

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FIORE PROPERTIES, LLC

(Case No. 11632)

A hearing was held after due notice on September 14, 2015. The Board Members present were: Mr. Dale Callaway, Mr. Jeff Hudson, and Mr. Norman Rickard.

Nature of the Proceedings

This is an application for a special use exception to operate a bed and breakfast inn.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to operate a bed and breakfast inn. This application pertains to certain real property located on the east side of Beaver Dam Road approximately 1,500 feet north of Holly Mount Road (911 Address: 20415 Beaver Dam Road, Harbeson); said property being identified as Sussex County Tax Map Parcel Number 2-34-10.00-103.10. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter dated July 1, 2015, from the Applicant, and a portion of the tax map of the area.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.
3. The Board found that Bamdad Bahar was sworn in and testified regarding the Application. Mr. Bahar submitted exhibits to the Board to review.
4. The Board found that Mr. Bahar testified that a contractor built the dwelling for his family but abandoned the Property. The existing dwelling has ten (10) bedrooms.
5. The Board found that Mr. Bahar testified that the dwelling was in poor condition at the time he acquired it.
6. The Board found that Mr. Bahar testified that he rented the dwelling to large families for a few years but the last tenant had to be evicted.
7. The Board found that Mr. Bahar testified that he now lives in the dwelling but he rents the six (6) bedrooms in the basement of the dwelling. He advertises the rentals on Airbnb.
8. The Board found that Mr. Bahar testified that the Property is well maintained.
9. The Board found that Mr. Bahar testified that he has operated as a bed and breakfast for approximately one (1) year.
10. The Board found that Mr. Bahar testified that he has received positive reviews from his guests and that the operation is a positive addition to the neighborhood.
11. The Board found that Mr. Bahar testified that that he was not aware special use exception approval was required and that he applied immediately after being notified of the violation. He has not taken any new reservations since being aware of the violation.
12. The Board found that Mr. Bahar testified that there is adequate parking available to the guests.
13. The Board found that Mr. Bahar testified that there have been no structural changes to the Property since his purchase.
14. The Board found that Mr. Bahar testified that he serves continental breakfast to the guests but no other meals are prepared for the guests. There are not any cooking facilities in the individual rooms.

15. The Board found that Mr. Bahar testified that most guests stay on the weekends only.
16. The Board found that Mr. Bahar testified that there is no traffic or noise issues related to the inn.
17. The Board found that Mr. Bahar testified that the use does not substantially adversely affect the uses of the neighboring and adjacent properties.
18. The Board found that James Brittingham was sworn in and testified in support of the Application.
19. The Board found that Mr. Brittingham testified that the prior owner junked up the Property and that numerous dumpster loads were needed to clean the Property up.
20. The Board found that Mr. Brittingham testified that the Applicant maintains the Property very well and the use of the Property does not negatively impact the surrounding neighborhood.
21. The Board found that Mr. Brittingham testified that the guests at the inn are very quiet.
22. The Board found that two (2) parties appeared in support of the Application.
23. The Board found that no parties appeared in opposition to the Application.
24. The Board tabled discussion of this application until October 5, 2015.
25. 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 bed and breakfast inn 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 is a large lot consisting of over nearly 2 acres as shown on the tax map.
 - b. The dwelling is a large building consisting of 10 bedrooms. The Applicant lives in the dwelling but rents out six of the rooms as part of a bed and breakfast. None of the rooms have cooking facilities.
 - c. The Property is located in a residential area and the use is consistent with residential use.
 - d. Adequate parking is available for the guests.
 - e. A neighbor testified that the bed and breakfast inn has no negative impact on the neighborhood and that the guests are quiet. Since the bed and breakfast has been in operation for a year, this testimony was particularly helpful to the Board in determining that the bed and breakfast inn has not had a substantial adverse effect on the neighborhood.
 - f. No evidence was presented which would demonstrate that the bed and breakfast will have a substantial adverse effect on neighboring and adjacent properties.

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, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application. Mr. John Mills and Mr. Norman Rickard 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 November 17, 2015.