

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: TONY PETERSEN**

**(Case No. 12213)**

A hearing was held after due notice on October 15, 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 east side of Webb Farm Road, approximately 0.44 miles south of Staytonville Road (911 Address: 11113 Webb Farm Road, Greenwood); said property being identified as Sussex County Tax Map Parcel Number 2-30-18.00-10.00.

1. The Board was given copies of the Application, a survey of the Property dated September 1, 2016, a Property Owner Approval for Child Care, 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 Michelle Mosley was sworn in to testify about the Application and she submitted a letter of support from the property owner.
4. The Board found that Ms. Mosley testified that the proposed daycare facility will be located her home. The facility will be for nine (9) children aged 6 weeks to 11 years old and will be open from 6:00 A.M. to 6:00 P.M. Monday through Friday.
5. The Board found that Ms. Mosley testified that she has worked with children since 1999. She is a substitute teacher and is involved in foster care. She works with the State of Delaware and Children's and Families First for foster care.
6. The Board found that Ms. Mosley testified that the Property has a long driveway, parking area, and a playground.
7. The Board found that Ms. Mosley testified that her nearest neighbor is over 200 feet away. Her grandchildren live in a home on adjacent lands.
8. The Board found that Ms. Mosley testified that the chicken houses at the rear of the Property use a separate entrance.
9. The Board found that Ms. Mosley testified that the home is in an agricultural preservation area and she is unaware if the Department of Agriculture will allow a daycare facility to be operated on the Property.
10. The Board found that Ms. Mosley testified that the facility will not substantially affect adversely the use of the neighboring and adjacent properties. Neighbors have not opposed the Application.
11. The Board found that no persons appeared in support of or in opposition to the Application.
12. The Board left the case open until November 5, 2019, for the limited purpose of allowing staff to research the agricultural preservation district regulations on uses. Pursuant to 9 Del. C. § 909(a)(5)(j), certain related uses are permitted on agricultural preservation lands and those uses include a daycare center for the care of no more than five (5) children under the age of sixteen (16) in any allowed dwelling located on the Property.
13. 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.

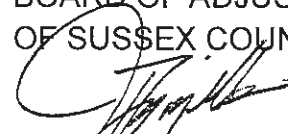
- a. The Applicant proposes to operate a daycare facility in a residence located on agricultural preservation lands.
- b. There is adequate parking on the Property. The hours of the facility are reasonable.
- c. The number of children served at the daycare is limited and is reasonable.
- d. The Property is surrounded by agricultural and residential properties.
- 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. Rather, the Board received a letter of support from the property owner.
- f. The Board's approval is subject to the condition that the daycare facility is limited to no more than five (5) children under the age of sixteen (16). This condition is consistent with 9 Del. C. § 909(a)(5)(j).

The Board granted the special use exception application with conditions 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 with conditions. 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 with conditions.

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 January 8, 2019.