

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ALBUN, LLC

(Case No. 12151)

A hearing was held after due notice on June 4, 2018. The Board members present were: Mr. Dale Callaway, Mr. Bruce Mears, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception for promotional activities as accessory uses to a speedway.

Findings of Fact

The Board found that the Applicant is requesting a special use exception for promotional activities as accessory uses to a speedway. This application pertains to certain real property located on the south side of Speedway Road between Dupont Boulevard (Route 113) and Bethesda Road (Road 326) (911 Address: 22206 Speedway Road, Georgetown); said property being identified as Sussex County Tax Map Parcel Number 1-33-2.00-22.00, 1-33-2.00-23.00, 1-33-2.00-24.00, & 1-33-2.00-24.01. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, the findings of fact for Case No. 11178, 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 and Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Tim Willard, Esquire, was present on behalf of the Applicant, presented the Application, and submitted exhibits for the Board to review.
4. The Board found that Mr. Willard stated that this special use exception has been approved over many years as approvals were granted in 1989, 2008, and 2013.
5. The Board found that Mr. Willard stated that the Property consists of 4 parcels. In 1949, the property was used as a race track which is considered non-conforming. The racetrack is primarily used in the spring and summer.
6. The Board found that Mr. Willard stated that charitable events are hosted on the property. The most recent event hosted was a fundraiser for Wounded Warrior Project. Events include carnivals, the Boys & Girls Club, festivals, Chamber of Commerce events, circuses, and charitable activities. These events are infrequent.
7. The Board found that Mr. Willard stated that all the accessory uses are a lesser impact than the race track.
8. The Board found that Mr. Willard stated that the use will not substantially affect adversely adjacent and neighboring properties.
9. The Board found that Mr. Willard stated that the existing fence has been improved.
10. The Board voted to leave the record open until June 18, 2018, at which time, John Minutoli and Brett Deyo were sworn in to testify about the Application. Mr. Willard again appeared on behalf of the Applicant. Mr. Minutoli submitted an exhibit to the Board.
11. The Board found that Mr. Willard stated that the Applicant intends to hold 2-3 events per year with a maximum of 6 events per year.
12. The Board found that Mr. Minutoli testified that his family owns Albun, LLC, and they have owned the speedway since 2005. He manages the lease with the racetrack and the Property has been used for a racetrack since the Property was purchased by Albun, LLC.

13. The Board found that Mr. Minutoli testified that other the type of events that have taken place on the Property include tractor shows, carnivals, and rodeos. There have been two car shows since Mr. Deyo has been operating the track. A list of possible events includes car shows, circuses, festivals, food trucks, and community focused events for locals and supported by locals.
14. The Board found that Mr. Minutoli testified that there will be two to three events per year and there will be no overnight events.
15. The Board found that Mr. Minutoli testified that he maintains good relationships with his neighbors.
16. The Board found that Mr. Deyo testified that he is the tenant of the Property and that they hold twelve to fourteen races per year. The race track operates from March to November. The races and other events mainly occur on Friday evenings.
17. The Board found that Mr. Deyo testified that there is parking for 4,000 cars, seating for 2,000 people, and the pits hold 1,000 people at full capacity. There is a full kitchen and concessions and a fence surrounds the track.
18. The Board found that Mr. Deyo testified that there were two “cruise-in” charity events in October and July of last year and his intention is to get the community involved for events which will benefit the ambulance, fire, and local charities. The events will not exceed 2,000 people.
19. The Board found that Mr. Minutoli affirmed the statements made by Mr. Willard as true and correct.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive and un rebutted, the Board determined that the application met the standards for granting a special use exception because the proposed promotional activities 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 located outside of Georgetown along DuPont Boulevard and is a large property consisting of 4 parcels. Based on the tax maps, the total acreage of these parcels is approximately 80 acres. The evidence demonstrates that the Property is large enough to accommodate this use.
 - b. The site has been used historically as a racetrack since 1949 with regular races which are typically held from March to November. At full capacity, the racetrack can hold approximately 3,000 people. As such, the Property is already used for large gatherings.
 - c. The Applicant proposes to hold infrequent promotional activities such as tractor shows, carnivals, rodeos, car shows, circuses, festivals, food trucks, and community focused events for locals and supported by locals. These events would be held no more than 6 times per year.
 - d. There was no evidence that the promotional activities would have any impact on neighboring properties. Rather, the Property is already used for a racetrack and the proposed promotional activities are similar to the racetrack use.
 - e. The Applicant has demonstrated that the promotional activities will not substantially affect adversely the uses of neighboring and adjacent properties. No evidence was presented which would demonstrate that the promotional activities will have a substantial adverse effect on neighboring and adjacent properties. The lack of evidence is telling since the Applicant has used the Property for this use for many years. If there were evidence of a substantial adverse effect, the Board would expect a neighbor or opposition to provide such evidence.

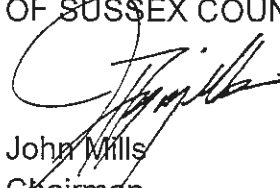
- f. Per the Applicant's request, the Board approved the special use exception for a period of five (5) years.
- g. The Board's approval subject to the condition that the attendance of these promotional events shall be limited to 2,000 people.

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. This approval was conditioned on there being no more than 2,000 people at these events.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved for a period of five (5) years with conditions. 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 with conditions.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Mills
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date September 11, 2018.