




STAFF REPORT COVER SHEET

November 1, 2018

Addresses:	108 Yeonas Cir SE	Case Number:	PF-50-18-CUP
Public Meeting Date:	11/13/2018	Applicant:	Happy Younglings Family Daycare
Board/Commission:	Board of Zoning Appeals	Owners:	Tania Giviani-Faris & Kambiz Faris
Application Date:	September 4, 2018	Existing Zoning:	RS-10
Deadline for Action:	December 3, 2018; BZA Action required 90 days from app. date	Existing Land Use:	Low Density Residential
Brief Summary of Request:	Board of Zoning Appeals approval of a conditional use permit for a Family Day Home for a maximum of ten (10) children		
Site Improvements:	n/a		
Size of Property:	30,171 square feet/0.69 acres		
Public Notice Requirements:	<ul style="list-style-type: none">- Written notice given to the applicant by registered mail.- Placard sign on property advertising the application and meeting date to the Board of Zoning Appeals.- Advertisement of the Board of Zoning Appeals application and hearing date once a week for two successive weeks in a newspaper having a paid general circulation in the Town		
Staff Recommendation:	Recommend Approval to Board of Zoning Appeals		
Brief Analysis			
<p>PROPERTY HISTORY</p> <p>The applicant has operated a home daycare at this location for over 9 years. They received a Home Occupancy Permit on March 1, 2013 for "Occupancy for a home childcare to allow seven (7) children plus one (1) preschooler not to exceed eight (8) children – preschooler meaning to be involved in some other schooling program that is off the premises during some portion of the work week".</p> <p>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</p> <p>One of the Economic Development indicators listed in the Comprehensive Plan (Page 55) is "Growth in business licenses, including home businesses." Home daycares are considered a home business.</p> <p>COMPATIBILITY WITH THE ZONING ORDINANCE</p> <p>The Town of Vienna's Zoning Ordinance is silent on regulations for family day homes. In June 2013, the Zoning Administrator made a determination for family day homes in accordance with State and Fairfax County regulations at the time. Although the applicant received a home occupancy permit for 8 children, any family day homes caring for more than 7 but no more than 12 children in a residential home requires CUP approval.</p>			
Attachments:	Application <input checked="" type="checkbox"/> Site Plan/Plat <input checked="" type="checkbox"/> Justification Statement <input checked="" type="checkbox"/> Home Occupancy Permit <input checked="" type="checkbox"/> Letters from Neighbors and Parents <input checked="" type="checkbox"/> Zoning Determination Memo - Family Day Home <input checked="" type="checkbox"/> Memo from Planning Commissioner Chair <input checked="" type="checkbox"/> Applicant's Follow-up Letter to Neighbors <input checked="" type="checkbox"/>		
Reviewed By:	Frank Simeck, CZA, Zoning Administrator		

ITEM NO. 1:

Consideration by the Board of Zoning Appeals for a conditional use permit to establish a family day home up to ten (10) children on property located at 108 Yeonas Circle SE, in the RS-10, Single-Family Detached Residential zone. Application filed by Tania Giviani-Faris and Kambiz Faris, owners.

Introductory Comments & Background:

The property was purchased by the applicants in July 2008 and they have been operating a family day home business at this location since 2009. The applicants applied for and received a home occupation permit in March 2013 to care for seven (7) children plus one (1) preschooler that is off premises for some portion of the week.

The childcare operation is primarily located in the lower level of the split level home with a full bathroom and small wet bar area immediately adjacent to the play area for use for the daycare. The total indoor space used for the home child care is 1,200 square feet. The property has a large fenced back yard, 15,000 – 20,000 square feet, with play equipment for the child care.

The applicants have stated the drop-offs and pick-ups are staggered from 7:30 am to 6:00 pm. The applicants identified seven (7) to eleven (11) available parking spaces for short term parking between the driveway and on-street parking on the cul-de-sac. Staff notes that the applicants were approved in August 2018 for a 9' wide by 30' long driveway expansion to increase the available parking on site from three cars to five. The driveway is complete and reflected on the updated plat.

There are currently two employees assisting the homeowner with the business at different times. One employee assists the applicant between 7:30 am and 3 pm and the other is part-time working 3 pm to 6 pm.

Current Proposal:

According to the submittal documents, there are no proposed changes to the existing residence or surrounding yard, only the number of children cared for on a daily basis being increased from eight (8) to ten (10). The applicants also stated the use of one full-time employee and one part-time employee, which is beyond what is allowed for home occupancy permits as stated in the code. The business also utilizes more than 25% of the gross livable floor area including the basement as allowed under home occupancy permits.

Required Commission/Board approvals:

A June 2013 Zoning Administrator's determination found that the family day home serving up to 12 children does not meet the home occupancy provision as established at § [18-173-Home](#)

[occupation](#) of the Vienna Town Code and a conditional use permit is required (in accord with the provisions of § [18-31](#) – and by reference from § [18-13](#)).

Review of the application (as established at §§ [18-209:216](#) of the Vienna Town Code) requires initial consideration and recommendation by the Planning Commission and a subsequent public hearing with sworn testimony before the Board of Zoning Appeals where the application will be acted upon.

The Town of Vienna Code of Ordinances (Article 21. § 18-31) states conditional use permits must have a decision by the Board of Zoning Appeals within 90 days of the application.

Relevant Regulations:

Sec. 18-173. Home occupation.

In any residential zone a home occupation is permitted, including the use of the home as an office, provided that the occupation complies with all the following conditions:

- A. Is operated in its entirety within the single unit dwelling and only by the person maintaining a dwelling therein.
- B. Does not display or create outside the building any external evidence of the home occupation, including any method of advertisement other than a dwelling nameplate as permitted in [section 18-185](#).
- C. Does not utilize more than 25 percent of the gross livable floor area including the basement.
- D. No person is employed other than a member of the immediate family residing on the premises. Provided, however, that in the event any such family member so employed in any home occupation dies or becomes physically incapacitated, and such incapacitation is certified by a medical doctor as preventing said family member from performing such employment thereby causing a hardship to the proper conduct of said home occupation, the board of zoning appeals may grant a variance to permit temporary employment of not more than one person for a period not to exceed six months following a public hearing, pursuant to [section 18-234](#).

Staff Analysis:

Any application for family day home use should consider possible impacts upon surrounding residences, specifically the introduction of a day care business into the Town's residential neighborhoods with a rise in the overall intensity of use and traffic. As such, we advise both the Planning Commission and Board of Zoning Appeals to carefully review all aspects of this request to determine if "a level of comfort" can be reached for approval.

The applicant's current business operation including the use of staff not related to the business owner is in violation of the home occupancy permit. State regulations for home day care determine the number of staff required based on a points system. According to regular state inspections the applicant has required the need of an assistant for the number and age of children being cared for.

The applicant has provided letters of support from five (5) of the neighbors on the cul-de-sac and three (3) additional adjacent neighbors stating that their understanding of the business details and proposal to increase the number of children on site. Two (2) neighbors came forward with concerns about the business and proposed increase in children cared for on site, specifically about the impact of the parents parking on street and blocking the driveways of neighbors and have submitted letters in opposition to the application which are also attached.

The site having a large backyard is well suited for the applicant's home day care use, however, the location at the end of the cul-de-sac makes the balance of on-street parking more challenging for the parents and neighbors.

Staff Recommendations:

Staff believes that the BZA should approve this CUP application for expansion of an existing family day home from eight (8) children to up to ten (10) children and additional staff member(s) to bring the business into compliance with the Town Code. The applicant is already operating with staggered drop off and pick-up times. Staff recommends the applicant encourage parents to use the driveway whenever possible for pick-up and drop-off and not block neighboring driveways.

Planning Commission CUP Recommendations:

The Planning Commission considered this matter at its regular meeting on October 10, 2018. Upon the conclusion of their analysis, Commissioner Meren made a motion for recommendation to the Board of Zoning Appeals for approval of a Conditional Use Permit for a Family Day Home with a maximum of 10 Children for Happy Youngling Family Daycare, located at 108 Yeonas Circle, SE. For more information, please reference the memo from the Planning Commission Chair included as an attachment.

Motion: Meren
Second: Basnight
Carries: 8-0