

New Castle City Board of Adjustment Hearing
October 8, 2014, 6:30 p.m.
City of New Castle's Town Hall
2nd and Delaware Streets

Present: Donald A. Reese, Mayor
Daniel R. Losco, City Solicitor
David J. Athey, City Engineer

City Personnel: Jeff Bergstrom, City Code Official

Mayor Reese called the meeting to order at 6:30 p.m.

Mr. Losco read the Notice of Public Hearing that states, "An application has been filed by Anthony V. Rosica (Owner) for a property located at 732 West 12th Street, New Castle, DE 19702, New Castle, Delaware, tax parcel no. 21-014.00-069 seeking a special exception per §230-16B(3) of the New Castle Code to permit use of the residence as a day care center.

For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Wednesday, October 8, 2014, at 6:30 p.m. in Old Town Hall, 2nd Floor, located at 2nd and Delaware Streets, New Castle, Delaware."

An affidavit of publication was published in the *News Journal* and the *New Castle Weekly*.

(Anthony and Jessica Rosica were sworn in by Mr. Losco.)

Ms. Rosica is seeking to expand the small family child care she currently operates in her home to a large family child care allowing 12 full time and 2 children part-time (before and after school). She plans to hire one employee. All licensing requirements are in place and will be issued pending tonight's hearing. The day care currently has 6 full time and 3 part-time children. She operates her day care from 7:30 a.m. to 5:30 p.m.

The applicants' backyard is 40' X 64', is fenced, and play equipment is present. The street is two way. Ms. Rosica testified that parking is not an issue. Children are dropped off and picked up at staggering times during the day. All of the children attend the Colonial School District. The property is in the R1 zoning district.

She has spoken with several neighbors on her street and immediate neighbors on both sides about plans to expand the day care. No comments in favor of or objecting to the expansion has been received. She has not spoken to residents behind her property because they are renters.

Mr. Athey questioned whether a special exception is needed to operate a day care. Mr. Bergstrom stated that a former solicitor determined that a small day care does not require a special exception, but by expanding to a larger facility the applicant must obtain a special exception.

The City fire marshal has inspected the property and determined that hard-wired smoke detectors need to be installed. Ms. Rosica testified they have been installed but she has not scheduled another inspection to date. Mr. Bergstrom said an annual inspection is required by the City fire marshal for a large family day care.

The floor was open to the public. No one spoke in favor or against the application.

The Board entered into deliberations.

Mr. Losco summarized the day care has been in the neighborhood for some time and that most of the children are young. He is concerned with drop off and pick up times, though testimony revealed a staggered schedule. There will be more noise with more children, but the yard is large and during the winter months they will be indoors.

Mr. Athey raised concern with no written proof or physical testimony from neighbors for or against the day care expansion. He said it is unfortunate that a stronger case was not made for how the neighbors were handled. The Code does not require getting approvals.

Mayor Reese made a motion to approve the application as submitted. Mr. Losco suggested modifying the motion to limit the number of children permitted. Mayor Reese made a motion to approve the application as presented limiting the number of children to 12 full time and 2 part time. Mr. Losco seconded the amended motion. Motion approved.

There being no further business, the hearing was adjourned.

Respectfully submitted,

Debbie Turner
Stenographer