



County of Fairfax, Virginia

April 29, 2015

STAFF REPORT

SPECIAL PERMIT SP 2014-SU-192

SULLY DISTRICT

APPLICANT: Sangeeta Sarkar (Riagarten Daycare)

OWNER: Soumya Sarkar
Sangeeta Sarkar

SUBDIVISION: Chantilly Highlands

STREET ADDRESS: 13586 Cobra Dr., Herndon, 20171

TAX MAP REFERENCE: 25-3 ((4)) 932

LOT SIZE: 8,558 square feet

ZONING DISTRICT: R-3C

ZONING ORDINANCE PROVISIONS: 8-305, 3-303

SPECIAL PERMIT PROPOSAL: To permit a home child care facility.

STAFF RECOMMENDATION:

Staff recommends approval of SP 2014-SU-192 for the home child care facility with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

Casey V. Gresham

A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

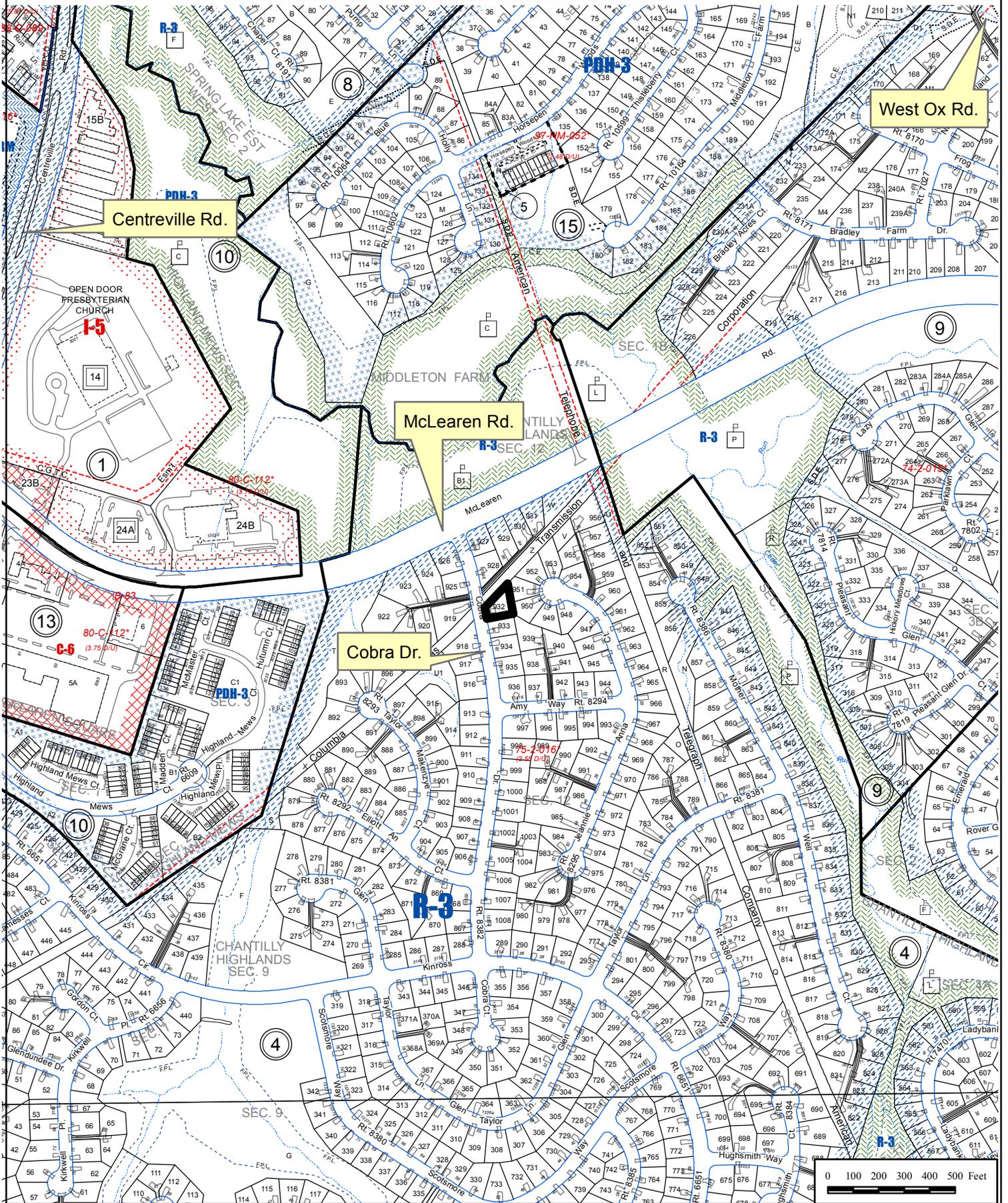
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**

Special Permit

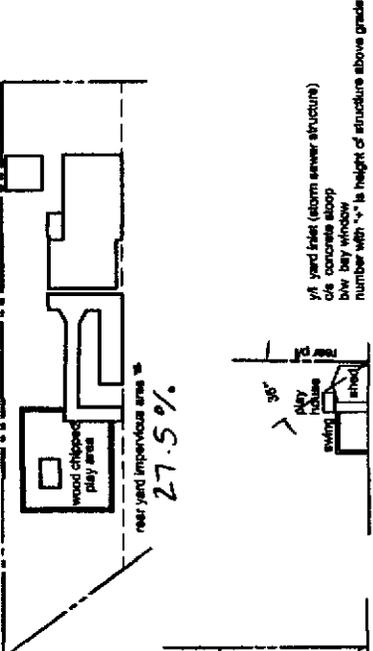
SP 2014-SU-192

SANGEETA SARKAR (RIAGARTEN DAYCARE)



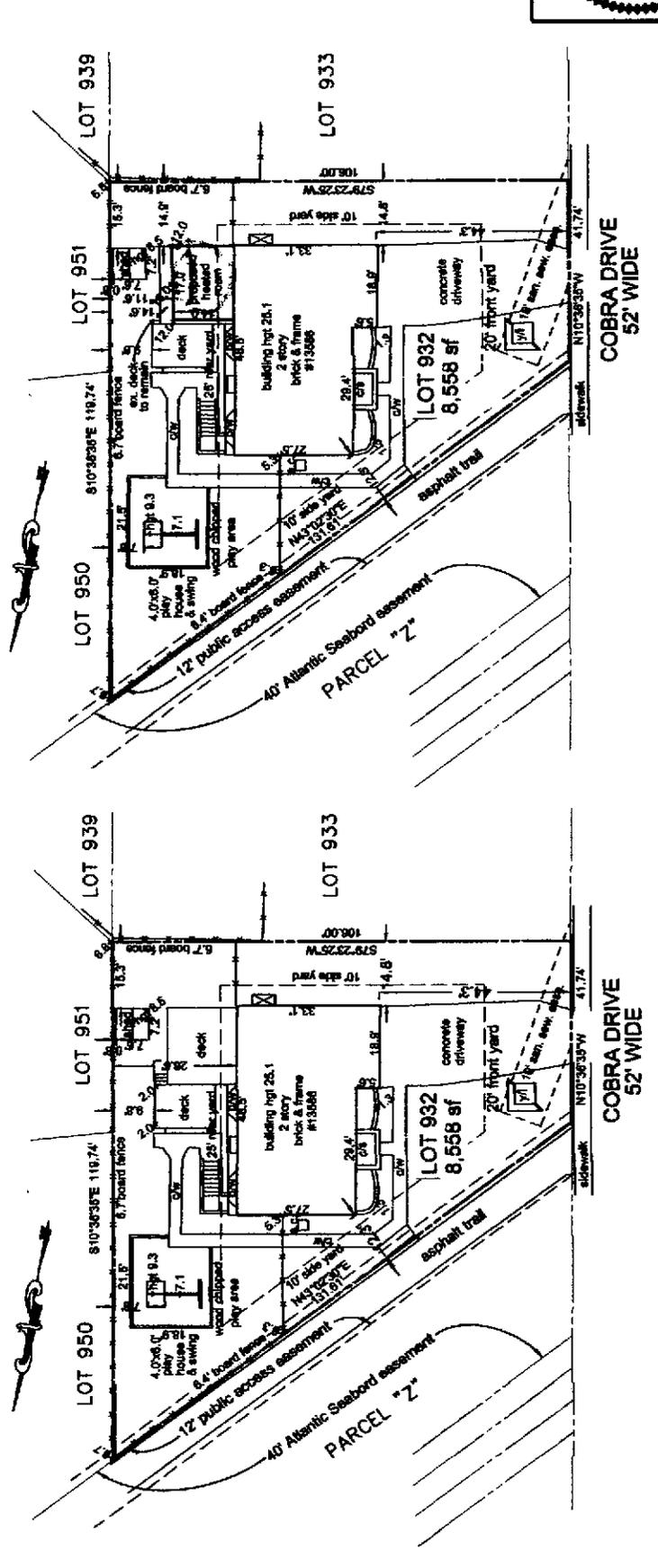
SPECIAL PERMIT PLAT
LOT 932, SECTION 12 CHANTILLY HIGHLANDS
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA

REV JANUARY 19, 2015
REV OCTOBER 30, 2014
REV JANUARY 27, 2014
OCTOBER 8, 2013



OWNER:
Sangetta Sakar
13886 Cobra Drive
Hemdon, Virginia 20171
db 18754 pg 2185

1. The property shown here on is located on Fairfax County tax map no. 0253 04 0932 and is zoned R-3C.
2. This property is serviced by public water.
3. There is an existing trail adjacent to the property.
4. There is a 40' Atlantic Seaboard easement adjacent to the site (as shown). There is no 25' or larger easement on this property, or major underground easements.
5. There is no flood plain or resource protection area in the vicinity.
6. There are no burial sites apparent on the property.
7. Proposed use is residential.
8. SWM plans will be submitted at such time as a grading plan is required.
9. Topography field shot. Elevations assumed.



PROPOSED ADDITION

EXISTING CONDITIONS

REDUCED COPY

SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a home child care facility for up to 12 children. A copy of the special permit plat, titled "Special Permit Plat, Lot 932, Section 12, Chantilly Highlands," prepared by Guy H. Briggs, Land Surveyor, dated October 8, 2013 and revised through January 27, 2014, is included in the front of the staff report. Copies of the proposed development conditions, the statement of justification with select file photographs, and the affidavit are contained in Appendices 1 through 3, respectively.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 8,558 square foot property contains a two story aluminum and brick dwelling, which is accessed by a concrete driveway from Cobra Drive. A walkway leads from the driveway to the front entryway of the home, as well as to the rear yard and existing deck. A 6 foot board fence surrounds the rear yard of the property, which includes a play house and swing, a wood chipped play area, a deck, and a shed. The front of the yard is landscaped with trees and shrubbery, and the rear yard is well screened from the adjacent properties with mature trees.

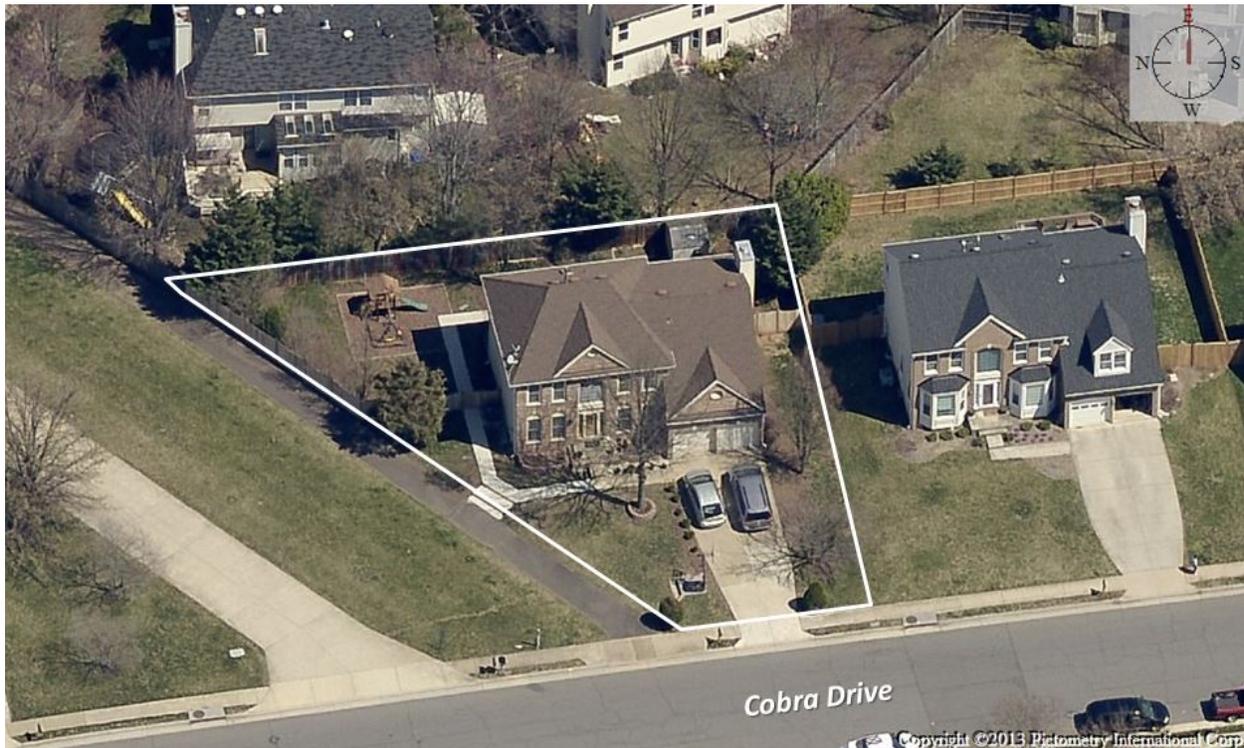


Figure 1: House Location

A 10-foot wide sanitary sewer easement is located in a portion of the front yard. In addition, a 12-foot wide public access easement (developed as a public trail) abuts the property.

The subject property and surrounding properties are zoned R-3 and developed under the provisions of a cluster subdivision with single family detached dwellings.

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1992 and purchased by the applicant in November 2004. Building permits were obtained for the single family home in June of 1990, and a permit was also obtained for the construction of a deck in July of 2002. These permits are included as Appendix 4.

