

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

GHAZALA KHILJI / ZALI'S KIDS, SP 2014-MV-075 Appl. under Sect(s). 8-305, 3-303, and 8-914 of the Zoning Ordinance to permit a home child care facility, and reduction to the minimum yard requirements based on error in building location to permit accessory storage structure to remain 2.2 ft. from a side lot line, and 1.1 ft. from a rear lot line. Located at 1912 Prices Ln., Alexandria, 22308, on approx. 11,911 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 111-1 ((4)) 28 A. (Admin. moved from 10/22/14 at appl. req.) Mr. Byers 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 January 28, 2015; and

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

1. The applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,911 square feet.
4. With regard to the issue of vacation and the 240 hours, permission was given by a state inspector, prior to the time that this applicant would fall under the zoning ordinance of the county, which takes precedence. That means, operationally, there will have to be some changes made to be in compliance with the Zoning Ordinance. The applicant is now aware of this, so the Board assumes the applicant will do this, just as everyone else does.
5. From the standpoint of the special permit with regard to the fence, the Board will leave in the 12 months. The reason being is that the discussion of the fence with the applicant's neighbor would be private discussions. If it is decided, between the two, that the applicant will remove the fence, then the issue goes away. If the applicant and the neighbor decide the fence stays, then the special permit will be applied for.
6. The applicant has been very cooperative.
7. The Board is not concerned with the accessory storage structure. The inspections will be done. It is on a raised platform, and was originally 10x20 and 8.5. The former owner did not get along with his contractor, and did not get it corrected. It will be corrected. Based on the dimensions of the backyard, the Board is not sure where the applicant would put the shed. It is an interesting backyard, we are not sure whether they could even be in compliance. The good thing about that is that, as with other applicants, if one is out of compliance, you will apply within 12 months to bring it into compliance or get a special permit. The applicant has already done this.

8. There have been no complaints for 10 years. It was put in place in 2005, and the applicant bought the property in 2012. From that standpoint, it meets the criteria, and the Board is talking about all the criteria for the mistake in building location, A-H. The Board does not think that is an issue.

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. The approval for the home child care facility is granted to the applicant only, Ghazala Khilji, Zali's Kids, and is not transferable without further action of the Board, and is for the location indicated on the application, 1912 Price's Lane, Alexandria, 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 accessory storage structure indicated on the plat titled "Plat Showing House Location On Lot 28A" prepared by Dominion Surveyors Inc., dated October 6, 2014, and revised through October 22, 2014, and approved with this application, as qualified by these 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 not exceed 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 applicant's own children, the maximum number of children on-site at any one time shall be twelve.
7. A maximum of three nonresident employees, whether paid or not for their services, may be involved in the home child care facility, and with the hours of such attendance limited to 7:00 a.m. to 6:00 p.m.
8. All pick-up and drop-off of children shall take place in the driveway.
9. There shall be no signage associated with the home child care facility.
10. The applicant shall remove the portions of the driveway as shown on the special permit plat, and demonstrate compliance with this condition to the satisfaction of the Zoning Administration Division, Department of Planning and Zoning, within one year of special permit approval.

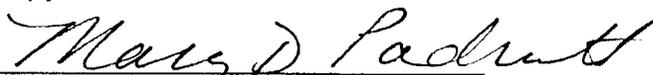
11. The applicant shall remove the fencing which extends from the west side lot line into the right-of-way of Price's Lane, and shall modify, remove, or obtain a special permit for the fence on the east side of the property within one year of special permit approval.
12. The applicant shall obtain approval of a final building inspection and an electrical permit and inspection for the accessory storage structure within 180 days of special permit approval.
13. Additional kitchen facilities, including, but not limited to, a sink, oven or stove, shall not be installed in the basement, nor shall the basement contain an accessory dwelling unit without all applicable permits and approvals.
14. The accessory storage structure shall remain locked during the hours of operation of the home child care facility.
15. All outdoor play equipment shall conform to all applicable state regulations and standards.
16. 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 on-site at the home child care facility.
17. Any portions 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.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, twelve months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

Mr. Hart seconded the motion, which carried by a vote of 4-0-1. Mr. Hammack abstained from the vote/ Ms. Theodore and Mr. Smith were absent from the meeting.

A Copy Teste:



Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals