

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MARK MCCREARY

(Case No. 12079)

A hearing was held after due notice on January 8, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, 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 Applicant is seeking a special use exception for a garage / studio apartment. This application pertains to certain real property located on the north side of Wilgus Cemetery Road, approximately 2,200 feet west of the intersection of Wilgus Cemetery Road and Bayard Road. (911 Address: 34615 Wilgus Cemetery Road, Frankford); said property being identified as Sussex County Tax Map Parcel Number 5-33-6.00-115.08.

1. The Board was given copies of the Application, a building permit, a Certificate of Compliance, 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 & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Mark McCreary was sworn in to testify about the Application.
4. The Board found that Mr. McCreary testified that he purchased the Property in 2005 and the structure where the apartment is proposed to be located was on the Property at that time. The structure was used as an apartment by the previous owner.
5. The Board found that Mr. McCreary testified that the structure was constructed prior to the dwelling and was used as the prior owner's residence.
6. The Board found that Mr. McCreary testified that, from 2005 to 2015, the Property was rented but the outbuildings were not part of the lease. The outbuildings were used for storage of tools, furniture, and personal belongings.
7. The Board found that Mr. McCreary testified that he moved to the Property in April 2015 and demolished existing paneling, cabinets, flooring, etc., in the structure. He renovated the structure but did not know that the previous owner failed to obtain permits for the original work.
8. The Board found that Mr. McCreary testified that his 62 year-old sister suffers from arthritic knees and hands and would benefit from first-floor living quarters, as well as having family on the premises.
9. The Board found that Mr. McCreary testified that his neighbors have indicated support for the Application.
10. The Board found that Mr. McCreary testified that the apartment will have a bathroom and cooking facilities and the structure had a bathroom and kitchen when he purchased the Property.
11. The Board found that Mr. McCreary testified that the Property consists of 1.23 acres and is fairly isolated.
12. The Board found that Mr. McCreary testified that there are residences, farmland, and a large wooded parcel consisting of approximately 100 acres nearby.
13. The Board found that Mr. McCreary testified that he has a designated parking space for the apartment.

14. The Board found that no persons appeared in support of or in opposition to the Application.
15. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board finds credible, persuasive, and un rebutted, 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 consists of 1.23 acres. The Property is a reasonably sized lot and can clearly hold a dwelling and garage / studio apartment.
 - b. The Property is somewhat isolated as demonstrated by the aerial photographs of the area. There are few residences nearby and most of the neighboring properties are woodlands or farmland.
 - c. The Applicant will have a designated parking space for the resident of the apartment as required by the Code.
 - d. The structure where the apartment will be located has been on the Property for many years and the structure was previously used as an apartment by a prior owner. No complaints were noted about the apartment in the record.
 - e. 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.

The Board granted the special use exception application 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. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application. Mr. John Mills 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 March 6, 2018