

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MICHAEL SAUNDERS

(Case No. 11619)

A hearing was held after due notice on August 3, 2015. 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 is requesting a special use exception for a garage/studio apartment. This application pertains to certain real property located on the south side of Martin Lane approximately 57 feet west of Truitt Avenue (911 Address: 102 Martin Lane, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-12.00-145.01. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, pictures of the Property, a letter from Chad Meredith, Esquire, an affidavit from William McManus, deeds to the Property, 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 or in opposition to the Application.
3. The Board found that Michael Saunders was sworn in and testified regarding the Application. Chad Meredith, Esquire, appeared on behalf of the Applicant and submitted to the Board exhibits including property records, deeds, affidavits, pictures, a letter of no objection, and a survey dated August 7, 2014.
4. The Board found that Mr. Meredith stated that the property card for the Property indicates that the structure was built in 1954.
5. The Board found that Mr. Meredith stated that the current owner purchased the Property in 2014 and the two (2) units existed at that time.
6. The Board found that Mr. Meredith stated that the Applicant was not made aware of any issues until he applied for a building permit to remodel the two (2) existing kitchens.
7. The Board found that Mr. Meredith stated that William McManus acquired the Property in 1969. Mr. McManus converted the structure into a two (2) unit dwelling in late 1969-early 1970. The Property has continued to be used over the years as a two (2) unit dwelling.
8. The Board found that Mr. Meredith stated that there is a separate electrical box for each of the two units and that there is adequate parking available for all units.
9. The Board found that Mr. Meredith stated that the use does not substantially adversely affect the neighboring and adjacent properties.
10. The Board found that Mr. Meredith stated that the existing unit is 720 square feet in size. Therefore it does not exceed the 800 square feet maximum allowable square footage requirement.
11. The Board found that Mr. Meredith stated that he has submitted three (3) letters in support of the Application and that a local realtor submitted an affidavit stating the use does not adversely affect the values of neighboring and adjacent properties.
12. The Board found that Mr. Saunders, under oath, confirmed the statements made by Mr. Meredith.
13. The Board found that two (2) parties appeared in support of the Application.

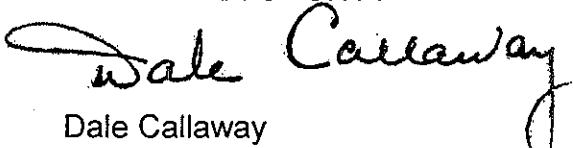
14. The Board found that no parties appeared in opposition to the Application.
15. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive and un rebutted, the Board determined that the application met the standards for granting a special use exception because the 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 Property consists of dwelling structure with a garage / studio apartment. This apartment has been located on the Property since approximately 1969-1970. The affidavit of former owner William McManus confirms that the apartment has been on the Property since that time. Based on the affidavit and Applicant's testimony, the apartment appears to have been used as a garage / studio apartment prior to the Applicant's purchase of the Property.
 - b. The Applicant has provided a dedicated parking space for the tenant of the apartment as required by the Sussex County Zoning Code. There is a separate electrical box for the apartment as well.
 - c. The apartment meets the square footage limitation set forth in the Code.
 - d. The neighborhood surrounding the Property is residential in character and the apartment is a residential use. Neighbors have submitted a letter of no opposition to the Application.
 - e. An affidavit of a local realtor confirms that the existence of the apartment would have no adverse effect on the values of surrounding properties.
 - f. No evidence was presented which would demonstrate that the apartment has had or will have a substantial adverse effect on neighboring and adjacent properties. The lack of such evidence is telling since the apartment has been located on the property for over forty (40) years.

The Board granted the special use exception application finding that it met the standards 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 September 15, 2015.