

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LLOYD BEHNEY

(Case No. 12083)

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 an indoor shooting / archery range.

Findings of Fact

The Board found that the Applicant is seeking a special use exception for an indoor shooting / archery range. This application pertains to certain real property located on the northeast corner of the intersection of Parker Road and Bethel Road. (911 Address: 38531 Parker Road, Millsboro); said property being identified as Sussex County Tax Map Parcel Number 3-33-15.00-20.00.

1. The Board was given copies of the Application, a drawing of the Property, literature and schematics on the Meggitt Training System, 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 Chad Behney, Jeff Behney, and Lloyd Behney were sworn in to testify about the Application. Jeff Behney submitted exhibits for the Board to review.
4. The Board found that Mr. Jeff Behney testified that he purchased the Property with his brother and father a year ago.
5. The Board found that Mr. Jeff Behney testified that he and his brother and father are firemen and machinists who work on government projects and have security clearances. He and Chad Behney previously worked for the Department of Corrections and have multiple certifications.
6. The Board found that Mr. Jeff Behney testified that a range master will be onsite at all times the range is in operation and all employees will have appropriate certifications.
7. The Board found that Mr. Jeff Behney testified that the Property consists of 10.65 acres.
8. The Board found that Mr. Jeff Behney testified that the building is a concrete structure with a metal roof. An indoor archery range will be constructed with a rubber backstop. The archery range will be separate from the gun range.
9. The Board found that Mr. Jeff Behney testified that Meggitt Training Systems will design the range and the range will be designed with safety features and air filtration systems. The range will be constructed of concrete and steel and the indoor range will be a "building within a building".
10. The Board found that Mr. Jeff Behney testified that the range will be designed to pull air away from the shooters and the building will be designed to limit noise and debris outside the facility. The range will be climate-controlled.
11. The Board found that Mr. Jeff Behney testified that the range will use state of the art lead removal and air purification systems.
12. The Board found that Mr. Jeff Behney testified that the range will be inspected daily and the shooting range will have restricted access.

13. The Board found that Mr. Jeff Behney testified that all persons at the range will wear appropriate safety equipment and all range users will be required to follow certain rules.
14. The Board found that Mr. Jeff Behney testified that all firearms will be inspected and safety procedures will be in place at all times.
15. The Board found that Mr. Jeff Behney testified that the range will have noise canceling insulation to lessen the sound of the range.
16. The Board found that Mr. Jeff Behney testified that the Applicants will host classes and league shooting activities.
17. The Board found that Mr. Jeff Behney testified that there is a demand for this service.
18. The Board found that Mr. Jeff Behney testified that the noise outside the range will be no more than 60 decibels. Individuals in the parking lot will not be able to hear the range.
19. The Board found that Mr. Jeff Behney testified that there are empty lots adjacent to the site.
20. The Board found that Mr. Jeff Behney testified that his neighbor owns 3 adjacent lots and did not object to the proposal.
21. The Board found that Mr. Jeff Behney testified that there will be no outdoor live shooting.
22. The Board found that Mr. Jeff Behney testified that he anticipates operating the facility six days a week and the facility will be used by law enforcement personnel.
23. The Board found that Mr. Jeff Behney testified that the facility will be surrounded by a fence and the facility will be staffed by range masters and other personnel.
24. The Board found that Mr. Floyd Behney testified that he intends to buy a nearby property as well.
25. The Board found that Mr. Floyd Behney testified that the sound technology greatly limits the noise impact from the range.
26. The Board found that Mr. Floyd Behney testified that the Environmental Protection Agency discourages the practice of commercial outdoor firing ranges.
27. The Board found that Mr. Jeff Behney testified that the parking lot will be lit by security lighting. The parking lot can serve approximately 50 cars.
28. The Board found that no persons appeared in support of or in opposition to the Application.
29. 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 unrebutted, the Board determined that the application met the standards for granting a special use exception because the indoor shooting / archery range 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 a large parcel consisting of approximately 10.65 acres and the Applicants propose to operate an indoor shooting / archery range on site. The range will have a section where patrons can fire guns and a separate section for archery use.
 - b. The proposed range will be designed with state-of-the-art technology to minimize the effect of noise from firearms used in the facility as well as to purify the air within the facility.
 - c. The indoor range will be designed to contain all debris from the shooting range within the facility and the range will be cleaned and maintained in a safe manner. These procedures should reduce, if not eliminate, any environmental impacts from guns fired on site.
 - d. The Applicants have demonstrated that the facility will be designed with technology to significantly limit the noise emanating from the site. The Board finds as particularly persuasive the Applicants' testimony that most

of the noise from the firing range will be contained therein and will be difficult to hear outside the building.

- e. The Property appears to have adequate space for parking.
- f. The area near the site is rural and the adjacent properties are largely undeveloped lots.
- g. No one appeared in opposition to the Application.
- h. No evidence was presented which would demonstrate that the facility would have a substantial adverse effect on neighboring and adjacent properties.
- i. 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. 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