

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

**IN RE: N. CURTIS WALLS & TRAVIS W. WALLS**

**(Case No. 11908)**

A hearing was held after due notice on March 6, 2017. 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 use a manufactured home type structure for an office.

Findings of Fact

The Board found that the Applicant is requesting a special use to use a manufactured home type structure for an office. This application pertains to certain real property located on the east side of Clendaniel Pond Road approximately 636 feet north of Fleatown Road (911 Address: 9483 Clendaniel Pond Road, Lincoln); said property being identified as Sussex County Tax Map Parcel Number 2-30-13.00-148.00. 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 structure, an aerial photograph of the Property, a portion of the tax map of the area, and a site plan dated November 10, 2016.
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 Curtis Walls and Travis Walls were sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review including additional photographs of the unit, a deed, correspondence from the Sussex County Planning & Zoning Department, and a certificate of title
4. The Board found that Mr. Hutt stated that the Applicants are requesting the use of a manufactured home as an office.
5. The Board found that Mr. Hutt stated that the Applicants own Delmarva Petroleum Service and the structure would be used for that business.
6. The Board found that Mr. Hutt stated that the Applicants purchased the Property in 2011. The Property is zoned AR-1.
7. The Board found that Mr. Hutt stated that, on June 21, 2016, a conditional use was granted for the operation of the Applicants' contracting business.
8. The Board found that Mr. Hutt stated that Delmarva Petroleum Service's business has grown and the structure is needed to accommodate this growth.
9. The Board found that Mr. Hutt stated that the proposed manufactured home measures 13 feet wide by 70 feet long.
10. The Board found that Mr. Hutt stated that, while applying for the conditional use, a preliminary site plan was submitted. The Applicants are in the process of obtaining final site plan approval for the conditional use.
11. The Board found that Mr. Hutt stated that the approved conditional use provides that all future structures on the site must be properly permitted.
12. The Board found that Mr. Hutt stated that the manufactured home would be maintained in good fashion just like the rest of the existing site.
13. The Board found that Mr. Hutt stated that neighboring properties are used for agricultural and residential purposes. Manufactured homes exist on nearby properties as residential dwellings.

14. The Board found that Mr. Hutt stated that the structure will not substantially affect adverse the uses of neighboring and adjacent properties.
15. The Board found that Mr. Hutt stated that the site plan presented in the exhibit book shows the proposed placement of the manufactured home.
16. The Board found that Mr. Curtis Walls and Mr. Travis Walls, under oath, affirmed the statements made by Mr. Hutt.
17. The Board found that Mr. Hutt stated that the Applicants are requesting the special use exception for a period of five (5) years.
18. The Board found that Mr. Curtis Walls testified that they are the owners of the company and the company is slowly growing.
19. The Board found that Mr. Curtis Walls testified that the Applicants plan to only use the proposed manufactured home as an office for five (5) years with hopes of continued expansion in the future.
20. The Board found that Mr. Curtis Walls testified that the business operates from the site and his other son lives on the Property, making him always available on site.
21. The Board found that Mr. Curtis Walls testified that Delaware Petroleum Service services and installs petroleum equipment at retail locations. No fuel is sold on the Property but they make sure that petroleum equipment is maintained for their clients.
22. The Board found that Mr. Curtis Walls testified that there will be no effect on neighboring properties.
23. The Board found that Mr. Hutt stated that there was no objection from neighbors or the public at the hearings before the Planning and Zoning Commission or the County Council.
24. The Board found that no parties appeared in support of or in opposition to this Application.
25. 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 petroleum equipment facility. The manufactured home-type structure will be used for an office. No fuel is stored or sold on site. Rather, the Applicants' business provides maintenance and installation service at other locations.
  - b. The Property is a large lot as it consists of approximately 4.972 acres.
  - c. The pictures of the proposed unit demonstrate that the proposed unit is clean in appearance.
  - d. The Property is located in an agricultural and residential area. Other manufactured homes are located on nearby properties.
  - e. The manufactured home-type structure will be used as part of the Applicants' business and is consistent with the uses in the area.
  - f. The sides of the property where the unit will be located are bordered by a wooden fence and landscaping as shown on the survey provided by the Applicant. These barriers should limit the visibility of the unit from neighboring properties.
  - g. 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 has already had public hearings before Sussex County Council and the Planning & Zoning Commission. If someone objected to the development of this Property for the Applicant's business, the Board would have expected that evidence would have been presented to the Board yet no evidence was provided.

Rather, the Applicants submitted substantial evidence to the contrary and the Board finds that evidence credible and persuasive.

h. 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 April 4, 2017