



Town of Vienna

127 Center Street South
Vienna, Virginia 22180
p: 703.255.6341
TTY 7111

Meeting Minutes Planning Commission

Wednesday, October 10, 2018

8:00 PM

COUNCIL CHAMBERS-VIENNA TOWN
HALL

Regular Meeting

The Planning Commission met in regular session with Michael Gelb, Chairman presiding and the following members present: David Miller, Mary McCullough, Sarah Couchman, Steve Kenney, Andrew Meren, Sharon Baum, and Walter I. Basnight. In addition, attending and representing Town staff: Cindy Petkac, Director of Planning & Zoning, Michael D'Orazio, Deputy Director of Planning & Zoning, Kelly O'Brien, Town Planner, Frank Simeck, Zoning Administrator, and Jennifer Murphy, Clerk to the Commission.

Roll Call

All commissioners present.

Communication from Citizens and/or Commissioners

Commissioner McCullough announced that some commissioners are currently attending the Certified Planning Commissioner (CPC) Program provided by Virginia Commonwealth University, which has been a good program. Chairman Gelb agreed, stating that since the Commission lacks by-laws, he would like to discuss it further at the end of the meeting.

There being no further communications, Chairman Gelb opened the meeting.

No Public Hearings

Regular Business

Recommendation to the Board of Zoning Appeals for a conditional use permit to establish a family day home care of up to ten (10) children on property located at 108 Yeonas Circle SE, in the RS-10, Single-Family Detached Residential zone.

Recommendation of the Planning Commission to the Board of Zoning Appeals for a conditional use permit for a Family Day Home Care for a maximum of ten (10) children at property located at 108 Yeonas Circle SE, in the RS-10, residential single-family dwelling zone. Application filed by Tania Giviani-Faris & Kambiz Faris owners.

Principal Planner, Kelly O'Brien provided staff's report, stating that the applicant is requesting a conditional use permit to care for 10 children. Town Code allows for 12 children. With respect to public notice, the property was posted with a sign announcing both the Planning Commission and Board of Zoning Appeals (BZA) meetings. Additionally, notification letters were mailed to all surrounding, adjacent, adjoining, and abutting properties. Ms. O'Brien explained that the

Virginia Department of Social Services established an administrative change in 2012 requiring the Town and all municipalities create a zoning form for registration to acknowledge and monitor residential day home care facilities. In addition, the business currently has two staff members that do not reside in the home. One works full time from 7:30 am to 3 pm and the other is a part time employee who works from 3 pm to 6 pm.

Ms. O'Brien presented pick-up/drop-off times, stating that one of the current children attends part-time and picked up by a school bus for pre-school. The applicant currently has a home occupancy permit allowing for the care for 7 children plus one part-time care. The cup application is a request to expand care to 10 children. Residential street parking allows for five cars with three on the driveway. There are approximately fifteen spaces available for on street parking for all residents.

Staff's recommends that Planning Commission make recommendation for approval to the BZA for a conditional use permit for care of 10 children. The applicant is requesting expansion to allow siblings to attend. In addition, the current occupancy permit on record does not allow for staff. State regulations require an additional staff member. Current town regulations do not allow for outside staff. As such awarding the occupancy permit would bring the business into compliance.

Commissioner McCullough asked if the applicant is also asking to add additional staff members. Ms. O'Brien answered that the application is for adding two more children. The state regulations dictate the ratio of staff to the number of children. A cup does not dictate how much staff.

Chairman Gelb asked if cup language would dictate the allowable number of children. Ms. O'Brien responded per code they are allowed 8-12 children.

Commissioner Couchman asked if the two current staff members are not compliant. Ms. O'Brien answered yes, stating that home occupancy regulations do not allow for staff.

Commissioner Meren asked for the date the driveway was completed. Ms. O'Brien answered that it was recently completed within the last few months.

Chairman Gelb stated that the applicant provided information on drop-off/pick-up times. He asked if town staff has observed these times. Ms. O'Brien answered yes, stating that she observed today's 4:24 pm pick-up.

There being no further questions, Chairman Gelb invited the applicants to present.

Tania Giviani-Faris & Kambiz Faris residing at 108 Yeonas Cir SE were present on behalf of the application. Ms. Giviani-Faris stated that they are requesting cup approval to care for two additional children. One of their parents is having a 2nd child and they typically care for siblings.

Mr. Faris further explained that they are only requesting approval to care for ten children. It is intended to keep their numbers low limiting any adverse impacts to their neighborhood. This also allows them to provide better care to a smaller number of children. He explained that they moved to the neighborhood 18 years ago. At the time their neighbors were unhappy with him for taking trees down. Over the years he's planted more trees in an effort to keep noise down from the play area. They have also, in an effort to increase on-site parking, expanded their driveway.

Commissioner Meren asked if staggered drop-off times could be implemented. Ms. Giviani-Faris answered that families typically arrive at differing times. Commissioner Meren asked if they would be open to staggering drop-off and pick-up times. Ms. Giviani-Faris answered yes, that it is already in place. Ms. Giviani-Faris explained there are eight cars that never arrive at the same time. If they receive approval the number of cars will not increase because the children are siblings. There will still be eight trips for 10 children. Commissioner McCullough stated that although there would be no more than eight cars, cup regulations would ultimately allow ten cars per the number of children.

Addressing staff, Commissioner Miller stated that the applicant currently has two staff employed; one full-time and one part-time. He asked if the law allows for one staff person. Director Petkac answered per home occupancy regulations no outside staff is permitted. Commissioner Miller asked if there is a limit to the number of staff if a cup is issued. Director Petkac answered no.

Commissioner McCullough asked if there is as a total of nine homes on the cul-de-sac. Mr. Faris answered yes. Commissioner McCullough asked how many letters were received for Yeonas Circle SW. Mr. Faris answered two letters. Ms. O'Brien explained that staff has received four letters of support and two letters against the application. Additional discussion followed.

There being no further comment Chairman Gelb invited public comment.

Matt Couture, residing at 1112 DeSale Street SW, stepped forward to speak. Mr. Couture explained that he has one child currently in care for at the family day home. He is also a neighbor residing near the property. He is speaking in support of the application. Mr. Couture grew up in the town having moved back to raise his family. Supporting a small family daycare also supports the young local families who need that care. He often sees the other parents at places like the grocery store or the pool, stating that is what the town is about. He noted that they typically walk for pick-ups and drop-offs, reducing the need for driving. If they cannot send their youngest there for care then they will have to drive to another care facility meaning more time in a car driving. There being no further comment Mr. Couture was seated.

Lauren Schuttloffel, residing at 201 Owaissa Ct SE, stepped forward to speak. Ms. Schuttloffel was a former customer when her sons were younger; during June 2014 to July 2018. She is speaking in support of application, stating that the applicants mean that much to her and her family. Relying on them was critical to being able to stay in town and to remain two working, full-time parents. She supports the previous statement of needing quality daycare that is in town. Attending Happy Younglings meant they can be more a part of the community.

Ms. Schuttloffel explained that the applicants have always prioritized sibling care, which limits traffic coming into the circle. They have tried to be respectful of neighbors and typically wait if a parent has arrived. Additionally, noise from the business is limited to the back yard where the children play.

Commissioner Baum asked if cars are parked on either side of the street. Ms. Schuttloffel could not recall ever having an issue getting into the cul-de-sac. If a car is already parked on the driveway then she would wait until that parent left. She finds pickup/drop-offs more difficult at her son's preschool.

Commissioner McCullough asked she attended prior to the driveway expansion. Ms. Schuttloffel answered yes. Commissioner McCullough asked when waiting, whether she parked in the cul-de-sac or on the driveway. Ms. Schuttloffel answered that it was very rare but she has experienced both scenarios. She never encountered waiting situations for dropping off. If they needed to pick-up later then they may have encountered someone parked on the driveway and on the street. There being no further comment Ms. Schuttloffel was seated.

Darlene Hough, residing at 106 Yeonas Circle SE, stepped forward to speak. Ms. Hough stated that she does not support the application. She has submitted a letter that included several pictures that show three vehicles parked in the driveway, including a land rover. She finds that they always have three cars parked in the parking lot and can hear noise coming from both the back and front-yards of the property. She asked what the applicant has mitigated for their neighbors and whether they have ever approached them to work issues out. She has experienced two occasions of disagreeable communications with applicant.

Ms. Hough submitted two photos to the Commission, stating that neither the neighbor nor their guests park within code regulation impeding cul-de-sac traffic. She is worried when backing out of her driveway, which is very close to the applicant's property. The expanded driveway only provided one additional space for parking. She is concerned with the application and did not sign the consent form for the application, stating that the residents on her street should be given due consideration.

Commissioner Meren asked if a car can parallel park between 106 & 104 Yeonas Circle SE. Ms. Hogue answered yes, stating that they are left with one small space to park. Additional discussion regarding parking.

Chairman Gelb asked if parking issues are the result of cars picking-up and dropping-off or whether it has always been difficult due to daycare in the evening. Ms. Hough answered that she finds it difficult in the evening since most cars are there between 5:30 pm and 6 pm, dependent upon traffic.

Commissioner Meren asked if parents are parking at 108 Yeonas Circle SW. Ms. Hough answered yes, as she has never seen a car parked parallel. Commissioner Meren asked if her husband has had to wait for cars to clear out. Ms. Hough answered yes, stating there have been times when he has had to sit and wait.

Commissioner McCullough asked if their staff regularly park in the cul-de-sac. Ms. Hough answered that during inclement weather their full-time staff member parks across the circle 105 Yeonas Circle SE. The part-time staff member parks in the cul-de-sac. Ms. McCullough asked if they ever park on Yeonas Drive SE. Ms. Hough answered yes, stating when the weather is nice. Ms. McCullough asked if she has seen both cars. Ms. Hough responded that she often sees the full-time staff member and occasionally sees the part-time staff member. There being no further comment Ms. Hough was seated.

Christina Aizcorbe, residing at 9524 Narragansett Place, Vienna, Virginia, stepped forward to speak. Ms. Aizcorbe moved to the area from Ballston. She is speaking in support of the application and agrees with previous statements of support. Decent childcare can be very competitive in the area. Currently, both of her children attend the Happy Youngling's care. In response to comments made against the application she stated that it is an emotionally charged issue. In the five years that her children have been attending she has never observed more than two cars at a time but the

parents are typically out within 2 minutes. They do not park in spaces along the circle and she has not observed limited parking in the cul-de-sac. She parks in the driveway or in front of the house. Having been unaware of parallel parking requirements for cul-de-sacs, she typically parks perpendicular not realizing it was a requirement. She apologized, stating that all of the residents on her cul-de-sac park perpendicular to allow for more cars. She is willing to modify and park parallel. The applicant always prioritizes placement of siblings. She would find staggered times to be challenging and has no issues with the driveway. She understands the issues are emotional and feels strongly for the applicant, stating that they are fantastic community members. Ms. Aizcorbe was seated.

Poonam Makkar Vaghela, residing at 2404 Cedar Lane, stepped forward to speak. Ms. Vaghela is speaking in support of the application, stating that she wanted to support previous statements of support. When looking for a daycare you need good administration and care. She feels that Happy Younglings offers both, going far and beyond. That is why seven parents have come out to support of an application on a weekday night. It required them to find alternative care for the night. Ms. Vaghela handles pick-up and drop-offs every day since 2017. She could recall five occasions when she noticed a 2nd car parked in front of the house. She does not feel there is a lot of congestion, stating that they park perpendicular in an effort to keep parking open. They are willing to park parallel if necessary. They are also willing to coordinate staggered times. There being no further comments Ms. Vaghela was seated.

Responding to parking questions, Mr. Faris approached to speak. He stated that their driveway is 9 feet wide. Mr. Faris was seated.

