

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KATHLEEN FOWLER

(Case No. 11987)

A hearing was held after due notice on July 10, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, 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 Seashore Highway (Route 18) approximately 1,250 feet east of Royetta Lane (Route 528) (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 2-31-7.00-34.00. 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 Site Evaluation Report and Approval Page, copies of deeds to the Property, property record information, 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 Marcella Camara-Macaly, Elton Brown, and Melody Hines were sworn in and testified regarding the Application.
4. The Board found that Ms. Camara-Macaly testified that the Applicant operates a daycare at another location in Long Neck and the Applicant proposes to open a second location because there is a need for child care centers. The current daycare is at maximum capacity with a waiting list.
5. The Board found that Ms. Hines testified that, when the Applicant looked for a second location, the Applicant took into consideration the new housing, schools, and medical buildings in the area. She believes that the Property is an ideal location for a childcare center and that the daycare will not substantially affect adversely the uses of neighboring and adjacent properties.
6. The Board found that Ms. Hines testified that the hours of operation will be Monday through Friday from 6:30 a.m. to 6:30 p.m.
7. The Board found that Ms. Hines testified that the daycare will have adequate fencing to protect children and neighbors.
8. The Board found that Ms. Hines testified that there is an existing driveway and a parking lot will be available and will be regulated by the Delaware Department of Transportation ("DelDOT").
9. The Board found that Ms. Hines testified that the proposed sign will be within the regulations of the Sussex County Zoning Code.
10. The Board found that Ms. Hines testified that noise and traffic generated by the daycare will not be an issue.
11. The Board found that Ms. Camara-Macaly testified that they are purchasing the Property from Ms. Fowler.
12. The Board found that Ms. Camara-Macaly testified that the facility will hold around 150 children and the proposed building will consist of 7,200 square feet.
13. The Board found that Ms. Camara-Macaly testified that the Property is approximately 7 acres in size.
14. The Board found that Ms. Camara-Macaly testified that the neighboring properties are used for agricultural or residential uses and that the Property is currently vacant.

15. The Board found that Corie Wingate was sworn in to testify in support of the Application. Ms. Wingate testified that her son attends the current day care and she supports the center and its growth.
16. The Board found that one (1) party appeared in support of the Application.
17. The Board found that no parties appeared in opposition to the Application.
18. 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 unrebutted, 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 operated a daycare facility in Long Neck and proposes a second location due to market demand. The new facility will consist of 7,200 square feet and will serve up to 150 children.
 - b. There is adequate parking on the Property. The hours of the facility are reasonable.
 - c. The Property is a large property consisting of approximately 7 acres and can adequately hold the proposed daycare. The playground area will be fenced in to prevent children from trespassing onto neighboring lands.
 - d. There was no evidence presented that the daycare would increase noise, traffic, or emissions in such a manner as to substantially affect adversely the uses of neighboring and adjacent properties. Furthermore, no evidence was presented that the daycare would affect property values or the character of the neighborhood.
 - e. No one appeared in opposition to the Application and 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, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application. Mr. Norman Rickard did not participate in the discussion or vote on this 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 22, 2017