

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday, March 8, 2023. The following Board Members were present: Chairman John F. Ribble III (arrived at 9:05 AM); Vice Chairman James R. Hart; Thomas W. Smith III; Rebeccah Ballo; Daniel Aminoff; Donte Tanner (arrived at 9:11 AM); and Karen L. Day (arrived at 9:07 AM).

Vice Chairman Hart called the meeting to order at 9:00 a.m. He asked if there were any Board Matters to bring before the Board. As there were no Board Matters, he then discussed the policies and procedures for the conduct of public hearings at the Board of Zoning Appeals. Chairman Ribble called for the first scheduled case.

Chairman Ribble resumed the Chair.

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~ ~ ~ March 8,2023, Scheduled case of:

Vine United Methodist Church, A 2022-PR-016

Chairman Ribble noted that application A 2022-PR-016 had been administratively moved to May 10, 2023.

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~ ~ ~ March 8,2023, Scheduled case of:

Douglas M. Weinstein, SP-2022-SP-00195 to allow modifications to the limitations on the keeping of animals (chickens). Located at 9053 Andromeda Dr., Burke, 22015 on approx. 8,910 sq. ft. of land zoned R-3 (Cluster). Springfield District. Tax Map 78-4 ((6)) 132A.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Douglas M. Weinstein, Applicants

After the hearing where testimony was presented by Philip Isaiah, Mr. Krasner, and Mr. Weinstein, which was then followed by no testimony from speakers from the public, Mr. Aminoff moved to approve SP-2022-SP-00195 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 6-1. Ms. Day voted against the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Douglas M. Weinstein, SP-2022-SP-00195 to allow modifications to the limitations on the keeping of animals (chickens). Located at 9053 Andromeda Dr., Burke, 22015 on approx. 8,910 sq. ft. land zoned R-3 (Cluster). Springfield District. Tax Map 78-4 ((6)) 132A.

Mr. Aminoff moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 2023; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 8,910 square feet.
4. The Board finds the request is not excessive.
5. There is a favorable staff recommendation, and the Board adopts the rationale in the staff report.
6. The Board has considered the concerns of the neighbor to the rear of the property and finds moving the coop closer to the applicant's dwelling makes more sense. There is a slope and some vegetation in between the properties.
7. The applicant has agreed to compost in accordance with the development conditions.
8. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This approval is granted to the applicant, Douglas M. Weinstein, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 9053 Andromeda Drive, Burke 22015, and is not transferable to other land.
2. This special permit is granted only for the keeping of chickens at the property identified on the plat prepared by the applicant dated March 1, 2023, as approved with this application, and qualified by these development conditions.
3. This approval is for a maximum of six (6) hen chickens only. No roosters are permitted.
4. The chickens must remain in a fenced area at all times. The existing fence or a compliant replacement must be maintained around the perimeter of the rear yard.
5. All chicken waste must be thoroughly composted before use or distribution. Any composted waste on-site must be spread in an environmentally responsible manner. The compost bin must be fully enclosed to prevent the runoff of pollutants onto adjacent properties. Alternately, waste may be removed from the chicken coop, run, and rear yard on at least a weekly basis, bagged, and disposed of with household trash.
6. Any on-site burial must be at least 2 feet above the high ground water table and 2 feet below the soil surface, or removal of dead chickens must be through a licensed animal removal company or must be cremated by a licensed company.
7. The applicant is responsible for identifying and complying with the terms of all legally enforceable easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit plat, as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
8. Pursuant to Section 8100.4.D of the Zoning Ordinance, this special permit will take effect upon approval by the Board of Zoning Appeals.

This approval, contingent upon the above-noted conditions, does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Tanner seconded the motion, which carried by a vote of 6-1. Ms. Day voted against the motion.

