

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RHONDALIN CANNON-TINGLE

(Case No. 12203)

A hearing was held after due notice on September 17, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, 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 seeking a special use exception to operate a daycare facility. This application pertains to certain real property located on the south side of Garden Lane, approximately 1,226 feet west of Bridgeville Highway (911 Address: 8674 Garden Lane, Seaford) said property being identified as Sussex County Tax Map Parcel Number 3-31-3.00-263.00.

1. The Board was given copies of the Application, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Rhondalin Cannon-Tingle was sworn in to testify about the Application.
4. The Board found that Ms. Cannon-Tingle testified that she currently operates a small daycare with nine children and she seeks a special use exception to operate a larger daycare with twelve children.
5. The Board found that Ms. Cannon-Tingle testified that she has operated a daycare on the Property for 17 years and there have been no complaints from neighbors.
6. The Board found that Ms. Cannon-Tingle testified that neighbors support the Application.
7. The Board found that Ms. Cannon-Tingle testified that the playground is fenced in and she holds outdoor recess hours from 10:30-11:30.
8. The Board found that Ms. Cannon-Tingle testified that she serves children ages 2-5 and the facility operates from 7:00 am to 7:00 pm.
9. The Board found that Ms. Cannon-Tingle testified that there is adequate parking.
10. The Board found that Ms. Cannon-Tingle testified that it will not substantially affect adversely the use of the neighboring and adjacent properties.
11. The Board found that one (1) party appeared in support of and no parties appeared in opposition to the Application.
12. 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 proposes to operate a daycare facility to care for 12 children ages 2-5. The Property has been used for a daycare facility for 17 years and the Applicant seeks to increase the number of children served at the daycare from 9 children to 12 children.
 - b. There is adequate parking on the Property. The hours of the facility are reasonable. The Property also has space for a fenced-in playground.

- c. The number of children served at the daycare is limited and is reasonable. The Board also notes that the approval of this application will result in only 3 additional children being served at the facility. This increase is a small one.
- d. 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 lack of opposition is telling since the daycare facility has been on the Property for 17 years and the Board would expect opposition to present evidence of a substantial adverse effect if such effect existed.

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. Bruce Mears, Mr. John Mills, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


John Mills
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date November 20, 2018.