



County of Fairfax, Virginia

October 21, 2015

STAFF REPORT

SPECIAL PERMIT SP 2015-MV-099

MOUNT VERNON DISTRICT

APPLICANT: Lucia C. Martinez / Lucy's Home Daycare

OWNERS: Pedro J. Gomez

SUBDIVISION: Crider Park

STREET ADDRESS: 5646 Kathryn Street, Alexandria, 22303

TAX MAP REFERENCE: 83-1 ((2)) 06

LOT SIZE: 7,200 square feet

ZONING DISTRICT: R-4

ZONING ORDINANCE PROVISIONS: 3-303, 8-305 and 8-914

SPECIAL PERMIT PROPOSAL: To permit a home child care facility, and to permit a reduction in yard requirements based on error in building location to permit accessory storage structures to remain 2.5 feet and 0.5 feet from side lot lines.

STAFF RECOMMENDATION:

Staff recommends approval of SP 2015-MV-099 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.

Paul S. Yoon

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.

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

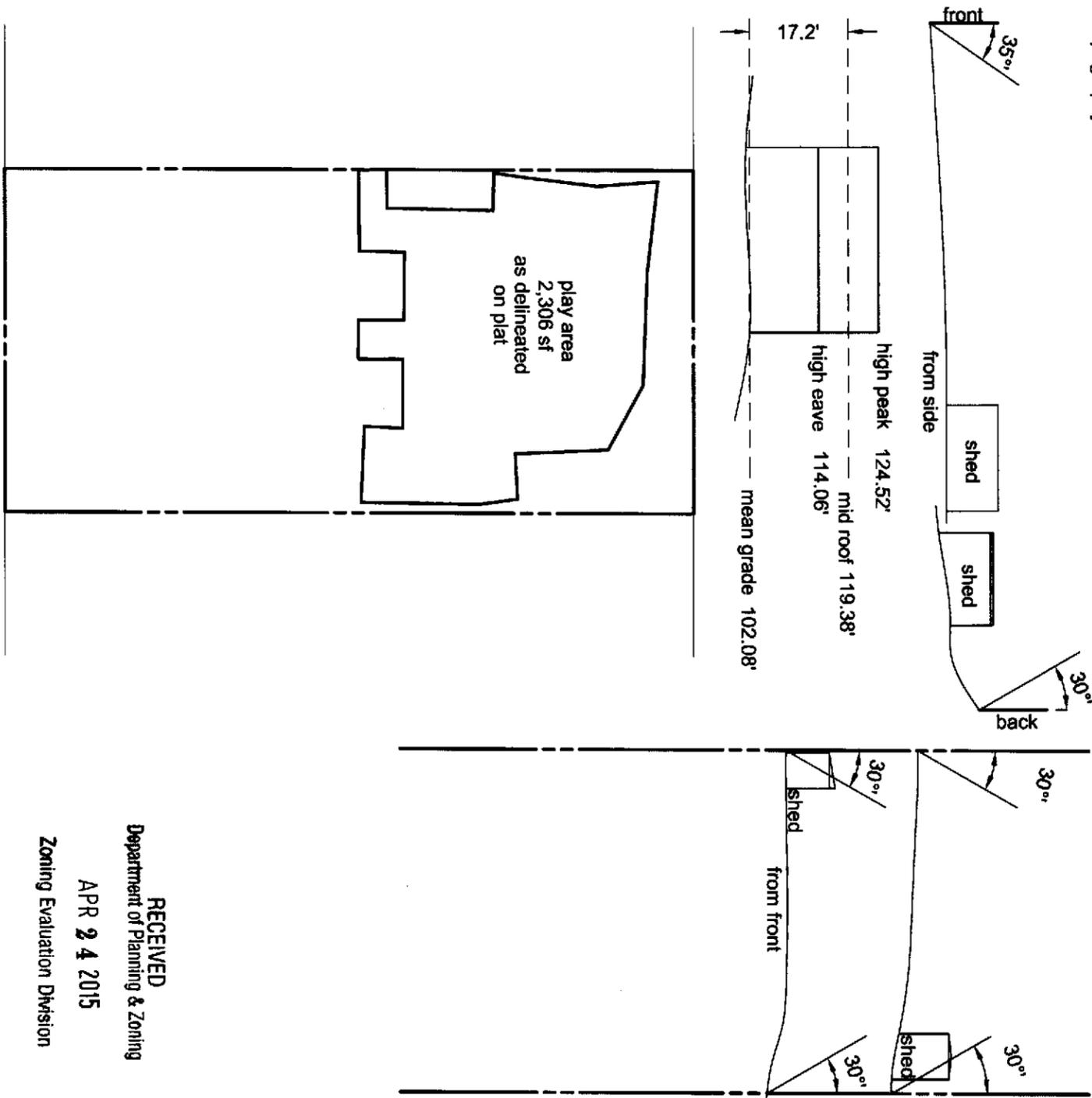
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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**

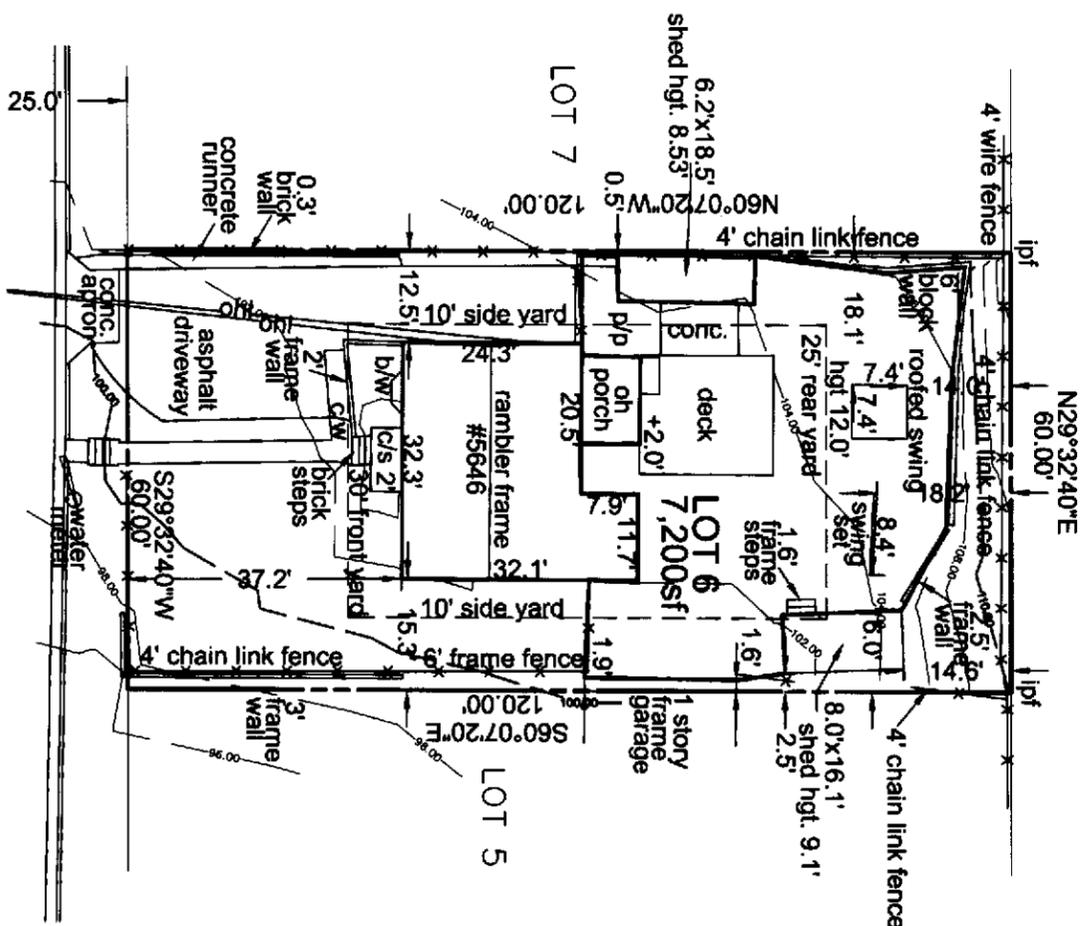


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

1. The property shown here on is located on Fairfax County tax map no. 0831 02 0006 and is zoned R-4.
2. This property is serviced by public water.
3. There are no trails proposed on the comprehensive plan in this area.
4. There is no flood plain in the vicinity. Resource protection area delineated on this site.
5. There are no burial sites apparent on the property.
6. Proposed use is residential.
7. SWM plans will be submitted at such time as a grading plan is required.
8. Topography field shot. Elevations assumed.



RECEIVED
 Department of Planning & Zoning
 APR 24 2015
 Zoning Evaluation Division



OWNERS:
 Pedro J. Gomez
 5646 Kathryn Street
 Alexandria, Virginia 22303
 deed book 17025; page 0553

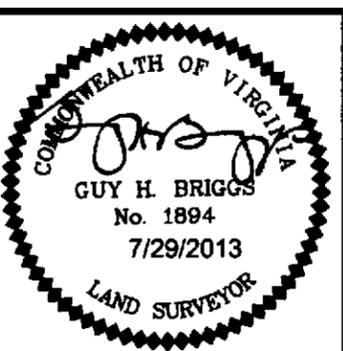
p/p paver patio
 oh overhang
 ohl overhead lines
 c/s concrete stoop
 c/w concrete walk
 b/w bay window
 cl centerline
 ipf iron pipe found

SPECIAL PERMIT PLAT
LOT 6 CRIDER PARK

APRIL 10, 2015

MOUNT VERNON DISTRICT

FAIRFAX COUNTY, VIRGINIA



APEX SURVEYS LLP 7720 VICEROY STREET 703 866-1236
 SPRINGFIELD, VIRGINIA 22151

JOB #: 15-0054
 SCALE: 1"=25'

SPECIAL PERMIT REQUEST

The applicant is seeking special permit approval to allow a home child care facility for up to 12 children. The applicant also seeks approval for a reduction in yard requirements based on an error in building location for two accessory storage structures to remain 2.5 feet and 0.5 feet from side lot lines, respectively.

A copy of the special permit plat, titled "Special Permit Plat, Lot 6, Crider Park, Mount Vernon District, Fairfax County, Virginia," prepared by Guy H. Briggs, L.S., dated July 29, 2013, revised on April 10, 2015, 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 application property is a two-story single-family detached dwelling. An asphalt driveway extends to Kathryn Street, and a concrete walkway leads to a stoop and the main entrance of the child care facility. The rear yard contains a play area with a play set and swing set, a deck, and two sheds. These structures are surrounded by a chain link fence 4 feet in height.

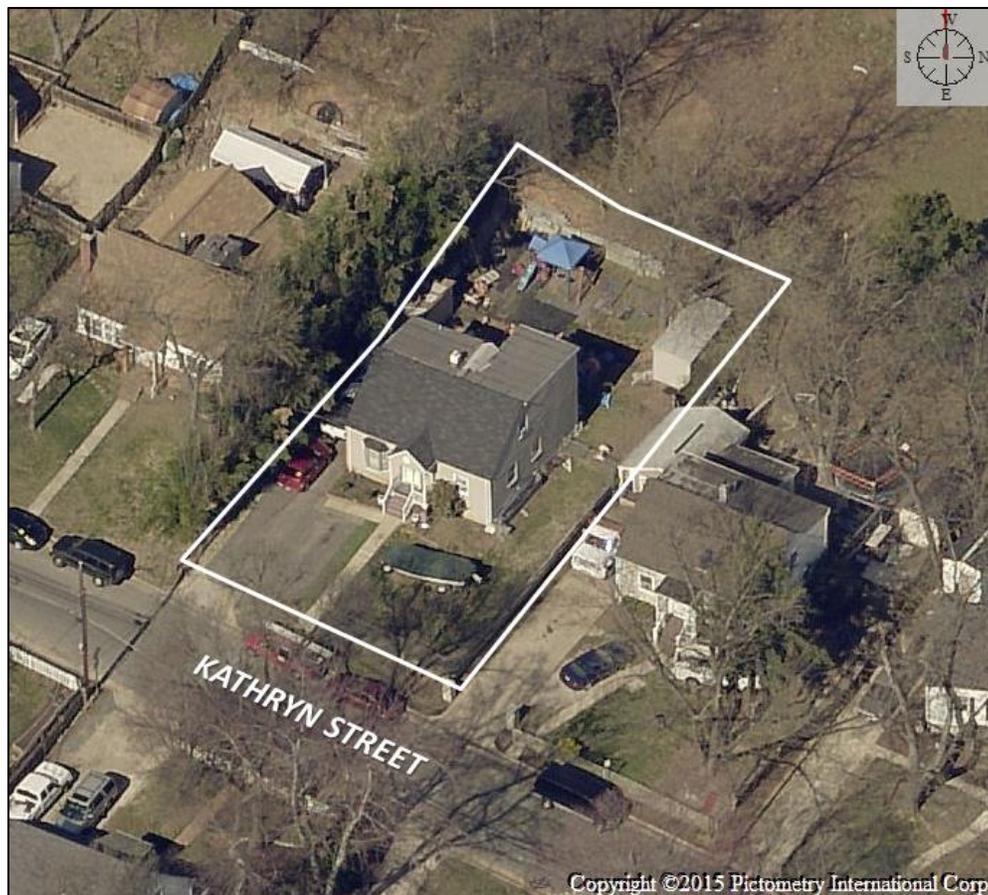


Figure 1: House location

The subject property and surrounding properties are zoned R-4 and developed with single family detached homes.

BACKGROUND

Fairfax County Tax Records indicate that the house was constructed in 1949 and purchased by the owner in 2005.

The applicant has stated she and her husband, the owner, constructed the two sheds in violation after purchasing the home. A development condition requiring the applicant to procure the necessary building permits after approval of the special permit has been included.

The applicant has also stated that she and her husband constructed a second-story addition on the rear of the home after purchase without securing proper building permits. Tax records indicate the addition was built sometime before 2012. A development condition requiring the applicant to procure the necessary building permits after approval of the special permit, as well as prohibiting the applicant from operating any part of the home child care in the addition before procuring the proper building permits, has been included.

Records indicate that no other special permit applications relating to a home child care facility have been heard by the Board of Zoning Appeals (BZA) in the surrounding area.

DESCRIPTION OF THE PROPOSED USE

The applicant requests approval of a special permit for a home child care facility. The applicant proposes to have up to 12 children and one full-time assistant on-site at any one time between the hours of 6:30 a.m. and 5:30 p.m., Monday through Friday. The applicant has a staggered drop-off and pick-up time for the children.

The applicant holds a current Family Day Home License from the Commonwealth of Virginia, Department of Social Services, valid through December 6, 2015. The license permits a capacity of twelve children, ages 4 months through 12 years, 11 months, and hours of operation 6:00 a.m. to 5:00 p.m. A development condition has been included requiring the applicant to amend her state license to match the aforementioned hours of operation. A copy of the license is included as Appendix 5.

The home child care facility is operated in the first floor of the two-story dwelling, which contains a living room, kitchen, and two play rooms with napping activity. The rear yard is utilized for outdoor play. Photographs provided by the applicant show toys and play equipment located in this area.