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~ ~ ~ March 8, 2023, Scheduled case of:

Trustees of St. John's United Methodist Church, SP-2022-MA-00119 to permit the continuation of an existing religious assembly with the addition of a child care center. Located at 5312 and 5400 Backlick Rd. Springfield, 22151 on approx. 6.19 ac. Of land zoned R-2 and HC. Mason District. Tax Map 80-2 ((4)) 7 and 8.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Reverend J.W. Park, Pastor, Agent for the Applicants
- John M. Novack, Agent for the Applicants
- James F. Froehlich, Agent for the Applicants
- Ms. Marty Bickford, Church Staff Member
- Flor D. Brea, Operator of Child Care

During the hearing testimony was presented by Brandon McCadden County Staff, and Mr. Novack, Applicant. Ms. Brea, the Operator of the proposed Child Care spoke in support of the application. There were no speakers from the public. Mr. Hart moved to approve SP-2022-SP-00113 for the reasons stated in the Resolution. Mr. Smith seconded the motion, which carried by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Trustees of St. John's United Methodist Church, SP-2022-MA-00119 to permit the continuation of an existing religious assembly with the addition of a child care center. Located at 5312 and 5400 Backlick Rd. Springfield, 22151 on approx. 6.19 ac. of land zoned R-2 and HC. Mason District. Tax Map 80-2 ((4)) 7 and 8. Mr. Tanner moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 2023; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the property.
2. The present zoning is R-2 and HC.
3. The area of the lot is 6.19 acres.
4. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This approval is granted to the applicant, Trustees of St. John's United Methodist Church only and is not transferable without further action of this Board, and is for the location indicated on the application, 5312 and 5400 Backlick Road, Springfield 22151, and is not transferable to other land.

2. This Special Permit is granted only for the religious assembly with child care center use at the property as indicated on the special permit plat entitled "Special Permit Plat, Trustees of the St. Johns Methodist Church," prepared by David T. McElhaney, Professional Engineer with Urban, Ltd., dated August 31, 2022 and last revised on February 9, 2023, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit and the Non-Residential Use Permit (Non-RUP) must be posted in a conspicuous place on the property.
4. The maximum number of seats permitted in the sanctuary is limited to 200.
5. The maximum number of children permitted on-site at the child care center is limited to 99 at any one time.
6. The hours of operation for the child care center are limited to 7:00 a.m. through 7:00 p.m., Monday through Friday.
7. Subject to approval of an administrative reduction by the Director of LDS pursuant to Section 6100.5.C, a minimum of 58 striped parking spaces must be provided on-site for both uses combined. If a reduction is not obtained, then a minimum of 66 striped parking spaces must be provided on-site for both uses combined. All parking associated with the religious assembly and child care center must be on-site as shown on the special permit plat. Notwithstanding anything shown on the special permit plat, the applicant may paint the parking space lines in the overflow parking area without the need for a special permit amendment.
8. All drop-off and pick-up associated with the child care center must be on site, and in accordance with circulation plan in Attachment 1 to these conditions. The pick-up and drop-off circulation plan must be communicated to parents and posted on the website.
9. Within 18 months after the date of approval of this special permit, the applicant must reconstruct/improve the four sidewalk curb ramps as shown on the special permit plat to meet ADA standards pursuant to the Fairfax County Public Facilities Manual, subject to review and approval by VDOT and FCDOT.
10. Transitional screening is modified along all lot lines to utilize existing vegetation in lieu of new plantings. Existing vegetation must be maintained in good condition. Dead, dying, or diseased plants must be replaced with like-kind plantings.
11. The barrier requirement is waived along all lot lines.
12. The maximum number of children using the play area must adhere to the limitations in Sect. 4102.4.C of the Fairfax County Zoning Ordinance.
13. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
14. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will automatically expire, without notice, 12 months after the date of approval unless the child care center use has been established and a new Non-RUP obtained. The Board of Zoning Appeals may grant additional time to obtain the Non-RUP if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

This approval, contingent upon the above-noted conditions, does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Mr. Smith seconded the motion, which carried by a vote of 7-0.

