

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DEAN SHERMAN / SHERMAN HEATING OILS, INC.

(Case No. 11790)

A hearing was held after due notice on June 20, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard.

Nature of the Proceedings

This is an application for a special use exception to place a temporary manufactured home type structure for office.

Findings of Fact

The Board found that the Applicant is requesting a special use to place a temporary manufactured home type structure for an office. This application pertains to certain real property located on the west side of Sussex Highway and east side of Bridgeville Highway approximately 0.7 miles south of Old Furnace Road (911 Address: 9101 Elm Street, Seaford); said property being identified as Sussex County Tax Map Parcel Number 3-31-3.00-164.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, drawings of the proposed unit, an aerial photograph of the Property, a portion of the tax map of the area, a photograph of the existing modular office, and a survey dated June 2015.
2. The Board found that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Dean Sherman was sworn in and testified regarding the Application. Mr. Sherman submitted exhibits to the Board to review including pictures of the proposed unit.
4. The Board found that Mr. Sherman testified that the Property consists of approximately 8 acres. He is the owner of the Sherman Corporation which is engaged in plumbing, heating, air conditioning, portable restrooms, and oil business and he recently purchased this property north of Seaford to expand the business. The Applicant intends to use the Property for a propane and oil storage facility and has been granted a Conditional Use by the Planning & Zoning Commission.
5. The Board found that Mr. Sherman testified that the Property has an existing 14,000 square foot building which will be renovated for the business.
6. The Board found that Mr. Sherman testified that the Applicant is currently cleaning up the Property.
7. The Board found that Mr. Sherman testified that, at the time of the purchase of the Property, there was a 28 feet by 60 feet manufactured home on the Property which was used as an office and had been neglected. The landscaping around the unit was overgrown as shown on the photographs. The prior unit has been removed from the Property.
8. The Board found that Mr. Sherman testified that he plans to replace the prior unit with a newer model to use for a temporary office. The proposed unit will be used until renovations to the existing 14,000 square foot building are completed. He hopes to have the renovations complete within three (3) years but he is requesting the special use exception for a period of five (5) years.
9. The Board found that Mr. Sherman testified that the proposed unit will be placed in the same location as the previous unit but will be more attractive as it will have

landscaping and good curb appeal. The proposed unit will measure 24 feet by 60 feet.

10. The Board found that Mr. Sherman testified that the use will not substantially adversely affect the uses of the neighboring and adjacent properties. There are commercial properties nearby.
11. The Board found that no parties appeared in support of or in opposition to the Application.
12. 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 manufactured home-type structure 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 used for a propane and oil storage facility. The manufactured home-type structure will be used for a temporary office while renovations to an existing building on the Property are being completed.
 - b. The Property is quite large as it consists of approximately 8 acres and a previous manufactured home-type structure was located on the Property until being recently removed. That structure was neglected and weeds grew around it as evidenced by photographs submitted by the Applicant. The pictures of the proposed unit, however, demonstrate that the proposed unit is clean in appearance and will be an improvement over the prior unit located on the Property.
 - c. The Property is located along Route 13 in a commercial area. The manufactured home-type structure will be used as part of the Applicant's business and is consistent with the uses in the area.
 - d. The unit will be placed in the same location as the previous unit and will not be closer to neighboring properties.
 - e. No evidence was presented which would demonstrate that the structure will have a substantial adverse effect on neighboring and adjacent properties. The lack of evidence is notable since an older manufactured home-type structure was located on the Property in the same location for quite some time. If the existence of a manufactured home-type structure had some substantial adverse effect on neighboring and adjacent properties, the Board would expect some evidence to that effect to be submitted to the Board yet no evidence was provided. Rather, the Applicant submitted substantial evidence to the contrary and the Board finds that evidence credible and persuasive.
 - f. The special use exception was approved for a period of five (5) years.

The Board granted the special use exception application for a period of five (5) years 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 for a period of five (5) years. The Board Members in favor 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 approve the special use exception 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.

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

Date August 16, 2016.