

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: NORMAN E. DAVIDSON, JR.

(Case No. 11715)

A hearing was held after due notice on February 15, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, 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 for size requirement of the 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 size of a garage / studio apartment. This application pertains to certain real property located on the south side of Piney Neck Road approximately 183 feet east of Hudson Road (911 Address: 29350 Piney Neck Road, Dagsboro); said property being identified as Sussex County Tax Map Parcel Number 2-33-11.00-78.01. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a drawing of the proposed garage, and a septic permit plan dated January 29, 1992.
2. The Board found that the Office of Planning and Zoning had not received any correspondence regarding the Application.
3. The Board found that Norman Davidson, Jr., was sworn in and testified regarding the Application. Mr. Davidson submitted pictures of the Property to the Board to review.
4. The Board found that Mr. Davidson testified that a manufactured home was placed on the Property in 1992 and six (6) years ago the manufactured home collapsed due to a snow storm.
5. The Board found that Mr. Davidson testified that he built the existing building and apartment to replace the manufactured home. The building has a concrete floor.
6. The Board found that Mr. Davidson testified that he does not believe the building could be reduced in size.
7. The Board found that Mr. Davidson testified that the building is in the same location as the prior mobile home.
8. The Board found that Mr. Davidson testified that his son lives in the apartment.
9. The Board found that Mr. Davidson testified that the structure will not alter the character of the neighborhood.
10. The Board found that Mr. Davidson testified that it would be hardship to remove the structure.
11. The Board found that Mr. Davidson testified that the garage is used for farm equipment.
12. The Board found that Mr. Davidson testified that there is no other dwelling on the Property.
13. The Board found that one (1) person 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, the Board determined that no special use exception was necessary because there is no other dwelling on the Property. The only structure on the Property contains both a garage and an apartment. The special use exception for a garage / studio apartment applies only in cases


- where the garage / studio apartment is located in a building which is an accessory to the primary dwelling on the Property. In this case, there is no other dwelling on the lot and the structure is used as the primary dwelling. Accordingly, the special use exception for a garage / studio apartment is not necessary.
16. Since there is no need for a special use exception, the size limitations of a garage / studio apartment do not apply and the variance is, thus, not necessary to afford the Applicant relief. The Applicant may retain the existing structure on the Property and use it as a garage and residence.
 17. The Board also directed that the Applicant be refunded his filing fee.

The Board denied the special use exception and variance application finding that neither a special use exception or variance were necessary.

Decision of the Board

Upon motion duly made and seconded, the special use exception and variance application was denied. The Board Members in favor of the motion to deny the application 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 deny the special use exception and variance 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 April 5, 2016.