

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

**IN RE: SEA COLONY RECREATIONAL ASSOCIATION, INC.**

**(Case No. 12205)**

A hearing was held after due notice on October 1, 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 an office.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to use a manufactured home type structure for an office. This application pertains to certain real property located on the southwest side of Brighton Lane, approximately 850 feet south of Westway Drive; (911 Address: N/A); said property being identified as Sussex County Tax Map Parcel Number 1-34-17.00-48.00 (Part of). After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from William Scott, Esquire, a site plan dated July 3, 2018, 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 three (3) letters in support of and eight (8) letters in opposition to the Application.
3. The Board found that Roy Zatkoff and Douglas Bowden were sworn in to testify about the Application. William Scott, Esquire, presented the Application on behalf of the Applicant and he submitted exhibits to the Board to review.
4. The Board found that Mr. Scott stated that the Property is located in Sea Colony West and the structure is located between Phase 8 West and Bahamas Beach Cottages. This office was in place before Bahamas Beach Cottages was built.
5. The Board found that Mr. Scott stated that this office has been in place for more than twenty-five years and Mr. Bowden has been working out of this office since it was located on the site. Mr. Bowden works for Resort Quest and the office is used for an office for the property manager of Sea Colony West.
6. The Board found that Mr. Scott stated that there is a maintenance yard also on this site that is used by the landscape company (Sposato Landscaping) for Sea Colony.
7. The Board found that Mr. Scott stated that there have been no complaints until recently but the Applicant has letters of support from the Bahamas Beach Cottages and Phase 8 West property owners.
8. The Board found that Mr. Scott stated that it will not adversely affect the use of neighboring properties as it was there prior to Bahamas Beach Cottages community.
9. The Board found that Mr. Zatkoff and Mr. Bowden affirmed the statements made by Mr. Scott as true and correct.
10. The Board found that Mr. Scott stated that the area is gated and is heavily wooded.
11. The Board found that Mr. Bowden testified that the unit is served by County water and a holding tank for septic that is cleaned out weekly.
12. The Board found that Mr. Bowden testified that the structure results in minimal traffic and is only used by the property manager and 2-3 full-time employees.
13. The Board found that Mr. Bowden testified that there are no noise issues from the unit and there are no lighting issues from the unit.

14. The Board found that David Hughes, Linda Flynn, and Edward Etkins were sworn in to give testimony in opposition to the Application. Mr. Hughes submitted pictures to the Board.
15. The Board found that Mr. Hughes testified that he lives in Bahamas Beach Cottages and that Sposato uses the site for storage and trashes the site.
16. The Board found that Ms. Flynn testified that the site is used as a transportation depot as a fire truck is stored on the site and dump trucks go to and from the site and are noisy. The fire truck is located in a pole building on the site.
17. The Board found that Mr. Bowden testified that property values decrease due to the use of the site and that she has a right to quiet enjoyment of her property.
18. The Board found that Mr. Bowden testified that the pole building was not on the site when she purchased her lot.
19. The Board found that Mr. Bowden testified that the unit substantially affects adversely the uses of neighboring and adjacent properties.
20. The Board found that Mr. Etkins testified that the Applicant is not a good neighbor.
21. The Board found that Mr. Etkins testified that no one in Sea Colony sees the site but Bahamas Beach Cottages can see it.
22. The Board found that Mr. Etkins testified that Sposato starts at 7 am and is noisy.
23. The Board found that Mr. Etkins testified that he would oppose a permanent structure and the temporary structure has substantially affected adversely the uses of neighboring and adjacent properties.
24. The Board found that no parties appeared in support of the Application and seven (7) parties appeared in opposition to the Application.
25. 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 unit is located on a portion of the Property used for a large condominium known as Sea Colony West and serves as an office for the property manager serving that community. The area where the unit is located can easily hold this unit without overburdening the site.
  - b. The unit has been on the Property for approximately 25 years and has been used in this fashion since that time. The neighboring community (Bahamas Beach Cottage) was developed after the unit was installed.
  - c. The traffic related to the unit is minimal since it is only used by a few employees.
  - d. Neighbor's presented concerns about the site being used by Sposato Landscaping and their use of the site. It was clear to the Board, however, that Sposato Landscaping does not use the manufactured home-type structure. Rather, Sposato uses the site for storage of materials used as part of its maintenance contract for the Sea Colony West community. Concerns raised by the opposition about Sposato's use of the Property were not germane to the issue of whether the manufactured home-type structure, which is not used by Sposato, substantially affects adversely the uses of neighboring and adjacent properties. Ms. Flynn, for example, focused her complaints on a pole building on the site but that structure is not the issue before the Board.
  - e. The light related to the manufactured home-type structure is minimal and no evidence to the contrary was presented by the opposition.
  - f. The site is heavily wooded and surrounded by a fence, which reduces its impact on neighboring properties.

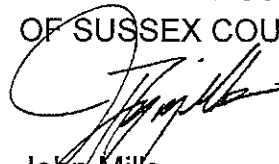
- g. The Board was not convinced that the structure will have a substantial adverse effect on neighboring and adjacent properties.
- h. The special use exception was approved for a period of one (1) year.

The Board granted the special use exception application for a period of one (1) year 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 one (1) year. 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 December 11, 2018.