

YORK TOWNSHIP

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The July meeting of the York Township Zoning Hearing Board was called to order by John Myers, Vice Chair.

Those in attendance were:

John Myers, Chair
James Barnes, Vice Chair
Glen Myers, Asst. Secretary
Timothy Salvatore, Member
Anthony Pantano, Member
Kathleen Cronin, Member
Jeffrey Rehmeyer, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF JUNE 23, 2020

The Zoning Hearing Board minutes of the June 23, 2020, meeting were approved.

DECISIONS OF JUNE 23, 2020

The Zoning Hearing Board decisions of the June 23, 2020, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2020-15 and 2020-16, Laura Walker requests 1) a Special Exception to establish Day Care, In Home and 2) a Variance of Article 11-Definitions regarding the maximum number of children for a Day Care, In Home, on property located at 749 Connolly Drive, Red Lion, PA, in a Residential Low Density (RL) District.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board
Tuesday, July 28, 2020
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Present: Mark Wendaur
Laura Walker

MOTION: On Application 2020-15 and 2020-16, Laura Walker requests 1) a Special Exception to establish Day Care, In Home and 2) a Variance of Article 11-Definitions regarding the maximum number of children for a Day Care, In Home, on property located at 749 Connolly Drive, Red Lion, PA, in a Residential Low Density (RL) District, that the application be approved.

CONDITIONS: The number of children be limited to ten, and that the Applicant be required to produce evidence of licensure along with the annual application for a home occupation license.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: James Barnes
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISIONS OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Numbers: 2020-15 and 2020-16

Hearing Date: July 28, 2020

Applicant: Laura Walker

Property Owner: Jared W. and Melissa A. Rondeau

Property: 749 Connolly Drive
UPI: 54-000-62-0108-00-0000

Existing Zoning District: Residential Low Density (RL)

Relief Requested- Special Exception and Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-672 and 265-640 thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Applications, including their attachments, are incorporated by reference.
2. The Applicant, Laura Walker was present. She was represented by Attorney Mark Wendaur.
3. Per Application 2020-15, the Applicant is seeking approval for a Day Care, In Home (the "Day Care") pursuant to Section 265-672 and a Home Occupation Section 265-640 (the "Home Occupation") (collectively the "Use").
4. The Applicant also filed an Application No. 2020-16, seeking a Variance in the Township definition of Day Care, In Home.
5. Attorney Wendaur provided initial information regarding the Applications and highlighted the extensive materials that accompanied them to include the following:
 - a. Governor Tom Wolf's Press Release, 2020 emphasizing the importance of child care providers.
 - b. DHS Secretary Teresa Miller Press Release, 2020 emphasizing the importance of child care providers to a fully functional economy.
 - c. The Application for a Home Business Permit;
 - d. An attachment listing responses with regard to the Special Exception standards set forth in Section 265-1009(c);
 - e. Sections of the Ordinance with regard to child care facilities;
 - f. Text messages involving Jared W. and Melissa A. Rondeau, owners of the Property who are selling to the Applicant (and her husband) and their consent to the proposed Use ("Sellers");
 - g. Additional Facebook messages involving the Sage Hill neighborhood, including approval or consent from 12 different neighbors, including the Sellers;

- h. Letter of support from Heidi Roseberry, who resides at 412 East Main Street, Dallastown, PA (former neighbor of Applicant);
 - i. Letter of approval from Deanna Pontious, also a neighbor of the Applicant in Dallastown Borough;
 - j. Numerous Google reviews and summaries for Caterpillar Lane Preschool, including those from Craig Walker, Lauren Whitsel, Cortney Derocher, Denise Newcomer, Alexis Hightman, Jennifer Dettinger, Alice Miller, Peg Welch, Arianne Kobos, Lisa Vallone, Ivy O'Connor, Linda S. Engler, Christina Geib, Maria Solly Engler, Rachel Sosnak, Adelayda Reyes, Abbey E. LeCompte and Trisha Morris;
 - k. A calculation of traffic estimates and parking spaces;
 - l. Photographs of the home on the Property (the "Home" or "Dwelling") and the street view;
 - m. Availability of utilities, including electricity and gas;
 - n. Information on the specific standards for a Day Care, In Home;
 - o. Pennsylvania Department of Human Services Certificate of Compliance for the Applicant to operate Caterpillar Lane Family Child Care with a maximum capacity of 11 children;
 - p. Information regarding the Home on the Property itself;
 - q. Agreement of Sale with the Sellers, Jared W. and Melissa A. Rondeau, evidencing Applicant's equitable ownership interest in the Property;
 - r. Marriage License Certification;
 - s. Aerial map of the Property;
 - t. A quote with regard to the installation of a new fence to the rear of the Home;
 - u. Photographs of the backyard of the Property; and
 - v. Select sections of the Ordinance.
6. Attorney Wendaur explained the following:
- a. Applicant has a License to care for 10 to 11 children.
 - b. The Day Care would be an accessory to a Home in the Residential Low Density District.
 - c. The Applicant will be seeking a Variance as a Condition to the Special Exception.
7. With regard to the specific criteria for a Day Care in a Home, the following was offered:
- a. The Applicant has and will continue to maintain the Certificate of Licensure from the appropriate Federal, State and/or Local authorities.
 - b. There shall be 1 sign, but no larger than 1 square foot.
 - c. The Day Care will be conducted in a single-family detached Dwelling and shall not be permitted in any accessory buildings.
 - d. The person primarily responsible for the Day Care, the Applicant, shall be a full-time resident in the Dwelling.
 - e. An outdoor play area shall be provided and shall comply with the following:
 - i. The outdoor play area shall be completely enclosed by a fence that is a minimum of 6 feet in height (as noted in the Exhibit above).
 - ii. The outdoor play area shall not be located in the front yard, but rather to the rear of the Home.
 - iii. The outdoor play area shall provide a means of shade.
 - iv. The vegetation within the outdoor play area shall be safe for humans.
8. With regard to the specific criteria for a Home Occupation, the Applicant offered the following:

- a. The person primarily responsible for the Home Occupation shall be a full-time resident of the Dwelling. There shall be no more than 1 non-resident employee.
 - b. No more than 25% of the gross floor area of the Dwelling, excluding attics, attached garages and basements may be used for the practice of the Home Occupation. In this case, 480 square feet is anticipated to be used in the Home and the Home itself is 2,754 square feet, which is approximately 15.54 percent.
 - c. There will be no displays or change in the building façade, including the Dwelling and accessory buildings to indicate that the Dwelling is being utilized for purposes other than a Dwelling.
 - d. Any signage shall be limited to 1 square foot in area, subject to the regulations of the Zoning and other applicable Township Ordinances.
 - e. Storage of materials used for the Home Occupation shall be wholly enclosed within the Dwelling.
 - f. The Home Occupation shall be conducted within the Dwelling, except for the play area to the rear of the Home.
 - g. Deliveries shall not restrict traffic circulation.
 - h. Traffic generated by the Home Occupation shall not exceed volumes that would be normally expected within a residential neighborhood.
 - i. The Home Occupation shall not produce dust, obnoxious odors, vibrations, lighting glare, fumes or smoke detectable to any adjacent streets nor shall produce electrical interference.
 - j. The disposal of all materials, fluids and gases shall be in a manner that complies with all regulations of York Township water and sewer authority and all other applicable government codes.
 - k. There shall be no sale of goods on the Premises.
 - l. The Home Occupation shall not utilize explosive, highly flammable or hazardous materials.
 - m. The hours of operation are expected to be approximately 7:00 am to 5:00 pm.
 - n. The Applicant shall seek and maintain the proper permit for the Home Occupation from the Township.
 - o. Said permits shall be specific to the Applicant and the Property and not assignable.
 - p. The Home Occupation Permit shall be renewed on a yearly basis, as required by the Ordinance.
 - q. There may be up to 1 inspection per year by the Zoning Officer or person designated by the Township.
 - r. In addition to the required parking for the Dwelling Unit, there shall be at least 1 space provided for each employee and at least 2 additional spaces for when clients will be visiting the business.
9. In response to the General Standards for a Special Exception in Section 265-1009, the following was provided:
- a. The intended purpose of the proposed Use is consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use is in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Use in relationship to and its potential effects upon surrounding land uses and existing environmental conditions regarding the pollution of air, land and water, noise, potential of hazards and congestion, illumination and glare, restrictions to natural light and circulation.
 - c. The proposed Use is suitable for the Property in question and is designed, constructed and will be operated and maintained suitably for the anticipated

- activity and population served, numbers of participating population, frequency of use, adequacy of space and generation of traffic.
- d. There are adequate and available utility services and facilities, such as sanitary and storm sewers, water, fire, police and other public facilities and the ability of the Township to supply such services.
 - e. The proposed Use has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
 - f. The Use shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Township's Subdivision and Land Development Ordinance.
10. There were no questions from the floor.
 11. There was testimony in support of the Application.
 12. Specifically, Kathleen Walsh is the mother of 3 and a professional social worker, is supportive of affordable, accessible child care, supportive of flexible child care providers, does not expect traffic impact and was in favor of the grant of relief.
 13. Further, Arianne Kobos testified that she finds the Applicant to be organized and is supportive of the Application.
 14. Lisa Frye, the Township Zoning Officer indicated that the Township had no concerns. She did mention there were 2 inquiries with people asking questions.
 15. In response to a question, the Zoning Officer indicated that the Use will be registered as a Home Occupation and appropriate licensure will have to be provided. She also explained that there would be an initial inspection of the Dwelling and there could be additional inspections later.
 16. With regard to licensure, the following was presented:
 - a. The State allows licensure for up to 12 children.
 - b. The Township Ordinance, and the definition, limits a Child Care Facility to 6 children.
 - c. Only 6 children makes it hard to operate the Day Care, as many of them will not be there full-time.
 - d. The Applicant anticipates and will have no more than 10 full-time children.
 17. With regard to the Variance, the following was offered:
 - a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, including changes in state law that create an unnecessary hardship and such unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
 - b. Because of such physical circumstances or conditions, the authorization of a Variance is therefore necessary to enable the reasonable use of the Property for a Day Care, In Home.
 - c. The unnecessary hardship is not being created by the Applicant.
 - d. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the Property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare, which was evidenced by the submissions in the Application and the testimony and Application materials in favor of the Applicant.
 - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.

18. The following Conditions were discussed and the Applicant confirmed that she would be agreeable to them:

- a. There will be a limit to 10 children being enrolled in the Day Care.
- b. The Applicant would submit, on no less than an annual basis, valid proof of licensure from the Commonwealth of Pennsylvania and any other licenses that are or will become necessary to continue to operate the Day Care as described herein.

(Collectively the "Conditions").


CONCLUSIONS OF LAW

Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

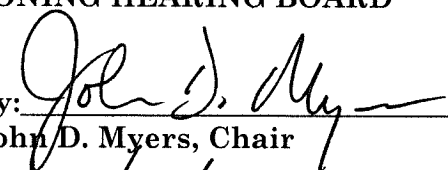
1. The Applicant has met the specific criteria for a Day Care, In Home, in Section 265-627 of the Ordinance.
2. The Applicant has met the specific, relevant criteria for a Home Occupation, in Section 265-640.
3. The Applicant has met the general criteria for a Special Exception set forth in Section 2009(C).
4. The Applicant has not met the Township definition of a Day Care, In Home, however, State law allows for more than 6 children.
5. Based upon the change in State law, the Applicant has met the criteria for a Variance of the definition of the Township Ordinance.
6. The extensive Application materials, outreach to neighbors of the Property and change in State law are significant to the grant of requested relief.

Accordingly, Timothy Salvatore moved, and Jim Barnes seconded, to grant the (1) Special Exception to establish Day Care, In Home and (2) a Variance of Article 11 – Definitions regarding the maximum number of children for a Day Care, In Home, on the Property located at 749 Connolly Drive, in a Residential Low Density (RL) District, subject to the Conditions. The motion passed unanimously with John D. Myers, Glenn Myers, Jim Barnes, Timothy Salvatore and Kathleen A. Cronin voting in favor of the motion.

WITNESS/ATTEST


William Descar, Secretary

YORK TOWNSHIP
ZONING HEARING BOARD

By: 
John D. Myers, Chair

8/25/2020
Date

The Special Exception granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Special Exception, pursuant to Section 265-1009. E. of the Ordinance.