Maryellen Giuseppe, residing at 102 Yeonas Circle SE, stepped forward to speak. Ms. Giuseppe has concerns with parking as well as with cars driving at high speed down the street. She agreed with the parking issues Ms. Hough referenced. The narrow cul-de-sac makes it difficult to maneuver around to a parking spot. Additionally, parents park in front of her house when they could park in front of the Faris' house or in the driveway.

Ms. Giuseppe can hear the children playing from her front and back yards. The business greatly impacts her neighbors who were never notified when the business first opened. She has lived on Yeonas Circle SW for 27 years, which was always a nice, quiet cul-de-sac. She and her husband have been approached on separate occasions by the applicants asking them to sign a document supporting the application. They were verbally abusive for not signing the document. The applicant's may be good to their customers but they have not been good to their neighbors. Ms. Giuseppe intends to keep a lookout for violations and expects things to go back once they receive approval.

Chairman Gelb asked if Ms. Giuseppe was opposed to the entire application. Ms. Giuseppe responded that she was originally opposed the use but it administratively permitted. She had no say whether it could exist. She opposes any expansion, stating that it brings down her property values and increases traffic on the street. There have been a lot of inconsistencies in the applicant's testimony. They park where they can, when they can. There being no further comment, Ms. Giuseppe was seated.

Pauneez Faris, residing at 108 Yeonas Circle SW, stepped forward to speak. Ms. Faris stated that she is the daughter of the applicants and attends Madison High school. Her parents are very hard working and do try to respect their neighbors. Although there is some traffic from the business they feel they are supporting local families of

the town. She understands the parking concerns expressed but it is also her understanding that those are public parking spaces that anyone, resident or parent, can park there. She can attest that it does not take a parent very long to pick-up or drop-off their children. The business has been in operation for many years, since she was very little. It has been a great experience being a part of the business. She stated that allowing the expansion not only benefits her family but it also benefits Vienna families. There being no further questions Ms. Faris was seated.

Joseph Skelsey, residing at 2837 Maple Lane, Fairfax stepped forward to speak. Mr. Skelsey supports the application, stating that it is a wonderful place. Both his children attend. The applicants are very loving of the children they care for and are like family to him. He has rarely experienced any parking issues although he does typically park perpendicular. He did not realize it was an issue as he was trying to keep away from neighboring cars. He has only experienced one issue with the resident at 106 Yeonas Circle SW for parking in front of their house although it is a public street. There being no further comment Mr. Skelsey was seated.

Concluding public comments Chairman Gelb invited commissioners to comment. Commissioner Miller stated that he understands that the applicant's care is exceptional but it appears they are in the middle of a neighborhood dispute rather than discussing whether the children are getting good childcare.

Commissioner Baum asked staff to clarify the proper way to park in a cul-de-sac. Reading aloud from Town Code, Chapter 9, 9-12.1, method of parking, Ms. Petkac stated; no person shall stand or park a vehicle in a street other than parallel to the edge of street headed in the direction of lawful traffic movement and with the right hand wheels of the vehicle within 12 inches of the curb or edge of the street. Except as otherwise provided in this chapter.

Commissioner McCullough agreed that there are quite a few areas in town where residents are not parking parallel to the curb. Ms. Petkac responded that since it is a public street it requires parking parallel to the curb. Additional discussion followed.

Commissioner Kenney stated that the subject lot appears to allow one good parallel parking space at the front of the house with the potential for two spaces on the driveway. He asked why the apron was not expanded. Ms. O'Brien responded that the apron expansion was not included in the scope of work on the permit and referred the question to the applicant. Commissioner Kenney asked if the site is currently legal with the given apron. Mr. Simeck answered that zoning requires that it be a minimum of 12 feet wide. Commissioner Kenney asked if parking two cars, side by side, on the driveway is legal. Mr. Simeck answered yes. Commissioner Kenney suggested that it being a public street that the applicants ask their customers to use the two spots and to parallel park in front of the house. According to testimony not more than two parents are dropping off at a time. Ms. McCullough stated that parking can be a sensitive issue to residents on the street. She drove the street and found it to be a narrower cull de sac. She agreed with Commissioner Miller's comments that it is up to the applicants to go out of their way to work with their neighbors. They are bringing the business to a very narrow street when people typically move to a cul-de-sac with the expectation of reduced traffic and speeding. They should meet with parents and neighbors to help them understand scheduling issues. There should be some flexibility with staggering times and having the applicant's staff park up the street. It may go a long way in improving relationships. She asked staff if suggestions could be included in the cup language. Ms. Petkac answered yes.

Chairman Gelb noted that the applicants should not take up parking on the driveway. That should be left open for their customers.

Commissioner Couchman agreed with Commissioner Miller's comments that there is animosity on the street, which the Town cannot solve. It is a public right-of-way and not within their purview to prohibit. She suggested the residents develop a memorandum of understanding. She could not see how parents could be limited to the driveway but they will need to work those issues out. The applicants have the right to conduct the businesses out of their home.

Commissioner Miller stated that Commissioner McCullough's suggestion might not be practical. He does not want to place a condition that is so restrictive. Commissioner McCullough agreed, stating that she would hope that the daycare would work on the relationship with their neighbors to lessen their impact.

Commissioner Basnight stated that as neighbors they need to work together but that cannot include be a requirement. The meeting minutes and their recommendation will stand for the Board of Zoning Appeals. There being no further discussion, Chairman Gelb called for a motion.

Commissioner Meren made a motion that recommendation be made to the Board of Zoning Appeals for a conditional use permit for a Family Day Home Care for a maximum of ten (10) children at property located at 108 Yeonas Circle SE, in the RS-10, residential single-family dwelling zone.

Commissioner Basnight seconded the motion.

Commissioner Miller stated that reluctantly he will vote in support of the motion. They have reviewed other home cup applications for family day home care often hearing support from the neighbors. The onus of being a good neighbor is on the business owner more so than the neighbor. The nature of cul-de-sacs are that the neighbors take ownership because they know who is coming and going from their street. He will support the application because they provide a good service to their families and their children. The neighbors do not feel like they are being treated well and the applicant should try to improve that.

Addressing staff, Commissioner McCullough asked if cup language had to address non-residential employees of the business. Ms. Petkac explained that a cup is necessary because they have employees that do not reside at the residence. They are currently in violation of their home occupancy. Commissioner McCullough asked if having a cup allows them to have outside employees. Ms. Petkac answered yes. Commissioner Miller asked if they must include the number of staff in the cup language. Commissioner Couchman stated that could change depending on the number and ages of the children. Ms. Petkac noted that is a state requirement that would have to be met.

Commissioner Baum asked if they could include the suggestion to stagger drop-off times. Chairman Gelb responded that they could but was uncomfortable with including too many restrictions. Ms. Petkac stated that it is up to the Commission but enforcement would be difficult. Commissioner Meren stated that although it may be helpful to stagger it should be self-implemented and not by the Town. Additional discussion followed.

In response to state infant to caregiver 2:1 ratio requirements, Ms. Faris explained that state regulations dictate a maximum of four caregivers in a home care setting. They try to accommodate families with siblings. She is sorry if she has caused any issues for her neighbors. Moving forward they will try to work with their neighbors. There being no further comment, Ms. Faris was seated.

Chairman Gelb stated that the motion currently has no time limit. He asked if it would be in perpetuity or should they include a time limit. Ms. Petkac responded that is up to the Commission to place a recommend time limit. Additional discussion followed.

There being no further discussion Chairman Gelb called the question.

Motion: Meren

Second: Basnight

Carries: 8-0

Planning Director's Comments

Continuing by-law discussions Chairman Gelb stated that he would like to set up a review committee of two members, including Commissioner Basnight. Commissioners should let him know if they are interested in participating. Commissioner Miller asked Commissioner Basnight for his recollection on by-law information. Commissioner Basnight stated that he was advised that they follow state guidelines and have not set up extensive by-laws. Commissioner Miller recalled that they adopted Town Council by-laws. Additional discussion followed.

