

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HEATHER OSBORNE

(Case No. 12307)

A hearing was held after due notice on May 20, 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 operate a commercial dog kennel.

Findings of Fact

The Board found that the Applicant is requesting a special use exception for a commercial kennel. This application pertains to certain real property located on the south side of Daisey Road approximately 746 feet east of Honeysuckle Road (911 Address: 34582 Daisey Road, Frankford) said property being identified as Sussex County Tax Map Parcel Number 5-33-6.00-125.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from the Applicant, Findings of Fact for Case No. 12260, a survey of the Property dated November 15, 2018, 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 one letter in support of and no correspondence in opposition to the Application.
3. The Board found that Heather Osborne was sworn in to give testimony about the Application.
4. The Board found that Ms. Osborne testified that she has operated her commercial dog kennel for approximately two years and she was unaware that she needed a special use exception to operate a commercial kennel as she is licensed with the business licensing board.
5. The Board found that Ms. Osborne testified that neighbors support the Application. One neighbor even uses the service. She received a letter of support from one neighbor and the neighbor to the west has told Ms. Osborne that she does not have any complaints about the kennel.
6. The Board found that Ms. Osborne testified that the hours of operation are 7 a.m. – 6 p.m. but she does offer overnight boarding as well.
7. The Board found that Ms. Osborne testified that there are typically 8 dogs total on the Property; 3 of which are the Applicant's own dogs.
8. The Board found that Ms. Osborne testified that there have been no noise complaints and that there are no odors emanating from the site.
9. The Board found that Ms. Osborne testified that there is adequate parking.
10. The Board found that Ms. Osborne testified that there are no employees.
11. The Board found that Ms. Osborne testified that the commercial kennel will not substantially affect adversely the uses of neighboring and adjacent properties
12. The Board found that Paul Rieger appeared in opposition to the Application. He expressed concerns about the 200 feet setback requirement.
13. The Board found that two parties appeared in support of the Application.
14. The Board found that one party appeared in opposition to the Application.
15. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found weighed and considered, the Board determined that the application met the standards for granting a special use exception because the commercial dog kennel 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.

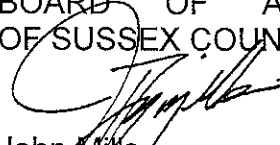
- a. The Applicant has operated a commercial dog kennel on the Property for approximately two (2) years and has not received any complaints from neighbors. One neighbor even uses the service.
- b. The number of dogs served at the kennel is limited and reasonable. The Applicant only serves up to 8-15 dogs. Three of those dogs are owned by the Applicant.
- c. The opposition presented no evidence of how the kennel would substantially affect adversely the uses of neighboring and adjacent properties. Rather, the Board received evidence that the immediate neighbors support the Application.
- d. The Applicant lives on the Property and she has direct control over the kennel operations and can address any minor noise issues that may come from barking dogs at the kennel.
- e. There is no clear evidence that the use of the property as a kennel will have a substantial, adverse effect on the uses of neighboring or adjacent properties. There was not credible testimony that the use will have an adverse impact upon property values, or specific credible examples that the use will impair the use of surrounding properties.
- f. There was no evidence that the kennel would result in issues with odors, traffic, lighting, noise, or emissions.
- g. 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 of the motion to approve 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 18, 2019.