

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LAURA MESSICK

(Case No. 12401)

A hearing was held after due notice on January 6, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff 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 daycare center.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to operate a daycare facility for up to 12 children. This application pertains to certain real property located on the west side of Shore Drive at the intersection of Shore Drive and Carvel Road within the Lakeshore subdivision (911 Address: 22056 Shore Drive, Seaford) said property being identified as Sussex County Tax Map Parcel Number 3-31-3.00-8.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter supporting the Application, 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 Laura Messick was sworn in to give testimony about the Application. Ms. Messick provided an exhibit to the Board to review.
4. The Board found that Ms. Messick testified that she opened her daycare center in October 2019 and is licensed for six children. Ms. Messick would like to increase the number to nine children initially and later increase to twelve children.
5. The Board found that Ms. Messick testified that the Fire Marshal has given approval for up to eleven children.
6. The Board found that Ms. Messick testified that there have been no issues with neighbors.
7. The Board found that Ms. Messick testified that the Property is located at the end of a dead-end street and she lives in the house and has one assistant.
8. The Board found that Ms. Messick testified that she has a wait list for children and is unable to serve more than 12 children at this location.
9. The Board found that Ms. Messick testified that her hours of operation are from 7:00 am – 5:30 pm – Monday to Friday, closed on major holidays.
10. The Board found that Ms. Messick testified that the Property is fenced and there is an outdoor playground.
11. The Board found that Ms. Messick testified that there is adequate parking.
12. The Board found that Ms. Messick testified that the special use exception will not substantially affect adversely the uses of adjacent and neighboring property.
13. The Board found that two parties appeared in support of and no parties appeared 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 12 children.

- b. Based on a review of the aerial photograph, there is adequate parking on the Property. There is also adequate room for the children to safely play outside.
- c. The number of children served at the daycare is limited and 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 residential properties and neighbors have indicated support to the Applicant of the request.
- 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 lack of evidence is telling since the Property has been used as a daycare for some time.
- h. This approval is subject to the following conditions:
 - i. The Applicant shall submit to the Planning & Zoning Office all agency approvals for this proposed use.

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 Dr. Kevin Carson, 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 with conditions.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY

Ellen M Magee

Ellen M. Magee
Chair

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

Date March 3, 2020