

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PATRICK WILLIAM SNYDER

(Case No. 11976)

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 Applicant is requesting a special use exception to operate a daycare facility. This application pertains to certain real property located at the south side of Tulip Drive at the intersection of Coastal Highway (Route 1) (911 Address: 152 Tulip Drive, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-35-11.00-90.00. 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, a letter from Joyce Murphy-Quintero dated March 19, 2017, an undated proposed site plan, a drawing of the interior of the building, and an aerial photograph of the Property.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Patrick Snyder was sworn in and testified regarding the Application.
4. The Board found that Mr. Snyder testified that he is planning to open a Montessori school for children ages 2 to 12 on the campus of St. Jude's the Apostle Church.
5. The Board found that Mr. Snyder testified that there are three buildings on the Property and the proposed daycare will be a part of the existing education building. The building is currently used for Sunday school.
6. The Board found that Mr. Snyder testified that the education building was constructed seven (7) years ago and is barely used during the day.
7. The Board found that Mr. Snyder testified that he has registered with the State and has received an exemption from the Office of Childcare Licensing. He has received a permit from the State Fire Marshal.
8. The Board found that Mr. Snyder testified that approximately nine (9) families have already committed to send their children to the proposed school.
9. The Board found that Mr. Snyder testified that he has spoken with the church's parishioners and they do not object to the Application.
10. The Board found that Mr. Snyder testified that the Property is a large parcel with a large parking lot and there are trees separating the neighbors from the proposed daycare center.
11. The Board found that Eileen Snyder and Judy Gibson were sworn to testify in support of the Application.
12. The Board found that Ms. Snyder testified that the daycare and school will be beneficial to St. Jude's.
13. The Board found that Ms. Snyder testified that the existing building is used on a regular basis.
14. The Board found that Ms. Snyder testified that there will be no additional impact on neighboring properties.
15. The Board found that Ms. Snyder testified that ten (10) to thirty (30) families will use the school.

16. The Board found that Ms. Gibson testified that she supports the Application and she prefers that her daughter go to the proposed daycare for education.
17. The Board found that James Hadfield, Herb Von Goerres, and Christina Melchiorre were sworn in to testify in opposition to the Application.
18. The Board found that Mr. Hadfield testified that he lives on Tulip Drive which is to the rear of the Property and is in a quiet neighborhood.
19. The Board found that Mr. Hadfield testified that his neighbor had a daycare and he saw an increase in traffic related to the daycare center. Tulip Drive also has increased traffic due to the nearby Mr. Tire business and the Church's Saturday Mass.
20. The Board found that Mr. Hadfield testified that he does not object to the school but he is concerned about the growth of the school over time and its impact on the neighborhood.
21. The Board found that Mr. Hadfield testified that, if the access to the Property is from Route 1, he does not object to the application but he believes it would be difficult to enforce a condition restricting access to the school from Tulip Drive.
22. The Board found that Mr. Von Goerres testified that he has traffic concerns but the traffic impact related to the daycare is speculative.
23. The Board found that Mr. Von Goerres testified that the new development being constructed nearby will also use Tulip Drive as an access.
24. The Board found that Mr. Von Goerres testified that the Application is deceiving as it states "daycare" when the Applicant is requesting a school.
25. The Board found that Mr. Von Goerres testified that Tulip Drive is a state maintained, public road.
26. The Board found that Mr. Von Goerres testified that he has lived there for 25 to 30 years and the church was already existing at the time he moved to Tulip Drive.
27. The Board found that Ms. Melchiorre testified that she also has traffic concerns and she lives on Tulip Drive.
28. The Board found that Ms. Melchiorre testified that there are no sidewalks located on that street.
29. The Board found that Ms. Melchiorre testified that she questions what will happen with the children and whether they will be inside or outside. The amount of noise from the facility also concerns her.
30. The Board found that three (3) parties appeared in support of the Application.
31. The Board found that three (3) parties appeared in opposition to the Application.
32. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, 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 proposes to use an existing education building as a daycare / Montessori school. The existing building has been on the property for approximately seven (7) years and is used as an education building by the St. Jude's the Apostle Church.
 - b. The Property is a large parcel consisting of nearly 15 acres and it hosts regular activities related to the church. The church holds regular mass, Sunday School, and other church-related activities. The proposed use of the existing education building appears to be consistent with the other uses of the Property and will be used in a manner so as not to interfere with the church's other activities. Notably, the school will only be open during the week for approximately 32 children. The testimony reflects that the Property is widely used on weekends for church services.
 - c. There is adequate parking on the Property. The hours of the facility are reasonable.

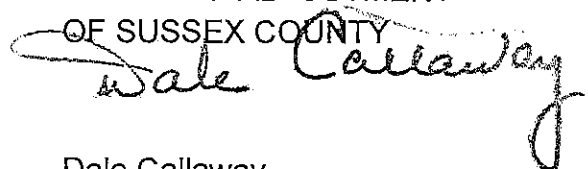
- d. The number of children served at the daycare is limited and is reasonable.
- e. The Applicant presented un rebutted evidence that the daycare will not substantially adversely affect property values in the area. A local realtor opined that the proposed daycare will be a "definite asset to the nearby community, thereby having the potential to increase home sales in the area."
- f. The neighbors who opposed the Application cited traffic and noise as reasons to object to the Application. Mr. Von Goerres, however, testified that any traffic concern was merely "speculation." No traffic studies or other documentation was presented to the Board demonstrating that the use of an existing educational building on the Property as a daycare / Montessori school – as proposed by the Applicant – would somehow increase traffic to such an extent that the traffic associated with the proposed use would substantially affect adversely the uses of neighboring and adjacent properties. Likewise, the concerns about noise also appear to be speculative. The Applicant presented that he will use the building for his school. While it is quite possible that the Applicant will hold activities outside, it appears as though most of the activities will be kept inside. To the extent the Applicant holds outdoor activities, the area where those activities will be held are bordered by trees which should help to lessen the impact of any noise associated with the use. The Board is not convinced that any noise generated by the facility will rise to the level of a substantial, adverse effect on neighboring and adjacent properties.
- g. There was no evidence that there would be additional light pollution or negative effects from lighting from the proposed shelter.
- h. There was no evidence that there would be additional pollutants or negative environmental emissions from the proposed shelter.
- i. Based on the record, the Applicant has demonstrated that the proposed use set forth in the application will not substantially affect adversely the uses of 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