

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SARAH PETERSON

(Case No. 12431)

A hearing was held after due notice on June 1, 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 a garage / studio apartment.

Findings of Fact

The Board found that the Applicant is seeking a special use exception for an existing garage / studio apartment. This application pertains to certain real property located on the northwest side of Morning Glory Road, approximately 0.33 miles northwest of Portsville Road (911 Address: 8982 Morning Glory Farms Road, Laurel) said property being identified as Sussex County Tax Map Parcel 4-32-3.00-41.06. 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 December 13, 2019, correspondence from opposition, letters from the Office of Planning & Zoning, an aerial photograph of the Property, pictures and literature about the apartment, 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 and one letter in opposition to the Application.
3. The Board found that Sarah Peterson was sworn in to testify about the Application.
4. The Board found that Ms. Peterson testified that the apartment has been on the Property for 18 years. It was constructed prior to the construction of the dwelling on the site and was occupied by the Applicant prior to the completion of the construction of the home. Thereafter, the apartment was rented out and is currently occupied.
5. The Board found that Ms. Peterson testified that the house and the apartment both have stoves.
6. The Board found that Ms. Peterson testified that her house is 50 feet away from the apartment but there are no other dwellings within ½ mile.
7. The Board found that Ms. Peterson testified that two sides of the Property are bordered by water.
8. The Board found that Ms. Peterson testified that the garage consists of 1,700 square feet but the apartment is only 800 square feet.
9. The Board found that Ms. Peterson testified that there have been no complaints regarding the apartment.
10. The Board found that Ms. Peterson testified that adjacent lands are used for agriculture.
11. The Board found that Ms. Peterson testified that there is a designated parking area on site for the tenant.
12. The Board found that Ms. Peterson testified that the garage / studio apartment will not substantially adversely affect the uses of neighboring and adjacent properties.
13. The Board found that no one 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 weighed and considered, 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 Applicant proposes to use a portion of a garage as a garage / studio apartment. The apartment meets the square footage requirement under the Sussex County Zoning Code.
- b. The apartment is located on a large property that consists of approximately 8 acres. The Property is a large lot and can clearly hold a dwelling and garage / studio apartment.
- c. The Applicant has provided a designated parking space for the apartment tenant.
- d. The apartment has been on the Property for 18 years and the only noted complaint came from a neighbor who argued that there are businesses on the Property which are damaging a road on the neighbor's property. The neighbor's concern focused on the alleged businesses on the Property and not on the apartment. The Board was not convinced that the existence of the apartment has substantially adversely affected the uses of neighboring and adjacent properties.
- e. There was no evidence that the garage / studio apartment would have an impact on property values, noise, or emissions which would substantially affect adversely the uses of neighboring and adjacent properties.
- f. The Property is used for residential purposes and the apartment is consistent with those uses.
- g. There was no evidence that the garage / studio apartment will have a substantial adverse visual impact on neighboring and adjacent properties.
- h. The Property is bordered on 2 sides by water and neighboring properties are used for agricultural purposes. The nearest dwelling is located approximately 1/2 mile away.

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. 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.

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 July 1, 2020.