

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: WHISKEY RIDGE SHOOTING PRESERVE

(Case No. 12295)

A hearing was held after due notice on April 15, 2019. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to operate a rifle or pistol range.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to operate a rifle or pistol range. This application pertains to certain real property located on the east side of Parker Road approximately 0.75 miles northwest of E. Line Road (911 Address: 38149 Parker Road, Millsboro) said property being identified as Sussex County Tax Map Parcel Number 3-33-15.00-37.00 (portion of).

1. The Board was given copies of the Application, 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 or in opposition to the Application.
3. The Board found that Janet Rae Kansak and Joseph John Kansak were sworn in to testify about the Application. The Applicants submitted exhibits to the Board to review.
4. The Board found that Mrs. Kansak testified that Whiskey Ridge Shooting Preserve has been in operation since 1990 and is licensed through the State of Delaware Natural Resources – Division of Fish and Wildlife.
5. The Board found that Mrs. Kansak testified that the nearest residence on Parker Road is 1,440 feet away with 960 feet of heavy woods separating the residence and firearms range. The nearest residence on Fireman's Road is 1,500 feet away with 100 feet of heavy woods and 300 feet of hedgerow separating the residence and firearms range. The nearest residence on Bethel Road is 2,400 feet away with 1,200 feet of heavy woods separating the residence and firearms range.
6. The Board found that Mrs. Kansak testified that the range is constructed with a U-shaped berm approximately 20 feet tall which enhances safety by preventing any rounds from leaving the area.
7. The Board found that Mrs. Kansak testified that the berm is constructed to reduce noise similar to berms along major highways.
8. The Board found that Mrs. Kansak testified that the nearest dwelling in front of the berm opening is approximately 1.3 miles away located on the Millsboro Highway.
9. The Board found that Mrs. Kansak testified that, in season, 105 acres of corn grows on the Property which acts to further reduce sound travel.
10. The Board found that Mrs. Kansak testified that the targets are cardboard and are picked up on completion of shooting.
11. The Board found that Mrs. Kansak testified that concealed carry classes are conducted at this location as approved by Delaware State Police and the Delaware Attorney General.
12. The Board found that Mrs. Kansak testified that they have a security company and the range started as a way to give classes to employees about weapon safety and use.
13. The Board found that Mrs. Kansak testified that the range was not open to the public and they considered it a private range.

14. The Board found that Mrs. Kansak testified that they have a license for trap shooting.
15. The Board found that Mr. Kansak testified that, because he had State licensing, he was unaware that he also needed a special use exception from the County but a recent complaint and a call from the Planning and Zoning Department made him aware that he needed to apply for the special use exception from the County.
16. The Board found that Mr. Kansak testified that concealed carry classes are held once a month and the range is open to the public for trap and skeet shooting.
17. The Board found that Mr. Kansak testified that the range holds up to 14 shooters at one time and classes are held from 10 a.m. to 4 p.m. Most of the class time is classroom training.
18. The Board found that Mr. Kansak testified that after each session they pick up the brass from the range.
19. The Board found that Mr. Kansak testified that the site has 190 acres and they lease additional acreage for the preserve.
20. The Board found that Mr. Kansak testified that he spoke to his neighbors and they have no complaints.
21. The Board found that Lloyd Behney and Jeffrey Behney were sworn in to give testimony in opposition to the application. Mr. Lloyd Behney submitted an exhibit to the Board documenting best management practice for shooting ranges.
22. The Board found that Mr. Lloyd Behney testified that he is concerned about groundwater contamination and he only opposes if the site is not maintained and cleaned up to standards.
23. The Board found that Mr. Jeffrey Behney testified that he has operated a range for 15 years and he is also concerned about the lead remediation and clean-up. He has no objection to the shooting range if the removal of lead is being managed correctly.
24. The Board found that Mr. Kansak testified that he had the berm constructed by A-Del Construction with clay on the bottom, then 5 feet of crushed concrete covered with blacktop, and the berm on top. The berm was constructed just 2 or 3 years ago.
25. The Board found that Mr. Kansak testified that the lead is recycled.
26. The Board found that Mr. Kansak testified that there is an irrigation system on the Property for his crops and he has no wish to contaminate the water supply.
27. The Board found that no one appeared in support of and two parties appeared in opposition to the Application.
28. The Board voted to leave the hearing open until June 18, 2019, to allow the Applicant to submit a lead recovery plan for the plan. At that hearing, the Board reviewed the plan and held a public hearing. The Board then discussed and voted on the Application.
29. 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 facility 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 a large parcel consisting of approximately 190 acres and the Applicants propose to operate an outdoor rifle / pistol range on site. The range has a section where patrons can fire guns into a large berm.
 - b. The Property has been used for nearly 30 years as a rifle / pistol range and no complaints about the range were noted in the record.
 - c. The site is significantly isolated due to woods and croplands which largely surround the site. This isolation provides a significant sound and safety barrier.

- d. The site is a significant distance from neighboring residential properties and there was no evidence that the range has had or will have a substantial adverse effect on those properties.
- e. The opposition presented concerns about the handling of lead emitted from the range but the Applicants have demonstrated that they have a lead remediation plan which addresses those concerns. There was no evidence of environmental contamination from the site.
- f. The Property appears to have adequate space for parking.
- g. The area near the site is rural and the adjacent properties are largely undeveloped lots.
- h. No evidence was presented which would demonstrate that the facility would have a substantial adverse effect on neighboring and adjacent properties.
- i. The special use exception was approved for a period of five (5) years.

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.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved for a period of five (5) years. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

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

Date August 6, 2019.