In addition, the applicant requests approval for a reduction in yard requirements based on an error in building location to permit two sheds to remain 2.5 feet and 0.5 feet from

side lot lines, respectively. The applicant purchased the home in 2005 and built the sheds in the rear yard for storage purposes without knowledge of the ordinance. With the 10 foot side yard setback required in this district, the applicant seeks reductions of 7.5 feet and 9.5 feet, respectively.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area IV, Mount Vernon Planning District
Planning Sector: Huntington Planning Sector (MV1)
Plan Map: 3-4 dwelling units per acre

Zoning District Standards

Bulk Standards (R-4)		
Standard	Required	Provided
Lot Size	8,400 sf.	7,200 sf.*
Lot Width	70 feet	70.0 feet
Building Height	35 feet max.	Figure not provided
Front Yard	Min. 30 feet	30.0 feet
Side Yard	Min. 10 feet	12.5 and 15.3 feet
Rear Yard	Min. 25 feet	50.0 feet

*The subject parcel was created and developed prior to the adoption of the current Zoning Ordinance; therefore it is considered a legal, buildable lot under Sect. 2-405.1 of the Zoning Ordinance.

On-Site Parking and Site Circulation

The existing driveway is able to accommodate three vehicles. The application property is located in the Huntington (Jefferson Manor) #01B Residential Permit Parking District (RPPD), and the applicant and applicant’s assistant both have parking permits to park on the street, leaving space in the driveway for parents. Parents conduct drop-off and pick-up activities at staggered times, and 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 an asphalt driveway from Kathryn Street. 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 5. During the site visit, the inspector noted concerns with vehicles parked in the front and side yards, a carport in the minimum side yard, and the permit status of a second-floor addition at the rear of the home. The applicant has resolved all noted violations, and photographs are included in Appendix 6.

Accessory Structures On-Site

A playground and swing set are located in the rear yard on a matted surface. Two sheds are located adjacent to both side lot lines, respectively. The sheds do not meet the Zoning Ordinance requirements because their heights exceed 8' 6". The applicant has requested an error in building location approval to allow both structure to remain.

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. 8-914 Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location
- Sect. 10-103 Par. 6 Location Regulations

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

<p>Standards 1 and 2 Comprehensive Plan/ Zoning District</p>	<p>The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-4 district permits a home child care facility as an accessory use with special permit approval.</p>
<p>Standard 3 Adjacent Development</p>	<p>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.</p>
<p>Standard 4 Pedestrian/Vehicular Traffic</p>	<p>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.</p>
<p>Standard 5 Landscaping/Screening</p>	<p>There is existing vegetation in the rear and side yards that provides screening to the outdoor play area.</p>
<p>Standard 6 Open Space</p>	<p>There is no prescribed open space requirement in the R-4 district.</p>
<p>Standard 7 Utilities, Drainage, Parking, and Loading</p>	<p>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.</p>

<p>Standard 8 Signs</p>	<p>Sect. 10-103 of the Zoning Ordinance prohibits signs for home child care facilities. The applicant does not propose any signage.</p>
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Standards for all Group 3 Uses (Sect. 8-303)

<p>Standard 1 Lot Size and Bulk Regulations</p>	<p>The lot was created prior to the current Zoning Ordinance.</p>
<p>Standard 2 Performance Standards</p>	<p>The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.</p>
<p>Standard 3 Site Plan</p>	<p>Home child care facilities are not subject to the provisions of Article 17, Site Plans.</p>

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

<p>Standard 1 Maximum of 12 Children & Non-Resident Employee</p>	<p>The applicant is proposing a maximum of 12 children at any one time. The development conditions allow up to two non-resident employees.</p>
<p>Standard 2 Access and Parking</p>	<p>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.</p>
<p>Standard 3 Landscaping/Screening</p>	<p>There is existing vegetation in the rear and side yards that provides screening to the outdoor play area.</p>
<p>Standard 4 Submission Requirements</p>	<p>The application meets all submission requirements for a home child care facility.</p>
<p>Standard 5 Code of Fairfax, Chapter 30 and Code of Virginia, Title 63.2, Chapter 17</p>	<p>The applicant has a valid home child care license through December 6, 2015.</p>

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.
Part D Non-Resident Employee	The applicant is proposing one non-resident employee.
Part E Provider is a Resident	The provider is a resident.
Part F Code of Fairfax, Chapter 30 and Code of Virginia, Title 63.2, Chapter 17	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.
Part G Increase in Children or Non-Resident Employee	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 one non-resident employee.

