

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: THOMAS KUCHARIK & LAURA KUCHARIK

(Case No. 12090)

A hearing was held after due notice on January 22, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, and Mr. John Mills

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 west side of Beaver Dam Road, approximately 14,294 feet north of the intersection of Stockley Road and Beaver Dam Road. (911 Address: 19884 Beaver Dam Road, Lewes); said property being identified as Sussex County Tax Map Parcel Number 2-34-5.00-44.07.

1. The Board was given copies of the Application, a drawing of the Property, 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 Tom Kucharik was sworn in to testify about the Application and submitted exhibits for the Board to review.
4. The Board found that Mr. Kucharik testified that he operates a greenhouse business on the Property and he is building a pole barn for storage.
5. The Board found that Mr. Kucharik testified that he would like to convert a portion of the pole barn for use as an apartment for an employee to watch the greenhouse.
6. The Board found that Mr. Kucharik testified that the apartment will consist of 768 square feet in size.
7. The Board found that Mr. Kucharik testified that he spoke with one neighbor about the Application and he expressed no objections.
8. The Board found that Mr. Kucharik testified that the apartment will have a designated parking space.
9. The Board found that Mr. Kucharik testified that he plans to plant evergreens to screen the pole barn.
10. The Board found that Mr. Kucharik testified that there are residential properties nearby and that the use will not significantly affect adversely adjacent and neighboring properties. He believes the use is consistent with the agricultural residential character of the neighborhood.
11. The Board found that no parties appeared in support of or in opposition to the Application.
12. 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 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 an agricultural / residential area on a property that consists of approximately 5.22 acres. The Property is a large lot and can clearly hold a dwelling and garage / studio apartment.
 - b. The apartment will be located in a portion of a pole building which will be constructed for storage related to the Applicants' greenhouse business.



- c. While the Property is near a residential community, the Applicants intend to plant evergreens along the border of the Property to screen the building. A fence is already located along the border as well. The Board is convinced that the garage / studio apartment will have no substantial adverse visual impact on neighboring and adjacent properties.
- d. The Applicants will have a designated parking space for the resident of the apartment as required by the Code.
- 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. John Mills. No Board Member voted against the Motion to approve the special use exception application. Mr. Brent Workman 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