

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

**IN RE: MARILYN HERNANDEZ**

**(Case No. 11595)**

A hearing was held after due notice on June 22 2015. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to operate a daycare facility.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to operate a daycare facility. This application pertains to certain real property located south of Rust Lane approximately 1500 feet east of North Union Crush Road (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 1-30-6.00-58.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application and a portion of the tax map of the area.
2. The Board found that the Office of Planning and Zoning received no letters in support of or in opposition to the Application.
3. The Board found that Marilyn Hernandez was sworn in and testified regarding the Application.
4. The Board found that Ms. Hernandez testified that she currently operates a small daycare caring for six (6) children and that she wants to expand and care for an additional six (6) children.
5. The Board found that Ms. Hernandez testified that her hours of operation are Monday through Friday from 6:00 a.m. to 5:00 p.m.
6. The Board found that Ms. Hernandez testified that she cares for children aged six (6) months to five (5) years old.
7. The Board found that Ms. Hernandez testified that she has a fenced in area for the playground.
8. The Board found that Ms. Hernandez testified that she has adequate parking with a horseshoe driveway.
9. The Board found that Ms. Hernandez testified that she will have one (1) employee.
10. The Board found that Ms. Hernandez testified that she has operated a daycare facility since December 2012 and that she has had no issues or complaints from her neighbors.
11. The Board found that Ms. Hernandez testified that the use does not substantially adversely affect the neighborhood.
12. The Board found that Ms. Hernandez testified that she will have a total of twelve (12) children.
13. The Board found that Ms. Hernandez testified that her neighborhood is very rural as there are active farms nearby.
14. The Board found that no parties appeared in support of or in opposition to the Application.
15. 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 daycare facility 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.

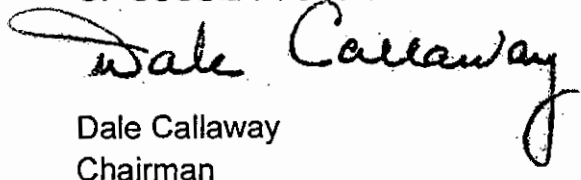
- a. The Applicant has a fenced-in back yard for a playground area and there is adequate parking on the Property. The hours of the facility are reasonable.
- b. The Applicant already operates a daycare on the Property and it has been in operation since December 2012. The Applicant seeks to increase the number of children served.
- c. The Property is located in a rural area with active farming nearby. Any impact on those properties from the increased number of children using the facility should be minimal, if any.
- d. The Property, as shown on the tax map, is 1.12 acres, which is a reasonably sized lot.
- e. The Applicant has received no complaints from neighbors about the daycare facility or this application.
- f. No evidence was presented which would demonstrate that the daycare facility would have a substantial adverse effect on neighboring and adjacent properties. The lack of evidence opposing the application is telling since the facility has been on the Property for nearly three years.

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 were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date August 4, 2015.