

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: CHRISTOPHER A. HOLT & EMORY H. BEVILL**

**(Case No. 12100)**

A hearing was held after due notice on February 19, 2018. The Board members present were: Mr. Dale Callaway, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to operate a tourist home (also referred to as a bed and breakfast inn) and for two (2) special use exceptions to operate garage / studio apartments.

Findings of Fact

The Board found that the Applicants are seeking a special use exception to operate a tourist home (also referred to as a bed and breakfast inn) and for two (2) special use exceptions to operate garage / studio apartments. This application pertains to certain real property located on the east side of Willow Creek Road, approximately 868 feet northeast of the intersection of Coastal Highway (Route 1) and Willow Creek Road. (911 Address: 16239 Willow Creek Road, Lewes); said property being identified as Sussex County Tax Map Parcel Number 2-35-23.00-4.11.

1. The Board was given copies of the Application, a survey of the Property dated February 2, 2005, a survey of the Property dated July 28, 2017, a building permit application, photographs of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received nine (9) letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Emory Bevill was sworn in to testify about the Application. William Schab, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.
4. The Board found that Mr. Schab stated that the Property has a house and 2 outbuildings. These structures were on the Property when the Applicants purchased the lot. The Applicants later added a pool and a shed.
5. The Board found that Mr. Schab stated that the Property is a large, attractive and wooded property with ample parking. The Property is located in the Willow Creek subdivision but is the first property found upon entering the subdivision.
6. The Board found that Mr. Schab stated that there are commercial properties on 2 sides of the Property and a large field is located near the Property as well.
7. The Board found that Mr. Schab stated that 9 of the 10 neighbors support the Application and the tenth neighbor could not be reached by the Applicants prior to the hearing.
8. The Board found that Mr. Schab stated that the auxiliary building is called the log cabin.
9. The Board found that Mr. Schab stated that the dwelling has 4 bedrooms and the pool house has 1 bedroom. The log cabin has 1 bedroom. A bed and breakfast is allowed to have up to 6 bedrooms.
10. The Board found that Mr. Schab stated that the uses will not substantially affect adversely the uses of neighboring and adjacent properties.
11. The Board found that Mr. Bevill testified that the log cabin measures approximately 20 feet by 20 feet and is one story with a loft area. The log cabin has no cooking facilities.


12. The Board found that Mr. Bevill testified that the Applicants intend to operate the bed and breakfast 7 days a week for short-term rentals. The facilities may be closed at times for cleaning.
13. The Board found that Mr. Bevill testified that the pool house has a small kitchenette with no cooking facilities.
14. The Board found that Mr. Bevill testified that the dwelling has 4 bedrooms and will be used as a bed and breakfast inn. There are no cooking facilities in the bedrooms in the dwelling. Meals for guests will be prepared in the main dwelling.
15. The Board found that Mr. Bevill testified that there are ample parking spaces on the Property for all users of the facilities.
16. The Board found that Mr. Bevill testified that he affirmed the statements made by Mr. Schab as true and correct.
17. The Board found that Mr. Bevill testified that there are no restrictive covenants which prohibit the proposed uses.
18. The Board found that Mr. Schab stated that there is already a bed and breakfast located within the community.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. 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 tourist home and the two (2) garage / studio apartments 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 lot consisting of 3.194 acres as shown on the survey. The lot can comfortably hold a dwelling (to be used as a tourist home) and two (2) garage / studio apartments.
  - b. The pictures demonstrate that the structures are attractive and well-kept. The surveys also demonstrate that the structures have been on the Property for many years.
  - c. There will only be six (6) total bedrooms used by guests of the tourist home, the pool house, and the log cabin. This number of bedrooms is limited and is reasonable.
  - d. While the Property is in a residential community, the Property is located on the outskirts of the community and is heavily wooded. The Board is convinced that the garage / studio apartments and the tourist home will have no substantial adverse visual impact on neighboring and adjacent properties. Other nearby properties consist of a commercial property and a farm field. There is also a property in the neighborhood which is used as a tourist home.
  - e. The Applicants will have a designated parking space for the users of the garage / studio apartments as required by the Code.
  - f. There will be no cooking facilities in the individual rooms in the tourist home.
  - g. No evidence was presented which demonstrated that the garage / studio apartments or the tourist home will have any adverse effect on neighboring and adjacent properties; let alone a substantial adverse effect. Rather, the Board received numerous letters of support from neighbors.

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, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application. Ms. Ellen Magee 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 two (2) years from the date below the application becomes void.

Date April 17, 2018