

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MICHAEL SCHIMMEL

(Case No. 11764)

A hearing was held after due notice on May 2, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson and Mr. Brent Workman. Mr. Norman Rickard was absent.

Nature of the Proceedings

This was an application for a Special Use Exception to place a manufactured home type structure for use as an office on a 6.16 acre parcel of land pursuant to Sections 115-23A and 115-210A(1) of the Sussex County Zoning Code.

Findings of Fact

The Board found that the applicant is seeking a Special Use Exception to place and use a manufactured home structure as an office on a 6.16 acre parcel of land that is zoned AR-1 on the North side of Staytonville Road approximately 858' East of North Union Church Road at 21429 Bella Terra Drive, Lincoln, DE 19960.

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

1. The Board was given copies of the application and a portion of the tax map of the area.
2. Janelle Cornwell, Sussex County Zoning Manager, described the case and stated that the Planning and Zoning office had received one letter of opposition, which was read into the record.
3. The applicant was sworn in and testified in support of his request for a Special Use Exception to place a manufactured home structure for use as an office and that when he placed the manufactured home structure he was not aware that a Special Use Exception was required for said use.
4. The Board found that the applicant testified that his landscaping business had grown and expanded over the past few years and that he had purchased the 40 acre parcel to create a nursery and plans to move the landscaping business and the mobile office structure to the 40 acre property.
5. The Board found that the applicant testified that the manufactured home measures 14'x70', that the unit is not connected to any septic system and has no bathrooms in the unit.
6. The Board found that the applicant testified that the manufactured home structure is located 66' from the property line and that the existing unit has been located on the property for approximately 1 year.
7. The Board found that the applicant testified that the use be approved for at least 6 months in order to allow time for the landscaping business to be moved to the 40 acre property.
8. The Board found that 3 parties appeared and testified in opposition to the application. Thomas Robbins testified that having the landscaping business located in a residential area is disruptive and that he has no objection to the Special Use Exception being granted for a period of 1 year as long as the business is relocated to the 40 acre property within that time period. Virginia Gillman testified that having the business in a residential area is too noisy and that she has no objection to the Special Use Exception being approved for a period of 1 year provided the business is relocated within that time period. Lastly, Ada Amador also testified in opposition based on noise reasons and that she had no

objection to the Special Use Exception being approved for 1 year as long as the landscaping business is relocated to the 40 acre property within that time period.

9. The Board found that Janelle Cornwell stated that the Planning and Zoning office has not yet received a Conditional Use application for the 40 acre property to which the applicant plans to relocate his landscaping business which will take up to 6 months to approve.
10. Based on the above findings and the testimony and evidence presented during the public hearing and contained in the public record, the Board determined that the Special Use Exception should be granted to allow the existing manufactured office unit to be maintained on the AR-1 zoned 6 acre property for a period of 1 year, subject to the landscaping business being relocated within that time period to the 40 acre property purchased by the applicant for that purpose.
11. Based on the foregoing findings the testimony and evidence presented during the hearing and contained in the public record, which the Board finds to be credible and persuasive and the Board determined that the application met the standards for granting a special use exception variance. The finding below further support the Board's decision to approve the application:
 - a. The application is for a special use exception for an existing manufactured home type structure which was placed on the subject property as an office approximately 1 year ago without proper permits.
 - b. The manufactured home structure will be used as a temporary office during the 1 year period while the applicant is relocating the landscaping business to the 40 acre property purchased for that purpose. On or before the expiration of 1 year, the manufactured office unit will no longer be used and will be removed from the property on which it is presently located.
 - c. Although 3 neighboring property owners testified that the noise created by having the landscaping business located within a residential area was disruptive, all 3 owners testified that they had no objections to the approval of the placement of the office unit structure for a maximum period of 1 year provided the landscaping business is relocated to the 40 acre property during that time period. As a result, there was no empirical evidence in the record that granting the application for a Special Use Exception for a period of 1 year would have any adverse effect on the uses of neighboring or adjacent properties, thus satisfying the requirement that the granting of the application will not substantially adversely affect the uses of neighboring and adjoining properties.
 - d. Because the applicant stated that the manufactured home is only needed on a temporary basis, it is appropriate to place a 1 year time limit grant of the Special Use Exception.

Based on the foregoing findings the testimony and evidence presented during the hearing and contained in the public record, which the Board approved the Special Use Exception to place a manufactured office type structure on the subject property pursuant to Sections 115-23A and 115-210A(1) of the Sussex County Zoning Code for a period of 1 year.

Decision of the Board

Upon motion duly made and seconded, the Special Use Exception to maintain the manufactured office structure was approved for a period not to exceed 1 year from the date of this decision. The Board members voting in favor of the approval were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills 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.

A placement permit must be obtained before
the manufactured home is placed on the property.

Date June 21, 2016