

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**  
**IN RE: SOUTHERN DELAWARE THERAPEUTIC AND RECREATIONAL**  
**HORSEBACK RIDING, INC.**

**(Case No. 12221)**

A hearing was held after due notice on October 15, 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 variances from the required setback for existing public stables.

Findings of Fact

The Board found that the Applicant is seeking a variance of 58.6 feet from the front yard setback requirement of 200 feet on the east side of the Property for a public stable; a variance of 74.1 feet from the side setback requirement of 200 feet on the north side of the Property for a public stable; a variance of 147.3 feet from the front setback requirement of 200 feet on the east side of the Property for a public stable; and a variance of 126.1 feet from the side setback requirement of 200 feet on the south side of the Property for a public stable. This application pertains to certain real property located on the west side of Harbeson Road, approximately 463 feet south of Diamond Farm Road (911 Address: 17170 Harbeson Road, Milton said property being identified as Sussex County Tax Map Parcel Number 2-35-26.00-17.14.

1. The Board was given copies of the Application, a letter dated May 8, 2018, from the Office of Planning & Zoning, a letter dated August 20, 2018, from Mark Davidson, a site plan dated August 7, 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 & Zoning received no correspondence in support of the Application or in opposition to the Application.
3. The Board found that Mark Davidson and Tom Pete were sworn in to testify about the Application. The Applicant submitted exhibit booklets to the Board to review.
4. The Board found that Mr. Davidson testified that the Applicant seeks to use the Property for public stables. The stables will be used for more than 4 horses and will be located in 2 buildings. One stable can hold 6 horses and the main stable, which is attached to the farmhouse and has been on the Property since at least 1936, can hold 10 horses. There are approximately 10 horses on the Property at present.
5. The Board found that Mr. Davidson testified that Applicant has owned the Property since 2016 and a conditional use was granted in 2017 but the Property was developed as it currently sits in 1989.
6. The Board found that Mr. Davidson testified that the Property consists of 9.38 acres. The caretaker house is located in the front and there is an indoor arena, pastures, and outbuildings.
7. The Board found that Mr. Davidson testified that the uniqueness of the property is that it is only 378 feet wide.
8. The Board found that Mr. Davidson testified that the Property could not be used for a public stable with the existing buildings without this variance.
9. The Board found that Mr. Davidson testified that there will be no further expansion and the request is to use the existing stables.
10. The Board found that Mr. Davidson testified that the Applicant uses the facility for equine assisted therapy.

11. The Board found that Mr. Davidson testified that the exceptional practical difficulty was not created by the Applicant as the stables were existing when the Applicant purchased the Property.
12. The Board found that Mr. Davidson testified that the variances will not alter the character of the neighborhood as the character of the neighborhood is agricultural farming and there is another equestrian center in the area.
13. The Board found that Mr. Davidson testified that the variances requested are the minimum variances necessary to afford relief and allow reasonable use of the buildings.
14. The Board found that Paul Reiger and Alyssa Hudson were sworn in to give testimony in support of the Application.
15. The Board found that ten (10) people appeared in support of and no one appeared in opposition to the Application.
16. 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 variance. The findings below further support the Board's decision to approve the Application.
  - a. The Property is unique due to the its narrowness. The Property consists of 9.38 acres, which is a large parcel, and can easily hold stables but the Property is only 378.29 feet wide. Public stables must be located at least 200 feet from any lot line. As such, the Property cannot be used for equine-assisted therapy with public stables without a variance. The narrow shape of the Property has, thus, created an exceptional practical difficulty for the Applicant.
  - b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to retain existing stables to be used as public stables but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow the existing stables to remain on the Property and to be used as public stables. The Board is convinced that the shape and location of the existing stables are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
  - c. The exceptional practical difficulty was not created by the Applicant. There was no evidence that the Applicant created the lot or placed the stables on the lot. Rather, those conditions predated the Applicant's ownership of the Property and have limited the building envelope. The building envelope is further limited since the lot is narrow. These conditions have created the exceptional practical difficulty for the Applicant who seeks to retain existing stables and use them as public stables. It is clear to the Board that the exceptional practical difficulty was not created by the Applicant.
  - d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the existing stables will have no effect on the character of the neighborhood. The Property is located in an agricultural area and there was no evidence of any impact on neighboring properties. Importantly, no complaints were noted in the record either. The Board also notes that there is significant support for this Application.
  - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant to retain existing stables and use them as

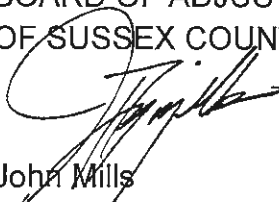
public stables on the Property. No additions or modifications to those structures are proposed.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. 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 variance 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 18, 2018.