

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BARRY W. WALLS & VIRGINIA L. WALLS

(Case No. 12323)

A hearing was held after due notice on July 1, 2019. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception for a garage / studio apartment.

Findings of Fact

The Board found that the Applicants request a special use exception for an existing garage / studio apartment consisting of less than 800 square feet. This application pertains to certain real property located on the west side of Peterkins Road approximately 0.30 miles south of Springfield Road (911 Address: 22424 Peterkins Road, Georgetown) said property being identified as Sussex County Tax Map Parcel 2-34-8.00-39.02. After a hearing, the Board made the following findings of fact:

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 Virginia Walls was sworn in to testify about the Application. Ms. Walls submitted exhibits to the Board to review including pictures and a copy of the Certificate of Compliance for a second-floor addition.
4. The Board found that Ms. Walls testified that the garage / studio apartment has existed for sixteen years and has been occupied since that time.
5. The Board found that Ms. Walls testified that the apartment is located above a garage and consists of less than 800 square feet.
6. The Board found that Ms. Walls testified that there have been no complaints about the apartment from neighbors.
7. The Board found that Ms. Walls testified that a permit was issued for the addition and a stove has been in the unit since that time.
8. The Board found that Ms. Walls testified that the Applicant's son lived in the apartment when her husband had poor health.
9. The Board found that Ms. Walls testified that there is adequate parking for the resident of the unit.
10. The Board found that Ms. Walls testified that the unit will not substantially affect adversely the uses of adjacent and neighboring properties.
11. The Board found that Ms. Walls testified that the Property consists of approximately 3 acres.
12. The Board found that no one appeared in support of or in opposition to the Application
13. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board finds credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a special use exception because the garage / studio apartment 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 / studio apartment is located in an agricultural / residential area on a property that consists of approximately 2.57 acres. The Property is a large lot and can clearly hold a dwelling and garage / studio apartment.
 - b. The apartment is located in a portion of an existing garage.

- c. The apartment has been on the Property since 2003 and no complaints were noted in the record about the structure. The lack of complaints is telling since, if the unit had a substantial adverse effect on neighboring and adjacent properties, the Board would expect some evidence of such to be submitted into the record.
- d. The Board is convinced that the garage / studio apartment will have no substantial adverse visual impact on neighboring and adjacent properties. The Property is wooded and the unit is difficult to see from neighboring properties.
- e. There was no evidence that the apartment will have a substantial adverse effect on traffic, emissions, noise, or property values.
- f. The Applicants have a designated parking space for the resident of the apartment as required by the Code.
- g. No evidence was presented which demonstrated that the garage / studio apartment will have any adverse effect on neighboring and adjacent properties; let alone a substantial adverse effect.

The Board granted the special use exception application 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 of the Motion to approve were Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, 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

Ellen M. Magee
Chair

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

Date August 20, 2019