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~ ~ ~ March 8,2023, Scheduled case of:

Rossmory Vanessa Acosta Escate, SP-2021-MA-00095 to permit a home day care facility. Located at 8507 Woodbine Ln., Annandale, 22003 on approx. 10,544 sq. ft. of land zoned R-3. Mason District. Tax Map 59-3 ((16)) 23.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Rossmory Vanessa Acosta Escate, Applicant
- Public Speaker
 - Ashton Nolley, 8501 Varsity Ct, Annandale VA
 - Marina Burgstahler, 3913 Shelley Lane Annandale, VA
 - Camila Cury-Paco, 8507 Woodbine Ln., Annandale

After the hearing testimony was presented by Kevin McMahan, Mr. Krasner, and Ms. Acosta, there was one in person speaker and two phone speakers from the public that gave their testimony. Hart moved to approve SP-2022-SP-00113 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Rossmory Vanessa Acosta Escate, SP-2021-MA-00095 to permit a home day care facility. Located at 8507 Woodbine Ln., Annandale, 22003 on approx. 10,544 sq. ft. of land zoned R-3. Mason District. Tax Map 59-3 ((16)) 23. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 2022; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 10,544 square feet.
4. There is a favorable staff recommendation, and the Board adopts the rationale in the staff report.
5. The Board finds the lot and the house is big enough for the use, the development conditions adequately address the potential impacts on the neighbors, they are consistent with many other home daycare facilities that the Board has approved embedded in residential neighborhoods.
6. The Board finds the traffic impact has been adequately addressed in this case, in particular with the requirement that pick-up and drop-off will occur in the driveway.
7. The applicant has read, understands, and concurs with the modified development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

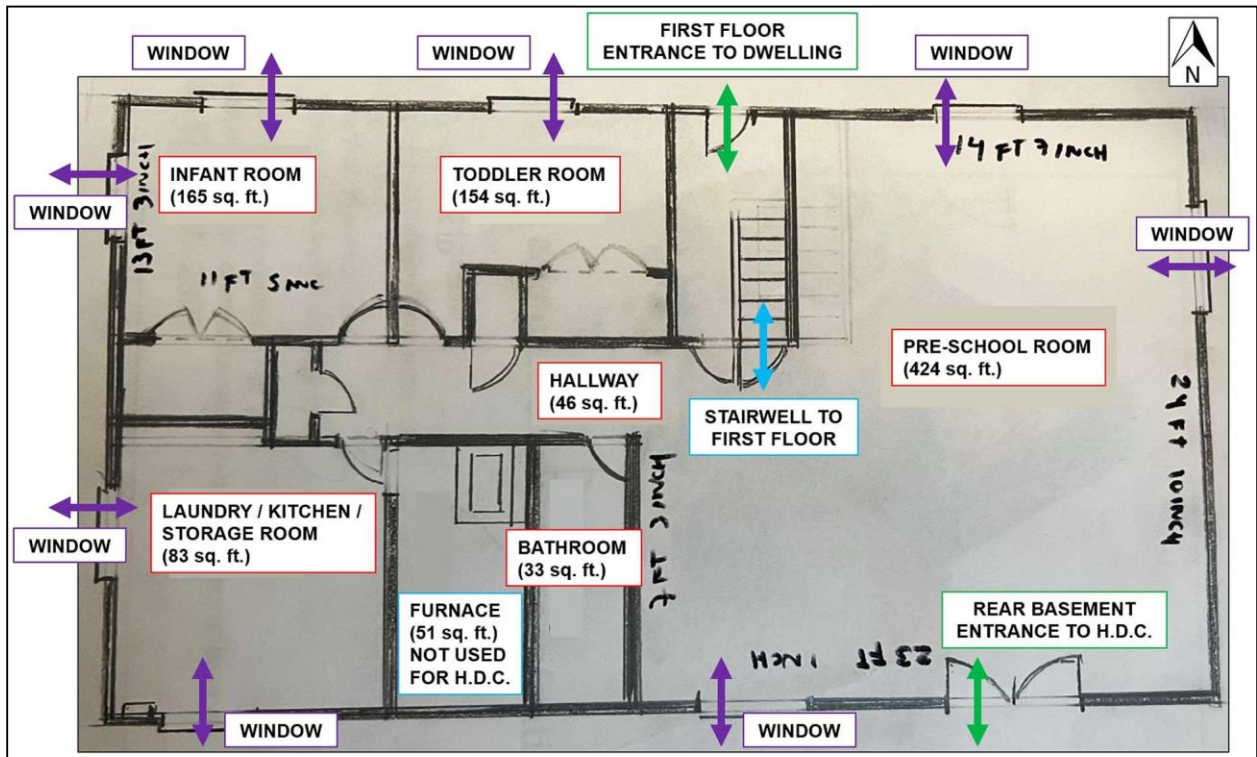
1. The home day care use is granted to the applicant, Rossmary Vanessa Acosta Escate, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 8507 Woodbine Lane, Annandale 22003, and is not transferable to other land.
2. This special permit is granted only for the home day care use at the property shown on the special permit plat, entitled "Special Permit Plat on Lot 23, Section Two, Varsity Park," as prepared by Guy H. Briggs, Land Surveyor of Apex Surveys, LLP, dated June 25, 2021 and revised on July 21, 2022.
3. A copy of this Special Permit must be posted in a conspicuous place on the property.
4. The hours of operation of the home day care facility are limited to 6:00 a.m. to 6:00 p.m., Monday through Friday.
5. The dwelling that contains the day care facility must be the primary residence of the applicant.
6. Excluding the applicant's own children, the maximum number of children permitted at the home day care facility at any one time must not exceed twelve (12) children at any one time.
7. A maximum of two non-resident employees, whether paid or not for their services, may be involved in the home day care facility. The day care facility must be operated in accordance with the Virginia Department of Social Services staffing requirements of 22 VAC 40-111-570.
8. The home day care must operate only in the pre-school room, infant room, toddler room, bathroom, laundry/kitchen/storage room, and hallway, as shown on the labeled floor plan provided in the staff report and attached to these conditions as Attachment 1
9. There must be no signage associated with the home day care facility.
10. All drop-off and pick-up of children must take place within the driveway of the subject property. The driveway must be kept clear during the hours of operation for the home day care facility.
11. Any portions of the dwelling associated with the home day care facility that are used as a children's sleeping area or rest area must be located in a room with an operable exterior window, door, or similar device that provides for a means of escape and access for rescue in the event of an emergency. Such emergency escape and rescue openings must be of the dimension and size specified by the Virginia Uniform Statewide Building Code.
12. The approval of the use is contingent upon maintenance of a state-issued family day home license that permits the number and ages of children being cared for at the home day care facility.
13. The day care facility must be operated in accordance with Chapter 30 of the County Code, entitled "Minimum Private School and Child Care Facility Standards."
14. The shed in the rear yard must remain locked during the hours of operation of the home day care.
15. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
16. Pursuant to Sect. 8100.4.D(6)(a) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

This approval, contingent upon the above-noted conditions, does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Tanner seconded the motion, which carried by a vote of 7-0.

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EXHIBIT A: SP 2021-MA-00095 (Rossmary Vanessa Acosta Escate



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The meeting recessed at 11:12 a.m. and reconvened at 11:24 a.m.

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~ ~ ~ February 08, 2023 Scheduled case of:

Dildora Rakhmatullaeva, Ibrokhim Rakhmatullaeva, and Ismoil Rakhmatullaeva, VC-2022-MA-00011 to permit surfaced area for a driveway or vehicle or trailer parking exceeding 25 percent of the front yard. Located at 7821 Ridgewood Dr., Annandale, 22003 on approx. 21,881 sq. ft. of land zoned R-2. Mason District. Tax Map 59-4 ((9)) 89.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Brandon McCadden, Staff Coordinator
- Keith Martin, Agent for the Applicants
- Ismoil Rakhmatullaeva, Applicant

After the hearing testimony was presented by Brandon McCadden, Mr. Krasner, Mr. Martin, and Mr. Rakhmatullaeva, there were no public speakers for this case. Ms. Day moved to continue VC-2022-MA-00011 and requested that applicant consider alternatives that would reduce the amount of the variance requested, Ms. Ballo seconded the motion. which carried by a vote of 7-0.

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As there was no other business to come before the Board, the meeting was adjourned at 12:30 p.m.

Minutes by: Melissa R. Taylor

Approved on: September 20, 2023