



# County of Fairfax, Virginia

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September 7, 2016

## STAFF REPORT

**SPECIAL PERMIT SP 2016-MA-047**

### MASON DISTRICT

**APPLICANT:** Dominga M. Tran  
Mamalina Home Daycare, LLC

**OWNERS:** Dominga M. Tran

**SUBDIVISION:** West Lawn

**STREET ADDRESS:** 3033 Westfall Place, Falls Church, 22042

**TAX MAP REFERENCE:** 50-4 ((17)) 215

**LOT SIZE:** 7,771 square feet

**ZONING DISTRICT:** R-4

**ZONING ORDINANCE PROVISIONS:** 8-305

**SPECIAL PERMIT PROPOSAL:** To permit a home child care facility.

### STAFF RECOMMENDATION:

Staff recommends approval of SP 2016-MA-047 for the home child care facility for a maximum of twelve children, with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

*Frances S. Dowd*

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A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**

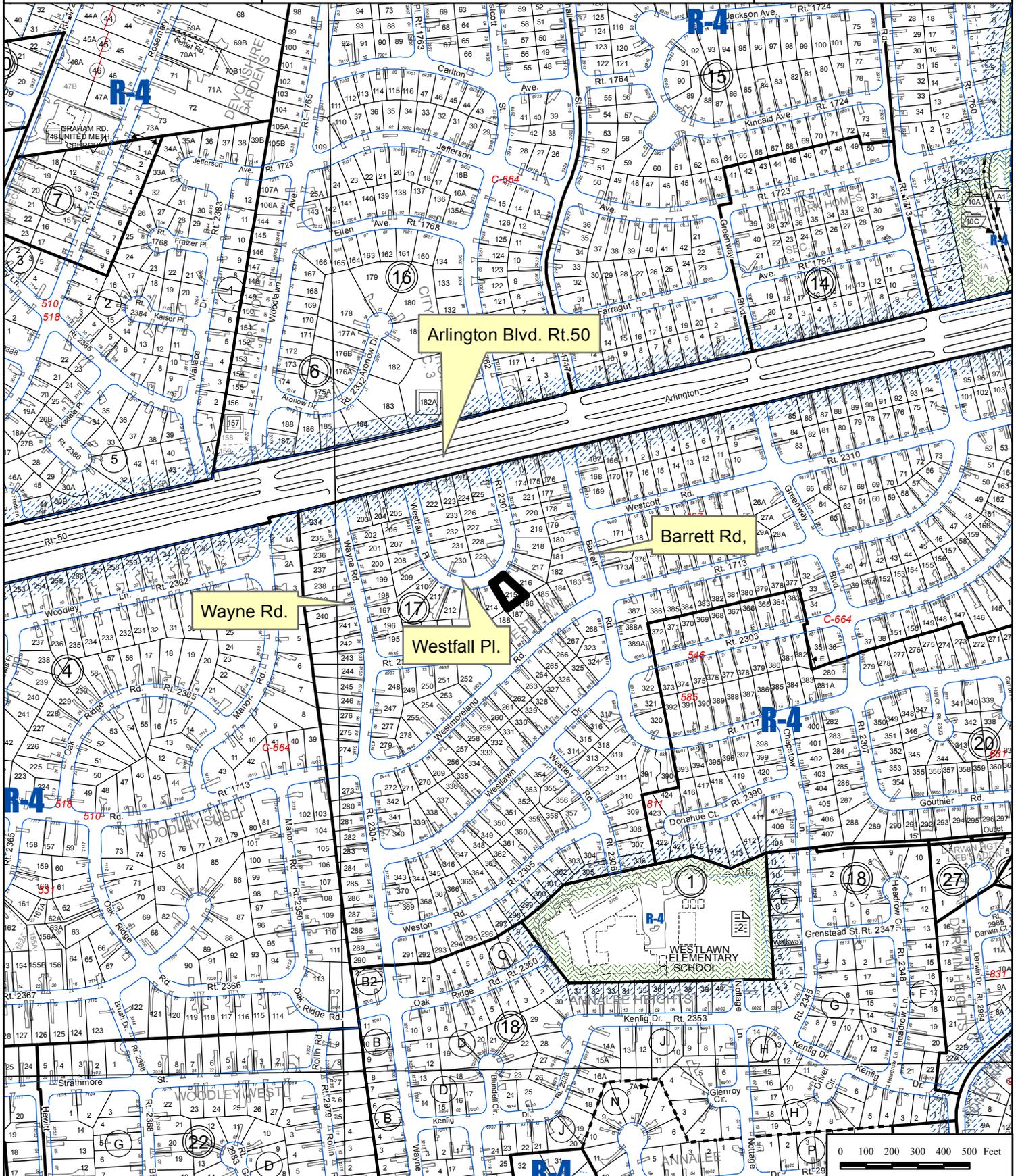


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).