Since the adoption of the Zoning Ordinance, special permit and variance applications have been heard by the Board of Zoning Appeals for nearby properties as shown in Appendix 4.

In addition, this property came before the BZA on November 5, 2014; the applicants obtained special permit approval for the existing playset as an error in building location and for an addition to the rear of their home. The addition has yet to be constructed, but the applicants are in the process of obtaining permits and pursuing construction. The approved plans and resolutions are included in Appendix 5.

DESCRIPTION OF THE PROPOSED USE

The applicant requests approval of a special permit for a home child care facility for up to 12 children on-site at any one time between the hours of 7:30 a.m. and 5:30 p.m., Monday through Friday. The applicant has a staggered drop-off and pick-up time for the children. Two assistants currently work at the facility.

The applicant holds a current Family Day Home License from the Commonwealth of Virginia, Department of Social Services, valid through February 28, 2018. The license permits a capacity of twelve children, ages one month through 6 years, 11 months. A copy of the license is included as Appendix 6.

The home child care facility is operated in the main level and the basement of the dwelling, and it contains play areas, and eating area, and a napping room. The rear yard is utilized for outdoor play. Photographs provided by the applicant show toys and play equipment located in this area.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: III, Upper Potomac Planning District

Planning Sector: West Ox Community Planning Sector, UP7

Plan Map: 3 dwelling units per acre

Zoning District Standards

Bulk Standards (R-3C)		
Standard	Required	Provided
Lot Size	8,500 feet	8,558 sf.
Lot Width	No requirement	41.74 feet
Building Height	35 feet max.	25.1 feet
Front Yard	Min. 20 feet	44.3 feet
Side Yard	Min.8 (20) feet	10 feet
Rear Yard	Min. 25 feet	7.8 feet*

***As approved by SP 2014-SU-153 as an Error in Building Location**

On-Site Parking and Site Circulation

The existing driveway is able to accommodate four vehicles. The assistants do not park in the driveway, and parents conduct drop-off and pick-up activities at staggered times. A condition has been included to require the drop-off and pick-up of children to occur in the applicant’s driveway.

Vehicular access to the site is provided from a concrete driveway from Cobra Drive. A walkway connects to the driveway and provides direct access to the main entrance of the home child care.

Zoning Inspection Report

The Zoning Inspections Branch report is included in Appendix 7. During the site visit, staff found that the outdoor egress guardrail contained openings that were 4.5 inches, which is ½ an inch greater than the Building Code requirements. The applicant has included a lattice covering, which is secured to the guard and prevent the children from accessing the openings. In addition, a basketball hoop, which is considered an accessory structure by the ordinance, was located within the front and side yard setbacks. This basketball hoop has been disposed of and is no longer on the application property. In addition, the applicant has removed storage surrounding the service panel. Pictures of these corrected items are included in Appendix 8.

Accessory Structures On-Site

Structure	Yard	Minimum Yard Required	Existing Location
Shed	Rear	No requirement (less than 8.5 feet in height)	0.0 feet from a rear; ~14.8 feet from a side
Playset*	Rear	8 feet from a side; 25 feet from a rear	>8 feet from a side; 7.8 feet from a rear
Proposed Addition**	Rear	8 feet from a side; 25 feet from a rear	>8 feet from a side; 14.6 feet from a rear

*Playset was approved for this location as a part of SP 2014-SU-153

**Proposed addition was approved for this location as a part of SP 2014-SU-153

Zoning Ordinance Requirements (Appendix 7)

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-305 Additional Standards for Home Child Care Facilities
- Sect. 10-103 Par. 6 Location Regulations

General Standards for Special Permit Uses (Sect. 8-006)

Standards 1 and 2 Comprehensive Plan/ Zoning District	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-3 District permits a home child care facility as an accessory use with special permit approval.
Standard 3 Adjacent Development	No new construction is proposed. An outdoor play area with play equipment is found in the rear yard. In staff's opinion, the proposed use will not hinder or discourage the use or development of neighboring properties or negatively affect value.
Standard 4 Pedestrian/Vehicular Traffic	Arrival and departure times of the children are staggered, and in staff's opinion, the proposed use is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.
Standard 5 Landscaping/Screening	There is existing vegetation and fencing in the rear and side yards that provides screening to the outdoor play area.
Standard 6 Open Space	There is no prescribed open space requirement in the R-3 District.
Standard 7 Utilities, Drainage, Parking, and Loading	There are no changes to the utilities and drainage serving the property. As previously discussed, the driveway would be used for parking for the home child care facility.

Standard 8 Signs	Sect. 10-103 of the Zoning Ordinance prohibits signs for home child care facilities.
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Standards for all Group 3 Uses (Sect. 8-303)

Standard 1 Lot Size and Bulk Regulations	The property meets the lot size and bulk regulations for the R-3 District. No new construction or exterior modifications are proposed.
Standard 2 Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
Standard 3 Site Plan	Home child care facilities are not subject to the provisions of Article 17, Site Plans.

Additional Standards for Home Child Care Facilities (Sect. 8-305)

Standard 1 Maximum of 12 Children & Non-Resident Employee	The applicant is proposing a maximum of 12 children at any one time. The development conditions allow up to two non-resident employees.
Standard 2 Access and Parking	Arrival and departure times of the children are staggered and ample parking is available in the driveway. In staff's opinion, the proposed use is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.
Standard 3 Landscaping/Screening	There is existing vegetation and fencing in the rear and side yards that provides screening to the outdoor play area.
Standard 4 Submission Requirements	The application meets all submission requirements for a home child care facility.
Standard 5 Code of Fairfax, Chapter 30 and Code of Virginia, Title 63.2, Chapter 17	The applicant has a valid home child care license.

Use Limitations (Par. 6 of Sect. 10-103)

Part A Maximum Number of Children	The maximum number of children permitted by-right at any one time is seven in a single family detached dwelling. The applicant requests special permit approval to permit a maximum of twelve children at any one time.
Part B Licensed Provider/Primary Residence	The applicant is a state licensed home child care provider and the subject property is the provider's primary residence.
Part C No Exterior Evidence Except Play Equipment	There is no exterior evidence of the proposed use.

<p>Part D Non-Resident Employee</p>	<p>The applicant is proposing two non-resident employees.</p>
<p>Part E Provider is a Resident</p>	<p>The provider is a resident.</p>
<p>Part F Code of Fairfax, Chapter 30 and Code of Virginia, Title 63.2, Chapter 17</p>	<p>Chapter 30 of the Code of the County of Fairfax addresses home child care facilities and Title 63.2, Chapter 17 of the Code of Virginia addresses licensure and registration procedures. The applicant has a valid state home child care license.</p>
<p>Part G Increase in Children or Non-Resident Employee</p>	<p>The maximum number of children permitted by-right at any one time is seven in a single family detached dwelling and can be increased up to 12 children with special permit approval. The applicant requests special permit approval to permit a maximum of twelve children at any one time and two non-resident employees.</p>

CONCLUSION / RECOMMENDATION

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions.

Staff recommends approval of SP 2014-SU-192 for the home child care facility with adoption of the proposed development conditions contained in Appendix 1.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

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 the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Statement of Justification and Select File Photographs
3. Applicant's Affidavit
4. Similar Case History
5. Approved Plans and Resolution, SP 2014-SU-153
6. State Family Day Home License
7. Zoning Inspections Branch Comments
8. Updated Photos of Corrected Violations
9. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2014-SU-192

April 29, 2015

If it is the intent of the Board of Zoning Appeals to approve SP 2014-SU-192 located at Tax Map 25-3 ((4)) 932 to permit a home child care facility pursuant to Section 8-305 and 3-303 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Sangeeta Sarkar, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 13586 Cobra Dr., and is not transferable to other land.
2. This special permit is granted only for the home child care use indicated on the plat entitled, "Special Permit Plat, Lot 932, Section 12, Chantilly Highlands," prepared by Guy H. Briggs, Land Surveyor, dated October 8, 2013 and revised through January 27, 2014, 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 hours of operation of the home child care facility shall be limited to 7:30 a.m. to 5:30 p.m., Monday through Friday.
5. The dwelling that contains the child care facility shall be the primary residence of the applicant.
6. Excluding the applicant's own children, the maximum number of children on site at any one time shall be twelve.
7. A maximum of two nonresident employees, whether paid or not for their services, may be involved in the home child care facility, limited to the hours of 7:00 a.m. to 6:00 p.m.
8. There shall be no signage associated with the home child care facility.
9. All drop-off and pick-up activities shall occur in the driveway.
10. Any portion of the dwelling associated with the home child care facility that is used as a children's sleeping area shall be located in a room with proper emergency egress as defined by the Virginia Uniform Statewide Building Code.

11. The approval of the use is contingent upon maintenance of a state-issued family day home license that permits the number of children being cared for at 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 take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

**Home Child Care Facility
Sangeeta Sarkar (Riagarten Daycare)**

I, Sangeeta Sarkar, am applying for a Special Permit for my State licensed Family Day Home. I am state-licensed for 12 children. My husband and I purchased our home in 2004, and I am providing child day care services in our home, since 2011. I have two full time employees who help me run the daycare, and we together provide what we are confident is among the highest quality of home child care facilities in Fairfax County. We care for our children in a spacious walk-out basement as well as a first floor library room converted into a recreation room with plenty of sunshine. We take our children out to play in our back yard equipped with a play gym and swing. All of the children we work with now are referrals from previous parents, who thought highly of our services and recommended us to their friends. There is plenty of parking on both sides of our street, which is a main through street in our Chantilly Highlands community. There is space to park three cars on either side of the street simultaneously, as well as four spaces on my driveway. There are two brother sister pairs among my children, so there are two less number of drop-offs and pickups.

A written statement from the applicant describing the proposed use, and other pertinent data, including specifically;

A. Type of Operation.

A home child care facility serving 12 families in Fairfax County. Providing quality child care by a provider with Virginia State License, trained in first-aid and CPR, MAT qualified, with eight years of Kindergarten experience with Fairfax County Public Schools.

B. Hours of Operation.

7:30 AM to 5:30 PM

C. Estimated number of children and largest number present at any one time, excluding the provider's own children.

The largest number of children present at any one time would be 12.

D. Proposed number of employees/attendants/teachers/etc.

The applicant would request that up to two additional non-residents be allowed while the children are attending.

E. Estimated drop off schedule and the largest number of drop offs at any one time.

Mornings:

7:30 – 8:00 : 3 drop offs

8:00 – 8:30 : 2 drop offs

8:30 – 9:00 : 2 drop offs

9:00 – 9:30 : 2 drop offs

9:30 – 10:00 : 1 drop off

RECEIVED
Department of Planning & Zoning

MAR 25 2014

Zoning Evaluation Division

Afternoons:

3:30 – 4:00 : 2 pick ups

4:00 – 4:30 : 3 pick ups

4:30 – 5:00 : 2 pick ups

5:00 – 5:30 : 2 pick ups

5:30 – 6:00 : 1 pick up

F. Vicinity or general area to be served by the use.

The applicant hopes to serve 12 families in Fairfax County including the communities of Centreville, Chantilly, Oak Hill and Herndon.

G. Describe the dwelling and how the use will operate within the dwelling, including square footage dedicated to the home child care facility. Include a floor plan to show how the use fits within the dwelling. Describe the outdoor play areas.

The home child care facility will occupy over 1250 square feet (almost triple the square footage suggested by the Dept. of Social Services) of the home (full Basement and half of the First Floor). Sangeeta Sarkar and her husband and son will use the remaining area (1850 square feet) of the home (half of first floor and full second floor). The basement is separated into clear areas for kitchen-dining, study, play-area, and infant area.

In addition to the ideal layout of the home, the outdoors will have a separate area designated for the play area. Attached is a photo of the play area. The yard is fenced, and rubber mulch has been used in the play area. In addition, because of a nature trail (Horsepen Run park) adjacent to the property, the children will have the opportunity to go on nature walks, and exploration.

H. A statement of how the proposed use conforms to the General Standards; section 8-006 of the Zoning Ordinance (found on page 1 of attachment 3).

The proposed use conforms to the provisions of all applicable ordinances, regulations and adopted standards.

Sangeeta Sarkar, having eight years of Kindergarten experience and 4 years of Child care experience, is passionate about delivering loving, quality care to the children of Fairfax County. She has a State License issued by the State of Virginia.

I. A statement of how the proposed use conforms to the Special Standards for Home Child Care facilities; Section 8-305 of the Zoning Ordinance (found on attachment)

The applicant is requesting to care of 12 children with two additional non-residents to be involved in the care of the children. As shown in this application (statement/photos/etc.) the use conforms to the Special Standards for Home Child Care facilities.

**Home Child Care Facility
Sangeeta Sarkar
Zoning Ordinance General Standards for a Special Permit
Section 8 – 006**

A written statement from the applicant describing the proposed use, and other pertinent data, including specifically;

- 1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.**

The property is situated on about 0.22 Acres (zoned R-3) on Cobra Drive, Herndon in the Chantilly Highlands community. There is residential, commercial (elementary school, post office, shopping center) in and around the community. This is an existing state-licensed home child care facility of 12 children. A home child care facility of 12 children is an asset to the community.

- 2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.**

The property is in harmony with the zoning district regulations as stated above.

- 3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.**

The property has beautifully landscaped grounds, screening and fencing, and enhances the value of the properties adjacent or nearby.

- 4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.**

The property is situated on Cobra Drive which is a 52 feet wide road and allows parking on both sides, and also has a sidewalk on both sides. There will be no blockage to any pedestrian or vehicular traffic as a result of this facility.

- 5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.**

The applicant is happy to comply with all such standards.

- 6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.**

The property is situated on 0.22 acres of land, and has adequate open spaces in and around it to make this a favorite home day care facility for children. The enclosed back yard has a swing and play set for the kids to enjoy supervised during warm weather.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

The property has adequate facilities for 12 children. The driveway has space for four cars, and in addition, the garage is used for the resident's cars. The two sides of Cobra Drive can easily accommodate six cars (three on each side) in front of the property. There is space for turning around and emergency parking on the pipe stem that is across the grassy knoll easement next to the property. The parking is more than adequate for the maximum demand (3 drop offs plus 2 assistants) for this facility.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

There will be no signs for the daycare. The applicant will comply with the provisions of Article 12, signs, and any applicable standards.

View of driveway ^{from} across the street.



View of driveway which can hold four cars

Side Back Yard Entrance used on normal Days.



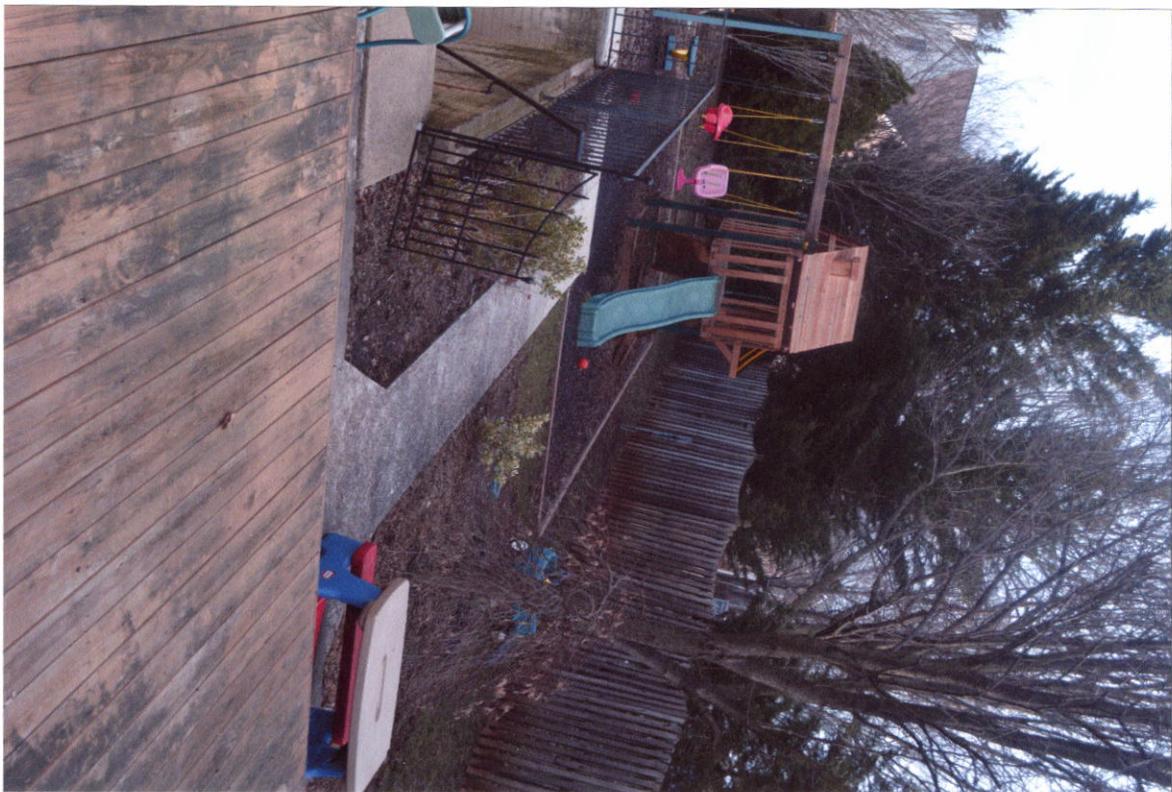
Main Entrance used on Snow Days.

Back Yard Entry gate from north^{west} side of house



Back Yard Pathway and Play Area

View of back yard play area



View of back yard play area

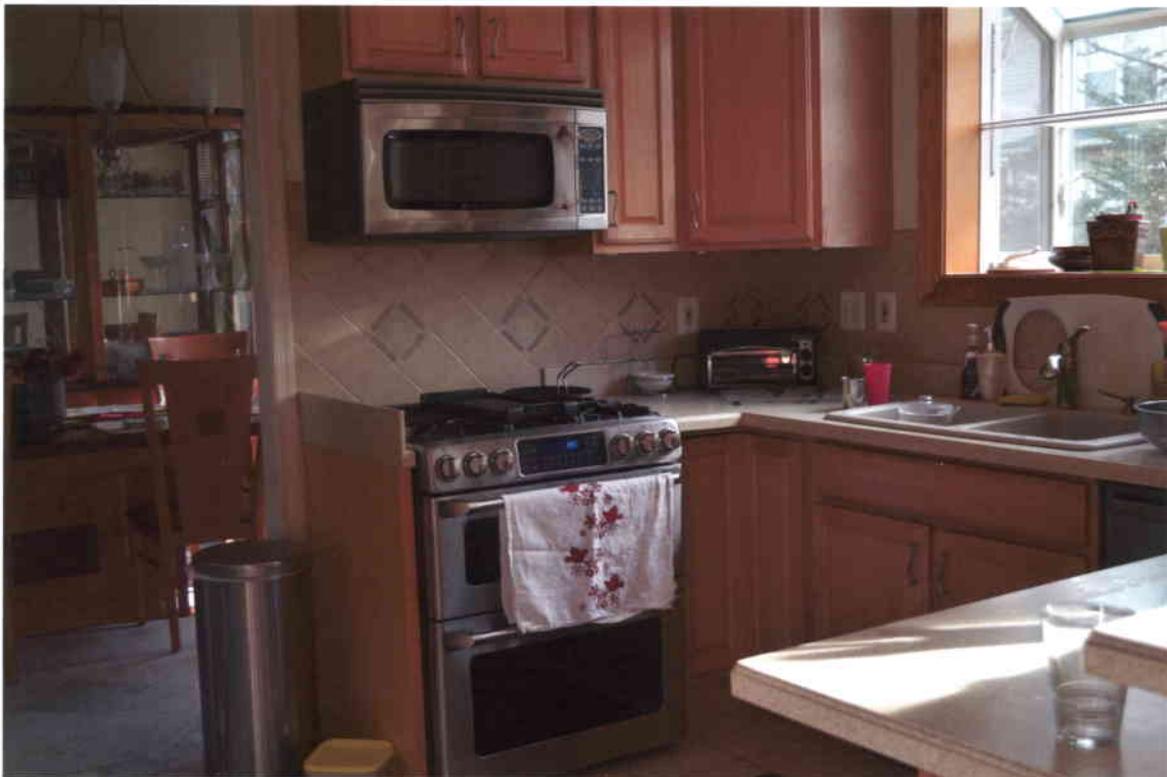


⑤ View from North West corner of property facing East.



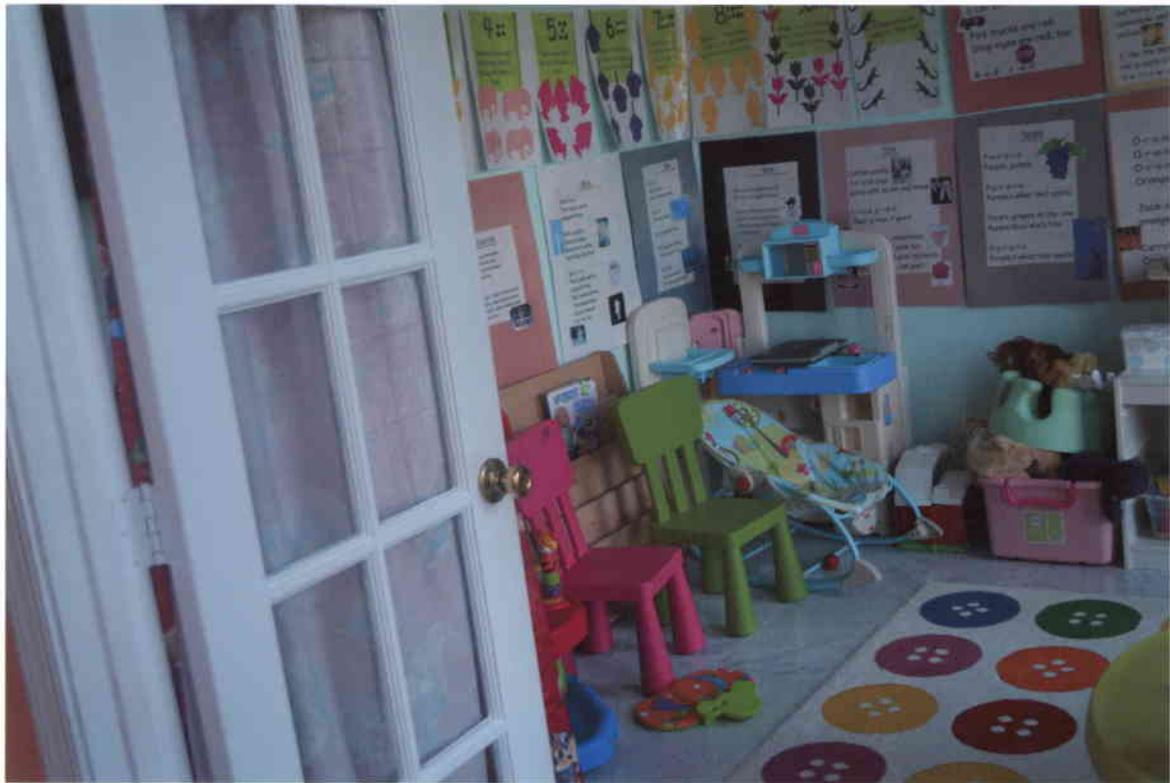
⑥ View from Northern side of property facing South.

Breakfast Area of main level sometimes used by older kids.



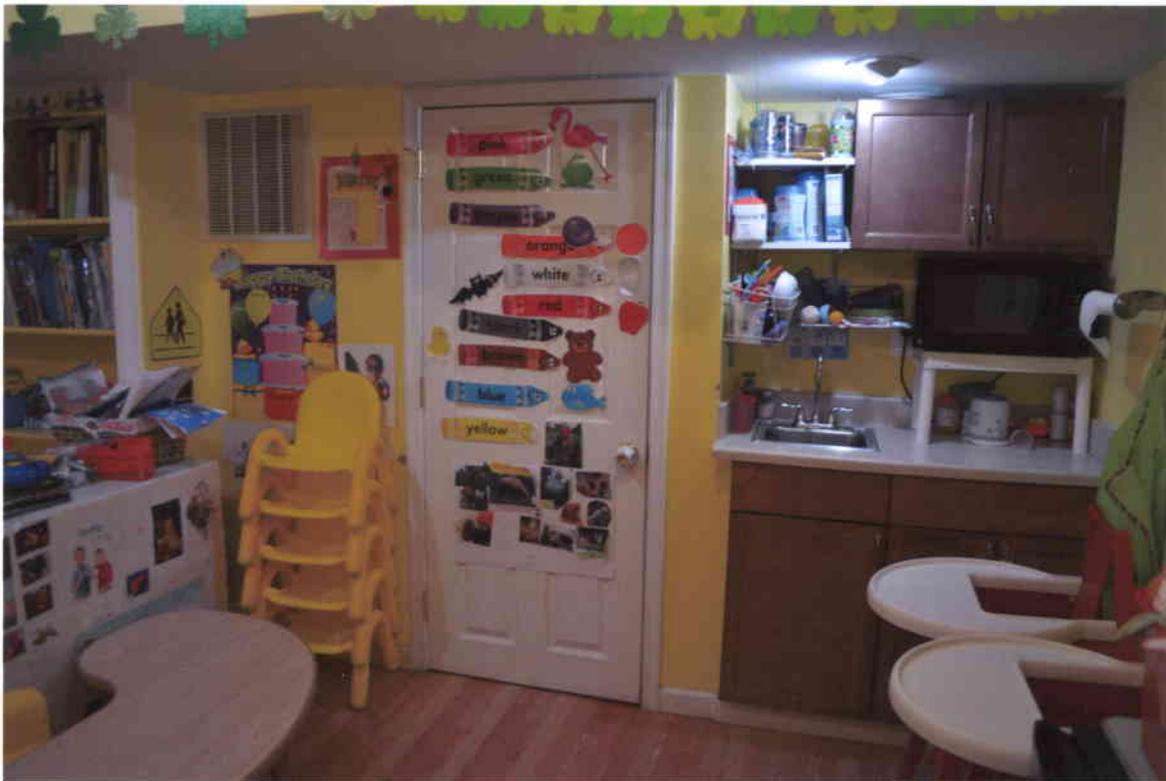
Main kitchen used for cooking meals

Toy Room and Playarea on Main Level



Toy Room & Play Area on Main Level

View of Dining Area and basement kitchen



View of Dining Area

Breakfast Kitchen and Dining area for Daycare in basement



Breakfast Kitchen and Dining area for Daycare in basement

View of infant room from south



View of infant room from north

Application No.(s): _____
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/28/2013
 (enter date affidavit is notarized)

123098

I, SOUMYA SARKAR, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
SOUMYA SARKAR	13586 COBRA DR., HERNDON, VA 20171	APPLICANT, TITLE OWNER
SANGEETA SARKAR	13586 COBRA DR., HERNDON, VA 20171	CO-TITLE OWNER

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/28/2013
(enter date affidavit is notarized)

123098

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders: NOT APPLICABLE

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/28/2013
(enter date affidavit is notarized)

123098

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

NOT APPLICABLE

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/28/2013
(enter date affidavit is notarized)

123098

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/28/2013 123098
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one) [X] Applicant [] Applicant's Authorized Agent

SOURMYA SARKAR
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 28th day of October, 2013, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

My commission expires: 09/30/2016

PABLO ENRIQUEZ
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES SEPT. 30, 2016
COMMISSION # 7525043

Similar Case History

ZAPS - VC - VC 91-C -045	Application Desc ...: ALLOW CONSTRUCTION OF ADDITION (SCREENED PORCH) 15.9 FT. FROM REAR LOT LINE (25 FT. MIN. REAR YARD REQ.)
ZAPS - VC - VC 01-Y -137	Application Desc ...: VARIANCE TO PERMIT CONSTRUCTION OF A SCREEN PORCH 14.0 FEET FROM THE REAR LOT LINE
ZAPS - SP - SP 2007-SU-157	Application Desc ...: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT CONSTRUCTION OF ADDITION 18.0 FEET FROM REAR LOT LINE
ZAPS - VC - VC 99-Y -115	Application Desc ...: PERMIT CONSTRUCTION OF ADDITION 9.18 FT. FROM REAR LOT LINE
ZAPS - SP - SP 2006-SU-060	Application Desc ...: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT CONSTRUCTION OF ADDITION 19.7 FEET FROM REAR LOT LINE
ZAPS - VC - VC 2002-SU-074	Application Desc ...: TO PERMIT CONSTRUCTION OF ADDITION 18.3 FEET FROM REAR LOT LINE

COUNTY OF FAIRFAX, VIRGINIA**SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS**

SOUMYA SARKAR, SP 2014-SU-153 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction in certain yard requirements to permit addition 14.6 ft. from rear lot line and reduction to the minimum yard requirements based on error in building location to permit accessory structure to remain 7.8 ft. from rear lot line. Located at 13586 Cobra Dr., Herndon, 20171, on approx. 8,558 sq. ft. of land zoned R-3 (Cluster). Sully District. Tax Map 25-3 ((4)) 932. (Decision deferred from 10/22/14.) 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 November 5, 2014; and

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

1. The applicant is the owner of the land.
2. With respect to the addition, the Board has a favorable staff recommendation and adopts the rationale in the staff report.
3. With respect to the accessory structure, based on the testimony and the record that was heard at the previous hearing, there was not going to be any significant negative impact on anybody.
4. The reason for the deferral was the question about whether the mulched area under the play set counted toward the 30 percent or not, as it has in at least one other case. Staff had comeback, and the Zoning Administrator had concluded that it does count.
5. Development conditions have been changed to deal with the 30 percent issue. Otherwise, the development conditions had already mitigated any likely impact from the application.
6. Based on the record, Section 8-922 standards have all been met.
7. This is an oddly shaped lot. It is sort of triangular. There are a lot of things going on in the rear yard, but it is quite shallow. The location of the screen porch is basically where the existing deck is now. It is a little bit different, but it is the logical place to put an addition.

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. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification 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 with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification 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. These conditions shall 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 Zoning.
2. This special permit is approved for the location and size of the screened porch addition (238 square feet, 16 feet in height) and the play house and swing, as shown on the plat prepared titled "Special Permit Plat, Lot 932, Section 12, Chantilly Highlands," prepared by Guy H. Briggs, Land Surveyor, dated October 8, 2013 and revised through October 30, 2014, as submitted with this application and is not transferable to other land.
3. The screened porch addition shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
4. The applicant shall ensure rear yard coverage complies with the applicable Zoning Ordinance provisions within six (6) months of approval.

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, 30 months after the date of approval unless construction has commenced 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.

Mr. Byers seconded the motion, which carried by a vote of 5-0. Mr. Smith and Ms. Theodore were absent from the meeting.

A Copy Teste:

Mary D. Padrutt
Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax
Commonwealth of Virginia

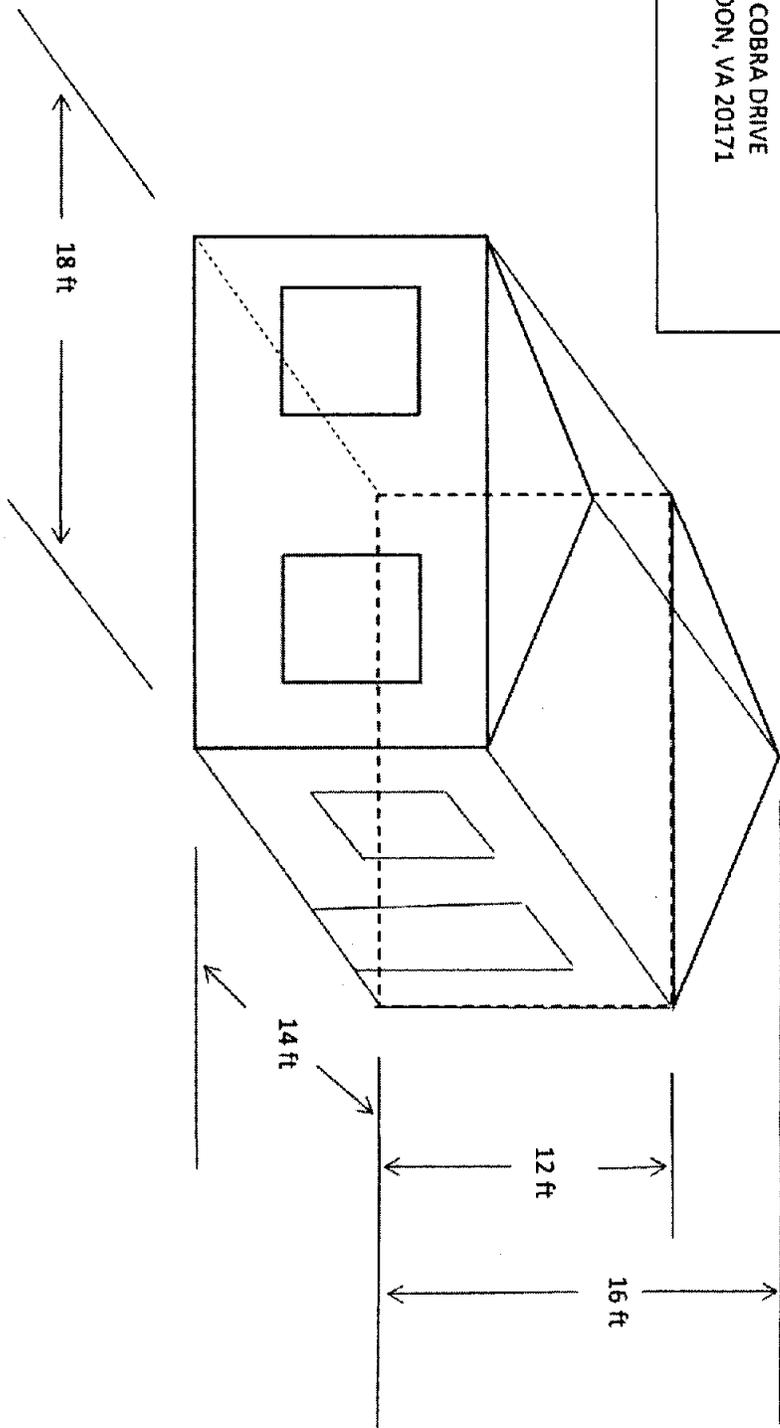
The foregoing instrument was acknowledged before me this 13th day of
November, 2014.

Lorraine Ann Giovinazzo
Notary Public

My commission expires: 6/30/18



SPECIAL PERMIT APPLICATION
SCREENED PORCH
SOUNMYA SARKAR
13586 COBRA DRIVE
HERNDON, VA 20171



RECEIVED
Department of Planning & Zoning
FEB 12 2014
Zoning Evaluation Division

Virginia.gov

Agencies | Governor

VIRGINIA DEPARTMENT OF
SOCIAL SERVICES**Sangeeta Sarkar**

13586 Cobra Drive

HERNDON, VA 20171

(703) 668-0722 [📞](#)Facility Type: [Family Day Home](#)License Type: [Three Year](#)[Expiration Date](#): Feb. 28, 2018Business Hours: 7:30 am - 5:30 pm
Monday - Friday

Capacity: 12

Ages: 1 month - 6 years 11 months

Inspector: Charles Perkins
(703) 309-3963 [📞](#)



County of Fairfax, Virginia

MEMORANDUM

Date: April 6, 2015

To: Casey Gresham, Staff Coordinator
Zoning Evaluation Division

From: Bruce Miller, Zoning/Property Maintenance Inspector *BM*
Zoning Inspection Branch

Subject: Home Child Care Facility (HCCF), Special Permit # SP 2014-SU-214
Applicant: Sangeeta Sarkar (Riagarten Daycare)
13586 Cobra Dive, Herndon Virginia 20171
Legal Description: Chantilly Highlands, Sec. 12, Lot 932
Tax Map Ref: 25-3 ((4)) 932
Zoning District: R-3
Development Type: Cluster
Lot Size: 8,558 square feet
ZIB# 2015-0106

On March 13, 2015, an inspection was conducted by Zoning/Property Maintenance Inspector Bruce Miller of the property located at 13586 Cobra Dive, Herndon Virginia 20171. The Inspector was accompanied by Staff Coordinator Casey Gresham, Zoning Inspector Amy Moxley and the applicant.

*KEY: A "✓" mark in a box indicates that the item was deficient.
An unmarked box indicates that no violation was found.*

- 1. An operable smoke alarm shall be provided outside (or inside) of each sleeping area, with at least one such device on each floor.
- 2. All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code.
- 3. All egress pathway and exit doors shall be unlocked in the direction of egress and free from obstructions that would prevent their use, including debris, storage, and accumulations of snow and ice.
- 4. Electrical hazards identified shall be abated in accordance with the Virginia Uniform Statewide Building Code.
- 5. Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.

Department of Planning and Zoning
Zoning Administration Division
Zoning Inspections Branch
12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-4300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/



- 6. A working space of not less than 30 inches in width, 36 inches in depth, and 78 inches in height shall be provided in front of the electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

Comment: The working area in front of the service panel must be maintained clear of storage and fixtures (utility sink).

- 7. Other Building Code issues:

Comment: The deck floor height is 31" above grade. Guards shall be located along open-sided walking surfaces, including stairs, ramps and landings, that are located more than 30 inches (762 mm) measured vertically to the floor or grade below at any point within 36 inches (914 mm) horizontally to the edge of the open side. Insect screening shall not be considered as a guard.

Comment: The guard at the egress stairwell contains openings that are spaced 4-1/2 inches apart and that will allow the passage of a 4 inch diameter sphere.

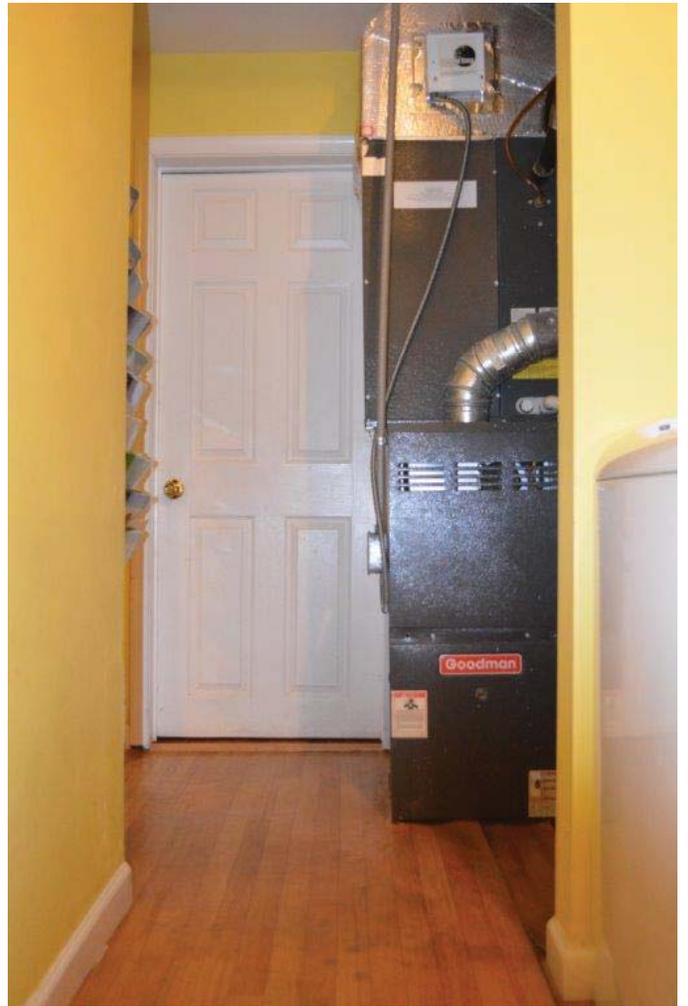
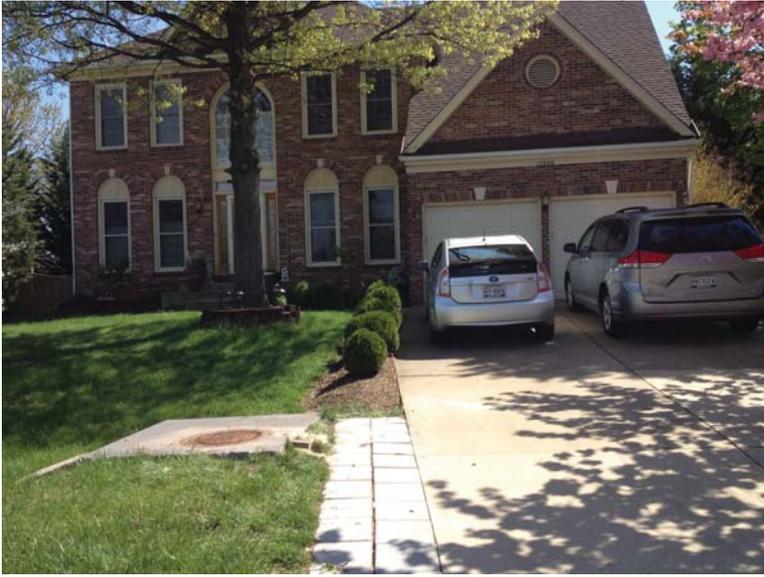
- 8. Structures comply with the Zoning Ordinance.

Comment: The plat indicates the play equipment is 9.3 feet in height and that it is located 7 feet 8 inches from the rear lot line. The play equipment must be located a distance equal to its height from the rear property line and a minimum of 8 feet from the side lot line.

Comment: A portable basketball standard is located atop a concrete slab top yard inlet in the front yard. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM. This basketball standard is located approximately 9 feet 6 inches from the front lot line and 11 feet 6 inches from the side lot line.

Photographs are attached.





8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305 Additional Standards for Home Child Care Facilities

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.

4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
 - A. The dimensions, boundary lines and area of the lot or parcel.
 - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
 - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
 - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

10-103 Use Limitations

6. The following use limitations shall apply to home child care facilities:
 - A. The maximum number of children permitted at any one time shall be as follows:
 - (1) Seven (7) when such facility is located in a single family detached dwelling.
 - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.

- B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation. Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.
- C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play

equipment and other accessory uses and structures permitted by this Part shall be allowed.

- D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
- E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.
- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8