Board finds that the interior of the apartment needs to be wider to accommodate the Applicant's mother's need for wheelchair accessibility and maneuverability inside the apartment. The approval of this variance represents a reasonable accommodation to the Applicant.
- d. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create her mother's disability. The mother is confined to a wheelchair and needs additional space to safely navigate around her apartment. The additional space afforded by this variance accommodates that need.
- e. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. As previously noted in Paragraph 18, the apartment will have no adverse effect on neighboring and adjacent properties; much of which is owned by the Applicant and her family. The Property is very large and the apartment is quite a distance from the nearest property and road. The apartment has a similar appearance as the dwelling and looks aesthetically pleasing. No evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. The neighboring church supports this application as well.
- f. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance sought will allow the apartment to remain and that the size of the apartment is large enough to accommodate her disabled mother's needs. No further addition to the apartment is necessary.

The Board granted the variance and special use exception application finding that it met the standards for granting a variance and special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception and variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception and variance application. Mr. Jeff Hudson did not participate in the discussion or vote of this 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 June 9, 2015