# Special Permit SP 2016-MA-047

DOMINGA M TRAN / MAMALINA HOME DAYCARE, LLC



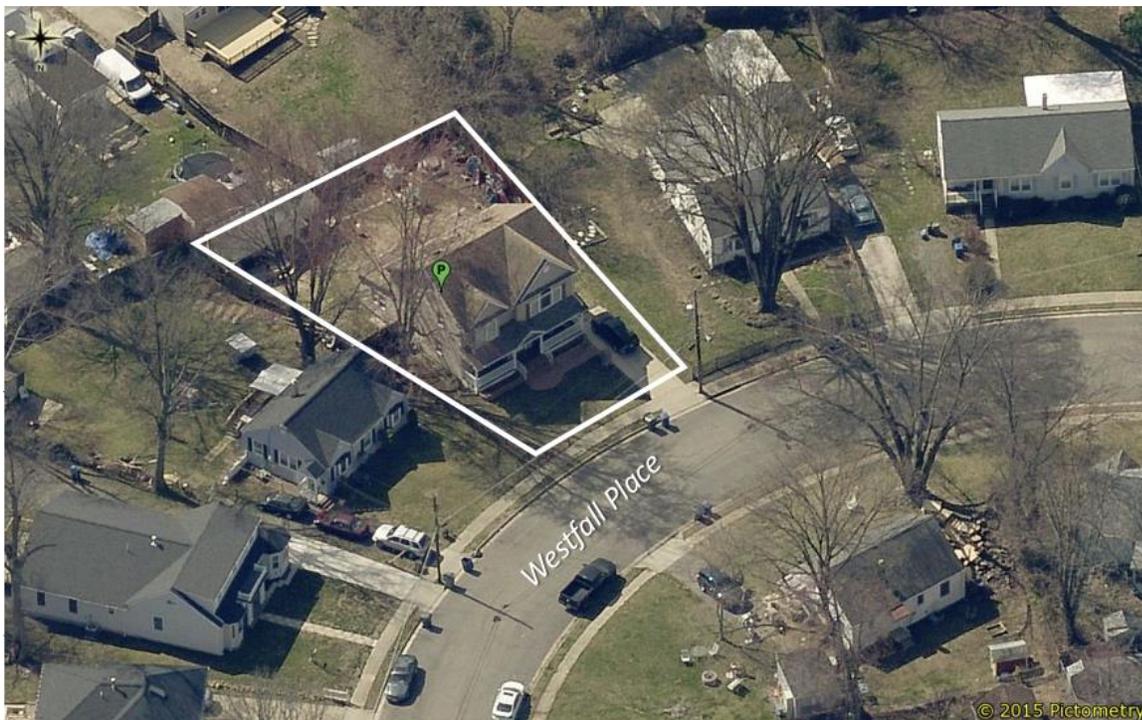


## SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a home child care facility for up to 12 children. A more detailed description of the proposal is provided on page two.

A copy of the special permit plat titled, "Plat, Showing House Location On Lot 215, Section 3," prepared by Kenneth W. White, as revised by John Fitzpatrick on May 1, 2016, is included in the front of the staff report. Copies of the proposed development conditions, the statement of justification with select file photographs, and the affidavit are contained in Appendices 1 through 3, respectively.

## CHARACTER OF THE SITE AND SURROUNDING AREA



*Figure 1. Aerial View of Subject Property*

The site is developed with a two-story single family detached dwelling with a full basement. A concrete driveway accommodates up to two cars and extends to Westfall Place. A concrete walkway and covered front porch provide access to the dwelling. The rear yard is enclosed by a 7 foot tall wooden privacy fence and contains a vested accessory storage structure (shed). The shed, built in 1950 was vested by the Zoning Administration Division using the County's Department of Taxation (DTA) records for the subject property, included in Appendix 4. Small, moveable play equipment is present in the fenced portion of the rear yard.

The property is located south of Route 50 and east of Wayne Road. The subject property and surrounding properties are zoned R-4 and developed with single family detached dwellings.

## **BACKGROUND**

Fairfax County Tax Records indicate that the dwelling was constructed in 1950, purchased by the applicant in 1998, and remodeled in 2003.

The applicant has been operating the home child care in its current location for approximately eight years. Staff is not aware of any complaints regarding the home child care.

Records indicate that a special permit application for a home child care facility was granted by the Board of Zoning Appeals (BZA) on Lot 195 (6936 Regent Lane) of the same subdivision, West Lawn, on October 26, 2011 (Appendix 5).

## **DESCRIPTION OF THE PROPOSED USE**

The applicant requests approval of a special permit for a home child care facility for up to 12 children on-site at any one time, with up to two assistants. The hours of operation are from 7:00 a.m. to 6:00 p.m., Monday through Friday. The applicant has staggered drop-off and pick-up times for the children. There are two parking spaces left open for drop off and pick up in the applicant's driveway. The applicant and any non-resident assistants will park on Westfall Place.

The home child care facility is operated in the first floor of the dwelling, which consists of a multipurpose room, bathroom, craft/snack area, nap room, and play room. Napping occurs in the first floor bedroom and in the living room. Both rooms have adequate emergency egress through windows and doors to the outside. Pictures provided by the applicant show toys and moveable play equipment in the rear yard of the house. In total, the applicant devotes approximately 1,000 square feet of interior dwelling space to child care activities, as well as 2,500 square feet of fenced in, outdoor play area.

The applicant currently cares for up to seven children and she holds a Family Day Home License, valid through August 7, 2017, from the Commonwealth of Virginia, Department of Social Services. The license permits a capacity of 7 children, from birth through 10 years of age. A copy of the license information is included as Appendix 6.

## **ANALYSIS**

### **Comprehensive Plan Provisions**

**Plan Area:** Area I, Jefferson Planning District  
**Planning Sector:** Westlawn Community Planning Sector (J3)  
**Plan Map:** Residential, 3-4 du/ac

### **Zoning District Standards**

<b>Bulk Standards (R-4)</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
Lot Size	8,400	7,771 s.f. <sup>1</sup>
Lot Width	70 feet	50 feet <sup>1</sup>
Building Height	35 feet	<35 feet
Front Yard	30 feet	30 feet
Side Yard	10 feet	10 feet
Rear Yard	25 feet	41.5 feet

<sup>1</sup>The subject parcel was created prior to the 1978 Zoning Ordinance (platted in 1949); therefore, although the parcel does not meet the Ordinance requirements, it is grandfathered as a legal, building lot under the provisions of Sect. 2-405 (Appendix 8)

**On-Site Parking and Site Circulation**

The applicant lives in a single-family detached dwelling with two tandem parking spaces, which will be reserved for pick-up and drop-off activities. Public, on-street parking is available along Westfall Place. The applicant’s assistants will park their vehicles on-street. Staff believes that sufficient parking is available for pick-up and drop-off activity for the home child care.

**Zoning Inspection Branch Report (Appendix 7)**

The Zoning Inspections Branch report is included in Appendix 6. During a site visit, it was determined that the vested shed in the rear yard had unused electrical wiring attached to the exterior. Since the inspection, the applicant has removed the wiring from the shed and provided photographs.

**Zoning Ordinance Requirements (Appendix 8)**

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-305 Additional Standards for Home Child Care Facilities
- Sect. 10-103 Par. 6 Location Regulations

**General Standards for Special Permit Uses (Sect. 8-006)**

<b>Standards 1 and 2</b> Comprehensive Plan/ Zoning District	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-4 District permits a home child care facility as an accessory use with special permit approval.
<b>Standard 3</b> Adjacent Development	No new construction is proposed. A 7 foot fence adequately screens the outdoor play area with moveable play equipment in the rear yard. In staff’s opinion, the

	proposed use will not hinder or discourage use or development of neighboring properties or value.
<b>Standard 4</b> Pedestrian/Vehicular Traffic	Arrival and departure times of the children are staggered, and the applicant has two designated spaces in the driveway for pick-up and drop-off of children. In staff's opinion, the proposed use is not hazardous with the proposed development conditions. Staff believes that the use will not conflict with existing and anticipated traffic in the neighborhood.
<b>Standard 5</b> Landscaping/Screening	There is an existing 7 foot tall privacy fence in the rear yard that provides screening to the outdoor play area.
<b>Standard 6</b> Open Space	There is no prescribed open space requirement in the R-4 District.
<b>Standard 7</b> Utilities, Drainage, Parking, and Loading	There are no changes to the utilities and drainage serving the property or use. The driveway is used for parking.
<b>Standard 8</b> Signs	Sect. 10-103 of the Zoning Ordinance prohibits signs for home child care facilities.

**Standards for all Group 3 Uses (Sect. 8-303)**

<b>Standard 1</b> Lot Size and Bulk Regulations	The existing lot is undersized for an R-4 zoning district. However, the parcel was platted in 1949, prior to the 1978 Zoning Ordinance, therefore it is grandfathered as a legal, building lot under provisions of Sect. 2-405.
<b>Standard 2</b> Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
<b>Standard 3</b> Site Plan	Home child care facilities are not subject to the provisions of Article 17, Site Plans.

**Additional Standards for Home Child Care Facilities (Sect. 8-305)**

<b>Standard 1</b> Maximum of 12 Children & Non-Resident Employee	The applicant is proposing a maximum of 12 children at any one time and a development condition would allow for up to two non-resident part time or full time assistants. Staff is recommending a maximum of 12 children.
<b>Standard 2</b> Access and Parking	Arrival and departure times of the children are staggered; and the applicant will leave the two driveway parking spaces open for parents to conduct pick-up and drop-off of children. The applicant and non-resident assistants will park their vehicles on-street.
<b>Standard 3</b> Landscaping/Screening	There is an existing 7 foot tall privacy fence in the rear yard that provides adequate screening to the outdoor play area.

<b>Standard 4</b> Submission Requirements	The application meets all submission requirements for a home child care facility.
<b>Standard 5</b> Code of Virginia, Title 63.2, Chapter 17	The applicant has a valid Family Day Home license through the Commonwealth of Virginia Department of Social Services.

### Use Limitations (Par. 6 of Sect. 10-103)

<b>Part A</b> Maximum Number of Children	The maximum number of children permitted by-right at any one time is seven in a single family detached dwelling. The applicant requests special permit approval to permit a maximum of 12 children at any one time. Staff believes that the applicant has adequate indoor and outdoor space to accommodate 12 children.
<b>Part B</b> Licensed Provider/Primary Residence	The applicant is a state and county licensed home child care provider and the subject property is the provider's primary residence.
<b>Part C</b> No Exterior Evidence Except Play Equipment	There is no exterior evidence of the proposed use except for play equipment and toys in the rear yard.
<b>Part D</b> Non-Resident Employee	A development condition would allow for up to two non-resident employees.
<b>Part E</b> Provider is a Resident	The provider is a resident.
<b>Part F</b> Code of Virginia, Title 63.2, Chapter 17	Chapter 30 of the Code of the County of Fairfax addresses home child care facilities and Title 63.2, Chapter 17 of the Code of Virginia addresses licensure and registration procedures. The applicant has a valid state home child care license.
<b>Part G</b> Increase in Children or Non-Resident Employee	The maximum number of children permitted by-right at any one time is seven in a single family detached dwelling and can be increased to up to 12 children with special permit approval. The applicant requests special permit approval to permit a maximum of 12 children at any one time and two non-resident employees. Staff recommends a maximum of 12 children at any one time.

### CONCLUSION / RECOMMENDATION

Staff believes that with adoption of the proposed development conditions the subject application is in conformance with the applicable Zoning Ordinance provisions.

Staff recommends approval of SP 2016-MA-047 for the home child care facility for a maximum of 12 children with the adoption of the proposed development conditions contained in Appendix 1.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Statement of Justification and Select File Photographs
3. Applicant's Affidavit
4. DTA Records
5. Similar Case History
6. State Family Day Home License
7. Zoning Inspections Branch Comments
8. Applicable Zoning Ordinance Provisions

## PROPOSED DEVELOPMENT CONDITIONS

### SP 2016-MA-047

September 7, 2016

If it is the intent of the Board of Zoning Appeals to approve SP 2016-MA-047 located at Tax Map 50-4 ((17)) 215 to permit a home child care facility pursuant to Sections 8-305 and 3-1203 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Dominga M. Tran, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 3033 Westfall Place, and is not transferable to other land.
2. This special permit is granted only for the home child care use indicated on the titled, "Plat Showing House Location On Lot 215, Section 3," prepared by Kenneth W. White, as revised by John Fitzpatrick on May 1, 2016, 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 and be made available to all departments of the County of Fairfax during the hours of operation of the home child care facility.
4. The hours of operation of the home child care facility shall be limited to 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 not exceed 12.
7. A maximum of two non-resident employees, 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., Monday through Friday.
8. Arrival and departure of children shall occur only in the two reserved spaces in the applicant's driveway. Drop-off and pick-up shall be staggered to ensure that the two parking spaces shall be available to accommodate pick-up/drop-off of children
9. There shall be no signage associated with the home child care facility.

10. Any portions of the dwelling associated with the home child care facility that are used as children's sleeping or rest areas 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 shall be of the dimension and side 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."

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.

FEB 12 2016

Zoning Evaluation Division

**STATEMENT OF JUSTIFICATION  
FOR A HOME CHILD CARE FACILITY**

DOMINGA MARCELINA TRAN  
MAMALINA HOME DAYCARE, LLC  
3033 Westfall Pl., Falls Church, VA 22042  
703-241-0990; [marcelintran@hotmail.com](mailto:marcelintran@hotmail.com)

February 5, 2016

Fairfax County Department of Planning and Zoning  
Zoning Evaluation Division  
12055 Government Center Parkway, Suite 801  
Fairfax, VA 22035

Re: Special Permit Application  
Applicant: Dominga M. Tran  
Zoning Ordinance: Section 8-305 for Home Child Care Facility and  
Section 8-004 of General Standards  
Tax Map #: 0504-17-0215  
Zoning District: R4  
Lot Size: 7,771 SQ. FT

To whom it may concern,

Please accept the following as my statement of justification for a special permit for a home child care facility in my home. I own and live in a single-family detached dwelling at 3033 Westfall Pl., Falls Church, VA with my two (2) children. The property is zoned R4 and I understand I need to seek approval of a special permit in order to operate a home child care facility within my home. I currently have a Fairfax County Permit (Attachment A) and State of Virginia license (Attachment B) which allows me to have seven (7) children in my care facility in my home. Below is information about my home child care facilities operations:

Hours: The child care will be open from 7:00AM to 6:00PM, Monday through Friday.

Number of Children: I currently care for approximately 5 children. I propose to care for a maximum of 12 children at any one time. This number does not include my own children.

Employees: I am currently working by myself. I propose to have one (1) assistant that will work full time and may possibly add an additional full or part-time assistant pending the number of children that we may be supervising. It is anticipated that a part time assistants would work between 1:00PM to 5:30PM (Depending on children schedule).

Arrival Schedule: Arrival times may vary by child/family, but I anticipated receiving into my care seven (7) children arriving between 7:00AM and 8:00AM and an additional five (5) arriving between 8:00M and 9:15AM. Employees typically will arrive between 7:00AM. See Attachment C for outlined anticipated schedule.

Departure Schedule: It is anticipated that five (5) of the children will be picked up between 2:45PM to 4:15PM, five (5) of the children between 5:00PM to 5:30PM, and two (2) at 6:00PM. See Attachment C for outlined anticipated schedule.

Parking: The house has with two (2) head-to-head parking spaces and ample street parking available for our clients. The first space next to the house will be reserved for employee parking. The second space will be for parent pick-up and drop-off. Employees will park on the street (not immediately in front of the house), or may take the bus which is conveniently located to the property. From time to time, parents do walk their children to my daycare.

Describe the Neighborhood: The daycare is located at 3033 Westfall Pl, Falls Church, VA in the Westlawn neighborhood and is surrounded by single family residences at the center of a horseshoe street.

Area Served: Currently, most of the children live in the general vicinity of my daycare in the Westlawn or Jefferson area neighborhoods. The daycare is conveniently located near Rt. 50 a few miles inside the Beltway and could serve commuting parents in and out of DC.

Operations: As I stated, my house is a two-story, vinyl sided single-family detached dwelling (See Attachment D – Layout) which was built in 2003. It has a front covered entrance to the first floor, which is where children will enter. The first floor of the house has multiple rooms which will be utilized in multiple functions throughout the day, but generally outlined as follows:

- A. Multi-Purpose Room – used for play time, napping, and snack/lunch.
- B. Utility Room: This is the Laundry room which is not to be used for activities.
- C. Kitchen: Used for preparation of snacks and lunch. A table for snacks may be set up next to the utility room door
- D. Seating Room: This room is used for snack/lunch, and as at table for crafts.
- E. Shelter: This windowless room is used as our shelter-in-place location in case of emergencies. It is also used for play activities.
- F. Bathroom 1: This room is the primary bathroom for children use.
- G. Bathroom 2: This room is an additional bathroom which will primarily be used by myself or assistants, but may also be used by children.
- H. Bedroom: This room is used primarily for nap time for infants. It may also be used as a playroom.
- I. Entry Room: This room shall be used for play, and napping.

- J. Exterior Rear Storage Building: The rear of the house has a storage building which children will not be allowed to access.
- K. Rear yard: This fenced in area is used for any outdoor play. See below.
- L. Stairs: Stairs are blocked and gated during the day to restrict access to the 2<sup>nd</sup> floor for children.
- M. 2<sup>nd</sup> Level: The bedrooms and bathroom on this level are used for sleeping, etc. for me and 2 children.
- N. Windows: Windows will not be opened during child care hours.

Outdoor Play Area: I use my back yard for outdoor play for the children. The fully fenced in backyard is approximately 2550 square feet. There is a wooden play house and a plastic play house with a slide. Also, there are other toys such as bicycles, push cars, and a sand box. There is an exterior rear storage building in this area which will not be utilized as part of the home day care facility.

Hazardous or Toxic Substances: The house and yard are free from hazardous or toxic substances. No hazardous materials will be generated, utilize, stored, treated, and/or disposed of onsite.

Zoning Ordinance Compliance: The home day care facility does conform to the provisions of all applicable ordinances, regulations, and adopted standards. No waivers, exceptions, or variances or modifications are requested as part of this application.

In conclusion, I am proposing no changes to the outside appearance house. I do not propose the addition of any signs regarding the daycare. Adequate parking is available for my parents, assistants, family, and neighbors. For these reason, I believe that my proposed home daycare facility will not impact my neighbors in any negative way and further request your approval for the special permit to allow a home day care facility at my residence.

Sincerely

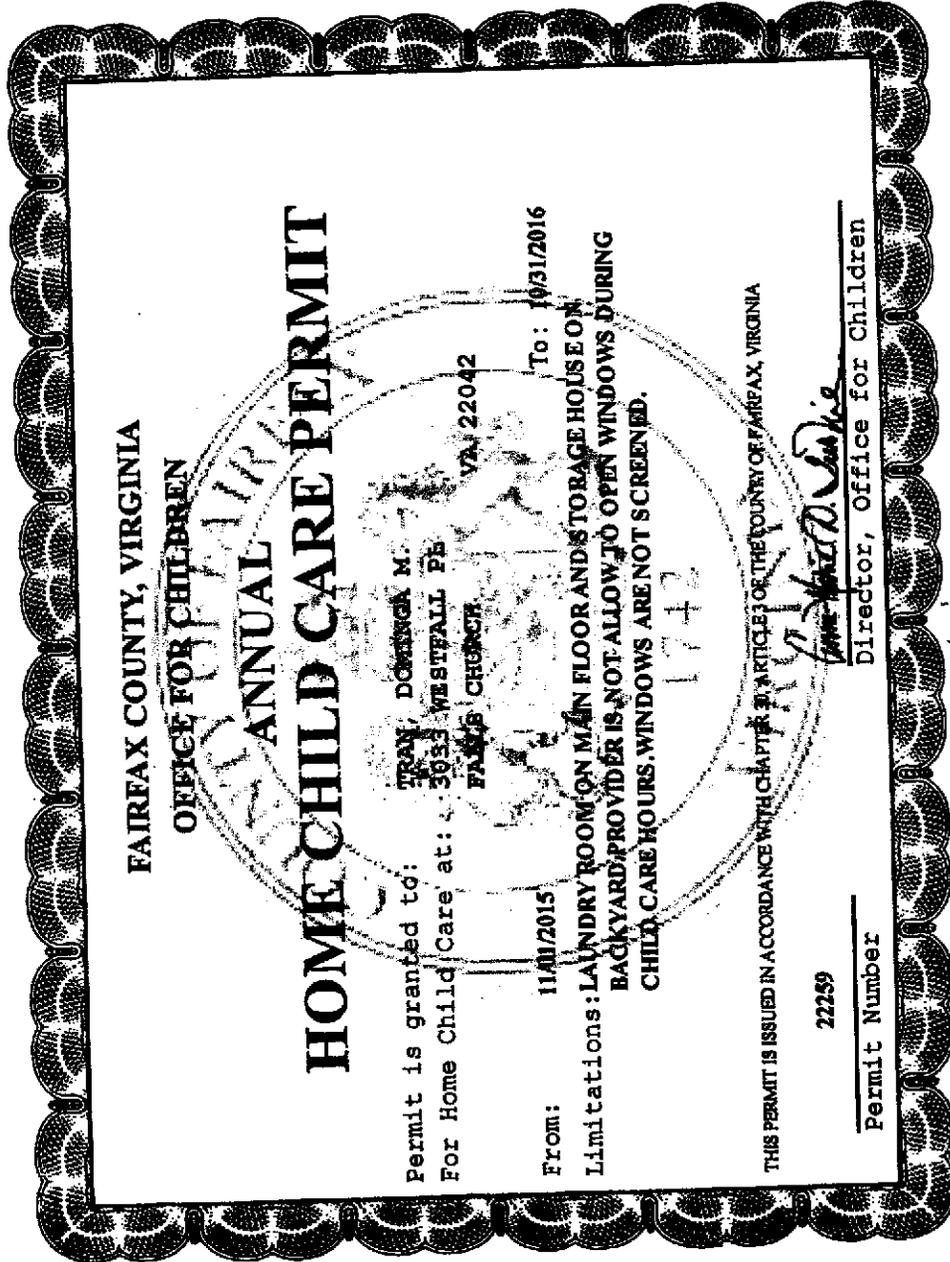
  
Dominga M. Tran

ATTACHMENT "A"

RECEIVED  
Department of Planning & Zoning

FEB 12 2016

Zoning Evaluation Division



FAIRFAX COUNTY, VIRGINIA  
OFFICE FOR CHILDREN

ANNUAL  
**HOME CHILD CARE PERMIT**

Permit is granted to:  
For Home Child Care at:

TRAY, DOMINICA M.  
3033 WESTFALL PL  
FAIRFAX CHURCH VA 22042

From: 11/01/2015

To: 10/31/2016

Limitations: LAUNDRY ROOM ON MAIN FLOOR AND STORAGE HOUSE ON  
BACKYARD PROVIDER IS NOT ALLOW TO OPEN WINDOWS DURING  
CHILD CARE HOURS. WINDOWS ARE NOT SCREENED.

