

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHARLES HAIRSTON

(RODERICK MORRIS & MELODIE MORRIS)

(Case No. 12611)

A hearing was held after due notice on September 20, 2021. The Board members present were: 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 Applicants are seeking a special use to expand an existing daycare. This application pertains to certain real property located at the north side of Johnson Road approximately 300 feet east of Marshall Street (911 Address: 18601 Johnson Road, Lincoln) said property being identified as Sussex County Tax Map Parcel Number 3-30-15.13-38.00. 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, Findings of Fact for Case No. 12023, pictures, drawings, 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 Roderick Morris was sworn in to give testimony about the Application.
4. The Board found that Mr. Morris testified that he and his wife own Love Drives, LLC, and the daycare has been in operation in Lincoln since 2017 and the Applicants are in the process of purchasing the Property from Mr. Hairston and propose to expand the business.
5. The Board found that Mr. Morris testified that the first part of the expansion would allow 20 – 30 children.
6. The Board found that Mr. Morris testified that they will construct an addition to the home so that will increase the capacity from 30 – 50 children.
7. The Board found that Mr. Morris testified that there is adequate parking for drop off and pick-up and the driveway is a horseshoe drive for easy access to the Property.
8. The Board found that Mr. Morris testified that there have been no complaints from neighbors regarding the daycare.
9. The Board found that Mr. Morris testified that there are currently two employees and, with the expansion up to 30 children, there would be five employees.
10. The Board found that Mr. Morris testified that the hours of operation are 7:00 am – 5:00 pm, Monday through Friday.
11. The Board found that Mr. Morris testified that there is a trucking company and an elementary school in the area. Agricultural lands are also nearby.
12. The Board found that Mr. Morris testified that the building consists of 1,100 square feet and that there is a fenced-in outdoor play area.
13. The Board found that Mr. Morris testified that there have been no issues with noise or traffic.
14. The Board found that Mr. Morris testified that the speed limit is 35 miles per hour on the adjacent road, which is east of Route 113.

15. The Board found that Mr. Morris testified that the ages of children served are 6 weeks to 5 years old.
16. The Board found that Mr. Morris testified that the Property is served by well and septic and that the septic system will be expanded with the second addition. He noted that the Office of Childcare Licensing also look at septic capabilities on the Property.
17. The Board found that one person appeared in support of and no one appeared in opposition to the Application.
18. 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 30 children.
 - b. The site has been used as a daycare for up to 12 children and no complaints about that use were noted in the record.
 - c. Based on a review of the aerial photograph and survey, there is adequate parking on the Property. There is also adequate room for the children to safely play outside.
 - d. The Property is adjacent to agricultural lands and is near a school and trucking business.
 - e. The number of children served at the daycare is limited and reasonable.
 - f. The hours of the facility are reasonable.
 - g. The daycare facility has a limited number of employees.
 - h. There was no evidence that the use would present any traffic concerns.
 - i. 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.
 - j. This approval is subject to the following conditions:
 - i. The use is approved for a period of 2 years.
 - ii. The number of children served at the daycare shall not exceed 30 children.

The Board granted the special use exception 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 Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to approve the special use exception application with conditions. Dr. Kevin Carson and Mr. Jeffrey Chorman 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 November 15, 2021.