

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ANA SCHLOSSBERG, SP 2013-MA-074 Appl. under Sect(s). 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 6340 Oak Ridge Dr., Alexandria, 22312, on approx. 18,812 sq. ft. of land zoned R-3. Mason District. Tax Map 72-1 ((7)) 106. 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 December 4, 2013; and

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

1. The applicant is the owner of the land.
2. The Board has a favorable staff recommendation.
3. The Board adopts the rationale in the staff report.
4. The Board recognizes that there is some opposition, but believes that, to the extent that the approval is limited to what is allowed in the development conditions, they satisfactorily address the impacts on the neighborhood.
5. The Zoning Ordinance contemplates a number of non-residential type uses already within the R-3 District and similar districts.
6. A childcare in a home is one of those uses that is already authorized by the Board of Supervisors, subject to the public hearing process and a vote to approve it.
7. Allowing a special permit for a childcare in the zoning district does not change the zoning. It does not have anything to do with whether the zoning would be changed to commercial or something else. That is a separate process, and the granting of a special permit does not affect that.
8. To the extent that the appearance of the property would have to remain residential, the Board thinks the conditions required in Development Condition 2, that basically what is there now is all that is being approved.
9. Although the Board is requiring that all the pick-up and drop-off take place in the driveway and that there are going to have to be six parking spaces within the areas of existing paving, there is not going to be a change to the front yard with a parking lot or service drive or something like that.
10. Basically the appearance of the improvements there now and what is drawn on the plat, that is all she is getting approval for. That is all that there is.
11. With Development Condition 10, there will not be any signs.
12. It will not look any different than it is now.
13. The house is the same size.
14. The driveway is the same size.
15. There is no sign to it.
16. If there are issues with whether she lives there or not, that would be an issue for enforcement for Development Condition 6. The Board is requiring that she live in it.

17. The Board thinks that they have covered the anticipated impacts, or at least within these parameters.
18. If something else is going on, that is a separate matter. That would be for a zoning enforcer.
19. The Board also thinks that one of the observations that they make on these cases sometimes is that whether the Board approves this or not, the operation can take place with seven children anyway.
20. The question for the Board is really should it be seven children unregulated or twelve children subject to these development conditions requiring that she live there, that the parking all be onsite, that the drop-offs and pickups be in the driveway, that there will not be a sign, and all these other things.
21. For the most part, when the Board looks at these on a case-by-case basis, assuming that the lot is big enough and everything else works, it is usually less impact on the neighbors to have twelve with these limitations on the operation than seven by right unregulated.
22. The Board thinks that this is one of those examples, where the neighbors are better protected with the restrictions on the applicant, even though more children would be allowed.

AND WHEREAS, the Board of Zoning Appeals has reached 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. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

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

1. This approval is granted to the applicant, Ana Schlossberg, only and is not transferable without further action of the Board, and is for the location indicated on the application, 6340 Oak Ridge Drive, and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the plat entitled, "House Location Survey Lot 106, Section Two, Lincolnia Heights," prepared by L.S. Whitson of A.L.S., dated February 4, 2005, as revised by Ana Schlossberg on September 5, 2013, and 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 maximum hours of operation of the home child care facility shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday.

5. The room identified as "Play Room and Sleep Area" on the floor plan attached to the special permit plat shall be the only room used for sleeping.
6. The dwelling that contains the child care facility shall be the primary residence of the applicant.
7. The maximum number of children on site at any one time shall be twelve, excluding the applicant's own children.
8. All pick-up and drop-off of children shall take place in the driveway.
9. A minimum of six parking spaces shall be provided on the subject parcel within the areas of existing paving.
10. There shall be no signage associated with the home child care facility.

This approval, contingent upon 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.

Ms. Theodore seconded the motion, which carried by a vote of 6-0. Chairman Ribble was not present for the vote.

A Copy Teste:



Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals