

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BOYS & GIRLS CLUB OF DELAWARE, INC.

(Case No. 12287)

A hearing was held after due notice on April 1, 2019. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to use a manufactured home type structure as a classroom.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to use a manufactured home type structure as a classroom. This application pertains to certain real property located on the southwest side of Oak Orchard Road approximately 379 feet southeast of John J. Williams Highway (Route 24). (911 Address: 31550 Oak Orchard Road, Millsboro) said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-69.06. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a modular location survey of the Property dated January 12, 2009, pictures, letters of support, the findings of fact for Case No. 11266, 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 and Zoning received two (2) letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Erica Kennedy and Mildred Charnick were sworn in to give testimony about the Application.
4. The Board found that Ms. Charnick testified that the classroom has been in use on the Property for a few years. On an average day, fifty children use the classroom in addition to the children who use the main building on the site.
5. The Board found that Ms. Charnick testified that there is a current waiting list of 30 – 40 children to use the facility.
6. The Board found that Ms. Charnick testified that the Applicant provides before and after school programs, summer camp, homework help to students, sports programs, and a resource center for families.
7. The Board found that Ms. Charnick testified that the facility is used by children in the neighborhood and the facility benefits the neighborhood.
8. The Board found that Ms. Charnick testified that the original special use exception was granted in 2008 and was renewed in 2013. The Applicant seeks a renewal of the original application.
9. The Board found that Ms. Charnick testified that there have been no complaints about the building.
10. The Board found that no parties appeared in support of or in opposition to the Application.
11. 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 manufactured home-type structure 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.

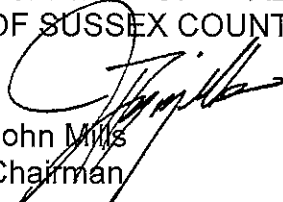
- a. The unit is be located on a lot currently used for as a facility for before and after school programs and other community activities. The Applicant outgrew the main building on the site and needed the additional space is needed to accommodate its needs. The unit, which has been on the Property for many years, complements the existing use.
- b. The unit meets all setback requirements and is smaller than the other structure on the site.
- c. The pictures presented into evidence demonstrate that the unit has been kept in good condition and is well-maintained. No evidence to the contrary was presented.
- d. There was no evidence presented which indicates that traffic, noise, emissions, or light were significantly impacted by the unit.
- e. No evidence was submitted into the record that the structure had a substantial adverse effect on neighboring and adjacent properties. This lack of evidence is telling since the facility has been on the site for many years. Notably, the Applicant has not received any complaints from neighbors about the structure either.
- f. The structure provides services for children - some of whom live in the neighborhood. As such, this facility benefits the neighborhood and community.
- g. The Board was not convinced that the structure will have a substantial adverse effect on neighboring and adjacent properties.
- h. The special use exception was approved for a period of five (5) years.

The Board granted the special use exception application for a period of five (5) years 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 for a period of five (5) years. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, 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 June 4, 2019.