




STAFF REPORT COVER SHEET

October 16, 2019

Addresses:	108 Yeonas Circle SE	Case Number:	PF-42-19-CP
Public Meeting Date:	10/16/2019	Applicant:	Happy Younglings Family Daycare
Board/Commission:	Board of Zoning Appeals	Owners:	Tania Giviani-Faris & Kambiz Faris
Application Date:	July 24, 2019	Existing Zoning:	RS-10
Deadline for Action:	October 22, 2019; BZA Action required 90 days from application date	Existing Land Use:	Low Density Residential
Brief Summary of Request:	Recommendation to the Board of Zoning Appeals for approval of renewal of a conditional use permit for a Family Day Home of maximum ten (10) children		
Site Improvements:	n/a		
Size of Property:	30,171 square feet/0.69 acres		
Public Notice Requirements:	Advertisement for two successive weeks of meeting in a newspaper having paid general circulation in the Town prior to Planning Commission meeting and Board of Zoning Appeals hearing.	Planning Commission meeting was published in Washington Times on October 2, 2019 and October 9, 2019.	
	Written notice by registered or certified mail of hearing to property owners of subject site and property owners/agents/occupants abutting and immediately across from subject site at least 5 days prior to public hearing	11 postcards were sent on October 1, 2019 to adjacent, abutting and immediately across the street property owners/agents/ occupants and subject property owners notifying them of the Planning Commission meeting as a courtesy. See attached Public Notification Affidavit.	
	Posting of the property at least ten days prior to the public hearing	One sign posted in front of the building along Yeonas Circle SE on September 10, 2019 with dates of Planning Commission meeting and Board of Zoning Appeals hearing.	

Brief Analysis	
<p>PROPERTY HISTORY</p> <p>The applicants have 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>The applicants received approval of a conditional use permit for a family day home caring for up to ten (10) children on November 13, 2019 with the condition of a one-year time frame, subject to renewal.</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"/> Family Day Home License <input checked="" type="checkbox"/> Photos <input checked="" type="checkbox"/> BZA Order November 13, 2018 <input checked="" type="checkbox"/> Neighbor Comments Received <input checked="" type="checkbox"/> Planning Commission Chair Recommendation Memo <input checked="" type="checkbox"/>
Reviewed By:	Frank Simeck, Zoning Administrator

ITEM NO. 1:

Consideration of the renewal of a conditional use permit for a family day home for up to ten (10) children on property located at 108 Yeonas Circle SE, and in the RS-10, Single-Family Detached Residential zone. Application was 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 applicant 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 applicants received approval for a conditional use permit to operate a family day home caring for up to ten (10) children on November 13, 2018, with the condition of renewal required within one (1) year.

The applicants expanded their driveway by an area 9 feet wide by 30 feet long to increase the available parking on site from three cars to five in August 2018, which is reflected on the plat. Since the Conditional Use Permit approval, the applicants expanded the driveway again to accommodate an additional three (3) vehicles behind a gate. The applicants park their personal vehicles behind the gate, leaving the expanded driveway in front open for parents dropping off and picking up children. The plat has not been updated to show the expanded driveway, however, pictures showing the expansion are included as an attachment to the staff report.

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 with play equipment for the child care.

The applicants 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. There are two part-time employees assisting the homeowner with the business.

Current Proposal:

The applicants have been caring for ten (10) children since the approval of the conditional use permit in November 2018. Per the conditions of that approval, the applicants are requesting renewal of her conditional use permit for a family day home caring for up to ten (10) children before it expires on November 13, 2019.

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. 18-209. - Use permit subject to certain conditions.

The board of zoning appeals may issue a use permit for any of the uses enumerated in section 18-210 in response to an application therefor, provided the use for which the permit is sought:

- (1) Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- (3) Will be in accord with the purposes of the Town's master plan.

In granting any use permit, the board of zoning appeals may impose such conditions as it may deem in the public interest, including limiting the duration of a permit, and as will ensure that the use will conform to the foregoing requirements and that it will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. The board may revoke a use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204.

Virginia State Code

§ 15.2-2309. Powers and duties of boards of zoning appeals.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

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.

The applicant has been operating the business with the increased number of children for nearly one year and staff has not received any complaints. The applicant added a fence to the front yard as requested by the neighbor. The applicant also expanded their driveway to accommodate more parking on site.

Planning Commission CUP Recommendations:

The Planning Commission considered this matter at its regular meeting on September 25, 2019. Upon the conclusion of their analysis, Commissioner Miller made a motion in favor of a recommendation to the Board of Zoning Appeals for approval of a renewal of a Conditional Use Permit for a Family Day Home care for a maximum of ten (10) children, located at 108 Yeonas Drive, SE, in the RS-10, Single-family detached residential zone. Please reference the memo from the Planning Commission Chair included as an attachment.

Motion: Miller

Second: McCullough

Carries: 7-0 (1 absent)