

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday September 20, 2023. The following Board Members were present Vice Chairman James R. Hart; Daniel Aminoff; Rebecca Ballo; Donte Tanner; and Thomas W. Smith III. Chairman John F. Ribble III and Karen L. Day were absent from the meeting. There was one vacancy on the Board. Mr. Smith acted in his capacity as the alternate meeting for the entirety of the meeting.

Vice Chairman Hart called the meeting to order at 9:00 a.m. He asked if there were any Board Matters to bring before the Board. As there were no Board Matters, he then discussed the policies and procedures of the Board of Zoning Appeals. Vice Chairman Hart called for the first scheduled case.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Bogle Telegraph Road Associates L.P., A 2019-LE-021 Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that the appellant has allowed 9 sea containers to be located on the property, including one located in the minimum required front yard, without site plan approval; has allowed the construction of a 600 square foot office structure without building permits or site plan approval; has allowed the conversion of 1800 square feet of an accessory structure (lumber shed) to an office/warehouse without building permits or site plan approval; and has allowed the construction of a 400 square foot roof overhang without building permits, all in violation of Zoning Ordinance provisions. Located at 6404 Telegraph Road, Alexandria, VA 22310, on approx. 67,954 sq. ft. of land zoned C-8, in Lee District Tax Map 82-3 ((4)) 2B. (.Admin. moved from 3/4/2020 at appl. req, and 6/3/2020 due to meeting cancellation for incorrect ads.) (Deferred from 7/8/2020 at staff's req.) (Continued from 10/28/2020, 4/7/2021, 6/30/2021, 10/27/21, 6/8/2022, 9/28/2022, /11/2023, and 5/10/2023).

Vice Chairman Hart noted that application A 2019-LE-021 had been withdrawn by the appellant.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Jacqueline Bach and Quang Bach, SP-2023-PR-00006 to permit an increase in fence height in a front yard. Located at 2429 Rockbridge St., Vienna, 22180 on approx. 10,550 sq. ft. of land zoned R-3. Providence District. Tax Map 39-3 ((16)) 133.

Vice Chairman Hart noted that application SP-2023-PR-00006 had been withdrawn by the appellant.

//

~ ~ ~ September 20, 2023, Scheduled case of:

North American Islamic Foundation, A 2021-DR-011, Appeal of a determination that the appellant is operating a place of worship without a valid Non-Residential Use Permit (Non-RUP), in violation of Zoning Ordinance provisions. Located at 13515 Dulles Technology Drive, Suite 1, Herndon, Virginia 20170, on approx. 0 ac. of land, in a condominium consisting of 12,801 square feet of gross floor area zoned I-4, Dranesville District, Tax Map 16 3((19)) (C2)1. (Admin. move from 10/06/2021, 3/23/2022, 6/8/2022, and 9/28/2022)(Deferred from 3/29/2023, 5/24/2023, and 7/26/2023)

The participants in the hearing were as follows:

- Sara Morgan, Chief, Special Permit and Variance Branch
- Robert Brant, Agent for the Applicant

After the hearing where public testimony was presented by Mr. McMahan, Mr. Krasner, and Mr. Mitchem, with no testimony from the public, Mr. Aminoff moved to approve SP-2022-BR-00184 stating that the criteria for a variance had not been met. Mr. Tanner seconded the motion, which carried by a vote of 4-1. Ms. Ballo voted against the motion.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Douglas A. Cohn and Kathryn J. Cohn, SP-2023-DR-00026 to permit a detached accessory living unit. Located at 6601 Georgetown Pike, McLean, 22101 on approx. 2.4 acres of land zoned R-1. Dranesville District. Tax Map 21-4 ((1)) 20A..

Vice Chairman Hart noted that application SPA-78-S-276-03 had been administratively moved to November 15, 2023.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Nandor Szuprics and Erika B. Szuprics, SP-2022-BR-00184 to permit a reduction to the minimum setback requirements based on an error in building location to permit an open deck to remain 4.8 ft. from the rear lot line. Located at 4800 Treasure Ct., Fairfax, 22032 on approx. 2,325 sq. ft. of land zoned R-20. Braddock District. Tax Map 68-2 ((5)) 2136. (Deferred from and 3/29/2023) (Continued from 6/14/2023) (Admin moved from 7/12/2023)

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Johnathan Mitchem, Agent for the Applicants

After the hearing where public testimony was presented by Mr. McMahan, Mr. Krasner, and Mr. Mitchem, with no testimony from the public, Mr. Aminoff moved to approve SP-2022-BR-00184 stating that the criteria for a variance had not been met. Mr. Tanner seconded the motion, which carried by a vote of 4-1. Ms. Ballo voted against the motion.

//

**COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS**

Nandor Szuprics and Erika B. Szuprics, SP-2022-BR-00184 to permit a reduction to the minimum setback requirements based on an error in building location to permit an open deck to remain 4.8 ft. from the rear lot line. Located at 4800 Treasure Ct., Fairfax, 22032 on approx. 2,325 sq. ft. of land zoned R-20. Braddock District. Tax Map 68-2 ((5)) 2136. Mr. Aminoff 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 20, 2023; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-20.
3. The area of the lot is 2,325 square feet.

4. The applicant might have been taken advantage of his contractor.
5. It would be hard for a homeowner to know what the requirement is, and the deck was built like for like.
6. The deck appears to be of good quality, and is not causing any safety hazard.
7. The applicant has read, understands, and concurs with the proposed development conditions.

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

THAT the applicant has presented testimony indicating compliance with Sects. 5100.2.D(11)(d), Provisions for BZA Authorized Reductions in Setback Requirements Based on an Error in Building Location, the Board has determined:

- A. The error exceeds ten percent of the applicable measurement, or
- B. The error is up to ten percent of the applicable measurement and the reduction or modification is requested in conjunction with the approval of another special permit or application for a variance on the property, and
- C. The noncompliance was done through no fault of the property owner, or was the result of an error in the relocation of the building after the issuance of a building permit, if one was required, and
- D. It 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 regarding other properties or public streets, and
- G. Compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship, and
- H. It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This special permit is approved for the location of the existing open deck as shown on the plat, entitled "Plat Showing the Improvements on Lot 2136, Section 29, Kings Park West," as prepared by George M. O'Quinn, Land Surveyor of Dominion Surveyors, Inc., dated May 2, 2022, as submitted with this application and is not transferable to other land.
2. The applicant must obtain all required trade permits and pass final building inspections for the existing open deck which is the subject of this special permit, within 120 days of approval of this special permit.
3. The subject deck must be maintained in good condition at all times or otherwise brought into compliance with the Ordinance.
4. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
5. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

Mr. Tanner seconded the motion, which carried by a vote of 4-1. Ms. Ballo voted against the motion.

//

~ ~ ~ September 13, 2023, Scheduled case of:

Nabaraj Parajuli and Gayatra Parajuli, SP-2022-MA-00097 Reduction in setback requirements to permit an addition 20.1 feet from the rear lot line and a reduction in setback requirements based on an error in building location to allow an accessory structure (shed) 5.2 feet from the northwest side lot line to remain. Located at 3116 Cofer Rd., Falls Church, 22042 on approx. 10,097 sq. ft. of land zoned R-3. Mason District. Tax Map 50-4 ((20)) 243. (Continued for information from 5/10/2023, and continued from 6/7/2023 for ad language change)

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Nabaraj Parajuli, Applicant

After the hearing where public testimony was presented by Mr. Isaiah, Mr. Krasner, and Mr. Parajuli, with no testimony from the public, Mr. Smith moved to approve SP-2022-MA-00097 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 5-0.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Nabaraj Parajuli and Gayatra Parajuli, SP-2022-MA-00097 To permit a reduction in setback requirements to permit an addition 20.1 feet from the rear lot line and a reduction in setback requirements based on an error in building location to allow an accessory structure (shed) 5.2 feet from the northwest side lot line to remain. Located at 3116 Cofer Rd., Falls Church, 22042 on approx. 10,097 sq. ft. of land zoned R-3. Mason District. Tax Map 50-4 ((20)) 243. 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 September 20, 2023; and

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

8. The applicants are the owners of the land.
9. The present zoning is R-3.
10. The area of the lot is 10,097 square feet.
11. The shed was built in the 1990s.
12. The former playhouse has been removed.
13. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the standards for the Reduction of Setback Requirements as contained in Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the Board has determined that:

1. The application meets all the submission requirements set forth in Sect. 8101.3.
2. A. The resulting gross floor area of the addition to the existing principal structure is not greater than 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. If a portion of the single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction will be removed;

B. The resulting gross floor area of the existing accessory structure and any addition to it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
3. The proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development.
4. The proposal does not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
5. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

AND THAT the applicant has presented testimony indicating compliance with Sects. 5100.2.D(11)(d), Provisions for BZA Authorized Reductions in Setback Requirements Based on an Error in Building Location, the Board has determined:

- I. The error exceeds ten percent of the applicable measurement, or
- J. The error is up to ten percent of the applicable measurement and the reduction or modification is requested in conjunction with the approval of another special permit or application for a variance on the property, and
- K. The noncompliance was done through no fault of the property owner, or was the result of an error in the relocation of the building after the issuance of a building permit, if one was required, and
- L. It will not impair the purpose and intent of this Ordinance, and
- M. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- N. It will not create an unsafe condition regarding other properties or public streets, and
- O. Compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship, and
- P. It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. These conditions must be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Development.

2. This special permit is approved for the location of the rear addition and shed as shown on the plat, entitled "*Special Permit Application Plat, Lot 243, Section Two, Belair,*" prepared by CAP Land Surveying, PLLC, dated April 12, 2022 and revised through June 6, 2022, as submitted with this application and is not transferable to other land.
3. The shed must be maintained in good condition at all times or otherwise brought into compliance with the Ordinance.
4. The applicant must apply for and obtain approval of a Resource Protection Area (RPA) exception for a minor addition from the Site Development and Inspections Division, Land Development Services within 180 days of approval of this special permit.
5. The applicant must apply for all applicable building permits for the rear addition, including but not limited to framing and electrical, and pass final inspection within 180 days of approval of this special permit.
6. The applicant must remove all materials associated with the demolished playhouse within 30 days of approval of this special permit.
7. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
8. Pursuant to Sect. 8100.4.D(6) this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

Mr. Tanner seconded the motion, which carried by a vote of 5-0.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Jaelen A. Gadson and Alaina J. Gadson, SP-2023-MV-00044 to permit modifications to the provisions on the limitations for the keeping of animals (chickens). Located at 8810 Falkstone Ln., Alexandria, 22309 on approx. 15,238 sq. ft. of land zoned R-2. Mount Vernon District. Tax Map 110-1 ((20)) (13) 2.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Brandon Lesko, Staff Coordinator
- Jaelen Gadson, Applicant
- Public Speakers
 - Donna Ettenger
 - Carmen Longoria Green

After the hearing where public testimony was presented by Mr. Lesko, Mr. Krasner, and Ms. Vaught, with testimony from the public speakers listed above, Mr. Tanner moved to approve SP-2023-MV-00044 for the reasons stated in the Resolution. Mr. Smith seconded the motion, which carried by a vote of 5-0.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Jaelen A. Gadson and Alaina J. Gadson, SP-2023-MV-00044 to permit modifications to the provisions on the limitations for the keeping of animals (chickens). Located at 8810 Falkstone Ln., Alexandria, 22309 on approx. 15,238 sq. ft. of land zoned R-2. Mount Vernon District. Tax Map 110-1 ((20)) (13) 2. Mr. Tanner 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 20, 2023; and

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

14. The applicants are the owners of the land.
15. The present zoning is R-2.
16. The area of the lot is 15,238 square feet.
17. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

If it is the intent of the Board of Zoning Appeals to approve SP 2023-MV-00044 located at Tax Map 11-1((20))(13) 2 to permit the keeping of up to 10 hen chickens pursuant to Sect. 41027.7.J(7)(a) of the Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is granted only for the keeping of hen chickens as indicated on the plat titled "Showing House Location, Lot 2, Block 13, Section 1, Mount Vernon Manor," prepared by George O'Quinn on April 22, 2022, consisting of one sheet, and approved with this application, as qualified by these development conditions.
2. This approval is for a maximum of six (6) hen chickens. No roosters are permitted.
3. The chickens must remain in a fenced in area at all times.
4. Waste and soiled bedding material from the chicken coop and run must be removed weekly and either disposed of with household trash or composted in an enclosed bin to minimize odors and allow for the complete breakdown of organic matter prior to the resulting compost being used on-site. The enclosed compost bin must be located as identified on the special permit plat.
5. The applicants are responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments, or other encumbrances to title affecting the subject property, shown, or not shown, on the approved special permit/variance plat, as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
6. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

Mr. Smith seconded the motion, which carried by a vote of 5-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as an alternate member.

//

Ms. Day assumed the Chair.

Mr. Hart moved that the Board recess and enter into Closed Session for consultation with legal counsel and/or briefings by staff members and consultants regarding litigation in Re: February 2, 2022 decision of the Board of Zoning Appeals of Fairfax County, Virginia, Washington Gas Light Company plaintiff versus Christine Chen Zinner, Consolidated Cases numbers CL 2022-2942 and CL 2022-3061 in the Circuit Court of Fairfax County pursuant to Virginia Code Ann. Sec. 2.2-3711 (A) (7) (LNMB Supp. 2002), and pursuant to that same statute, BZA by-laws. Mr. Smith seconded the motion, which carried by a vote of 5-0.

The meeting recessed at 9:59 a.m. and reconvened at 10:24 a.m.

Mr. Hart then moved that the Board of Zoning Appeals certify that, to the best of its knowledge, only public business matters lawfully exempted from the open meeting requirements prescribed by the Virginia Freedom of Information Act and only matters identified in the motion to convene Closed Session were heard, discussed, or considered by the Board during the Closed Session. Mr. Aminoff seconded the motion, which carried by a vote of 5-0.

Mr. Hart then moved that the Board authorize Mr. Crim to take the actions discussed in the Closed Session. Mr. Aminoff seconded the motion, which carried by a vote of 5-0.

Vice Chairman Hart resumed the Chair.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Farzaneh Hajiaghabozorgi and Nini Daycare LLC, SP 2022-BR-00177 to permit a home day care facility. Located at 5002 Wheatstone Dr., Fairfax, 22032 on approx. 13,167 sq. ft. of land zoned R-2 (Cluster). Braddock District. Tax Map 68-4 ((6)) 871.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Farzaneh Hajiaghabozorgi, Applicant
- Nima Hajiaghabozorhi, Applicant's Son

After the hearing where public testimony was presented by Mr. McMahan, Mr. Krasner, Mr. Hajiaghabozorhi, and Ms. Hajiaghabozorgi, which was then followed by testimony of the above referenced speakers, Ms. Ballo moved to approve SP 2022-BR-00177 for the reasons stated in the Resolution. Mr. Smith seconded the motion, which carried by a vote of 5-0.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Farzaneh Hajiaghabozorgi and Nini Daycare LLC, SP 2022-BR-00177 to permit a home day care facility. Located at 5002 Wheatstone Dr., Fairfax, 22032 on approx. 13,167 sq. ft. of land zoned R-2 (Cluster). Braddock District. Tax Map 68-4 ((6)) 871. Ms. Ballo 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 20, 2023; 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-2 (Cluster).
3. The area of the lot is 13,167 square feet.
4. The area where the children will be cared for has passed all required building inspections.
5. The yard and facilities are in great condition.
6. There are no other issues with the operator or the property.
7. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This special permit is granted to the applicants, Farzaneh Hajiaghabozorgi and Nini Daycare LLC, only, and is not transferable without further action of the Board of Zoning Appeals, and is for the location indicated on the application, described as 68-4 ((6)) 871, and addressed at 5002 Wheatstone Drive, Fairfax 22032, and is not transferable to other land.
2. This special permit is granted for the home day care use at the property shown on the special permit plat, entitled "Plat Showing the Improvements on Lot 871, Section 12, Kings Park West," as prepared by George M. O'Quinn, Land Surveyor of Dominion Surveyors Inc., dated June 29, 2023 and revised on August 18, 2023.
3. A copy of this Special Permit must be posted in a conspicuous place on the property.
4. The hours of operation of the home day care facility are limited to 7:30 a.m. to 5:00 p.m., Monday through Friday.
5. The dwelling that contains the day care facility must 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 must not exceed 12.
7. There must be no signage associated with the home day care facility.
8. A maximum of two non-resident employees, whether paid or not for their services, may be involved in the home day care facility at any one time. The home day care facility must be operated in strict accordance with 22 VAC 40-111-570 staffing requirements.
9. The drop-off and pick-up of children must take place within the driveway of the subject property. The driveway must be kept clear and open during the hours of operation of the home day care facility for this purpose.
10. Any portions of the dwelling associated with the home day care facility that are used as a children's sleeping or rest area must 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 must 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 day care facility.
12. The day care facility must be operated in accordance with Chapter 30 of the Fairfax County Code, entitled "Minimum Private School and Child Care Facility Standards."
13. The home day care must operate only in the basement level kitchen area, play area, toddler room, infant room, hallway, entrance area, laundry room, and bathroom as shown on the floor plan and plat submitted with this application.
14. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
15. Pursuant to Sect. 8100.4.D(6)(a) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

Mr. Smith seconded the motion, which carried by a vote of 5-0.

//

~ ~ ~ September 20, 2023, Scheduled case of:

Sara Marie Burke dba BAMB: Burke Academy Mentoring Minds, SP-2023-BR-00013 to permit a home day care facility. Located at 6709 Caneel Ct., Springfield, 22152 on approx. 25,497 sq. ft. of land zoned R-3. Braddock District. Tax Map 89-2 ((2)) 24.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Sara Burke, Applicant

After the hearing where public testimony was presented by Mr. McMahan, Mr. Krasner, Mr. Hemphill, and Ms. Hemphill, with no testimony from the public, Mr. Aminoff moved to approve SP-2023-BR-00013 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 5-0.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Sara Marie Burke dba BAMB: Burke Academy Mentoring Minds, SP-2023-BR-00013 to permit a home day care facility. Located at 6709 Caneel Ct., Springfield, 22152 on approx. 25,497 sq. ft. of land zoned R-3. Braddock District. Tax Map 89-2 ((2)) 24. Mr. Aminoff 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 20, 2023; 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 25,497 square feet.
4. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This special permit is granted to the applicant, Sara Marie Burke dba BAMB: Burke Academy Mentoring Minds, only, and is not transferable without further action of the Board of Zoning Appeals, and is for the location indicated on the application, described as 89-2 ((2)) 24, and addressed at 6709 Caneel Court, Springfield 22152, and is not transferable to other land.
2. This special permit is granted for the home day care use at the property shown on the special permit plat, entitled "Special Permit Plat, #6709 Caneel Court, TM #89-2 ((2)) 24, Lot 24, Section 4, West Springfield," as prepared by Michael L. Flynn, Land Surveyor, dated January 19, 2023, consisting of one sheet.
3. A copy of this Special Permit must be posted in a conspicuous place on the property.
4. The hours of operation of the home day care facility are limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
5. The dwelling that contains the day care facility must 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 must not exceed 12. Pursuant to Sect. Sect. 4102.7.1 .2, the applicant must be present on site during the hours of operation of the day care facility, except as permitted by the Ordinance.
7. There must be no signage associated with the home day care facility.
8. Any advertising on vehicles for the home day care facility must be removed when such vehicles are parked either onsite or adjacent to the home day care facility on Caneel Court.
9. A maximum of two non-resident employees, whether paid or not for their services, may be involved in the home day care facility. The home day care facility must be operated in strict accordance with 22 VAC 40-111-570 staffing requirements.
10. The drop-off and pick-up of children must take place within the driveway of the subject property. The driveway must be kept clear and open during the hours of operation of the home day care facility for this purpose.
11. Any portions of the dwelling associated with the home day care facility that are used as a children's sleeping or rest area must 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 must be of the dimension and size specified by the Virginia Uniform Statewide Building Code.
12. 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 day care facility.

13. The day care facility must be operated in accordance with Chapter 30 of the Fairfax County Code, entitled "Minimum Private School and Child Care Facility Standards."
14. The home day care must operate only in the first floor entry way, kitchen, dining room, living room, hallway, and bathroom, and the basement level family room, art room, hallway, bathroom, and closet as shown on the floor plan and plat submitted with this application.
15. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
16. Pursuant to Sect. 8100.4.D(6)(a) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

Mr. Tanner seconded the motion, which carried by a vote of 5-0. .

//

The meeting recessed at 11:58 a.m. and reconvened at 12:16 p.m.

//

~ ~ ~ September 20, 2023, After Agenda Item:

Approval of March 1, 2023, March 8, 2023, March 15, 2023, and March 22, 2023 Minutes.

Approval of March 29, 2023, April 19, 2023, and April 26, 2023 Minutes.

Vice Chairman Hart noted the following corrections to the minutes dated March 29, 2023

- Page 4 "gaslight" should be two words;
- Correct spelling for Cristine Chen Zinner.

Mr. Tanner moved to approve above mentioned minutes. Mr. Aminoff seconded the motion, which carried by a vote of 5-0.

//

As there was no other business to come before the Board, the meeting was adjourned at 11:29 a.m.

Minutes by: Keisha Strand

Approved on:

Keisha Strand, Clerk
Board of Zoning Appeals

John F. Ribble III, Chairman
Board of Zoning Appeals