

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SALIMA MATNEJA DBA GALGATE DRIVE CHILD CARE, SP 2014-SP-223 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 reductions in minimum yard requirements based on errors in building locations to permit a dwelling to remain 25.5 ft. and an addition 26.4 ft. from a front lot line, and an accessory structure to remain 7.9 ft. from a side lot line. Located at 7119 Galgate Dr., Springfield, 22152, on approx. 16,633 sq. ft. of land zoned R-3. Springfield District. Tax Map 89-3 ((1)) 16B. Mr. Smith 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 October 21, 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 16,633.
4. It appears to the Board the applicant has a by-right use to that half of the pipe-stem driveway. It looks like they can drive in, and make a three-point turn.
5. Staff has recommended approval.
6. All other concerns, which have been identified in the staff report, have been corrected.
7. With respect to the setbacks, there have been no concerns raised by anyone. The Board does not believe they are creating any negative issues in the neighborhood for anybody, and believes they are reasonable.
8. The applicant has read, understands and concurs with the proposed development conditions, including the condition added at this hearing.

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, Salima Matneja, and is not transferable without further action of the Board, and is for the location indicated on the application, 7119 Galgate Drive, and is not transferable to other land.
2. This special permit is granted only for the home child care use and the errors in building locations for the accessory storage structure, the addition and covered porch as indicated on the plat "Special Permit Plat for Parcel 2 of the division of the property of Vienna Builders and Developers, Inc.," as drawn by John. D. Jarrett,

L.S., dated June 29, 2015, as revised through July 21, 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 state 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.
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 applicant's portion of the pipestem driveway. The driveway shall be kept clear of other vehicles and storage so that cars related to pick up and drop off can complete a three point turn to drive forward out of the pipestem.
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. The accessory storage structure shall remain locked during the hours of operation of the home child care facility.
12. 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.
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 applicable permits and final inspections for the addition and covered front porch shall be obtained within 6 months of Special Permit approval.

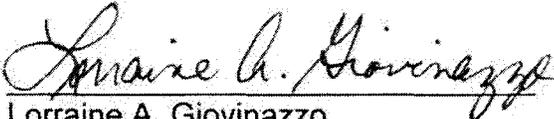
15. All assistants or employees to the home child care shall park on Galgate Drive.

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. Beard seconded the motion for discussion, which carried by a vote of 4-1. Mr. Beard voted against the motion. Ms. Theodore and Mr. Byers were absent from the meeting.

A Copy Teste:



Lorraine A. Giovinazzo
Clerk to the Board of Zoning Appeals