CONCLUSION / RECOMMENDATION

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

Staff recommends approval of SP 2015-MV-099 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. State Family Day Home License
5. Zoning Inspections Branch Comments
6. Select Photographs of Addressed Zoning Inspections Branch Comments
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2015-MV-099****October 21, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-MV-099 located at Tax Map 83-1 ((2)) 06 to permit a home child care facility and to permit a reduction in yard requirements based on error in building location to permit two sheds to remain 2.5 feet and 0.5 feet from side lot lines, respectively, pursuant to Section 3-303, 8-305 and 8-914 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, Lucia C. Martinez, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 5646 Kathryn Street, and is not transferable to other land.
2. This special permit is granted only for the home child care use and the location of the two accessory storage structures indicated on the plat entitled, "Special Permit Plat, Lot 6, Crider Park, Mount Vernon District, Fairfax County, Virginia," prepared by Guy H. Briggs, L.S., dated July 29, 2013, and revised on April 10, 2015, 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 and be made available to all departments of the County of Fairfax during the hours of operation of the home child care.
4. The hours of operation of the home child care facility shall be limited 6:30 a.m. to 5:30 p.m.
5. The applicant shall amend her state-issued family day home license to make the approved hours of operation consistent with the hours of operation in Development Condition 4.
6. The dwelling that contains the child care facility shall be the primary residence of the applicant.
7. Excluding the applicant's own children, the maximum number of children on site at any one time shall be twelve (12), Monday through Friday.
8. 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., Monday through Friday.
9. There shall be no signage associated with the home child care facility.
10. All drop-off and pick-up activities shall occur in the driveway.

11. Any portions of the dwelling associated with the home child care facility that are used as a children's sleeping or rest area shall 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 shall 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 child care facility.
13. The child care facility shall be operated in accordance with Chapter 30 of the County Code, entitled "Minimum Private School and Child Care Facility Standards".
14. All sheds shall remained locked during the hours of operation of the home child care facility.
15. All applicable final building permits and inspections shall be obtained within (6) months of BZA 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 take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

STATEMENT OF JUSTIFICATION
FOR A HOME CHILD CARE FACILITY

Name: Lucia C Martinez
Address: 5646 Kathryn ST
Alexandria VA 22303
Phone#: (703) 960-6438
E-mail: *luciamartinez@comcast.net*

RECEIVED
Department of Planning & Zoning
MAR 31 2014
Zoning Evaluation Division

Date 3-21-2014
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division
1205 Government Center Parkway, suite 801
Fairfax, VA 22035

Re: Special Permit Application
Applicant: Lucia C Martinez
Zoning Ordinance Section 8-305 for Home Child Care Facility
Section 8-004 of General standards

Tax Map #: 0831020006
Zoning District: 60200
Lot Size: 7,200

To whom it may concern,
Please accept the following as my statement of justification for a special permit for a home child care facility in my home. I own and live in a attached dwelling at 5646 Kathryn ST Alexandria VA, 22303.

The property is zoned and I understand I need to seek approval of a special permit in order to operate a child care facility within my home. I am currently licensed by the State of Virginia to have 12 children in my child care facility in my home. Below is information

Hours. The child care is open from 6:30 AM – 5:30 PM

Numbers of Children I care for up to 12 children at one time This number does not include my 2 own child/children.

Employees. I have an assistant who works full-time.

Arrival Schedule. The children arrive between 6:45 AM and 9:00 AM

Departure Schedule.4:00 of the children are picked up at 5:30 PM

Area Served.

Operations. As I stated, my house is a single-family attached

The house has 7,200 square feet. The following rooms are where I conduct day care:

The rooms are 208 square feet total.

Hazardous or Toxic Substances. The house and yard are free from the hazardous or toxic substances. No hazardous materials will be generated, utilized, stored, treated, and/ or disposed onsite.

Zoning Ordinance Compliance. The proposed development conforms to the provisions of all applicable ordinances, regulations, and adopted standards, if ant waiver, exception or variance is sought, such request has been specifically noted with the justification for such modification.