THIS PERMIT IS ISSUED IN ACCORDANCE WITH CHAPTER 21, ARTICLE 1 OF THE CODE OF FAIRFAX, VIRGINIA

22259

Permit Number

*Ann Marie D. Sandice*  
Director, Office for Children

# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

*Richmond, December 1, 2015*

*This is to certify that the certificate of organization of*

**Mamalina Home Daycare LLC**

*was this day issued and admitted to record in this office and that the said limited liability company is authorized to transact its business subject to all Virginia laws applicable to the company and its business. Effective date: December 1, 2015*

*State Corporation Commission*

*Attest:*

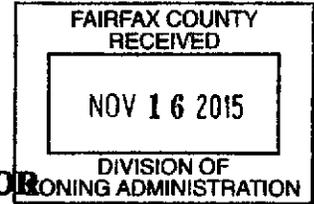
*Joel H. Beck*  
*Clerk of the Commission*



RECEIVED  
Department of Planning & Zoning

FEB 12 2016

Zoning Evaluation Division



**CONTACT WITH LOCAL ZONING ADMINISTRATOR**

2015-1560

THE FOLLOWING INDIVIDUAL PLANS TO SUBMIT AN APPLICATION FOR A LICENSE TO OPERATE A FAMILY DAY HOME PURSUANT TO § 63.2-100 OF THE CODE OF VIRGINIA

**To Be Completed by Operator of Family Day Home**

NAME OF APPLICANT Dominga Tran

PHYSICAL ADDRESS 3033 Westfall pl Falls church VA 22042  
STREET OR ROUTE NO. CITY STATE ZIP

APPLICANT'S TELEPHONE NUMBER: 703 241-0990 EMAIL ADDRESS: marcelintran@hotmail.com

THE HOME IS LOCATED IN THE COUNTY OR CITY OF Fairfax county

APPLICANT IS REQUESTING A LICENSE TO CARE FOR THE FOLLOWING NUMBER OF CHILDREN (NOT INCLUDING CHILDREN WHO RESIDE IN THE HOME): 12

**To Be Completed by Local Zoning Administrator**

THE ZONING ADMINISTRATOR'S SIGNATURE ON THIS FORM VERIFIES THAT THE APPLICANT HAS INFORMED THE ZONING ADMINISTRATOR OF HIS/HER PLANS TO APPLY FOR A LICENSE TO OPERATE A FAMILY DAY HOME AT THE ADDRESS ABOVE.

Tax Map # <u>50-4(17)215</u>	Parcel # <u>Westfall Sec 3 lot 215</u>	Zoning District <u>R-4</u>
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Cathy S. Belgin, AICP, Deputy Zoning Administrator  
Printed Name of Zoning Administrator

[Signature] 11/29/15  
Signature of Zoning Administrator Date

Telephone Number: 703-324-1314

Email Address: o.dalmin@fairfaxcounty.gov

**Comments:**

The property is zoned R-4 and is developed with a single family detached dwelling. Home child care is permitted by-right with a maximum of 7 children at any one time, exclusive of the provider's own children, and is subject to the attached use limitations set forth in Par. 6 of Sect. 10-103 of the Zoning Ordinance. The number of children being cared for may be increased up to a maximum of 12 with approval of a special permit by the Board of Zoning Appeals (BZA). There is no special permit pending or approved on the property, therefore 7 is the maximum number of children (exclusive of the provider's own children) that may be permitted to be cared for on the property at this time.

**Attachment C**

Proposed Arrival and Departure Schedule for: Mamalina Home Daycare, LLC

Address: 3033 Westfall Pl., Falls Church, VA 22042

Proposed Arrival Schedule:

Child	7:00 AM-7:45 AM	7:45AM-8:00AM	8:00AM-8:30AM	9:00AM-9:15AM
1	X			
2	X			
3	X			
4		X		
5		X		
6		X		
7		X		
8			X	
9			X	
10			X	
11				X
12				X

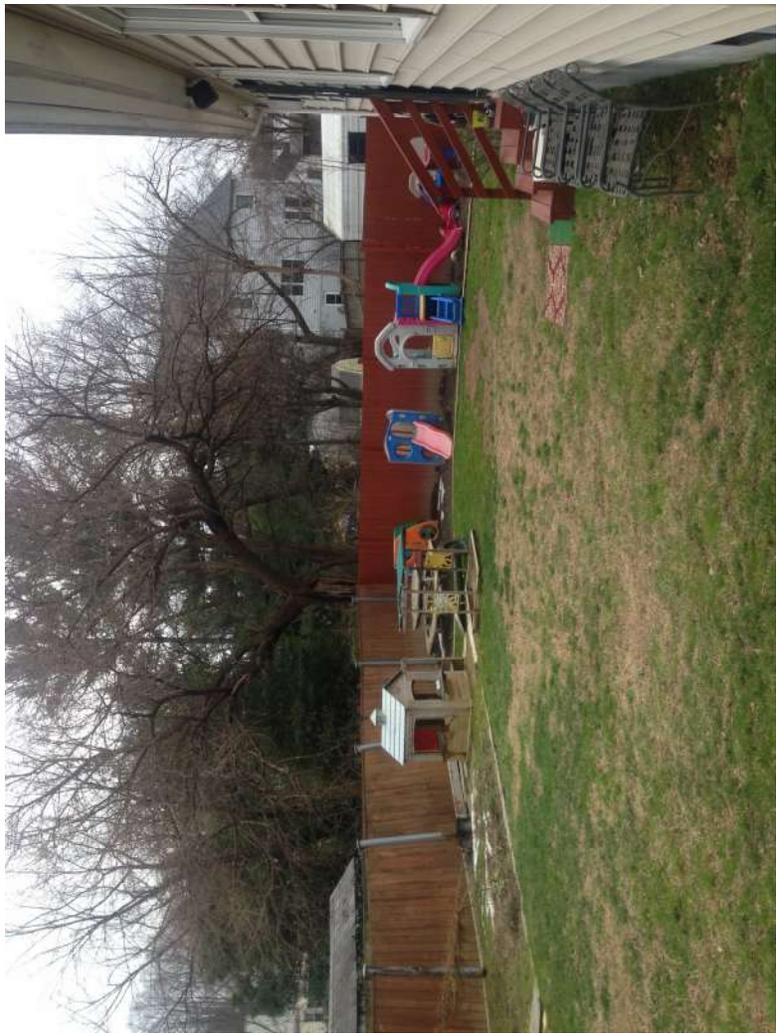
Proposed Departure Schedule:

