

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BERNARD MILER & ALISON E. MILLER

(Case No. 11975)

A hearing was held after due notice on June 5, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, 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 Applicants are requesting a special use exception to operate a daycare facility. This application pertains to certain real property located at the west side of Stingey Lane approximately 300 feet north of Lewes-Georgetown Highway (Route 9) (911 Address: 17584 Stingey Lane, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-129.00. 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 aerial photograph of the Property, and the Findings of Fact for Case No. 8744-2004.
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 Bernard Miller was sworn in and testified regarding the Application.
4. The Board found that Mr. Miller testified that he purchased the Property from Mt. Zion Church and the Property was previously leased to the Telamon Corporation. He intends to reopen the daycare / early learning center that was previously on site.
5. The Board found that Mr. Miller testified that he spoke with neighbors on either side of the Property and they support the request.
6. The Board found that Mr. Miller testified that new condominiums have been constructed nearby and a taxi business is located on the corner of Stingey Lane.
7. The Board found that Mr. Miller testified that properties located to the rear of the Property are rental properties and a neighboring property has been vacant for years.
8. The Board found that Mr. Miller testified that the daycare center will not substantially affect adversely the uses of neighboring and adjacent properties.
9. The Board found that Mr. Miller testified that the daycare center previously served 45 children.
10. The Board found that Mr. Miller testified that he intends to find someone qualified to run the daycare facility.
11. The Board found that Mr. Miller testified that he will have to obtain necessary permits and licenses from the State.
12. The Board found that Mr. Miller testified that the rear yard of the lot is fenced in. There is currently no playground equipment as the equipment was removed by Telamon when its lease expired. He intends on installing a playground.
13. The Board found that Mr. Miller testified that there is parking available for approximately eight (8) cars.
14. The Board found that Mr. Miller testified that the hours of operation will be from 6:00 a.m. to 6:00 p.m.
15. The Board found that Gail Baschwitz was sworn in a testified in support of the Application.

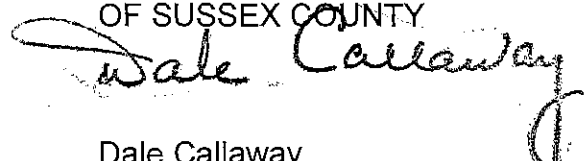
16. The Board found that Mr. Miller testified that parking should not be a problem and that there is ample room for parents to drop off and pick up their children.
17. The Board found that Mr. Miller testified that most of the traffic along Stingey Lane is related to a business on the corner.
18. The Board found that Mr. Miller testified that Stingey Lane is a dead-end road and the Property is located near the dead-end.
19. The Board found that one (1) party appeared in support of the Application.
20. The Board found that no parties appeared in opposition to the Application.
21. 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. A prior tenant of the Property operated a daycare on the Property and the Applicant seeks to run a similar daycare on site.
 - b. There is adequate parking on the Property. The hours of the facility are reasonable.
 - c. The number of children served at the daycare is limited and is reasonable.
 - d. No one appeared in opposition to the Application. The lack of opposition is telling since the Property has been previously used as a daycare facility.
 - e. The Property is located at the end of a dead-end street where traffic is limited. There was no evidence that the traffic related to the daycare would create a substantial adverse effect on the neighborhood.
 - f. 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, Ms. Ellen Magee, 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 8, 2017