Commissioner McCullough suggested three commissioners for a structured sub-committee with public notice. Chairman Gelb stated that he would take it under advisement.

DIRECTORS COMMENTS:

Ms. Petkac stated that the Visual Preference Survey for the MAC zone kicked-off today going live online. A link can be found on the town's webpage and under the Maple Avenue Vision page. The survey will be available for just over a month closing at midnight November 12, 2018. Staff will assemble the results providing them at the November 15, 2018 Board of Architectural Review (BAR) meeting. Staff has also sent out a press release using social media to get the word out. Additionally, staff will be present at the Farmers Market to answer questions and will distribute flyers prior to the Halloween Parade. She asked everyone to help in getting the word out as they are looking for input. Completion of the survey takes approximately 15 minutes. Computer access will also be available on the first floor of Town Hall. Staff will be available for assistance on Monday's prior to Town Council work sessions and public meetings from 4:30 pm-7 pm and on Wednesday's from 10 am-2 pm.

Chairman Gelb asked for meetings scheduled for MAC consideration. Ms. Petkac responded that staff is currently focused on collecting data for the Visual Preference Survey. They are working with the BAR on drafting up a template for developing Design Guidelines. Those results will further determine the direction the Town wants to go in for applying additional design standards to the MAC. It is at that time that she would like to present the Commission with any additional amendments to the MAC. Additional discussion followed.

Ms. Petkac explained that this evening's joint work session has been rescheduled for November 5th at 7:30 pm. Commissioner McCullough suggested that the

Transportation Safety Commission (TSC) also be invited to hear a transportation presentation. Ms. Petkac stated that she will mention it to the Town Manager.

Ms. Petkac stated that a work session is scheduled with the Town Attorney on November 14th. The Town Attorney has been invited to provide information on process procedures for Robert's Rules. They have also been asked to discuss the option for commissioners calling in for meetings.

Commissioner McCullough asked when they have to complete the five-year review of the Comprehensive Plan. Ms. Petkac answered that state statutes require review five years from the approval date of 2016.

Commissioner McCullough stated that the Commissioner training program mentioned having a real implementation plan for updating a comprehensive plan. She asked if they should be considering MAC language updates along with zoning language to ensure that their comprehensive plan language lines up and supports guideline language. She asked how difficult it would be to make those types of minor adjustments and should they wait until 2021. Ms. Petkac recommended looking at in 2020. Staff's main work plan beyond amendments to the MAC are to update the Town's Zoning and Subdivision ordinances, which is the primary implementation item identified within the current comprehensive plan. They anticipate that to be a 1 ½ - 2 year effort. Tonight's items is a good example that the 2013 zoning determination references Fairfax County's regulations. They currently do not have anything within the current zoning code that relates to family home daycares. It is one of many items needing to be addressed in the zoning ordinance. Since they are a small staff there is limited capacity to initiate and update both ordinances; subdivision and zoning ordinances while assisting the Planning Commission in their comprehensive plan.

Commissioner Basnight stated that items requiring updates such as Traffic Accident or numerical data should be updated on a periodic basis so that in 2020 they do not have to gather all of the information. It can make the update easier. Ms. Petkac agreed, stating that the City of Fairfax Planning Commission would typically provide an annual report to the City Council. She explained that they developed a fact book of comprehensive data typically updated from the Census Bureau. As they provide updates they can provide links to that information. With respect to state requirements for comp plans, it is required that the comp plan be reviewed every 5 years; not updated but to reviewed.

Approval of the Minutes

Meeting minutes were tabled to the November 14, 2018 meeting.

There being no further discussion the meeting adjourned at 10:14 pm.

Respectfully Submitted,

*Jennifer M. Murphy
Commission Clerk*

THE TOWN OF VIENNA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (703) 255-6304, OR 711 VIRGINIA RELAY SERVICE FOR THE HEARING IMPAIRED.

