

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

**IN RE: PATRICK KINTZ**

**(Case No. 12238)**

A hearing was held after due notice on December 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 for a private garage.

Findings of Fact

The Board found that the Applicant is seeking a special use exception for a private garage for more than 4 automobiles and with floor area of more than 900 square feet. This application pertains to certain real property located on the east side of N. Old State Road, approximately 1,643 feet north of E. Hudson Pond Road (911 Address: 10353 N. Old State Road, Lincoln); said property being identified as Sussex County Tax Map Parcel 2-30-19.00-106.03.

1. The Board was given copies of the Application, a site plan dated October 19, 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 Jennifer Kintz and Patrick Kintz were sworn in to testify about the Application.
4. The Board found that Mr. Kintz testified that he has an existing pole barn and plans to construct an addition to house his family's recreational vehicle. The existing pole barn is too small to accommodate the recreational vehicle.
5. The Board found that Mr. Kintz testified that the Property consists of 3 acres with 200 feet of road frontage.
6. The Board found that Mr. Kintz testified that the land behind his property is wooded and there is a railroad located nearby.
7. The Board found that Mr. Kintz testified that the addition will meet setback requirements.
8. The Board found that Mr. Kintz testified that the garage will be used only for personal use and will not be used commercially.
9. The Board found that Mr. Kintz testified that the garage will not substantially affect adversely the uses of adjacent and neighboring properties as the garage is positioned in the rear of the property.
10. The Board found that Mr. Kintz testified that family owns adjacent property.
11. The Board found that no parties appeared in support of or in opposition to the Application.
12. 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 garage 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 garage is located in an agricultural / residential area on a large property that consists of approximately 3 acres. The Property is a large lot and can clearly hold a dwelling and a larger private garage without overburdening the lot or substantially affecting adversely the uses of neighboring and adjacent properties. Notably, a large garage is already located on the site

and the special use exception will allow for the Applicant to add to that existing structure.

- b. The garage will be used to house the Applicant's recreational vehicle and belongings. The garage will only be used for personal use and will not be used commercially.
- c. The garage will be located to the rear of the property near wooded lands.
- d. Neighbors did not appear in opposition to the Application and no evidence was presented which convinced the Board that the garage will have any adverse effect on neighboring and adjacent properties; let alone a substantial adverse effect.

The Board granted the special use exception 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. 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 February 5, 2019.