

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY  
IN RE: CHARLES KERSEY, JR. & BARBARA KERSEY**

**(Case No. 11654)**

A hearing was held after due notice on October 19, 2015. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, 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 Applicants are requesting a special use exception for a garage / studio apartment. This application pertains to certain real property located on the east side of Blacksmith Shop Road approximately 1,700 feet north of Staytonville Road (911 Address: 10299 Blacksmith Shop Road, Greenwood); said property being identified as Sussex County Tax Map Parcel Number 1-30-11.00-3.05. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a building permit application, a building permit, a Certificate of Compliance, pictures of the garage, an undated survey of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning and Zoning had not received any correspondence in support of the Application and received one (1) letter of opposition to the Application.
3. The Board found that Michael Charles Kersey was sworn in and testified regarding the Application.
4. The Board found that Mr. Kersey testified that he plans to build a new dwelling on the Property.
5. The Board found that Mr. Kersey testified that the special use exception will allow him to keep the kitchen in the pole building. The need for the special use exception arose due to the proposed construction of the dwelling.
6. The Board found that Mr. Kersey testified that he has no plans to rent the apartment and the apartment will be for personal use only.
7. The Board found that Mr. Kersey testified that the apartment has one bedroom.
8. The Board found that Mr. Kersey testified that the special use exception will improve the property values.
9. The Board found that Mr. Kersey testified that the Property consists of eleven (11) acres and the pole building is approximately 1,400 feet from the road.
10. The Board found that Mr. Kersey testified that the Property was wooded and he cleared approximately 7.5 acres.
11. The Board found that Mr. Kersey testified that the adjacent property owner has no objection to the Application.
12. The Board found that Mr. Kersey testified that the apartment is less than eight-hundred (800) square feet in size and has been on the lot for one (1) year.
13. The Board found that Mr. Kersey testified that the two (2) parcels in the front of his parcel are for sale.
14. The Board found that Mr. Kersey testified that the area is rural in character and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.
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 evidence 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 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.

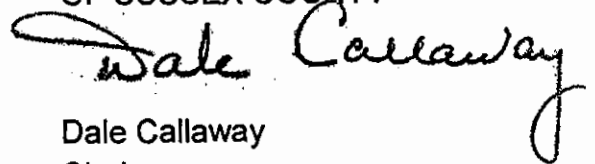
- a. The Board was not convinced by the opposition that the special use exception would somehow have a substantial adverse effect on neighboring and adjacent properties. In fact, no specific evidence, such as evidence of the effect of the unit on property values or traffic, was cited by the opposition in its presentation. The concerns raised by the opposition appeared to be speculative and did not persuade the Board that approval of the Application was unwarranted. Rather, the Board found persuasive the testimony of the Applicant that the use would not have a substantial adverse effect on neighboring and adjacent properties.
- b. The Property is a large lot consisting of approximately 10 acres as shown on the tax map. The Property consists of a significant amount of woods and the apartment is located far from the nearby road. The pole building where the apartment is located has been on the Property for approximately one year. The need for the special use exception arose because the Applicants are building a dwelling on the Property.
- c. The unit will be used by the Applicants and they do not intend to rent it out.
- d. The apartment appears to be of a reasonable size as it consists of approximately 800 square feet and will meet the square footage requirements of a garage / studio apartment.
- e. The photographs submitted by the Applicants indicate that the building has a pleasant appearance and would not detract from the character of the neighborhood.
- f. The neighborhood surrounding the Property is rural in character and the neighbor who owns surrounding lands has indicated support of the Application to the Applicants.

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, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application. Mr. Norman Rickard was not present and 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 December 15, 2015