

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

**IN RE: DOWN BY THE BAY DAYCARE, LLC / JUBRI, LLC**

**(Case No. 12319)**

A hearing was held after due notice on June 17, 2019. The Board members present were: Mr. Dale Callaway, 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 daycare center.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to operate a daycare center. This application pertains to certain real property located on the west side of Gravel Hill Road approximately 0.29 miles south of Shingle Point Road (911 Address: 18418 Gravel Hill Road, Georgetown) said property being identified as Sussex County Tax Map Parcel Number 2-35-29.00-10.01.

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated March 15, 2019, 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 Justin Fehrenbach and Briana Rovinskie were sworn in to give testimony about the Application. David Hutt, Esquire, presented the Application on behalf of the Applicant. Mr. Hutt presented exhibit booklets to Board members.
4. The Board found that Mr. Hutt stated that the proposed daycare facility will not substantially affect adversely the use of adjacent and neighboring properties as it is located in a rural residential area with farms and homes nearby.
5. The Board found that Mr. Hutt stated that the proposed day care will serve 7-12 pre-K children and 1-2 school aged children.
6. The Board found that Mr. Hutt stated that there is adequate parking.
7. The Board found that Mr. Hutt stated that another daycare facility is located in close proximity to this location.
8. The Board found that Mr. Hutt stated that the hours of operation will be from 7:00 am – 6:30 pm.
9. The Board found that Mr. Hutt stated that a staff member will live on the premises and the Property will otherwise serve as a residence.
10. The Board found that Mr. Hutt stated that Applicant will comply with all regulations set forth by the State of Delaware for operating a Daycare Facility.
11. The Board found that Mr. Fehrenbach and Ms. Royinskie affirmed the statements made by Mr. Hutt as true and correct.
12. The Board found that Ms. Rovinskie testified that there is a fenced off play area for children and there is ample parking. There have been no complaints from neighbors about the proposed use.
13. The Board found that no parties appeared in support of or in opposition to the Application.
14. 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 7-12 pre-K children and 1-2 school aged children.
- b. Based on a review of the aerial photograph, there is adequate parking on the Property. The Property is a significant distance from the road and there is adequate room for the children to safely play outside.
- c. The number of children served at the daycare is limited and is reasonable.
- d. The hours of the facility are reasonable.
- e. The daycare facility has a limited number of employees and will serve as a residence when not in use as a daycare.
- f. The Property is surrounded by agricultural and residential properties.
- g. 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 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, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application. Ms. Ellen Magee did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



Ellen M. Magee  
Chair

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

Date August 6, 2019.