

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

**IN RE: STATE OF DELAWARE, DIVISION OF FISH & WILDLIFE**

**(Case No. 12389)**

A hearing was held after due notice on December 2, 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 operate a rifle or pistol range.

Findings of Fact

The Board found that the Applicant is seeking a special use to operate a rifle or pistol range. This application pertains to certain real property on the northeast side of Hunters Cove Road approximately 736 feet south of Owens Road (911 Address: 12613 Hunters Cove Road, Greenwood) said property being identified as Sussex County Tax Map Parcel Number 4-30-9.00-19.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a survey of the Property dated September 5, 2013, minutes of Case No. 6265, a letter from the Planning & Zoning Office dated April 4, 2016, and an aerial photograph of the Property.
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 the Office of Planning & Zoning noted that the most recent special use exception expired on May 12, 2002 and was not renewed.
4. The Board found that Craig Rhoads of the State of Delaware Department of Fish and Wildlife was sworn in to testify about the Application.
5. The Board found that Mr. Rhoads testified that the State operated the Whiskey Ridge Shooting Preserve since 1990 under a lease with the owner and was licensed to do so through the State of Delaware Natural Resources – Division of Fish and Wildlife.
6. The Board found that Mr. Rhoads testified that the State has never had any complaints from neighbors and that there are very few residential dwellings in the area.
7. The Board found that Mr. Rhoads testified that the trap shooting range will remain the same.
8. The Board found that Mr. Rhoads testified that the State recently purchased the property from the owner and seeks to install a new pistol range. The property will continue to be leased to the private vendor, Chuck Norton, who has operated the property for numerous years. The lease is for 20 years and is currently in year 4 or 5.
9. The Board found that Mr. Rhoads testified that the State uses the range to educate kids on the use of guns.
10. The Board found that Mrs. Rhoads testified that the pistol range is constructed down into the ground. The range is surrounded by a 300 yard berm that ensures no errant rounds leave the range.
11. The Board found that Mr. Rhoads testified that he did not have a final site plan because it still needed to be reviewed by the Planning and Zoning Commission.
12. The Board found that Mr. Rhoads testified that the surrounding properties are all farmland except for the property nearest to the pistol range. This property owner operates a chicken farm. The shooting in the pistol range will be perpendicular to the chicken farm to the southeast of the property.



13. The Board found that Mr. Rhoades testified that a landscape buffer was planned between the property and the adjacent property with the chicken farm.
14. The Board found that Samuel Thorpe was sworn in to give testimony in opposition to the Application. Mr. Thorpe owns 180 acres located across the road from the shooting range and previously worked for the operator at the range.
15. The Board found that Mr. Thorpe had questions about the direction that the pistol range was to be aimed because he takes handicapped children bird shooting on the farmland around the range.
16. The Board found that no parties appeared in support of the Application and that one party appeared in opposition to the Application.
17. 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 subject to certain conditions. The findings below further support the Board's decision to approve the Application for the special use exception with conditions.
  - a. The Property has been used for over 20 years as a rifle range and no complaints about use were noted in the record.
  - b. The site is significantly isolated due to farmland which largely surrounds the site. This isolation provides a significant sound and safety barrier.
  - c. 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. The only residential property is located to the southeast where a chicken farm is operated but is a distance away from the proposed pistol range.
  - d. The range and the adjacent properties, including the property to the southeast, will be buffered by landscaping and a fence to prevent people from inadvertently entering the property.
  - e. The pistol lanes are aimed into the ground and surrounded by a berm to avoid rounds from leaving the range.
  - f. The pistol lanes all run perpendicular to the residential property located to the southeast.
  - g. No evidence was presented which would demonstrate that the facility would substantially affect adversely the uses of adjacent and neighboring properties.
  - h. There was no evidence, particularly expert testimony, reports, or studies, presented by the opposition that the facility would have a substantial adverse effect on property values in the neighborhood.
  - i. There was no evidence that the pistol range will have a substantial adverse effect on traffic, emissions, or noise.
  - j. The special use exception was approved for a period of five (5) years subject to the following conditions:
    - i. The hours of operation are limited to 9 am to 6 pm Tuesday through Sunday;
    - ii. There shall be no Monday hours of operation; and
    - iii. The Applicant shall construct a berm or fencing along the southeast side of the property to insulate the range from neighboring properties.

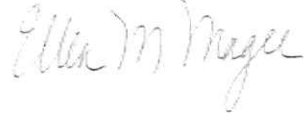
The Board granted the special use exception application for a period of five (5) years subject to conditions finding that it met the standards for granting a special use exception.

#### Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved with conditions for a period of five (5) years. The Board Members in favor of

the Motion to approve with conditions were Mr. Brent Workman, Mr. John Williamson, Dr. Kevin Carson, Mr. Jeff Chorman and Ms. Ellen Magee. 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  
Chair

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

Date February 4, 2020