

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SAMUEL JAY CULVER & JEANETTE E. CULVER

(Case No. 11984)

A hearing was held after due notice on July 10, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception for a garage / studio apartment.

Findings of Fact

The Board found that the Applicants are seeking a special use exception for a garage / studio apartment. This application pertains to certain real property located on the northeast side of Progress School Road (Route 562) at the intersection of Federalsburg Road (Route 18) (911 Address: 18731 Progress School Road, Bridgeville); said property being identified as Sussex County Tax Map Parcel Number 1-31-13.00-32.02.

1. The Board was given copies of the Application, a portion of the tax map of the area, a drawing of the apartment, an aerial photograph of the Property, and a survey of the Property dated January 16, 2014.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Joseph Lesner was sworn in to testify about the Application.
4. The Board found that Mr. Lesner testified that the apartment was built as a lean-to in 2010, and the lean-to was later enclosed for the owner's father-in-law who was in bad health at the time. The apartment was constructed in 2012.
5. The Board found that Mr. Lesner testified that he is trying to buy the Property and the Applicants have moved to Montana.
6. The Board found that Mr. Lesner testified that his neighbor does not object to the apartment and the apartment has been on the Property with no complaints.
7. The Board found that Mr. Lesner testified that the Property consisted of 23 acres but a three-acre parcel was recently subdivided out of the Property. The pole building and the dwelling are now located on the three-acre parcel that was recently subdivided.
8. The Board found that Mr. Lesner testified that space for parking is available for continued use of the apartment.
9. The Board found that no parties appeared in support of or in opposition to the Application.
10. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board determined that the application met the standards for granting a special use exception because the garage / studio apartment 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 garage / studio apartment is located in a residential area on a property that originally consisted of 23.03 acres and has since been subdivided into two lots. The Property is a large lot and can clearly hold a dwelling and garage / studio apartment.
 - b. The Applicant will have a designated parking space for the resident of the apartment.
 - c. The apartment has been on the Property for several years and no complaints were noted about the apartment in the record.

- d. No evidence was presented which demonstrated that the garage / studio apartment will have any adverse effect on neighboring and adjacent properties; let alone a substantial adverse effect.
- e. This approval is subject to the following conditions:
 - i. The Applicants shall obtain proper permits and a Certificate of Occupancy for the apartment; and
 - ii. The Applicants shall provide an updated survey to the Office of Planning & Zoning demonstrating that no variance is needed. If a variance is needed, the Applicants must apply for and obtain a variance in order for the approval of the special use exception to be valid. Since there is no variance application before the Board at this time, the Board takes no position on whether the Applicants meet the standards for granting a variance.

The Board granted the special use exception application with conditions 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 with conditions. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman. No Board Member against the Motion to approve the special use exception application with conditions. 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.

Date August 22, 2017