

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MATTHEW STEVENS

(Case No. 11709)

A hearing was held after due notice on February 1, 2016. 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 (Section 115-23C(6) of the Sussex County Zoning Ordinance.

Findings of Fact

The Board found that the Applicant is seeking a Special Use Exception for a garage/studio apartment on a parcel of land zoned AR-1 Agricultural Residential. The property is identified as Sussex County Tax Map and Parcel Number 1-31 12.00 45.02, with a 911 address of 18921 Atlanta Road, Bridgeville, Delaware.

After the hearing, the Board made the following finding of fact:

1. The Board was given copies of the Application and a portion of the tax map of the area.
2. Janelle Cornwell, of Sussex County, described the case and stated that the Office of Planning and Zoning has received one letter in opposition to the Application and has not received any correspondence in support of the Application.
3. Mr. Stevens was sworn in and testified that he is requesting a special use exception for a garage/studio apartment.
4. The Board found that Mr. Stevens testified that he obtained a building permit and a Certificate of Compliance for the existing building.
5. The Board found that Mr. Stevens testified that he plans to create living space in structure that exists on the property for temporary use. He also testified that that apartment will be constructed in accordance with all current codes.
6. The Board found that Mr. Stevens testified that the apartment is on the second floor of the structure that currently exists on the subject property. He also testified that there will be an exterior stairwell constructed to gain access to the apartment from the outside of the building.
7. The Board found that Mr. Stevens testified that he needs to use the space while he is currently trying to sell his other property where he currently resides and that he will use the apartment until he builds a new dwelling on the subject property.
8. The Board found that Mr. Stevens testified that once he builds a new dwelling on the subject property, the apartment will no longer be used.
9. The Board found that Mr. Stevens testified that it is his opinion that the special use exception for an apartment will not adversely affect the uses of the neighboring and adjacent properties.
10. The Board found that Mr. John Whalen was sworn in and testified in support of the application.
11. The Board found that Mr. Whalen testified that he is an adjacent property owner, and that he owns a 48 acre horse farm.
12. The Board found that Mr. Whalen testified that he has no objection to the application and that it is his opinion that the proposed use as an apartment will not adversely affect the uses of neighboring and adjacent properties.
13. The Board found that no parties appeared in opposition to the special use exception application.
14. Based on the findings above and the testimony and evidence presented during the Public Hearing and contained in the Public Record, the Board determined that the Special Use Exception Application should be granted for a garage/studio apartment on a parcel of land

zoned AR-1 Agricultural Residential. The findings below further support the Board's decision to grant the Special Use Exception Application:

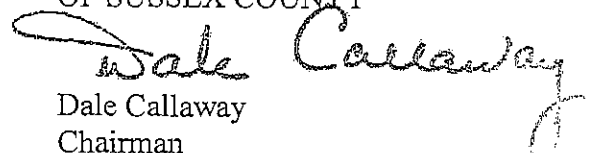
- a. The proposed apartment is within an existing structure on the premises. The only visible change to the exterior will be a staircase leading to the apartment.
- b. The Applicant stated that the apartment will only be used on a temporary basis while he is selling a property and constructing a new dwelling on the subject property.
- c. The Applicant stated that after the new dwelling is constructed on the subject property, the apartment will no longer be used.
- d. There was testimony from a neighboring property owner that the apartment will not have a substantial adverse effect on the use of his property or other neighboring and adjacent properties.
- e. The Applicant stated that the use as an apartment within the existing structure on the subject property will not substantially adversely affect the uses of neighboring and adjacent properties.
- f. There was no empirical evidence in the record that the application for a garage/studio apartment will have any adverse effect on neighboring or adjacent properties. As a result, the standard that the use will not substantially adversely affect the uses of the neighboring and adjacent properties has been satisfied.

Based on the foregoing, the Board approved the special use exception for a garage/studio apartment pursuant to Section 115-23C(6) of the Sussex County Zoning Code.

Decision of the Board

Upon motion duly made and seconded, the special use exception for a garage/studio apartment pursuant to Section 115-23C(6) of the Sussex County Zoning Code was approved. The Board Members in favor of the approval were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard and Mr. Brent Workman.

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 March 22, 2016.