

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GREGORIO O. FLORES

(Case No. 12191)

A hearing was held after due notice on September 10, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, 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 a medical hardship.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to use a manufactured home type structure for a medical hardship. This application pertains to certain real property located southeast corner of Oriole Lane and Herring Branch Road (911 Address: 9379 Oriole Lane & 9168 Oriole Lane, Lincoln); said property being identified as Sussex County Tax Map Parcel Number 2-30-14.00-148.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from Dr. Fabricio Alarcon, a letter from D.C. Medical Services, LLC, 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 Marelin Ortiz Rosales was sworn in to testify about the Application.
4. The Board found that Ms. Ortiz Rosales testified that her father is critically ill and her mother has diabetes. She currently lives about one hour away and plans to move to the Property to care for them.
5. The Board found that Ms. Ortiz Rosales testified that her mother and father have a manufactured home on the Property and she intends to build a stick-built home on the lot. The special use exception will allow for the Applicant to retain the existing manufactured home and to construct the stick-built dwelling on the Property. The special use exception is for the manufactured home and, if the medical hardship ceases, the manufactured home must be removed from the Property. Ms. Ortiz Rosales is aware of this requirement.
6. The Board found that Ms. Ortiz Rosales testified the house and property are well-maintained and there are other manufactured homes in the neighborhood.
7. The Board found that Ms. Ortiz Rosales testified the home will comply with all the required setbacks.
8. The Board found that Ms. Ortiz Rosales testified the home will not substantially adversely affect the uses of adjacent neighboring properties.
9. The Board found that no parties appeared in support of or in opposition to the Application.
10. 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 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 currently improved by a manufactured home and sheds. The Applicant proposes to remove the sheds and to construct a stick-built dwelling on the site. The manufactured home will be used as housing for the Applicant's disabled parents who need her care.
- b. The manufactured home, which is the subject of the Application, has been on the Property for quite some time and no evidence was presented which convinced the Board that the structure has had or will have a substantial adverse effect on neighboring and adjacent properties. This lack of complaints or opposition to the Application is telling because, if there was some substantial adverse effect to neighboring and adjacent properties, the Board would expect neighbors to present such evidence.
- c. The Applicant also demonstrated that a medical hardship exists, as evidenced by the physician's statement, and that the unit will be used by the persons who suffer from the medical hardship.
- d. The Board approved the special use exception for a period of two (2) years subject to the annual renewal requirements thereafter as set forth in the Sussex County Zoning Code §115-23(A).

The Board granted the special use exception application for a period of two (2) 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 two (2) 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 Member voted against the Motion to approve the special use exception application.

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 November 7, 2018.