

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: STOCKLEY MATERIALS, LLC

(Case No. 11813)

A hearing was held after due notice on August 1, 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 to place a manufactured home type structure for an office.

Findings of Fact

The Board found that the Applicant is requesting a special use to place a manufactured home type structure for an office. This application pertains to certain real property located on the south side of Lewes-Georgetown Highway (Route 9) approximately 1,750 feet west of Coastal Highway (Route 1) (911 Address: 32416 Lewes Georgetown Highway, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-192.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, a portion of the tax map of the area, photographs of the Property and the existing structures thereon, photographs of neighboring properties, and a site plan dated November 24, 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 Ken Adams and Mark Davidson were sworn in and testified regarding the Application. Mr. Davidson submitted exhibits to the Board to review including additional photographs of the Property, a record plan of the Property dated November 24, 2015, an existing conditions and demolition plan for the Property dated November 24, 2015, pictures of the proposed unit, minutes from public hearings regarding the conditional use granted for the Property, a boundary adjustment plan date November 6, 2015, and correspondence from the State Fire Marshal, the Department of Natural Resources and Environmental Control, and the Sussex Conservation District.
4. The Board found that Mr. Davidson testified that he is a principal land planner for Pennoni Associates, Inc. Mr. Adams is the President of Stockley Materials, LLC.
5. The Board found that Mr. Davidson testified that the Property consists of approximately 1.65 acres.
6. The Board found that Mr. Davidson testified that the business currently operates approximately at a location 1,900 feet west of the Property.
7. The Board found that Mr. Davidson testified that, in September 2015, the Applicant received a Conditional Use approval for the operation of a commercial landscaping materials sales and storage facility. The Applicant sells landscaping materials such as mulch, landscaping stones, and pavers and stores the material on the Property.
8. The Board found that Mr. Davidson testified that the Applicant planned to preserve an existing building on the site for the office but the building was unable to be restored and has to be removed.
9. The Board found that Mr. Davidson testified that the temporary office structure will measure 12 feet by 44 feet and has a neat appearance.

10. The Board found that Mr. Davidson testified that an adjacent property is used as by Delmarva Power for a substation and there are other manufactured homes in the area.
11. The Board found that Mr. Davidson testified that the proposed unit is consistent with the character of the neighborhood and the unit will not substantially affect adversely the uses of neighboring and adjacent properties.
12. The Board found that Mr. Davidson testified that the use is requested for a period of five (5) years.
13. The Board found that Mr. Adams testified that the unit is a model from the early 2000s.
14. The Board found that Mr. Adams testified that the Property has been cleared except for one structure.
15. The Board found that Mr. Adams testified that there will be parking on the Property for customers and there will be 2 to 3 employees using the unit. The hours of operation are Monday through Friday and Saturdays from 7:00 a.m. to 1:00 p.m.
16. The Board found that Mr. Adams testified that the Applicant is relocating its business from rented land to property it has purchased and the Applicant used a manufactured home type structure on the other site.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. 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 unrebutted, 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 landscaping materials sales and storage facility. The manufactured home-type structure will be used for an office. The landscaping materials will be kept outside.
 - b. The Property is a reasonably sized lot as it consists of approximately 1.65 acres.
 - c. Other structures were previously located on the Property until being recently removed. Those structures were neglected and weeds grew around them 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.
 - d. The Property is located along Route 9 near other manufactured homes and similar structures. An adjacent property is used as a substation for Delmarva Power. The manufactured home-type structure will be used as part of the Applicant's business and is consistent with the uses in the area. The Board finds the pictures submitted by the Applicant compelling in demonstrating the character of the neighborhood.
 - e. The Applicant operated its business at a location approximately 1,900 feet away from the Property. This site was also on Route 9 and it housed a manufactured-type home structure for an office.
 - f. 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 the Applicant operated its business with a similar manufactured home-type structure on a nearby property. 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.

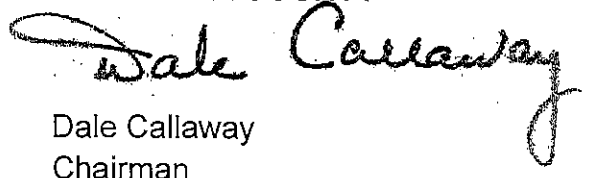
g. The special use exception was approved for a period of five (5) years.

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 October 4, 2016.