

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LORA L. COLLINS & DALE L. COLLINS, JR.

(Case No. 11836)

A hearing was held after due notice on September 12, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, 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 Applicants are requesting a special use exception to operate a daycare facility. This application pertains to certain real property located on the east side of Collins Road, approximately 813 feet north of Beaver Dam Road (911 Address: 33874 Collins Road, Frankford); said property being identified as Sussex County Tax Map Parcel Number 1-34-15.00-135.00 & 1-34-15.00-135.02. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, an undated survey of the Property, and an aerial photograph of the Property.
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 Lora Collins was sworn in to testify about the Application. David Weidman, Esquire, presented the case on behalf of the Applicants.
4. The Board found that Mr. Weidman stated that the Applicants are requesting a special use exception to for a daycare center. The Applicants have created a non-profit entity known as Cozy Critters After School Program, Inc.
5. The Board found that Mr. Weidman stated that the Applicants' existing daycare was granted approval sixteen (16) years ago.
6. The Board found that Mr. Weidman stated that the Applicants plan to renovate an existing building on a parcel located behind the existing daycare to use for after school care and activities. The building to be used for the after school program will not be enlarged.
7. The Board found that Mr. Weidman stated that there are 126 children enrolled in her daycare. The daycare has reached maximum capacity.
8. The Board found that Mr. Weidman stated that the older children need more space for their activities.
9. The Board found that Mr. Weidman stated that the facility will use an existing entrance to the Property and the Delaware Department of Transportation ("DelDOT") has issued a letter of no impact so no traffic impact study is needed.
10. The Board found that Mr. Weidman stated that the number of children served by the daycare will not increase.
11. The Board found that Mr. Weidman stated that classrooms will be added to the interior of the existing building and the building will also have a large indoor play area.
12. The Board found that Ms. Collins testified that a neighbor previously objected to the original daycare application years ago. She has spoken with the objecting neighbor and she had no objection to this application.
13. The Board found that Ms. Collins testified that the hours of operation will remain the same.
14. The Board found that Ms. Collins testified that she plans to incorporate 4H projects into her program.

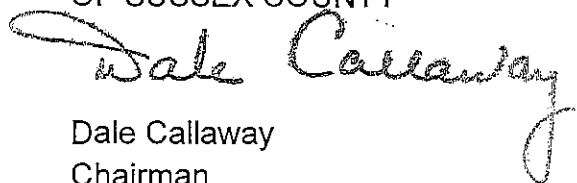
15. The Board found that Ms. Collins testified that approximately fifty-three (53) children will use the new facility.
16. The Board found that Ms. Collins testified that, since August 31, 2016, this daycare is the only center available in the area.
17. The Board found that Ms. Collins testified that the use does not and will not substantially adversely affect the uses of the neighboring and adjacent properties.
18. The Board found that Ms. Collins, under oath, affirmed the statements made by Mr. Weidman.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. 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 Applicants seek to renovate and convert a large, existing building located on a property adjacent to the Applicants' existing daycare. The building will be used as additional space for an after-school program. The Board previously granted approval for the Applicants' daycare on the adjacent property.
 - b. There is adequate parking on the Property and the Applicants have received a letter of no impact from DelDOT. The number of children served by the daycare will not increase so it is unlikely that the use of the additional building will have an adverse impact on traffic in the area.
 - c. The Property is quite large, as evidenced on the tax map and the survey. In fact, the Property consists of nearly 7 acres.
 - d. No one appeared in opposition to the Application. This lack of opposition is telling since the daycare has been in existence on the adjacent property for 16 years. If a neighbor believed that the existing daycare had some substantial adverse effect on the uses and neighboring properties, the Board would have expected evidence demonstrating this effect be submitted into the record. Rather, no evidence was presented which would demonstrate that the daycare facility would have a substantial adverse effect on neighboring and adjacent properties.

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 November 9, 2016.