Child	2:45PM-4:15PM	4:15PM-4:30PM	4:30PM-5:00PM	5:00PM-6:00PM
1	X			
2	X			
3		X		
4		X		
5		X		
6			X	
7			X	
8			X	
9				X
10				X
11				X
12				X









Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 03/08/2016  
(enter date affidavit is notarized)

I, DOMINGA M. TRAN, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)       applicant  
                          applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
DOMINGA M. TRAN	3033 WESTFALL PL FALLS CHURCH VA, 22042	APPLICANT
MAMALINA HOME DAYCARE LLC.	3033 WESTFALL PL FALLS CHURCH VA, 22042	CO-APPLICANT
THY D. TRAN		TITLE OWNER
LOC H. TRAN	3033 Westfall pl Falls Church VA, 22042	TITLE OWNER

(check if applicable)       There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.  
\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

133748

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 03/08/2016  
(enter date affidavit is notarized)

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

**(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)**

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

MAMALINA HOME DAYCARE LLC  
3033 WESTFALL PL  
FALLS CHURCH VA, 22042

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

DOMINGA M. TRAN

(check if applicable)  There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

133748

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 03/08/2016  
(enter date affidavit is notarized)

1(c). The following constitutes a listing\*\*\* of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

(check if applicable)  The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

N/A

(check if applicable)  There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

133748

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 03/08/2016  
(enter date affidavit is notarized)

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.



DTARED Work Card

050-4-171 (0215-

Ownership & Legal Description:

3033 WESTFALL PL FALLS CHURCH  
 Nbrhd: 23091  
 Owner: TRAN THY D

Legal:  
 WEST LAWN  
 LT 215 SEC 3

Tax District: 50100  
 Book/Page: 22502/1783

Assessment and Sales History:

	2014	2015	2016	Price	Validity Code
L:	159,000	159,000	164,000	08/20/2012	No consideration
I:	352,390	352,390	352,390	08/09/2012	No consideration
T:	511,390	511,390	516,390	04/13/2007	No consideration

General/Land:  
 LUC: 011  
 Zoning: 140  
 Location: buildable-average  
 Spot Loc:  
 Water: water connected

Sewer: sewer connected  
 Gas: gas available  
 Ext Infr: Problem Soil:  
 % Floodplain: 0

Topo 1:  
 Topo 2:  
 Topo 3:  
 Road 1: paved  
 Road 2:  
 Acres: .1784  
 Sq. Ft.: 7,771  
 L# Lnd Typ Code Sd

Main Bldg (9015)  
 29  
 35  
 36  
 37  
 38  
 39

35  
 Ft (465)  
 13  
 13

Total Parcel Size: 7,771 0.1784  
 Entr. Date: Insp code: Info Source: Rev ID:

Net Above Grade Liv Area: 2,577  
 Bldg Use: Single Dwelling or Patio House

Attic Type:  
 Cathedral Ceiling:  
 Unfinished Area:  
 Total Cathedral/Unfin:  
 Kitchen Remod Year:  
 Bath Remod Year:  
 Siding Upgrade Yr:  
 Windows Upgrade Yr:

Town End: 2003  
 Cost Model: 120  
 Story Ht: 2  
 Ext Walls: vinyl  
 Style: 02  
 Yr Bld: 1950  
 Efficr Built: 2003  
 Year Remod:

Main Bsm: none  
 Bsm Type:  
 Bsm Rec Room:  
 Bsm Dens/Bdms:  
 Heating/AC: central with a/c  
 HT Fuel Type: hot air  
 Heat Type: composition shing  
 Roof Type: Half Baths: 1

Addn Bath Fix:  
 Fireplaces:  
 Misc Features 1:  
 Misc Features 2:  
 Condo Total# Rooms:  
 Condo # Dens:  
 Dormer Type:  
 Dormer Area:

L#	Bsmt	1st	2nd	3rd	Area	% Comp	Value(RCN)	Year Built	Eff Year	Grade	Cond	Override	% Good	% Good
0					1,015		29,612						84	84
3		FR			455		1,041						84	84
4		OH			16		1,041						84	84
5			OH		16		1,692						84	84
6			OH		26		2,213						84	84
7			OH		34		5,290						84	84
8			OP		210								84	84

L#	Code	Yr Bld	Eff Yr	Yr Remod	W x D	Area Grd	Units	Rate	Ovrd Rte	RCN	Cnd	Funct	% Cmp	Override	% Gd	% Good Func	% Econ	Adj Fact	RCNLD Inc	RCNLD No
1	SD	1950			26 x 10	260 A	1	9.04		2,350	A	A	100		78			1	1,830	No

