

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PROXIMITY MALT, LLC

(Case No. 12326)

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 to use manufactured home type structures for an office.

Findings of Fact

The Board found that the Applicant is requesting a renewal of a special use exception to use manufactured home-type structures as an office. This application pertains to certain real property located on the southwest corner of Bi-State Boulevard (Route 13) and St. George Road (911 Address: 33222 Bi-State Boulevard, Laurel) said property being identified as Sussex County Tax Map Parcel Number 3-32-3.00-56.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a site plan dated February 2, 2018, the findings of fact for Case No. 11947, 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 no correspondence in support of or in opposition to the Application.
3. The Board found that Matthew Musial was sworn in to testify about the Application. Mr. Musial submitted exhibits to the Board to review.
4. The Board found that Mr. Musial testified that the Property is used for a malt plant and the manufactured home-type structures are used for office space and lunch areas. The structures are located near the center of the lot away from the road and are connected by a deck.
5. The Board found that Mr. Musial testified that the Applicant intends to replace the structures with a permanent facility and the Applicant expects it will need five (5) years to complete that project.
6. The Board found that Mr. Musial testified that the buildings are non-descript as there are larger buildings on site.
7. The Board found that Mr. Musial testified that there have been no complaints from neighbors.
8. The Board found that Mr. Musial testified that nearby properties are used as farmland and homes.
9. The Board found that Mr. Musial testified that there is a infiltration basin for stormwater management in front of the offices and will be fenced. The manufactured homes will also be skirted.
10. The Board found that Mr. Musial testified that the units do not substantially affect adversely the uses of adjacent and neighboring properties.
11. The Board found that no one 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 manufactured home-type structures 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 used for a malt processing plant and has historically been used by the Laurel Grain Company. The site has numerous structures related to malt processing and the Applicant proposes to retain two manufactured home type structures to be used as office and lunch space.
- b. The manufactured home type structures are used for clerical purposes only and the Applicant intends to construct a permanent structure on the Property after the business grows.
- c. The Property is a large lot as it consists of approximately 17.84 acres.
- d. The Property is located in an area of agricultural uses and the Applicant's business and is consistent with the uses in the area.
- e. The structures are located near the center of the Property and the Board agrees with the Applicant's testimony that the building will likely be non-descript in comparison with the other structures on the Property.
- f. No evidence was presented which would demonstrate that the structures will have a substantial adverse effect on neighboring and adjacent properties. The lack of such evidence is telling since the structures have been on the Property for two (2) years. Rather, the Applicant submitted substantial evidence to the contrary and the Board finds that evidence credible and persuasive.
- g. The special use exception was approved for a period of five (5) years with the condition that the Applicant install fencing and a skirting for the manufactured home-type structures within six (6) months of the date of this decision.

The Board granted the special use exception application for a period of five (5) years with conditions 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 with conditions. 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 with conditions.

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