

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SALMA NAZARY DBA SALMA DAYCARE AND KARIM NAZARY, SP 2014-SP-116 Appl. Under Sect(s). 3-103, 8-305, and 8-914 of the Zoning Ordinance to permit a home child care facility, and a reduction in minimum yard requirements based on error in building location to permit an accessory structure to remain 18.9 ft. from a side lot line. Located at 6301 Travilah Ct., Fairfax Station, 22039, on approx. 2.40 ac. of land zoned R-1. Springfield District. Tax Map 77-3 ((14)) 3. Mr. Beard moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 30, 2016; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the property is 2.4 acres.
4. Staff has recommended approval of the home child care facility, and the Board concurs with their findings.
5. There were problems that were resolved from the initial inspection.
6. This is an ideal location from the standpoint of a cul-de-sac, insofar as being able to pick up and drop off.
7. The state licensing has been obtained.
8. With respect to the play set remaining 18.9 feet from the side lot line, this is a substantial piece of property in excess of two acres, therefore, it is not an issue.
9. The applicants have read, understand, and concur with the proposed development conditions.

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. This approval is granted to the applicant, Salma Nazary dba Salma Daycare and Karim Nazary, and is not transferable without further action of the Board, and is for the location indicated on the application, 6301 Travilah Court, and is not transferable to other land.
2. This special permit is granted only for the home child care use and the playset as indicated on the plat entitled "Plat, Showing the Improvements on Lot 3, Parvis Estates," prepared by George M. O'Quinn, L.S., dated October 7, 2015 as revised through December 2, 2015, and approved with this application, as qualified by these development conditions.

3. A copy of the special permit conditions 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 applicant shall continue to operate with the approved hours of operation, 7:00 a.m. to 6:00 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 provider's own children, the maximum number of children on-site at any one time shall not exceed twelve (12).
7. A maximum of two nonresident employees 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.
8. All pick-up and drop-off of children shall occur in the driveway.
9. There shall be no signage associated with the home child care facility.
10. The approval of the use is contingent upon maintenance of a state-issued family day home license, which permits the number and ages of children being cared for at the home child care facility.
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 child care facility shall be operated in accordance with Chapter 30 of the County Code, entitled "Minimum Private School and Child Care Facility Standards".
13. The accessory storage structure (shed) shall remain locked during the hours of operation of the home child care facility.
14. The applicants shall obtain all relevant building and trade permits and inspections for the accessory structures on the property including the gazebo, pond, trellis and other structures within 120 days of approval of this application.

15. The applicants shall clean up outdoor storage items and place them in an appropriate area according to the zoning ordinance within 30 days of approval of this application.
16. The applicants shall clean up outdoor wiring according to building code standards within 30 days of approval of this application.
17. The children who attend the HCC will not play in the cul-de-sac.
18. The applicant shall comply with the provisions of the Noise Ordinance.

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.

Mr. Smith seconded the motion, which carried by a vote of 6-0. Ms. Theodore was absent from the meeting.

A Copy Teste:



Mary D Padruitt, Deputy Clerk  
Board of Zoning Appeals