

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SAUL HOLDINGS LIMITED PARTNERSHIP

(Case No. 12600)

A hearing was held after due notice on August 16, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for a special use exception for an outdoor display or promotional activities.

Findings of Fact

The Board found that the Applicant is requesting to renew an existing special use exception for an outdoor display or promotional activities for a period of five years. This application pertains to certain real property located on the northwest corner of West Way Drive and Coastal Highway (Route 1) (911 Address: 33546 Market Place, Bethany Beach) said property being identified as Sussex County Tax Map Parcel Number 1-34-17.00-52.08. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from Henry Bennett, a drawing of the Marketplace at Sea Colony, findings of fact for Case No. 11774, a letter of support from the landlord, 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 one letter in support of and no correspondence in opposition to the Application.
3. The Board found that Henry Bennett was sworn in to testify about the Application.
4. The Board found that Mr. Bennett testified that he is with Bennett Orchards a sixth-generation farmer from Frankford, Delaware.
5. The Board found that Mr. Bennett testified that he is the market manager for the Farmer's Market at Sea Colony and the market takes place every Wednesday from 8:00 am – 12:00 noon at this property between June to the Wednesday before Labor Day.
6. The Board found that Mr. Bennett testified that the market has been in operation for ten years and is a producer's only farmer's market. He noted that there is no music or disturbance to neighbors.
7. The Board found that Mr. Bennett testified that everything is removed after the market closes.
8. The Board found that Mr. Bennett testified that they have the support of the owner of the shopping center and the owner has submitted a letter of support for the Application.
9. The Board found that Mr. Bennett testified that the farmers rely on this revenue from this market to continue farming which also aligns with the Sussex County Comprehensive Plan as a way to preserve, promote and strengthen agricultural presence in the County.
10. The Board found that Mr. Bennett testified that only a small area of the parking lot is used by the farmer's market.
11. The Board found that Mr. Bennett testified that the request is to continue this use for another five years.
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 found credible, persuasive,

and un rebutted 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. In 2011, the Applicant received approval for a special use exception to use the Property for a farmer's market on ten (10) Wednesdays during the months of June, July, and August. This approval was for a period of five (5) years. This approval was renewed in 2016 and was expanded to twelve (12) Wednesdays.
- b. The Applicant proposes to renew its approval for a farmer's market which will operate on Wednesdays in June, July, August, and September between Memorial Day and Labor Day. Farmers sell flowers, plants, and produce.
- c. The Property is a large property with ample parking and other commercial businesses located thereon. There was no evidence presented which indicates that the market has caused any traffic or parking problems during the time of its operation.
- d. The Applicant has demonstrated that the farmer's market has not substantially affected adversely the uses of neighboring and adjacent properties. The Applicant testified that he has not received any complaints about the event and no evidence was presented which would demonstrate that the farmer's market has had a substantial adverse effect on neighboring and adjacent properties. Mr. Bennett testified that neighboring businesses support the market and the market has brought customers to those businesses. The Board finds this testimony credible and persuasive. Based on this finding, the market appears to have had a positive effect on neighboring and adjacent properties.
- e. The Board also notes that the Applicant has used the farmer's market in this fashion for 10 years and no complaints about this use were noted in the record.
- f. Per the Applicant's request, the Board approved the special use exception for the farmer's market on Wednesdays in June, July, August, and September for a period of five (5) years. The last farmer's market shall be held on the Wednesday before Labor Day each year.

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, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to approve the special use exception application with conditions.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Williamson
Chair

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

Date October 18, 2021.