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## Similar Case History

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ZAPS - SP - SP 2011-MA-065

Application Desc ...: HOME CHILD CARE

APPLICATION  
APPROVED

# Commonwealth of Virginia

## DEPARTMENT OF



## SOCIAL SERVICES

### FAMILY DAY HOME LICENSE

Issued to:

Dominga Fran, d.b.a. Mamina Home Daycare LLC

Address:

3033 Westfall Place, Falls Church, Virginia 22042

This license is issued in accordance with provisions of Chapters 1, 17 and 18, Title 63.2, Code of Virginia and other relevant laws, the regulations of the State Board of Social Services and the specific limitations prescribed by the Commissioner of Social Services as follows:

CAPACITY	
	7
GENDER	AGE
Both	Birth through 10 years

This license is not transferable and will be in effect August 8, 2016 through August 7, 2017 unless revoked for violations of the provisions of law or failure to comply with the limitations stated above.

**ISSUING OFFICE:**

Virginia Department of Social Services  
Division of Licensing - Fairfax Licensing Office  
3701 Pender Drive, Suite 125  
Fairfax, VA 22030  
Telephone: (703) 934-1505

FDH-11090051154  
LICENSE NUMBER

MARGARET ROSS SCHULTZE

COMMISSIONER OF SOCIAL SERVICES

By

*Jennifer H. Sallie*  
Jennifer H. Sallie

Title

LICENSING ADMINISTRATOR

Date

August 10, 2016



# County of Fairfax, Virginia

## MEMORANDUM

Date: June 20, 2016

To: Frances Dowd, Staff Coordinator  
Zoning Evaluation Division

From: *MJS* Mavis Stanfield  
Deputy Zoning Administrator/Chief Zoning Inspector  
Zoning Inspection Branch

Subject: Home Child Care – SP 2016-MA-047, Dominga M. Tran/Mamalina Home Daycare, LLC

Reference: 3033 Westfall Place, Falls Church, Virginia 22042  
West Lawn, Section 3, Lot 215  
Tax Map Ref.: 50-4 ((17)) 215  
Zoning District: R-4  
Magisterial District: Mason  
ZIB Ref.: 2016-0140  
Date of Inspection: June 6, 2016

The following violation was noted during the inspection conducted on June 6, 2016.

1. Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.

**The storage structure located in the southeastern corner of the rear yard is fitted with unpermitted wiring. It is recommended that the applicant either remove the wiring or obtain building permit and final approval for the wiring.**

## **2-405 Permitted Reduction in Lot Size Requirements for Certain Existing Lots**

1. If a lot was recorded prior to March 1, 1941, or if a lot was recorded prior to the effective date of this Ordinance, and said lot met the requirements of the Zoning Ordinance in effect at the time of recordation, then such lot, either as a single lot or in combination with other such lots pursuant to a Building Permit, may be used for any use permitted in the zoning district in which located under this Ordinance even though the lot(s) does not meet the minimum district size, lot area, lot width and/or shape factor requirements of the district, provided all other regulations of this Ordinance can be satisfied.

This provision shall not apply to any such lot which, subsequent to the effective date of this Ordinance, is rezoned at the request of the owner or his agent or is subdivided by the owner or his agent, except for:

- A. A subdivision resulting from a voluntary dedication by the owner or a condemnation or acquisition of a portion thereof for public purposes by any governmental agency; or
  - B. A subdivision for a minor adjustment of lot lines, which may be permitted by the Director in accordance with Chapter 101 of The Code and the following:
    - (1) Such subdivision shall only be to consolidate land area of contiguous lots, or to rearrange lot lines in order to reallocate land area between contiguous lots such that the reconfigured lots contain either the same lot area as existed prior to the adjustment of the lot lines or a greater area than existed prior to the adjustment of the lot lines which results in a reduced number of lots; and
    - (2) There shall be no additional lots or outlots created, no increase in the maximum density and the resultant lot lines shall not create any new or aggravate any existing noncompliance with regard to minimum lot area, lot width, shape factor or minimum yard requirements.
2. A lot that did not meet the requirements of the Zoning Ordinance in effect at the time of recordation may be used for any use permitted in the zoning district in which located under this Ordinance, even though such lot does not meet the minimum district size, lot area, lot width and/or shape factor requirements of the district, provided that:
    - A. The lot is described or depicted in a metes and bounds description or on a subdivision plat not approved by the County, which description or plat was

recorded among the land records of Fairfax County prior to March 25, 2003; and

- B. The lot described in the metes and bounds description or on the unapproved plat was identified as a separate lot on the Fairfax County Real Property Identification Map and was taxed as a separate parcel on or before March 25, 2003; and
- C. The lot contained a principal structure on March 9, 2004 that was:
  - (1) Occupied or had been occupied at any time within five (5) years prior to March 9, 2004; or
  - (2) Under construction pursuant to a Building Permit and a Residential or Non-Residential Use Permit is issued within twelve (12) months after March 9, 2004 and
- D. Except for the minimum district size, lot area, lot width and shape factor requirements of the district, all other regulations of this Ordinance shall be satisfied, including but not limited to the bulk and permitted use regulations of the zoning district in which located.

## **8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

**8-303 Standards for all Group 3 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

**Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
  - A. The dimensions, boundary lines and area of the lot or parcel.
  - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
  - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
  - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

## **Sect. 10-103 Use Limitations**

6. The following use limitations shall apply to home child care facilities:

- A. The maximum number of children permitted at any one time shall be as follows:
  - (1) Seven (7) when such facility is located in a single family detached dwelling.
  - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.

- B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation. Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.
- C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
- D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
- E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.