

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JAY E. WESZELOVSZKY D/B/A ROSE HILL CHILD DAY CARE, SP 2014-LE-101 Appl. under Sect(s). 3-303, 8-305, and 8-914 of the Zoning Ordinance to permit a home child care facility, and to permit a reduction in certain yard requirements based on an error in building location to permit a deck with stairs to remain 8.4 ft. from a side lot line. Located at 4604 Eaton Pl., Alexandria, 22310, on approx. 10,500 sq. ft. of land zoned R-3. Lee District. Tax Map 82-3 ((17)) (D) 21. 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 September 23, 2015; and

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

1. The applicant is the owner of the property.
2. There is a favorable staff recommendation on the home child care, and with the imposition of the development conditions, any impacts have been satisfactorily mitigated.
3. It is a single family home with a large fenced yard. There is plenty of room to play. The driveway is certainly big enough for the pick-up and drop-off. There should not be any significant negative impact on anyone.
4. With respect to the error in building location, on the record before the Board, it did not appear that the steps would bother anyone if they remain in that location. The lot is sort of sloped away from the street and these are far back from the street. Given the placement of the steps, they should not bother anyone.
5. The Board concluded that the mistake section standards have been met.

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, Jay Weszelovszky, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 4604 Eaton Pl., and is not transferable to other land.
- 2. This special permit is granted only for the home child care use and deck location indicated on the plat entitled, "Eaton Place, Plat Showing House Location on Lot 21, Section 5, Block D, Sunny Ridge Estates," prepared by Thomas G. Lutke, dated July 16, 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 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 at a time, 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 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 opening shall be of the dimension and size specified 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 and ages of children being cared for at the home child care facility.
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. All sheds shall remain locked during the hours of operation of the home child care facility.
14. All applicable permits and inspections for the deck shall be obtained within three (3) months of BZA approval.

15. The deck and area beneath the deck shall not be used by the home child care until all final permits and inspections are obtained for the deck. Until final inspection for the deck is achieved, the ingress and egress for the child care use shall not utilize the door under the deck.

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. Byers seconded the motion, which carried by a vote of 5-0. Chairman Ribble was not present for the vote. Mr. Smith was absent from the meeting.

A Copy Teste:


Lorraine A. Giovinazzo
Clerk to the Board of Zoning Appeals