

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

**IN RE: SPORTS AT THE BEACH**

**(Case No. 12479)**

A hearing was held after due notice on September 21, 2020. 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 an outdoor display or promotional activity.

Findings of Fact

The Board found that the Applicant is requesting a special use exception for an outdoor display or promotional activity. This application pertains to certain real property located on the southeast side of Lewes Georgetown Highway (Route 9), approximately 0.43 miles west of Park Avenue (911 Address: 22518 Lewes Georgetown Highway, Georgetown); said property being identified as Sussex County Tax Map Parcel Number 1-35-15.00-82.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a copy of the Findings of Fact for Case No. 11567, 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 Pete Townsend was sworn in to testify about the Application.
4. The Board found that Mr. Townsend testified that the request for a special use exception is for a haunted house operation on a seven-acre portion of the 87.52 acre parcel.
5. The Board found that Mr. Townsend testified that the haunted house will be in operation during the month of October.
6. The Board found that Mr. Townsend testified that the haunted house is located in the rear of the property away from the Lewes-Georgetown Highway and from residential dwellings. The nearest residential building is approximately ¼ mile away and is separated by woods.
7. The Board found that Mr. Townsend testified that the haunted house operates for 10 nights in October and was in operation for approximately 10 years but has not been used the past two years as he has experienced mixed success with the event.
8. The Board found that Mr. Townsend testified that there is adequate parking.
9. The Board found that Mr. Townsend testified that he seeks the request for 10 nights – Friday and Saturday from 7:00 p.m. – 11:00 p.m.
10. The Board found that Mr. Townsend testified that the venue cannot open to the public until all approvals have been received from the Fire Marshal.
11. The Board found that Mr. Townsend testified that no tickets are sold after 10:00 pm.
12. The Board found that Ms. Marguerite Wilson-Alves attended by teleconference and was sworn in to give testimony in support of the Application.
13. The Board found that three people appeared in support of or opposition to the Application.
14. 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 unrebutted the Board determined that the application met the standards for granting a special use exception because the proposed outdoor display or promotional activity 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.

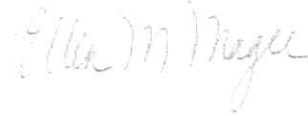
- a. The Property is located outside of Georgetown along Georgetown-Lewes Highway and is used for baseball fields and a portion of the Property is used for a haunted house operation during the month of October. The tax map provided to the Board demonstrates that the Property is very large.
- b. In 2010, the Applicant received approval for a special use exception to use the Property for an annual Halloween event and Christmas light display which use the village area. The Halloween event has been used for approximately 10 days per Halloween season; primarily on weekends. The Christmas display was never used. The Applicant received a renewal of the approval in 2015.
- c. The Applicant has demonstrated that the Halloween event has not substantially affected adversely the uses of neighboring and adjacent properties. No evidence was presented which would demonstrate that the event has had a substantial adverse effect on neighboring and adjacent properties. The lack of evidence is telling since the Property has been previously used for this event. Ms. Alves testified that she does not object to the Application.
- d. The haunted house is separated from residential uses by woods.
- e. The hours of operation are reasonable.
- f. There was no evidence that the haunted house would produce smells, noises, emissions, or lights which would create a substantial adverse effect on neighboring and adjacent properties.
- g. The approval is conditioned on the following:
  - i. The haunted house shall only be used on the Property for a maximum of 15 nights during the period of October 1<sup>st</sup> to October 31<sup>st</sup> beginning on October 1, 2020. It shall not otherwise be in operation during the rest of the year.
  - ii. The haunted house may only be in operation between the hours of 6:00 pm and 11:00 pm from Thursday to Sunday.
  - iii. The Applicant shall send to the Office of Planning & Zoning a copy of approval from the Fire Marshal for the haunted house.
  - iv. The approval is valid for a period of five (5) years.

The Board granted the special use exception application for a period of five (5) year 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 with conditions for a period of five (5) years. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey 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  
Chair

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

Date November 16, 2020