

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DELMARVA POWER & LIGHT COMPANY

(Case No. 12127)

A hearing was held after due notice on April 16, 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 to place a manufactured home type structure for an office for a period of five (5) years.

Findings of Fact

The Board found that the Applicant is requesting a special use to place a manufactured home type structure for an office for a period of five (5) years. This application pertains to certain real property located on the west side of DuPont Boulevard (Route 113) between Handy Road (Road 337) and Chestnut Drive; said property being identified as Sussex County Tax Map Parcel Number 2-33-5.00-137.01. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a site plan of the Property, an aerial photograph of the Property, a portion of the tax map of the area, and photographs of the proposed unit.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Lisa Savage, Neal Baker, and Jim Smith were sworn in to testify about the Application. Shannon Carmean Burton, Esquire, presented the case on behalf of the Applicant. Mrs. Burton submitted exhibits to the Board to review.
4. The Board found that Mrs. Burton stated that the Property is located on the corner of Route 113 and consists of approximately 3.29 acres. The Property is zoned CR-1 and the neighboring properties have a wide range of zoning including C-1, CR-1, and LI-1. There are many uses surrounding the Property as well including manufactured homes, large scale commercial uses, a mini-storage facility, a liquor store, and other commercial uses.
5. The Board found that Mrs. Burton stated that Property has been used by Delmarva Power as its district office since 1971.
6. The Board found that Mrs. Burton stated that the Applicant seeks this special use exception to place a manufactured home-type structure as an office for no more than 5 years. The manufactured home will be self-contained and not hook to any existing septic system. Rather, it will be serviced by a holding tank underneath the unit which will be pumped out on an as-needed basis.
7. The Board found that Mrs. Burton stated that the unit will have a clean appearance which will complement the surrounding area.
8. The Board found that Mrs. Burton stated that the unit will be in operation from 6:30 AM to 5:00 PM, Monday through Friday and as otherwise needed. 25 to 30 employees will use the unit.
9. The Board found that Mrs. Burton stated that the unit will accommodate the Applicant's employees at the site as the Applicant renovates its existing office. The temporary office will be removed after the renovations are completed.
10. The Board found that Mrs. Burton stated that the proposed use will have no significant adverse effect on neighboring and adjacent properties.

11. The Board found that Ms. Savage testified that she is a real estate specialist for the Applicant and she affirmed the statements made by Mrs. Burton as true and correct.
12. The Board found that Mr. Baker testified that the unit will be used only for employees while the existing facility is renovated.
13. The Board found that Julia Donahue was sworn in and testified in opposition to the Application and submitted pictures for the Board to review.
14. The Board found that Ms. Donahue testified that she lives directly across from Chestnut Drive from the Applicant. She has owned her lot since 2007 and she recently built a new home on her lot.
15. The Board found that Ms. Donahue testified that trees previously buffered the Applicant's lot along Chestnut Drive and those trees provided a buffer from lights and noise emanating from the Property. The Applicant removed those trees and have placed a green coating on an existing fence along Chestnut Drive.
16. The Board found that Ms. Donahue testified that the lights from the Applicant's property are very bright and the noise causes her to keep her windows closed.
17. The Board found that Ms. Donahue testified that she is not sure how the proposed unit will impact her but the proposed manufactured home will just be more for her to have to look at.
18. The Board found that Ms. Donahue testified that she requests that the Applicant install a buffer and turn down lighting.
19. The Board found that Mr. Baker testified that there are no trees on the Property for security reasons. The Applicant stores copper wire on the Property and has experienced thefts in the past.
20. The Board found that Mr. Baker testified that use of the Property will not change from how it has been used over the past 30 years.
21. The Board found that Mr. Baker testified that the unit will not create any additional lighting and that the unit will not result in additional traffic on the Property.
22. The Board found that no parties appeared in support of the Application.
23. The Board found that one (1) party appeared in opposition to the Application.
24. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application met the standards for granting a special use exception because the manufactured home-type structure 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 as shown on the site plan and tax map. The Applicant already operates a business on the Property and the structure will be used temporarily by the Applicant's employees during renovations of an existing facility on site.
 - b. The Applicant has sufficient parking and entrances for the employees who will be using the structure.
 - c. The structure will have a neat appearance as evidenced by the pictures presented by the Applicant.
 - d. The neighborhood has a variety of uses including large-scale commercial businesses and light industrial uses. The proposed unit is not out of character with the neighborhood.
 - e. The Board heard testimony from a neighbor who opposed the Application but the neighbor did not convince the Board that the proposed structure would substantially affect adversely the uses of neighboring and adjacent properties. The neighbor argued that the Applicant's existing business has negatively impacted her property since the Applicant removed a vegetative buffer along Chestnut Drive. The opposition, however, acknowledged that the business has been in operation on the Property since prior to her

family's acquisition of her lot and that she was largely unaware of the use of the Property due to the vegetative buffer. While the removal of the vegetative buffer appears to have upset her, the Applicant explained that it removed the buffer due to security concerns. More importantly, however, the Applicant failed to convince the Board that the presence of the proposed structure would somehow substantially affect adversely the uses of neighboring and adjacent properties. Her concerns focused primarily on the already existing uses of the Property.

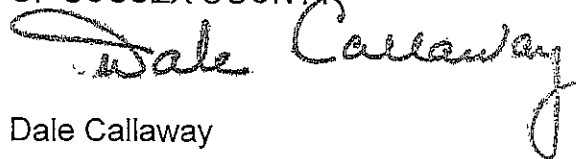
- f. To the extent the use of the Property will change as a result of the proposed structure, the Applicant has testified, without evidence to the contrary, that the structure will not result in any additional traffic or lighting on the Property.
- g. No evidence was presented which convinced the Board that the structure will have a substantial adverse effect on neighboring and adjacent properties.
- h. 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, and Mr. Bruce Mears. Mr. Brent Workman 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 two (2) years from the date below the application becomes void.

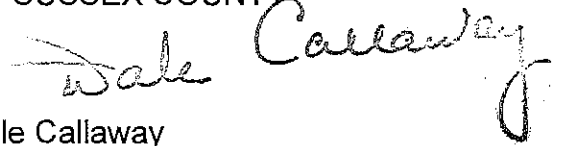
A placement permit must be obtained before the manufactured home is placed on the property.

Date June 19, 2018

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved for a period of three (3) years. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, 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 March 20, 2018