

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FRANK A. MIRANDA

(Case No. 12359)

A hearing was held after due notice on September 9, 2019. The Board members present were: Mr. Jeffrey Chorman, Ms. Ellen Magee, 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 north side of Lighthouse Road (Route 54) approximately 0.21 miles west of Dickerson Road (911 Address: 33053 Lighthouse Road, Selbyville) said property being identified as Sussex County Tax Map Parcel Number 5-33-18.00-12.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, Findings of Fact for Case No. 11424, 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 no correspondence in support of or in opposition to the Application.
3. The Board found that Frank Miranda was sworn in to give testimony about the Application.
4. The Board found that Mr. Miranda testified that he is the owner of the Heavenly Hound Dog Kennel which has been in business for over thirty years. He bought the business in 2015 and this application is the 7th special use exception request.
5. The Board found that Mr. Miranda testified that there have been no changes to the area since the last request.
6. The Board found that Mr. Miranda testified that Sussex County owns neighboring property consisting of 140 acres and the Property is surrounded by agricultural land.
7. The Board found that Mr. Miranda testified that there is a conditional use on the Property to use the house as a veterinary clinic.
8. The Board found that Mr. Miranda testified that the dogs are inside by 6:00 pm and are just taken outdoors once before bedding down each night.
9. The Board found that Mr. Miranda testified that the facility is open from 7 am to 9 pm and visitation hours are from 10 am to 4 pm.
10. The Board found that Mr. Miranda testified that there are 18 dog runs.
11. The Board found that Mr. Miranda testified that the facility averages 6-8 cars per day for the kennel.
12. The Board found that Mr. Miranda testified that there have been no complaints about the facility.
13. The Board found that Mr. Miranda testified that the kennel does not substantially affect adversely the uses of adjacent and neighboring property.
14. The Board found that no one appeared in support of or 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 credible, persuasive, and un rebutted, 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 four (4) years and the kennel has been operated on the Property for approximately thirty (30) years. The Applicant has not received any complaints from neighbors.
- b. The Property is a large parcel surrounding by agricultural lands.
- c. The Property is also used as a veterinary clinic and the use of the kennel is consistent with that use.
- d. The hours of operation are limited and reasonable.
- e. The traffic generated by the facility is limited and does not appear to have a large impact on the neighborhood.
- f. No evidence was presented demonstrating that the kennel would substantially affect adversely the uses of neighboring and adjacent properties.
- g. There was no testimony or evidence that the use will have an adverse impact upon property values, nor were there specific credible examples that the use will impair the use of surrounding properties.
- h. There was no evidence that the kennel would result in issues with odors, traffic, lighting, noise, or emissions.
- i. 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. Jeffrey Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application. Dr. Kevin Carson 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 November 19, 2019