

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MINU THAPA d/b/a "QUALITY HOME DAY CARE, INC.," SP 2014-PR-187 Appl. under Sect(s). 3-403, 8-305, 8-914, and 8-923 of the Zoning Ordinance to permit a home child care facility; to permit errors in building locations to allow an addition to remain 8.5 ft. from the side lot line, an accessory storage structure to remain 1.2 ft. from the side lot line and 0.8 ft. from the rear lot line, and a playset to remain 8.4 ft. from the rear lot line; and to permit a fence over 4.0 ft. in height in a front yard. Located at 7135 Quincy Ave., Falls Church, 22042, on approx. 7,200 sq. ft. of land zoned R-4. Providence District. Tax Map 50-3 ((9)) 76. 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 16, 2015; and

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

1. The applicant is the owner of the land.
2. There is a favorable staff recommendation for the home child care facility, and the Board adopts the rationale in the staff report for that part of this application. The applicable standards have been met.
3. Staff is recommending denial of the fence, and the Board adopts the rationale in the staff report for the fence.
4. On the miscellaneous issues for the existing addition, the shed, and the play set, there are a variety of reasons. The applicant basically inherited this situation when the property was purchased. This should not bother anybody.

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-IN-PART**, with the following development conditions:

- 1. The special permit approval for the home child care use is granted to the applicant, Minu Thapa d/b/a Quality Home Day Care, Inc., and is not transferable without further action of the Board, and is for the property located at 7135 Quincy Avenue, and is not transferable to other land.
- 2. This special permit is granted only for the home child care use, the location of the playset, the location of the shed, and the location of the addition, indicated on the plat entitled "Plat, Showing the House Location on Lot 76, Section Two, Tyler Park," as drawn by George M. O'Quinn, L.S., on June 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 hours of operation of the home child care will be from 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.
7. A maximum of two non-resident 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 that 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 area 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. All applicable permits and final inspections for the second story addition and deck shall be obtained within 6 months of Special Permit approval.
13. The accessory storage structure shall remain locked during the hours of operation of the home child care facility.
14. Notwithstanding what is depicted on the special permit plat, the height on the portion of the fence on the east side of the lot lying in the front yard only shall not exceed 4 feet in height, and shall be reduced within 60 days of approval of this application.
15. Notwithstanding what is depicted on the special permit plat, the rear yard coverage shall be a maximum of 30 percent of the minimum required rear yard. This coverage shall be reduced within 60 days of approval of the approval of the application.
16. 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."

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 6-0. Mr. Hammack was absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Mary D. Padrutt", written over a horizontal line.

Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals