

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday, March 22, 2023. The following Board Members were present: Chairman John F. Ribble III; Vice Chairman James R. Hart; Thomas W. Smith III; Rebecca Ballo; Daniel Aminoff; Donte Tanner; and Karen L. Day.

Chairman Ribble called the meeting to order at 9:02 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.

~ ~ ~ March 22 ,2023, Scheduled case of:

Joseph P. Clancy, VC-2021-MV-00024 to allow an accessory structure (detached carport) in a front yard (23.0 feet from the front lot line adjacent to Stafford Road) on a lot less than 36,000 sq. ft. in area. Located at 7314 Stafford Rd., Alexandria, 22307 on approx. 21,590 sq. ft. of land zoned R-2 and HD Mount Vernon District. Tax Map 93-3 ((4)) 58. *(Admin moved from 7/13/2022, 10/05/2022, 11/30/2022, and 2/1/2023)*

Chairman Ribble noted that application VC-2021-MV-00024 had been administratively moved to May 17, 2023.

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~ ~ ~ March 22 ,2023, Scheduled case of:

Karl E. and Kristen Duckworth, A 2022-LE-001 Appeal of a determination that an addition is located 5 feet from the side lot line, which does not meet the side setback requirement of 12 feet, in violation of Zoning Ordinance provisions. Located at 6420 Telegraph Road, Alexandria, Virginia 22310, on approx. 0.42 ac. of land zoned R-3, Lee District, Tax Map 82-3 ((1)) 54A. *(Admin moved from 6/29/2022, and 11/2/2022)*

Chairman Ribble noted that application A 2022-LE-001 had been administratively moved to May 24, 2023.

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~ ~ ~ March 22 ,2023, Scheduled case of:

Andreas Brandt, A 2022-PR-014, Appeal of a determination that there are two complete and separate dwelling units contained within the principal structure, and that there is surfaced parking area in the front yard in excess of the maximum 30% permitted, in violation of Zoning Ordinance provisions. Located at 7306 Lee Highway, Falls Church, Virginia 22046, on approx. 10,244 sq. ft. of land zoned R 4, Providence District, Tax Map 50-1 ((9)) 85. *(Admin moved from 1/25/2023)*

Chairman Ribble noted that application A 2022-PR-014 had been administratively moved to May 3, 2023.

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~ ~ ~ March 22 ,2023, Scheduled case of:

David J. Zimmerman and Denna H. Zimmerman, SP-2021-SP-00143 to permit a detached accessory living unit. Located at 6400 Newman Rd., Clifton, 20124 on approx. 6.93 ac. of land zoned R-C and WS. Springfield District. Tax Map 75-2 ((1)) 4 *(Admin move from 10/5/22, and 11/30/2022)*

Chairman Ribble noted that application SP-2021-SP-00143 had been administratively moved to

May 17, 2023.

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~ ~ ~ March 22 ,2023, Scheduled case of:

Olde Towne Pet Resort Springfield LLC, VC 2022-MV-00003 to permit existing and proposed fences measuring 8.0 ft. in height in the front yards adjacent to Alban Road and Interstate 95 (Henry G. Shirley Memorial Highway) and to permit canopies/awnings 5.0 feet from the front lot line adjacent to Alban Road and 2.5 feet from the front lot line adjacent to Interstate 95 (Henry G. Shirley Memorial Highway). Located at 8101 Alban Road., Springfield, 22150 on approx. 1.67 ac. of land zoned C-6. Mount Vernon District. Tax Map 99-1 ((17)) 6. (Associated with SE 2021-MV-00018). (*Deferred from 9/28/2022, 11/30/2022, and 1/25/2023*).

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kimia Zolfagharian, Staff Coordinator
- Kathryn Taylor, Agent for the Applicant
- Chris Gilbert, Applicant
- Bill Prodo, Civil Engineer

After the hearing where testimony was presented by Kimia Zolfagharian and Ms. Taylor, with no testimony from the public, Mr. Aminoff moved to approve VC 2022-MV-00003 for the reasons stated in the Resolution, the motion carried by a vote of 7-0, Mr. Tanner seconded the motion.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

Olde Towne Pet Resort Springfield LLC, VC 2022-MV-00003 to permit existing and proposed fences measuring 8.0 feet in height in the front yards adjacent to Alban Road and Interstate 95 (Henry G. Shirley Memorial Highway) and to permit canopies/awnings 5.0 feet from the front lot line adjacent to Alban Road and 2.5 feet from the front lot line adjacent to Interstate 95 (Henry G. Shirley Memorial Highway). Located at 8101 Alban Rd., Springfield, 22150 on approx. 1.67 ac. of land zoned C-6. Mount Vernon District. Tax Map 99-1 ((17)) 6. (Associated with SE 2021-MV-00018). 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 22, 2023; and

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

1. The applicants are the owners of the land.
2. The present zoning is C-6.
3. The area of the lot is 1.67 acres.
4. The applicant has read, understands, and concurs with the proposed development conditions.

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

- 1) That the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property, 2) the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance,

OR 3) the granting of the variance would alleviate a hardship by granting a reasonable modification to property or improvements requested by a person with a disability, AND

1. That the property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.
2. That the variance would not result in a substantial detriment to adjacent property or nearby properties in the proximity of that geographical area.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the granting of the variance would not result in an unpermitted use or a change in the zoning classification.
5. That the relief or remedy sought by the variance application is not available through a special exception or special permit.
6. That the variance would conform with the purposes of the Zoning Ordinance and not be contrary to the public interest.

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

1. This variance is approved for the location of the existing and proposed 8.0-foot-tall fencing and awnings as shown on the Variance Plat entitled "Special Exception Plat, Variance Plat for Olde Towne Pet Resort" prepared by Walter L. Phillips Incorporated, dated August 27, 2021, as revised through December 16, 2022, as submitted with this application, and is not transferable to other land.
2. Use of the proposed outdoor components of the kennel is subject to the approval of a special exception by the Board of Supervisors and any development conditions adopted pursuant to such approval.
3. The fence and awnings must be maintained in good condition.
4. In the event the Board of Supervisors denies the associated Special Exception, the awnings must be removed or brought into compliance within 90 days of this resolution.
5. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgements, encroachment, or other encumbrances to title affecting the subject property, shown or not shown, on the approved variance plat, as may be determined by a court of competent jurisdiction.
6. Pursuant to Sect. 8103.3 of the Zoning Ordinance, this variance takes effect upon a vote of approval by the Board of Zoning Appeals.

This approval, contingent on the above-noted conditions, shall not relieve the Applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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

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~ ~ ~ March 22 ,2023, Scheduled case of:

Benjamin Jones and Sarah B. Jones, SP-2022-LE-00172 to permit an interior accessory living unit with a modification to the on-site parking requirements and a reduction in setback requirements based on errors in building location to allow an accessory structure (shed) 2.8 ft. from the rear lot line and a second accessory structure (shed) 3.8 ft. from the rear lot line and 1.9 ft. from the east side lot line to remain. Located at 5903 Sandringham Ct., Alexandria, 22315 on approx. 9,663 sq. ft. of land zoned R-3 (Cluster). Lee District. Tax Map 91-4 ((4)) 611.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Benjamin Jones, Applicant
- Sarah Jones, Applicant

After the hearing where testimony was presented by Philip Isaiah and Mr. Jones, with no testimony from the public, Mr. Tanner moved to approve SP-2022-LE-00172 for the reasons stated in the Resolution, the motion carried by a vote of 7-0, Mr. Aminoff seconded the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Benjamin Jones and Sarah Jones, SP-2022-LE-00172 to permit an interior accessory living unit with a modification to the on-site parking requirements and a reduction in setback requirements based on errors in building location to allow an accessory structure (shed) 2.8 ft. from the rear lot line and a second accessory structure (shed) 3.8 ft. from the rear lot line and 1.9 ft. from the east side lot line to remain. Located at 5903 Sandringham Ct., Alexandria, 22315 on approx. 9,663 sq. ft. of land zoned R-3 (Cluster). Lee District. Tax Map 91-4 ((4)) 611. 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 22, 2023; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-3 (Cluster).
3. The area of the lot is 9,663 square feet.
4. The applicant has read, understands, and concurs with the proposed development conditions.

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

That the applicant has presented testimony indicating compliance with Sect. 5100.2.D(11)(d), Provisions for BZA Authorized Reductions in Setback Requirements Based on an Error in Building Location, the Board has determined:

- A. The error exceeds ten percent of the applicable measurement, or
- B. The error is up to ten percent of the applicable measurement and the reduction or modification is requested in conjunction with the approval of another special permit or application for a variance on the property, and
- C. The noncompliance was done through no fault of the property owner, or was the result of an error in the relocation of the building after the issuance of a building permit, if one was required, and

- D. It will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition regarding other properties or public streets, and
- G. Compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship, and
- H. It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the granting of this special permit will not impair the purpose and intent of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition regarding other properties or public streets and that to force compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship.

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

1. These conditions must be recorded by the applicant among the land records of Fairfax County for this property.
2. This approval is granted to the applicants, Benjamin Jones and Sarah Jones, only, for the location indicated on the application, and is not transferable to other land or other owners.
3. This special permit is granted only for an interior accessory living unit 5903 Sandringham Court, Alexandria, at the subject property as identified on the plat titled "*Plat, Showing the Improvements on Lot 611, Section Seven of a Plat of Correction Hayfield Farm*" prepared by Dominion Surveys, Inc. dated October 17, 2022, as submitted with this application, and is not transferable to other land.
4. The accessory living unit is limited to the square footage of the existing basement.
5. The ALU must be built pursuant to an approved building permit and pass final inspection prior to occupancy.
6. Occupancy of the accessory living unit is limited to no more than two persons.
7. The ALU must contain a working multi-purpose fire extinguisher and smoke and carbon monoxide detectors that are interconnected with the principal dwelling.
8. The accessory living unit is approved for an initial period of two years from the approval date of the special permit and may be extended by the Zoning Administration for screening periods of up to five years.
9. The sheds must be maintained in good condition or otherwise brought into compliance with the Ordinance.
10. 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 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.

11. Pursuant to Article 8100.4.D (6) of the Zoning Ordinance, this special permit automatically expires, without notice, 30 months after the date of approval unless construction has commenced on the accessory living unit. The Board of Zoning Appeals may grant additional time to commence construction 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.

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~ ~ ~ March 22, 2023 Scheduled case of:

Ryan D. Swanson and Allison S. Swanson, SP-2021-BR-00112 to permit a reduction in setback requirements to permit an addition 19.2 ft. from the rear lot line. Located at 4121 Nutwood Way, Fairfax, 22032 on approx. 10,858 sq. ft. of land zoned R-3. Braddock District. Tax Map 58-3 ((13)) 39.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Brain Rosenheim, Agent for Applicant

After the hearing where testimony was presented by Philip Isaiah and Mr. Swanson with no public testimony, Mr. Hart moved to approve SP-2021-BR-00112 for the reasons stated in the Resolution, Mr. Tanner seconded the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Ryan D. Swanson and Allison S. Swanson, SP-2021-BR-00112 to permit a reduction in setback requirements to permit an addition 19.2 ft. from the rear lot line. Located at 4121 Nutwood Way, Fairfax, 22032 on approx. 10,858 sq. ft. of land zoned R-3. Braddock District. Tax Map 58-3 ((13)) 39. 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 22, 2023; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,858 square feet.
4. There is a favorable staff recommendation, and the Board adopts the rationale in the staff report.
5. This is a screen porch that appears compatible with the house and the neighborhood. It is backing up to a fence and a heavy line of vegetation with a school on the other side of the fence.
6. The screen porch does not negatively impact the neighborhood or school in any way visually.

7. This is a peculiar lot on a cul-de-sac. Because the front yard is narrow, the house is set further back than the minimum required front setback, and that pushes the back of the house closer to the rear lot line, so there is not much room.
8. The porch itself is relatively shallow, and it is consistent with past approvals of similar cases.
9. 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 standards for the Reduction of Setback Requirements as contained in Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the Board has determined that:

1. The application meets all the submission requirements set forth in Sect. 8101.3
2. A. The resulting gross floor area of the addition to the existing principal structure is not greater than 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. If a portion of the single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction will be removed;

B. The resulting gross floor area of the existing accessory structure and any addition to it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
3. The proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development.
4. The proposal does not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
5. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

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

1. These conditions must be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Development.
2. This special permit is approved for the location of the screen porch addition as shown on the special permit plat, entitled "*Special Permit Plat on Lot 39, Section Five, Somerset*" prepared by Apex Surveys, dated February 24, 2022 and revised September 19, 2022, as submitted with this application and is not transferable to other land.
3. Pursuant to Par. 6 of Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of 6,648 square feet permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single-family dwelling for the purpose of this paragraph will be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements will be permitted without an amendment to this special permit.
4. The addition must be generally consistent with the architectural elevations as shown on Attachment 1 to these conditions.
5. 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 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.

6. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will automatically expire, without notice, 30 months after the date of approval unless construction has commenced on the addition and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction 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.

