

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LITTLE EINSTEIN'S PRE-SCHOOL, LLC

(Case No. 12002)

A hearing was held after due notice on August 7, 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 expand operations of a daycare facility.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to extend the operation of a day care facility. This application pertains to certain real property located at the east side of Sand Hill Road (Route 319) approximately 2,000 feet north of Route 18 (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 1-35-15.00-38.00. 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 preliminary site plan of the Property dated May 31, 2017, 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 Mark Davidson and Lindsay Cannon were sworn in and testified regarding the Application. Mr. Davidson submitted a booklet of exhibits to the Board to review.
4. The Board found that Mr. Davidson testified that he is a land planner and represents the Applicant. Lindsay Cannon is the owner of Little Einstein's Pre-School.
5. The Board found that Mr. Davidson testified that the Property consists of two parcels (Parcel 38.00 and 38.01). Little Einstein's has operated on Parcel 38.01 for approximately eight (8) years and the Applicant acquired Parcel 38.00 last year. Both parcels are zoned C-1 Commercial and Parcel 38.00 consists of approximately four (4) acres.
6. The Board found that Mr. Davidson testified that the Applicant intends to expand the existing child care facility. The proposed building consists of approximately 7,200 square feet. The plan also includes an outdoor multi-purpose field, baseball field, and outdoor science activity area. The proposed building will be used for a learning center. The existing buildings on the site will also remain.
7. The Board found that Mr. Davidson testified that the use will not substantially effect adversely adjacent and neighboring properties.
8. The Board found that Mr. Davidson testified that the Property has been used commercially for some time.
9. The Board found that Mr. Davidson testified that the new entrance is permitted through the Delaware Department of Transportation ("DelDOT").
10. The Board found that Ms. Cannon testified that she opened Little Einstein's in 2008 at a nearby church and initially provided care for twelve (12) children. The Applicant expanded to different properties because there was a demand for additional pre-school.
11. The Board found that Ms. Cannon testified that the current day care provides care to children ages two (2) to five (5). The Applicant works with Delaware Technical & Community College and employ their early childhood education students. Additional

full-time positions will be available as part of this expansion. The expansion will also allow space for up to ten (10) one-year old children.

12. The Board found that Ms. Cannon testified that the Applicant is looking to expand and was unable to expand the facility until she purchased Parcel 38.00. The new facility will care for approximately 100 children.
13. The Board found that Ms. Cannon testified that the Applicant won the Delaware Small Business Award in 2017.
14. The Board found that Ms. Cannon testified that there will be two (2) entrances available for the facility.
15. The Board found that Ms. Cannon testified that there have been no complaints from neighbors.
16. The Board found that Mr. Davidson testified that the Property is surrounded by an old horse track on two (2) sides. The CHEER Center is nearby and the area also has residential and agricultural uses.
17. The Board found that two (2) parties appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. 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 operated a daycare facility on Parcel 38.01 for several years and has not received any complaints from neighbors. The Applicant seeks to expand the facility to be used on the adjacent Parcel 38.00.
 - b. The Property consists of approximately five (5) acres and is a large lot that has been historically used for commercial uses. The Property appears large enough to accommodate the expansion of the facility.
 - c. The Property is zoned commercially and could be used for other commercial uses. Neighboring properties consist of largely agricultural and residential uses but the CHEER Center is also located nearby. There was no evidence presented which would demonstrate that the expansion of the daycare facility would have a substantial adverse effect on neighboring and adjacent properties.
 - d. The Applicant will work with DeIDOT to improve access to the site with an additional entrance.
 - e. No one appeared in opposition to the Application. The lack of opposition is telling since the Property has been used as a daycare facility for several 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, 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

Dale Callaway
Chairman

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

Date September 19, 2017