Outdoor play area. I use my backyard for outdoor play for the children. This area is approximately square feet. The outdoor play area consists of: A slide, two swing sets, a sand and water table, one smaller slide, a play house, a table, a play kitchen,

Parking. I use my driveway and street to park my family car(s). My parents park in the driveway.

For these reasons I believe that my proposed home day care will not impact my neighbors in any negative way.

In conclusion, I am proposing

Sincerely,
Lucia Martinez
Owner of 5646 Kathryn St.
Alexandria VA, 22303

RECEIVED
Department of Planning & Zoning
MAR 31 2014
Zoning Evaluation Division

Arrival Schedule

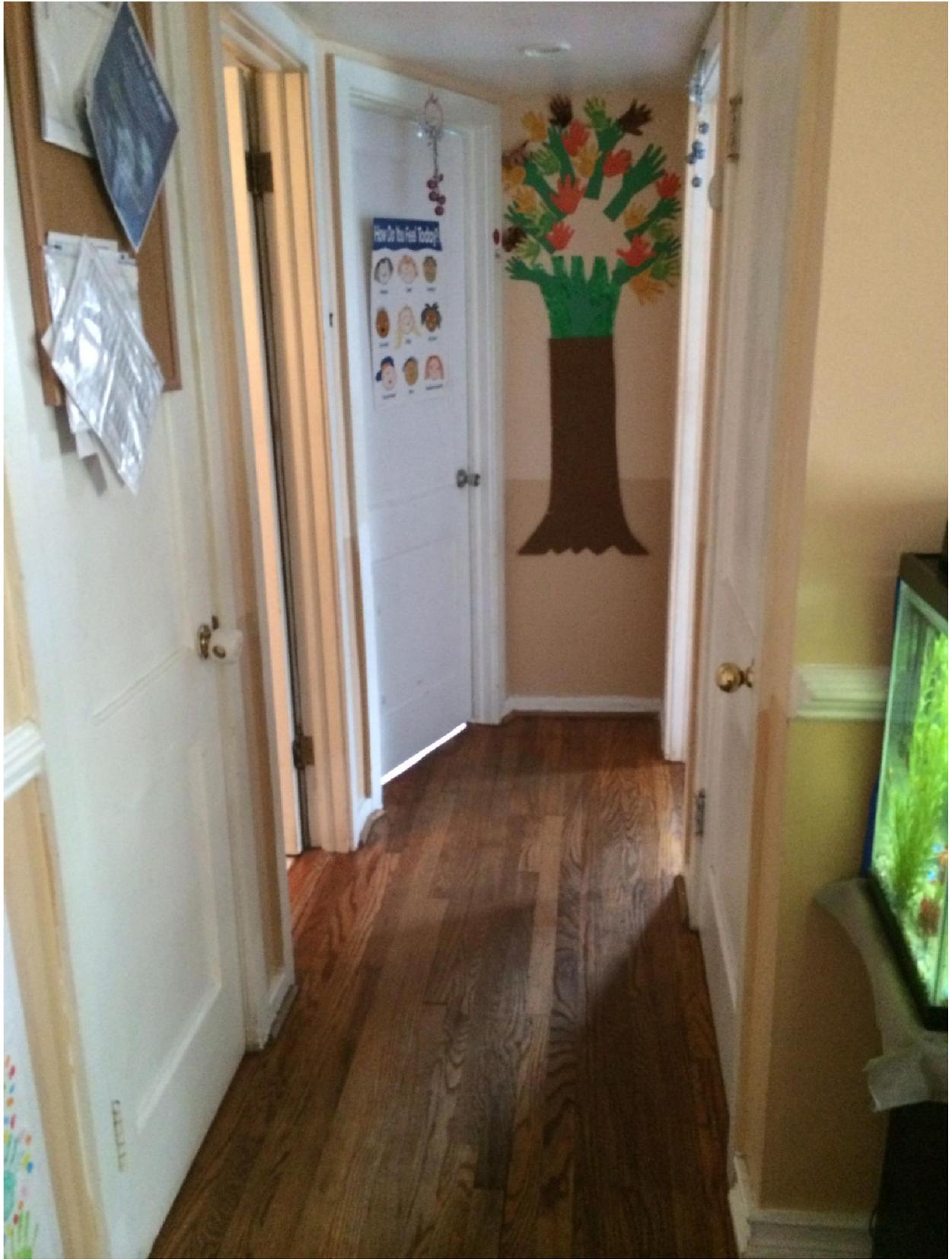
Child	6:45 – 7:00 AM	7:00 – 7:30 AM	7:30 – 8:00 AM	8:00 – 9:00 AM
1	X		X	X
2		X		
3				
4				
5				
6				
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9				
10				
11				
12				















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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 6-13-14
(enter date affidavit is notarized)

I, _____, 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: 125059

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)
Lucia M	Martinez/5646 Kathryn St Alexandria VA 22303	APPLICANT/TITLE OWNER
Lucys Home day care.		

(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).

CAB

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 6-13-14
(enter date affidavit is notarized)

125059

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:

(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)

N/A

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: 6-13-14
(enter date affidavit is notarized)

125059

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

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)

N/A

(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: 6-13-14
(enter date affidavit is notarized)

125059

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.

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.) 125059

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)

Lucia Martinez
 Applicant [] Applicant's Authorized Agent

Lucia C Martinez
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 13th day of JUNE 2014, in the State/Comm. of VERGINIA, County/City of FAIRFAX.

[Signature]
Notary Public

My commission expires: JANUARY 31st 2018



RANDY LEE MACK
NOTARY PUBLIC 7595248
COMMONWEALTH OF VIRGINIA

Application No.(s): _____

CAB

Commonwealth of Virginia



DEPARTMENT OF SOCIAL SERVICES

FAMILY DAY HOME LICENSE

Issued to:

Lucia Martinez

Address:

5646 Kathryn Street, Alexandria, Virginia 22303

This license is issued in accordance with provisions of Chapters 1, 17 and 18, Title 63.2, Code of Virginia and other relevant laws, the regulations of the State Board of Social Services and the specific limitations prescribed by the Commissioner of Social Services as follows:

<u>CAPACITY</u>	
12	
<u>GENDER</u>	<u>AGE</u>
Both	6 weeks through 12 years

This license is not transferable and will be in effect December 7, 2014 through December 6, 2015 unless revoked for violations of the provisions of law or failure to comply with the limitations stated above.

ISSUING OFFICE:

Virginia Department of Social Services
Division of Licensing - Fairfax Licensing Office
3701 Pender Drive, Suite 125
Fairfax, VA 22030

Telephone: (703) 934-1505

FDH 1106947 - L108
LICENSE NUMBER

MARGARET ROSS SCHULTZE
COMMISSIONER OF SOCIAL SERVICES

By

James J. Parcelli

Title

LICENSING ADMINISTRATOR

Date

November 25, 2014



County of Fairfax, Virginia

MEMORANDUM

Date: August 24, 2015

To: Paul Yoon, Staff Coordinator
Zoning Evaluation Division

From: Amy Moxley
Senior Zoning Inspector
Zoning Inspection Branch

Subject: Home Child Care – SP 2015-MV-099

Applicant: Lucia C. Martinez, Lucy's Home Daycare
5646 Kathryn Street, Alexandria, VA 22303
Crider Park, Lot 6
Tax Map# 83-1 ((2)) 6
Zoning District: R-4
Magisterial District: Mount Vernon
ZIB # 2015-0406
Date of Inspection: August 20, 2015

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 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.
- 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.

- 7. Structures comply with the Zoning Ordinance.

At the time of inspection there was a boat parked in the grass in the front yard and a motorcycle parked in the grass of the side yard.

A carport extends into the minimum side yard.

In the rear yard, there are two sheds that exceed 8' 6" and do not meet the side yard setbacks.

No building permits were found in FIDO for the addition on the rear of the home.





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.

Sect. 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.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
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, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. 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
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.