

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

**IN RE: YASIN & LAYLA, LLC
(MAHMUT YILMAZ & DAWN YILMAZ)**

(Case No. 12560)

A hearing was held after due notice on May 17, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for a special use exception to operate a day care center.

Findings of Fact

The Board found that the Applicant is seeking a special use to operate a day care center. This application pertains to certain real property located on the southeast side of John J. Williams Highway (Route 24) at the intersection with Oak Orchard Road (Route 5) (911 Address: 31507 Oak Orchard Road, Millsboro) said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-263.12. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a schematic floor plan dated April 1, 2019, a schematic site plan dated April 1, 2019, 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 Mahmut Yilmaz and Dawn Yilmaz were sworn in to give testimony about the Application.
4. The Board found that Ms. Yilmaz testified that the Applicants propose to run a daycare center at the Property.
5. The Board found that Ms. Yilmaz testified that they purchased the Property which is known as The Trading Post Plaza in 2017 and the proposed childcare center will be on the same property adjacent to the shopping center.
6. The Board found that Ms. Yilmaz testified that they have owned two diners in the area since 2009, including the diner at the subject property.
7. The Board found that Ms. Yilmaz testified that they have many ties in the community and see the need for childcare. She noted that their youngest child has been on a long waiting list for childcare in the immediate area and that they currently have to travel to Lewes for childcare.
8. The Board found that Ms. Yilmaz testified that, in a growing area, there is a need for licensed childcare and that the proposed childcare would be a huge asset to the area.
9. The Board found that Ms. Yilmaz testified that the proposed building would be 13,000 square foot childcare learning center with 16 rooms and 20 – 28 employees. She noted that they are currently working with an individual who has the credentials as a director.
10. The Board found that Ms. Yilmaz testified that the hours of operation would be 6:00 am – 6:00 pm and that the children served would range in age from newborn to middle-schoolers.
11. The Board found that Ms. Yilmaz testified that the childcare building would be fully fenced including the appropriate age-level play areas.
12. The Board found that Ms. Yilmaz testified that the building will have a sprinkler system in addition to exterior and interior cameras.

13. The Board found that Ms. Yilmaz testified that there are entrances to the property from John J. Williams Highway and Oak Orchard Road and they will be used for the daycare center as well.
14. The Board found that Ms. Yilmaz testified that the childcare center will be far away from the highway and be fully fenced so there will be no safety issues.
15. The Board found that Ms. Yilmaz testified that there will be security lighting which will be similar to the existing lighting in the shopping center.
16. The Board found that Ms. Yilmaz testified that there is ample parking for drop off and pick up.
17. The Board found that Mr. Yilmaz testified that they understand the standards that will be required by the State of Delaware to operate a licensed daycare center.
18. The Board found that Mr. Yilmaz testified that this will be a new building.
19. The Board found that Mr. Yilmaz testified that they expect to serve 100 – 120 children which will include children in afterschool programs.
20. The Board found that Mr. Yilmaz testified that neighbors are in support of having a daycare center.
21. The Board found that Mr. Yilmaz testified that the Property is served by water and sewer.
22. The Board found that Mr. Yilmaz testified that there are 13 units in the shopping which include a gas station, restaurant, nail salon, hair salon, barbershop, tattoo shop, and uniform manufacturer.
23. The Board found that Mr. Yilmaz testified that the daycare center will have dedicated parking areas.
24. The Board found that Mr. Yilmaz testified that they will talk with DeIDOT and other agencies.
25. The Board found that Mr. Yilmaz testified that the use will not substantially adversely affect the neighboring or adjacent properties but will positively affect them by bringing more business to the shopping center.
26. The Board found that no one appeared in support of or in opposition to the Application.
27. 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 up to approximately 120 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 site is part of a larger commercial development with a shopping center which has multiple businesses. The daycare should complement those businesses.
 - d. The hours of the facility are reasonable.
 - e. The site will use existing entrances and the Applicant will be required to obtain site plan approval and necessary agency approvals before opening.
 - f. 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 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 Dr. Kevin Carson, Mr. Jordan Warfel, and Mr. John Williamson. Mr. Jeffrey Chorman voted against the Motion to approve the special use exception application. Mr. Travis Hastings did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Williamson
Chair

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

Date August 2, 2021