

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: UNIVERSITY OF DELAWARE**

**(Case No. 11884)**

A hearing was held after due notice on November 21, 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 retain two (2) manufactured home type structures for offices.

Findings of Fact

The Board found that the Applicant is requesting a special use to retain two (2) manufactured home type structures for office use. This application pertains to certain real property located on the north side of County Seat Highway (Route 9) and east side of Tyndall Road (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 2-31-19.00-6.00. 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, the Findings of Fact for Case No. 11233, and a site plan dated May 21, 2013.
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 Mark Isaacs was sworn in and testified regarding the Application. Mr. Isaacs submitted pictures to the Board to review.
4. The Board found that Mr. Isaacs testified that the two (2) units were granted a special use exception in 2013 by the Board. The units were needed during renovations to the laboratory also located on the Property. The laboratory staff was moved to the temporary units while the laboratory building was being renovated.
5. The Board found that Mr. Isaacs testified that the Applicant originally intended to return the units when the renovation was complete but the Applicant incurred other costs with the trailer for fiber optics, water, sewer, and gas line connections and the Applicant opted to purchase the units to use for their field crop research laboratory.
6. The Board found that Mr. Isaacs testified that the units are in good shape and the units do not substantially adversely affect the uses of the neighboring and adjacent properties.
7. The Board found that Mr. Isaacs testified that the units are completely surrounded by lands owned by the Applicant and the units are not located near the property lines of neighboring properties.
8. The Board found that Mr. Isaacs testified that the units are used seasonally and not year round.
9. The Board found that Mr. Isaacs testified that the Applicant is seeking approval for a five (5) year period.
10. The Board found that no parties appeared in support of or in opposition to the Application.
11. 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 structures

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 a large parcel as is shown on the tax map and is used as a campus for the University of Delaware. The Property contains several poultry houses, laboratory space, an administrative building, a green house, sheds, and other buildings as clearly shown on the survey provided by the Applicant.
- b. The manufactured home-type structures have been located on the Property since 2013 and, despite the fact that the structures have been on the Property for this period of time, no evidence was submitted to the record that the units substantially affect adversely the uses of neighboring and adjacent properties. The lack of evidence is notable because, if the existence of a manufactured home-type structures 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.
- c. The Applicant presented pictures of the unit which demonstrate that the units have a neat and clean appearance. There was no evidence that the units have become unsightly or dilapidated.
- d. The units are located near the Applicant's other buildings and are not located near the property lines of adjacent neighbors.
- e. 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 2/7/2017