

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HORSEY FAMILY, LLC

(Case No. 12014)

A hearing was held after due notice on August 21, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to use two (2) manufactured home type structures as offices.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to place two manufactured home type structures as offices. This application pertains to certain real property located at the northeast side of Hardscrabble Road (Route 20) and the southeast side of Asbury Road (Route 446) (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 2-31-21.00-22.00. 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, a site plan dated June 2017, a rendering of the proposed units, and minutes of Sussex County Council regarding Conditional Use No. 1741.
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 Bobby Horsey and Dan Etnoyer were sworn in and testified regarding the Application.
4. The Board found that Mr. Horsey testified that the proposed manufactured homes measure 14 feet by 60 feet. One unit will be used for a scale house office and the second unit will be used as a borrow pit office.
5. The Board found that Mr. Horsey testified that the Property consists of 201 acres and approximately 150 acres was approved as a conditional use for a borrow pit operated by Vulcan Materials Company.
6. The Board found that Mr. Horsey testified that the Applicant will be applying for a revised site plan to move the scales and units closer to where the plant will operate.
7. The Board found that Mr. Etnoyer testified that the borrow pit office will be located on the east side of the entrance and the scale house office will be located west of the entrance.
8. The Board found that Mr. Horsey testified that the units were shown on the original conditional use site plan in a different location.
9. The Board found that Mr. Horsey testified that the site is inspected on a regular basis by Planning & Zoning staff.
10. The Board found that Mr. Horsey testified that the use will not substantially affect adversely adjacent and neighboring properties.
11. The Board found that Mr. Etnoyer testified that there are no plans for a permanent structure.
12. The Board found that no parties appeared in support of or in opposition to the Application.
13. 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 used as a borrow pit. The manufactured home-type structures will be used for an office for the scales and the borrow pit.
- b. The Property is an exceptionally large as it consists of approximately 201 acres.
- c. The Property has been used as a borrow pit since approval was granted in 2008 and is regularly inspected by Planning & Zoning staff to confirm that it complies with the zoning regulations. There was no evidence submitted into the record that the Applicant's use of the site has presented a substantial adverse effect on neighboring and adjacent properties and this lack of evidence is telling due to the longstanding operation of the borrow pit operation.
- d. Furthermore, no evidence was presented which would demonstrate that the proposed structures will have a substantial adverse effect on neighboring and adjacent properties. 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.
- e. The rendering of the units presented by the Applicants demonstrate that the units will have an attractive appearance.
- f. 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, Ms. Ellen Magee, 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 17, 2017.