

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JENSTAR OF DELMARVA, LLC

(Case No. 11918)

A hearing was held after due notice on February 20, 2017. The Board members present were: Mr. John Mills, Mr. Jeff Hudson, 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 exception of a manufactured home type structure as an office for a period of five (5) years. This application pertains to certain real property located on the east side of Sussex Highway (Route 13) approximately 1,887 feet south of Whitesville Road (911 Address: 35085 Sussex Highway, Delmar); said property being identified as Sussex County Tax Map Parcel Number 5-32-6.00-85.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, photographs of the unit, Minutes and Findings of Fact for Case Nos. 9698-2006 and 10894-2011, a letter from the Applicant's attorney, an aerial photograph of the Property, and a portion of the tax map of the area.
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 Jeff Finney was sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.
4. The Board found that Mr. Hutt stated that Mr. Finney is the general manager of Hale Trailer Break & Wheel which operates Jenstar of Delmarva, LLC.
5. The Board found that Mr. Hutt stated that the manufactured home will be used as a sales and rental office for Hale Trailer Break & Tire.
6. The Board found that Mr. Hutt stated that the Property is located along Route 13 between Laurel and Delmar. The lot is zoned C-1.
7. The Board found that Mr. Hutt stated that the business has been operated by Hale on the Property for 15 years.
8. The Board found that Mr. Hutt stated that surrounding areas are wooded or used for agricultural purposes. Other nearby lands which are not wooded or agricultural are used for commercial or industrial purposes.
9. The Board found that Mr. Hutt stated that the manufactured home-type structure has been on the Property since 2006 after the Board approved a special use exception for the manufactured home. At that time, the manufactured home-type structure was new.
10. The Board found that Mr. Hutt stated that a five (5) year extension was granted by the Board in 2011.
11. The Board found that Mr. Hutt stated that the manufactured home is well maintained and compatible with the site.
12. The Board found that Mr. Hutt stated that the retention of this structure will not adversely affect adversely the uses of neighboring and adjacent properties.
13. The Board found that Mr. Finney, under oath, affirmed the statements made by Mr. Hutt.

14. The Board found that Mr. Finney testified that two years ago a new building was constructed for the use of parts and services and the Applicant made a significant investment with that building.
15. The Board found that Mr. Finney testified that the business is growing in the parts and services areas and the Property to the south was purchased for expansion of the business as well.
16. The Board found that Mr. Finney testified that a large part of the Applicant's business is the sale and rental of road trailers.
17. The Board found that Mr. Finney testified that the manufactured home is still in excellent condition and is adequate for its purposes at this time. A timeline cannot be given as to when the manufactured home would be replaced with a new building but the Applicant would like to construct an additional building.
18. The Board found that Mr. Finney testified that the manufactured home is a triple-wide model.
19. The Board found that Mr. Finney testified that there have been no complaints from neighbors.
20. The Board found that Mr. Finney testified that the lot consists of approximately 9 acres.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. 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 sales, rental, parts, and service for the Applicant's trailer sales and rental business. The manufactured home-type structure has been used as a sales and rental office on the Property since 2006.
 - b. The Property is a large commercial lot consisting of approximately 9 acres and is located along Route 13 in an area of other commercial and industrial uses.
 - c. The pictures of the structure presented by the Applicant demonstrate that the structure is well-maintained and has a neat appearance.
 - d. 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 this manufactured home-type structure on the Property since 2006. If the existence of this 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.
 - 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. Jeff Hudson, Mr. John Mills, and Mr. Brent Workman. No Board Members voted against the

Motion to approve the special use exception application. Mr. Dale Callaway and Mr. Norman Rickard did not participate in the discussion or vote on this 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