

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

**IN RE: LINDSEY SMITH**

**(Case No. 12566)**

A hearing was held after due notice on June 7, 2021. The Board members present were: Mr. Jeff Chorman, Mr. John T. Hastings, 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 exception to operate a day care center. This application pertains to certain real property on the west side of Deerfield Lane at the intersection with West Stein Highway (911 Address: 25362 Deerfield Lane, Seaford) said property being identified as Sussex County Tax Map Parcel Number 5-31-12.00-70.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of 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 Lindsey Smith was sworn in to give testimony about the Application.
4. The Board found that Ms. Smith testified that she is the owner and sole provider at her family daycare which recently closed on June 3, 2021, and was located at her prior home. Recently, the Applicant purchased the Property and intends to operate a family daycare in her new home.
5. The Board found that Ms. Smith testified that she cared for eight children at the prior location and she has the potential to be licensed to care for nine children at this location because of the square footage in her daycare room.
6. The Board found that Ms. Smith testified that the daycare will not affect the adjacent and neighboring properties.
7. The Board found that Ms. Smith testified that the driveway houses 4 cars and there are 2 spaces for parents to drop off children. She anticipates that 5 families will use the daycare and that there will be 10 vehicle trips per day for the daycare.
8. The Board found that Ms. Smith testified that the hours of operation will be 7:15 am – 5:00 pm.
9. The Board found that Ms. Smith testified that there will be no other employees.
10. The Board found that Ms. Smith testified that the daycare will be located in her home which is in a residential area.
11. The Board found that Ms. Smith testified that there will be a fenced in outdoor play area.
12. The Board found that Ms. Smith testified that she has spoken to neighbors and there is no opposition to the Application.
13. The Board found that Ms. Smith testified that there is farmland across the road from her home and that Deerfield Lane is a private road.
14. The Board found that Ms. Smith testified that she had hoped to re-open her business on June 14, 2021, but is waiting for Fire Marshal approval and results from the drinking water test. She noted that she installed a water treatment system.
15. The Board found that no one appeared in support of or in opposition to the Application.

16. 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 9 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.
  - 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.
  - g. The Board approved the daycare serving up to 9 children

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 Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. 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



John Williamson  
Chair

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

Date August 16, 2021