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~ ~ ~ March 22, 2023 Scheduled case of:

Hector Saul Gomez and Patricia Yaneth Villalta, SP-2022-MV-00148 to permit an increase in fence height in the front yard adjacent to Northumberland Road. Located at 7830 Godolphin Dr., Springfield, 22153 on approx. 23,713 sq. ft. of land zoned PDH-3 and NR. Mount Vernon District. Tax Map 98-4 ((6)) 152. *(Deferred from 3/1/2023)*

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Hector S. Gomez, Applicant

After the hearing where testimony was presented by Kevin McMahan and Mr. Gomez, with no public testimony, Ms. Day moved to approve SP-2022-SP-00113 for the reasons stated in the Resolution, Ms. Ballo seconded the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Hector Saul Gomez and Patricia Yaneth Villalta, SP-2022-MV-00148 to permit an increase in fence height in the front yard adjacent to Northumberland Road. Located at 7830 Godolphin Dr., Springfield, 22153 on approx. 23,713 sq. ft. of land zoned PDH-3 and NR. Mount Vernon District. Tax Map 98-4 ((6)) 152. Ms. Day 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 22, 2023; and

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

1. The applicants are the owners of the land.
2. The present zoning is PDH-3 and NR.
3. The area of the lot is 23,713 square feet.
4. Whereas this particular property is a corner lot with two front yards. Northumberland Rd. being a collect road that does experience significant residential traffic.

5. The Board believes that the fence increase will provide safety for keeping the dogs in and privacy for the applicant.
6. 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 special permit is approved to permit the existing fence greater than four feet in height in the front yard adjacent to Northumberland Road to remain as shown on the plat as modified herein by these conditions, entitled "Special Permit Plat, Lot 152, Section 1, Newington Station," prepared by Larry N. Scartz, Land Surveyor dated August 30, 2022.
2. Within 90 days of approval of this special permit the applicants must relocate the section of fence adjacent to Northumberland Road at least 30 feet back from the front lot line along Northumberland Road and must shift the section of fence that is encroaching onto the adjacent Park Authority property (Parcel E) onto the subject property.
3. The subject fence must be maintained in good condition at all times.
4. The applicants are 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.
5. 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 applicants from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

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~ ~ ~ March 22, 2023 Scheduled case of:

Malini S. Cunje, TR and ABC Family Childcare LLC SPA-2002-PR-037, to amend SP-2022-PR-037 previously approved for a home day care facility to permit a change in permittee and modifications to development conditions. Located at 2828 Cedar Ln., Vienna, 22180, on approx. 14,040 sq. ft. of land zoned R-1. Providence District. Tax Map 49-1 ((4)) 15.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Bhoopendra Prakash, Agent for the Applicant
- Malini S. Cunje, Applicant

After the hearing where testimony was presented by Kevin McMahan, and Mr. Prakash, with no public testimony, Mr. Ballo moved to approve SPA-2002-PR-037 for the reasons stated in the Resolution, Ms. Day seconded the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Malini S. Cunje, TR and ABC Family Childcare LLC SPA-2002-PR-037, to amend SP-2002-PR-037 previously approved for a home day care facility to permit a change in permittee and modifications to development conditions. Located at 2828 Cedar Ln., Vienna, 22180, on approx. 14,040 sq. ft. of land zoned R-1. Providence District. Tax Map 49-1 ((4)) 15. Ms. Ballo 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 ~~23~~ 22, 2023; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 14,040 square feet.
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. The home day care use is granted to the applicants, Malini S. Cunje, and ABC Family Childcare LLC, only and is not transferable without further action of this Board, and is for the location indicated on the application, 2828 Cedar Lane, Vienna 22180, 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 amendment plat, entitled "Special Permit Plat," as prepared by Bhoopendra Prakash, Professional Engineer of The Plan Source, dated December 6, 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 6:30 p.m., Monday through Friday.
5. 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.
6. 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 staff requirements of 22 VAC 40-111-570.
7. The dwelling that contains the day care facility must be the primary residence of the applicant.
8. There must be no signage associated with the home day care facility.

9. The home day care must operate only in the first floor toddlers play room, activity area, dining area, entrance hallway, kitchen, bathroom, closet, and laundry, and basement level play room, nursery room 1, nursery room 2, office, and bathroom, as shown on the floor plan and plat submitted with this application.
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. Vehicles associated with the home child care facility must exit the property driving forward onto Cedar Lane.
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 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.
15. 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 on the above-noted conditions, does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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As there was no other business to come before the Board, the meeting was adjourned at 9:52 a.m.

Minutes by: Melissa R. Taylor

Approved on: September 20, 2023