

To: Board of Zoning Appeals

From: Michael Gelb, Chairman Planning Commission

Meeting Date: October 10, 2018

Re: Conditional Use Permit for home day care center at 108 Yeonas Circle SE

Overview

The Planning Commission voted 8-0 at its October 10 meeting to recommend that BZA approve a Conditional Use Permit for a day care center serving up to 10 children at 108 Yeonas Circle SE. The day care center has been operating at this location since 2009 and currently provides care for 8 children, one of whom is there only part of the time. The applicant would like approval to care for up to 10 children, in part to provide care for one of the children's new sibling who is expected to be born soon.

As noted in the staff report, this business has been operating as a home business since 2009, but approval for a home license was incorrectly approved some time ago. The center does not meet requirements for a home business because it has outside employees on premises. While the outside employees are necessary to comply with Fairfax County regulations for daycare centers, Vienna town code says that a home business license can be granted only for businesses operated by a family member who lives on the premises. The day care center must obtain a CUP in order to engage outside employees.

Public Testimony

The applicant provided the Planning Commission with signed statements in support of the CUP request from four of seven neighboring homes on Yeonas Circle. None of these supporting neighbors testified at the Commission's October 10 meeting. Two neighbors, including the resident of the house immediately next door to the day care center (106 Yeonas Circle), spoke in opposition to the CUP. The driveway at 106 Yeonas Circle is side-by-side with the applicant's driveway.

These neighbors said that traffic and overflow parking from parents dropping off and picking up children disrupted the neighborhood and deprived them of the quiet atmosphere typical of cul de sacs. They said they had enjoyed the expected quiet for many years before the day care center opened. These neighbors also said that parents illegally park head-in instead of required parallel parking when dropping off their children, further congesting the street. They noted, however, that they did not question the quality of care at the center and assumed it was excellent.

Four parents of children at the center spoke in support of the application and praised the quality of care. They said that in their experience, dropoffs and pickups were naturally staggered because of parents schedule and that it was rare for more than one car at a time to dropoff/pickup. They apologized if head-in park was a problem, though they believed it was beneficial to the neighbors as it left more parking spaces free and enabled quicker exits from the cul de sac. They said they were prepared to change their parking patterns if that would be beneficial.

There were several points of conflict in testimony from applicant and neighbors. Applicant noted that she had expanded her driveway to hold five cars (instead of three) in order to provide additional off-street parking for parents and employees. The neighbors said the expanded driveway could not hold five cars and was generally fully occupied by cars belonging to the applicant and her family. The applicant said employees did not park in the cul de sac, but her immediate neighbor disagreed, stating that employees parked in the cul de sac when the weather was bad. Both applicant and the immediate neighbor conceded that have had a difficult relationship since the applicant moved into the neighborhood in July 2008.

Planning Commission Action

Commission members expressed concern about the bad feeling on the street, but based on their own experiences with day care and the tenor of the discussion believed that the core problem was a failure of the applicant and neighbors to work together in a spirit of compromise. Commissioners noted that the day care center apparently offers excellent care and provides a badly-needed service. They also noted that dropoffs/pickups are apparently staggered – the applicant provided detailed times for dropoff and pickup for one day. The applicant's record showed six cars arrived during approximately one-hour in the morning and 1 ½ hours in the evening. Town staff observed about 40 minutes of pick-ups on that day and confirmed the applicant's record for that period.

While reluctant to deny a CUP for a long-standing and successful business that provides a badly needed service, Commissioners strongly encouraged the applicant to work harder to address the neighbors' concerns. They suggested, for example, that the expanded driveway might be kept clear for the use of arriving parents and that employees might park on neighboring streets, not the cul de sac, at all times. Parents might be asked to exercise special care to avoid interfering with the driveway at 106 Yeonas Circle, which is in a vulnerable location on a curve and abutting the applicant's driveway.

Commissioners urged the applicant to work with parents on dropoff/pickup protocols that address neighbor' concerns and minimize the impact of the business. They noted that the onus for resolving differences fell more heavily on the business operator.