

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MONIKA E. JEDROL, SP 2012-SP-059 Appl. under Sect(s). 8-305 and 8-914 of the Zoning Ordinance to permit a home child care facility and to permit modification to minimum yard requirements based on error in building location to permit accessory storage, structure to remain 2.6 ft. from side lot line. Located at 6117 Lundy Pl., Burke, 22015 on approx. 11,423 sq. ft. of land zoned R-3 (Cluster). Springfield District. Tax Map 78-4 ((13)) 331. (Decision deferred from 11/28/12, 1/16/13, and 8/7/13.) (Admin. moved from 3/6/13 due to inclement weather.) (Admin. moved from 6/5/13 at appl. req.) 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 September 11, 2013; and

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

1. The applicant is the owner of the property.
2. The Board had a favorable staff recommendation.
3. The problems on this case largely resulted from the access, drop-off, turn around driveway problem, which the Board hopes the variance has addressed.
4. The application was tricky at the beginning, but when the variance for the front yard coverage was added to it, it helped resolve it.
5. There is a safe way to park and turn around now.
6. The daycare seems to be working appropriately.
7. This is not something that is going to have significant impacts on the neighbors.
8. The shed, there was evidence that the applicable standards had been satisfied.
9. The shed is in the back sort of toward the Park Authority property.
10. It did not seem that there would be any significant negative impact on anyone.
11. On this lot, the Board did not know where you would put a shed.
12. It is technically a side yard because of the sort of odd pipestem configuration, but it really is the rear yard for this house.
13. It is not only a rear yard, it is a rear yard behind rear yards.
14. You cannot even see this from the street.
15. Therefore, the applicable standards have been met.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as

contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction 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 intent and purpose 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 with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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

1. This approval is granted to the applicant only, Monika Jedrol, and is not transferable without further action of this Board, and is for the location indicated on the application, 6117 Lundy Place, Burke, 22015, and is not transferable to other land.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by B.W. Smith and Associates, Inc., dated and sealed June 12, 2012, as revised through October 16, 2012, as revised through May 7, 2013, and noted as Option 1, approved with this application, as qualified by these development conditions.
3. A copy of this special permit **SHALL BE POSTED in a conspicuous place on the property** of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The total maximum daily enrollment at the home child care facility shall not exceed nine (9) children.
5. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
6. The maximum number of employees shall be limited to two (2) on site at any one time in addition to the provider.
7. The dwelling that contains the home child care facility shall be the primary residence of the provider.
8. There shall be no signage associated with the home child care facility.

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.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use 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.

Mr. Smith seconded the motion, which carried by a vote of 6-0.

A Copy Teste:

A handwritten signature in cursive script that reads "Suzanne Frazier". The signature is written in dark ink and is positioned above a horizontal line.

Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals