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BOARD OF ZONING APPEALS MEETING

VIRTUAL PUBLIC HEARING

Thursday, May 13, 2021

7:30 p.m.

1. CALL TO ORDER

MR. BARTLETT: Okay. So we have a quorum and so I will call the meeting to order.

This is Keith Bartlett, chair of the Board of Zoning Appeals. I will call to order the Board of Zoning Appeals meeting for Thursday, May 13, 2021.

If we could ask Akida for a roll call.

MS. ROUZI: Before I start with a roll call, I just want to read the required virtual meeting notice.

This meeting will be held pursuant to and in compliance with the Virginia Freedom of Information Act, Section 2.2-3708.2 and state and local legislation adopted to allow for continued government operation during the COVID-19 declared emergency. All participating members will be present at this meeting through electronic means. All members of the public may view this electronic meeting via the meeting link provided on the City's web calendar.

2. ROLL CALL

26 RECORDING SECRETARY: Mr. Bartlett.

27 MR. BARTLETT: I'm here.

28 RECORDING SECRETARY: Mr. Misleh.

29 MR. MISLEH: Here.

30 RECORDING SECRETARY: Mr. Eppler.

31 MR. EPPLER: I'm here.

32 RECORDING SECRETARY: Mr. Calabrese is absent.

33 Mr. Kien is absent.

34 Thank you.

35

36 3. PETITIONS

37 At this time I will ask if there are any new  
38 Petitions for the Board that are not included in our  
39 Agenda.

40 MR. BOYLE: No, sir.

41 MR. BARTLETT: Thank you, John.

42

43 4. OLD BUSINESS

44 MR. BARTLETT: Next we'll go to any Old  
45 Business that is carried over from prior meetings.

46 Is there any Old Business to address that is  
47 not on the Agenda?

48 MR. BOYLE: No, sir.

49

50 5. NEW BUSINESS

51           a. Special Use Permit application U1623-21 by Lisa  
52 Wills, applicant, to allow a daycare use otherwise not  
53 permitted by right, on premises known as 128 South  
54 Spring Street, RPC# 52-203-037 of the Falls Church Real  
55 Property Records, zoned R-1A (Low Density Residential).

56

57           MR. BARTLETT: It looks like we have one item  
58 on our Agenda as New Business. It is Special Use Permit  
59 application U1623-21 by Lisa Wills, applicant, to allow  
60 a daycare use otherwise not permitted by right, on  
61 premises known as 128 South Spring Street, Residential  
62 Property Code 52-203-037 of the Falls Church Real  
63 Property Records, zoned R-1A.

64           We have received information from the  
65 applicant regarding an application for a special use  
66 permit. We have received information from the Planning  
67 Commission based on a public meeting that was held on  
68 May 5th of this year.

69           I will ask if John or Akida could provide some  
70 background information from the City's perspective as to  
71 what this facility is, what the property status is, what  
72 the goal is, and other information including why we need  
73 a special use permit for this facility or this structure  
74 and for this business.

75                   And then we'll go to the applicant to have her  
76 present her petition.

77                   MR. BOYLE: Thank you, Mr. Chair.

78                   First, if we haven't already done so, let's  
79 welcome Christine Ward who's on your screen as a guest.  
80 She's observing this meeting tonight as a pre-requisite  
81 to potentially becoming a member of the BZA and she's  
82 going through that process with the City Clerk. So,  
83 welcome to Christine.

84                   And before we get into the substance of the  
85 meeting, Mr. Chair, we should advise the applicant  
86 regarding the quorum present and the necessary votes in  
87 favor to carry the motion and their option to continue  
88 if they wish to get additional members present.

89                   MR. BARTLETT: Sure. We can talk about that  
90 now or talk about that when she presents, but since you  
91 brought it up, that's fine.

92                   Ms. Wills, we have a quorum of three members  
93 out of five total members for the Board of Zoning  
94 Appeals. And to have a variance or special use permit  
95 approved by the BZA, you need three votes from the  
96 members. And since there are only three members present  
97 today, you will need all three of our affirmative votes  
98 for your special use permit to be approved at this  
99 meeting.

100           So you have the opportunity during the meeting  
101 to request a continuance until the June meeting if you  
102 feel like you'd like more members present or for you to  
103 provide that information to us and to get a potential  
104 more than three necessary votes.

105           You don't have to provide that response now,  
106 but at some point before we decide or close the meeting  
107 or vote on your special use permit request, you should  
108 let us know.

109           MS. WILLS: Okay.

110           MR. BOYLE: Briefly, Mr. Chair, this is a  
111 special use permit. And with special use permits, I  
112 generally like to give a reiteration of what the Board's  
113 authority is for special use permit and why this is  
114 before you as opposed to the classic variances that the  
115 Board sees.

116           This particular use, being essentially a  
117 private school in a residential neighborhood, is  
118 specifically called out as requiring a special use  
119 permit and that process involves a public hearing before  
120 the Planning Commission which was held, as the chair  
121 mentioned, and for the purpose of making a  
122 recommendation to this Board and the Board should have  
123 that information from the Planning Commission.

124                   And then during the Board's consideration of  
125 this application there are two major considerations:  
126 One is can the use work in the neighborhood, at the  
127 location, given the details of the use and be in  
128 compliance with the provisions of this chapter.  
129 Basically, can it co-exist with the neighbors in this  
130 setting. It's a use that's been called out as  
131 potentially being incompatible with the neighbors so we  
132 have this two-step public hearing process from the  
133 Planning Commission and the BZA to make sure there's no  
134 inconsistencies with the existing neighborhood.

135                   Further if it's found that obviously it cannot  
136 co-exist with those uses, then the Board is in power to  
137 deny the application. If it's found to be able to  
138 co-exist with those uses if certain conditions were  
139 applied, then the Code says it shall be approved with  
140 those conditions.

141                   So it's a very different standard than the  
142 variances that the Board typically sees. And I think  
143 you have some conditions sent to you by the Planning  
144 Commission.

145                   But for special use permits it's entirely  
146 about how compatible would this be in the neighborhood.

147                   And then in keeping with that, the Board has  
148 the authority in addition to denying, the Board can

149 approve for a year and have this applicant come back and  
150 we would review impacts on the neighborhood, or could  
151 approve indefinitely.

152           Typically if the Board chooses to approve a  
153 special use permit, they set a one year review period  
154 and then asks staff to report back on have there been  
155 any complaints, police reports, things like that.

156           At any time during that one year, staff can,  
157 based on incidents it's received, complaints from the  
158 neighborhood, what have you, if it's just not working  
159 out, staff can schedule this applicant to come back to  
160 the BZA for another round of discussion about what's  
161 working, what's not working.

162           So that in a nutshell is the authority of the  
163 BZA for a special use permit.

164           The last one this Board heard for a special  
165 use permit was for a home tax preparer, basically a  
166 commercial home office in a single family residence.  
167 It's been some time.

168           So with that, I'll turn it over to the  
169 applicant for their presentation.

170           You should have, the Board should have the  
171 application with some photos of the property and  
172 something of a parking plan and a description of the

173 size of the group intended, and we'll defer to their  
174 application at this time.

175 MS. WILLS: Hello, all. I'm Lisa Wills and I  
176 want to thank you for this opportunity and your time to  
177 work with me to make this nature-focused children's  
178 program available to the Falls Church community.

179 This area has a consistently high demand for  
180 child care services and the need for children to have  
181 social time with peers has never seemed more important.

182 As we move out of this pandemic, one thing we  
183 have learned is the value of outdoor programs like this  
184 one with the focus of the natural world. I'm personally  
185 committed to this project as a pre-school teacher, child  
186 care provider, and a child care business operator.

187 My experience gives me an understanding of  
188 child programs and child care needs and also the ability  
189 to manage community needs and keep good relations for  
190 things like neighborhood traffic and parking.

191 With our focus on nature, we will strongly  
192 encourage environmental alternatives, like walks, bikes,  
193 carpool, and public transit. However, I know from  
194 experience that depends on family logistics and things  
195 like the weather and it is important to have a plan for  
196 clients using their cars.

197                   You can see the parking plan that the Board  
198 has reviewed and accepted in more detail in the  
199 materials. I want to highlight two things.

200                   So, for child pickup and drop-off, the double  
201 parking area next to the Scout House can accommodate  
202 about 13 cars at any time. I did practice with another  
203 teacher and I provided you with a list attached with the  
204 cars. Pickup/drop-off will start from the tree. You  
205 can see images 4 and 5. It's not on the sketch. It's  
206 actually image 4 and 5 with the following cars single  
207 filing in a U-shape capacity. It will be prohibited to  
208 block the sidewalk or to idle or park on Spring Street  
209 for pickup/drop-off. There's a little circle to show  
210 actually where you drop-off/pickup.

211                   Drivers will be instructed to approach  
212 pickup/drop-off from the North, from Broad Street, going  
213 south on Spring Street and make a right turn into the  
214 sides.

215                   Pickup/drop-off can be staggered in small  
216 increments so that cars will not exceed the capacity at  
217 any time. Staff will be on hand to manage the process  
218 and ensure compliance. I'm exploring environmentally  
219 with responsible options so I will mark the gravel area  
220 and the parking with the property owners.

221                   We will also continually inform clients about  
222 the parking and drop-off/pickup rules and our good  
223 neighbor policy and regular reminders such as email and  
224 newsletters.

225                   I will regularly reach out to our neighbors to  
226 find out if they are experiencing any inconveniences  
227 related to our program. That's about the parking.

228                   I have been working with the City of Falls  
229 Church and Virginia government offices on the number of  
230 children and the issues of fast parking and traffic and  
231 I am encouraged by their advice and support.

232                   I'm also grateful for all the support I have  
233 received from the neighbors.

234                   Based on the City and State recommendations to  
235 me, the application requests the maximum number of  
236 children allowed, the maximum hours of operation, even  
237 if those actual numbers and times will be longer due to  
238 other considerations. The child care office will not  
239 approve a number of children until after all of the  
240 zoning issues are finished. Then they will do a site  
241 visit and analysis and determine the maximum capacity  
242 for children. So the number could be longer but not  
243 likely be higher. Number of staff on site is based on  
244 the number of children, of course.

245                   So I'm working with the Scout House Board on  
246 actual hours of operation and we can finalize that after  
247 this Board makes a decision.

248                   I can just tell you that it's an interesting  
249 process, trying to balance the recommendations for what  
250 is needed and the best for the community and the  
251 requirements.

252                   I do appreciate also your patience and all  
253 your support and I welcome your thoughts.

254                   MR. BOYLE: Lisa, if I could, this is John  
255 Boyle.

256                   Could you explain to the Board a little bit  
257 about what the daily operations will be like, what are  
258 the advantages the children will receive there. And  
259 have you spoke to any of the neighbors, I believe that's  
260 in your packet but could you speak a little bit to  
261 neighbor support and what the operation would be like on  
262 a daily basis please.

263                   MS. WILLS: Well, operating hours will be  
264 limited as long as I know if I'm approved. I will have  
265 four or more teachers at any given time.

266                   I propose ages like from one year to  
267 elementary age but however primary focus of the program  
268 is for children from one year to pre-K. Children ages  
269 one year to two and a half years may attend with the

270 parents/ caregivers or some programming and elementary  
271 age limits would accommodate before and after school  
272 care.

273 I'm sorry. What was your other question?

274 MR. BOYLE: Support from the neighbors. And I  
275 guess what I was getting at with what their day would be  
276 like, what are the advantages of this particular  
277 location.

278 MS. WILLS: Yes. I talked to many neighbors.  
279 And I reached out to I believe ten of them. I submitted  
280 letters of support and I emphasized that I would like to  
281 continue the tradition of Sue Johns that she actually  
282 provided child care service called On the Right Track  
283 for about 16 years from 2003 until 2019 when she passed  
284 away, and use that space for child care services focused  
285 on an outdoor nature program.

286 The program is also called Nature Academy, a  
287 nature-based program that children will have the  
288 opportunity to learn confidence, competence, and skills  
289 for kindergarten in a natural and outdoor environment.

290 I'm just trying to find a list of all the  
291 houses that I visited.

292 But I'm a strong believer that children will  
293 play joyfully in nature and enjoy special outdoor play,  
294 outdoor picnics, as a conversation area and also we can

295 use Berman Park that is -- because this house, Scout  
296 House, is located on 1.9 I believe acre lot and is  
297 surrounded by a beautiful park, outdoor branches and  
298 tables, playground in the back and a conversation area  
299 with a picnic table located on the end of the park.

300           So I reached out to about -- I visited about  
301 15 of our neighbors. I talked to them. I said I wanted  
302 them to know what is happening in the neighborhood and  
303 also the process that I'm going through.

304           I heard from all of them that they are  
305 supporting this program. They want to support this  
306 program. I sent this to reach out, some neighbors a few  
307 times but I wasn't successful. I lacked some  
308 information with them.

309           So I'm very delighted, you know, to hear that  
310 all neighbors that I reach out to them really support  
311 this kind of pre-school with the outdoor program for  
312 children.

313           MR. BARTLETT: Miss Wills, thank you so much  
314 for your initial presentation. We appreciate the effort  
315 and the outreach you've done to the neighbors, putting  
316 together the application. I believe you had a meeting  
317 with the Planning Commission to address their concerns  
318 initially. It looks like they've provided some

319 information and some recommendations based on those  
320 comments and questions and concerns they might have had.

321           At this point I'd like to open up with asking  
322 you some questions about the use of the property and the  
323 status of the property and a couple of questions about  
324 how you're going to use it and then I'll ask other Board  
325 members if they have any other questions.

326           Do you have a contract or a lease with the  
327 owners of the Scout House to operate this business?

328           MS. WILLS: Actually I got the affirmation  
329 that I can operate child care service at this location  
330 and, yes, I will have a contract as soon as I'm done  
331 with this process.

332           MR. BARTLETT: Can you clarify what you said at  
333 the end. You will have a contract?

334           MS. WILLS: We do have agreement, yes. Yeah,  
335 we talked about many details about the rate and  
336 everything and we are just trying to finalize once I  
337 know the number of children.

338           I cannot really, you know, we need to have  
339 your approval and then we can finalize other details,  
340 some small details, yes.

341           MR. BARTLETT: So based on your conversations  
342 with the Scout House, I'm just going to call them the  
343 Scout House because I don't know what else to call them,

344 you have verbal agreement to operate and then if you get  
345 permission from the City to operate, then you will be  
346 able to sign a contract with the Scout House.

347 MS. WILLS: It wasn't any really verbal  
348 agreement. Actually it was a letter that I submitted  
349 with my application because I was required to do that.  
350 I think it should be in a package that it was submitted  
351 to you. I provided Akida and John with a letter of  
352 approval from the Scout Board Association.

353 MR. BARTLETT: Okay.

354 MR. BOYLE: Mr. Chair, that's correct. With  
355 applications of this nature we require the property  
356 owner to submit a letter of support. And I believe, is  
357 that Kelly Edwards that's from the Scout House?

358 MS. EDWARDS: Yes, I'm here.

359 The Scout House Board met last night to  
360 discuss the use and we did not vote on it yet because we  
361 had questions for the applicant. So there is a letter  
362 there but the Board has not approved this as of yet.

363 MR. BARTLETT: Okay. Thank you.

364 Does the City of Falls Church, or in this  
365 case, I'm not sure who has jurisdiction over operation  
366 of child care facilities or private schools in this  
367 regard or whatever the characterization of what this  
368 facility would be, have any child per square foot

369 requirements, and what is the square footage of the  
370 usable indoor space of your facility?

371 MS. WILLS: That is going to be decided by  
372 child care office and I did talk to them and I follow  
373 also their recommendation, you know, in my application,  
374 to request the maximum number of children and also some  
375 longer hours of operation and then they will make a  
376 decision also and I will talk to the Scout Board  
377 Association and then agree with them about what hours,  
378 you know, I can provide child care service at this  
379 location.

380 MR. BOYLE: Mr. Chair, the City's involvement  
381 is kind of two step. One is getting permission for the  
382 use itself which we're doing this evening with the  
383 special use permit hearing.

384 Secondly, assuming everything's approved, the  
385 use permit is contingent on Commonwealth of Virginia's  
386 oversight approving. And then when the actual occupancy  
387 permit to go into the space is applied for, the building  
388 official will review it for compliance with building  
389 code.

390 There's a number of items in the building code  
391 regarding to assembly of children.

392 The Board tonight, what typically happens with  
393 these things is the Board if it chooses, if it chooses

394 to approve may condition its approval on approval by the  
395 State and approval by the building official for their  
396 applicable codes. So that perhaps the BZA is okay with  
397 the use but we want to make sure the State and building  
398 officials' codes are applied and complied with.

399           So to answer your question, there's two more  
400 pieces that need to be looked at once the question of is  
401 the use permissible is decided.

402           MS. WILLS: Right. I cannot move with my  
403 application, with my child care application until I have  
404 finalized this part of my application.

405           So this is my first step actually that I need  
406 to go through so I can move to my next step, the next  
407 step of my application and that's with the child care  
408 office.

409           But I'm working with them so, you know, all  
410 submitted material is actually based on their  
411 recommendation.

412           MR. BARTLETT: Okay. I'm going to keep asking  
413 questions because I have many to figure out and then  
414 I'll ask the other members of the Board if they have  
415 other questions.

416           I'm going to ask this of the City, of John and  
417 Akida.

418                   Did the prior occupant who operated a daycare  
419 possess a special use permit?

420                   MR. BOYLE: Mr. Chair, I could not locate a  
421 special use permit and I think that may be because they  
422 were in operation before the Code required one. But we  
423 do know they operated for many years and we have very  
424 good records on what's been issued in the past and could  
425 not find one for the previous owner.

426                   We do know they were in operation for many  
427 years and we also didn't have any complaints or issues  
428 with that operation within the neighborhood. We just  
429 don't have a record on how it got in there and what the  
430 approvals were.

431                   MS. WILLS: Right. And if I can just say, I  
432 reached out to the building department and I'm approved  
433 by the building department for 49 children.

434                   So I want to follow their recommendation. So  
435 I'm going to reach out to different departments and to  
436 help me to submit this application for you to get  
437 through this approval process.

438                   MR. BARTLETT: You said the building  
439 department at the City --

440                   MS. WILLS: Yes, yes.

441                   MR. BARTLETT: -- allowed --

442 MS. WILLS: Yes, and I do have a quote that I  
443 was approved for, that is approved for 49 children. I  
444 can find you that information and then send over to you.  
445 I don't have that quote right now. I need to go through  
446 my material.

447 Maybe I will be able to locate it if you want  
448 me.

449 MR. BARTLETT: I'm going to pause right now  
450 and ask if any other Board members have any other  
451 questions.

452 MR. MISLEH: Mr. Chair, this is John Misleh.  
453 My question for the applicant is what is your experience  
454 operating child care services.

455 MS. WILLS: Yes. Well, I'm a preschool  
456 teacher, child care provider, and child care business  
457 operator. And my experience gives me an understanding  
458 of child programs and child care needs.

459 I worked for many years in this business and I  
460 also used to have my own business in Clarendon so I'm  
461 very familiar with any maybe parking issues, or, you  
462 know, dealing with the neighbors and making a good plan,  
463 manage a good neighbor policy, and relation with all  
464 neighbors.

465 MR. EPPLER: Ms. Wills, this is Dale Eppler.  
466 I have one question for you as well.

467                   As I understand the Planning Commission  
468 recommended your special use but imposed a number of  
469 conditions. I just wanted to see if you had any  
470 concerns about those conditions. Because it sounded  
471 like they approved you or one of the conditions was a  
472 lower number than the 49 children that you said the  
473 building department had approved.

474                   MS. WILLS: Yes, yes. And, you know, I was  
475 completely fine with that. To be honest, we don't  
476 really know the exact number. But one Board member  
477 recommended 35 to 39, 35 to 39 and I just said that's  
478 completely fine with me. So they agreed actually to go  
479 with 39 number of children, suggested number of  
480 children.

481                   MR. EPPLER: Just one other question. And I'm  
482 sorry if this was in one of your diagrams, I'm sorry but  
483 I don't remember seeing it.

484                   I saw the U-shaped drive-thru for dropping off  
485 and such. How many additional parking spaces besides  
486 that drive-thru area will you have for staff?

487                   MS. WILLS: Well, you know, what I was  
488 thinking actually, that it would be actually staggered  
489 parking actually. Drop-off and pickup times will be  
490 staggered in small increments so staff and  
491 parents/caregivers will communicate by text so that one

492 staff is prepared with three children for drop-off and  
493 two children are prepared and ready for their  
494 parents/caregivers at pickup time.

495           For the staff actually I do have already two  
496 staff members from that area that they will not use any  
497 transportation. And two other members -- it depends  
498 really on how many children we will have. We can park  
499 somewhere else. I was also in communication with  
500 American Legion that we can use also their parking if  
501 that is really necessary.

502           MR. EPPLER: Thank you very much.

503           MS. WILLS: I mean, I do agree that, you know,  
504 we will have sometimes, you know, like visitors parking  
505 like maybe yoga teacher or parent volunteer, that will  
506 be all pre-arranged. And it will be available not, you  
507 know, the gravel area would be available if it's  
508 prearranged. So, it will not be allowed during the  
509 drop-off and pickup times.

510           MR. BARTLETT: I have one followup question  
511 about the parking. We keep talking about parking and  
512 drop-off and I feel like it is an important  
513 consideration when you're dealing with two interactions  
514 per day for each child, dropping off a child, picking up  
515 a child and having that done 30 to 40 times in the  
516 morning and 30 to 40 times in the afternoon.

517                   In that gravel/parking lot is your handicapped  
518 parking space. Does your proposed drop-off utilize and  
519 go over that required handicapped parking space and how  
520 do you plan to deal with that?

521                   MS. WILLS: Yes, by my previous experience  
522 shows that parents/caregivers will comply with these  
523 policies in the spirit of community. And if they know  
524 the importance of this from the start, I don't really  
525 see any problem.

526                   In the event of non-compliance, I will  
527 communicate directly with the person responsible and  
528 stress the importance of these policies.

529                   I have to emphasize that I worked in preschool  
530 with 125 to 130 children and almost entirely  
531 kiss-and-ride, pickup and drop-off for the arrival and  
532 departure. And we able to do this every day with  
533 minimal time, approximately ten minutes, with minimal  
534 distraction to the neighborhood or the traffic flow.

535                   It works very smoothly due to having  
536 additional staff on hand for pickup and drop-off.

537

538                   MR. BARTLETT: But as far as the handicapped  
539 space in your parking lot, I'm just curious about how  
540 you're handling that space. Is that not going to be  
541 utilized during pickup and drop-off or will it and if

542 you have -- I just don't think you can just drive over  
543 them. I'm just curious.

544 MS. WILLS: We will not need to use -- we will  
545 not need to park in the handicap spot.

546 MR. BARTLETT: But your drop-off and pickup  
547 will utilize that, right?

548 MS. WILLS: Right, you know, for the pickup  
549 and drop-off while they're entering that area. But, you  
550 know, if we have needs that somebody needs to park  
551 there, it will be available for parking. I mean, that  
552 gravel area will be used only for pickup/drop-off time.

553 MR. MISLEH: So, Mr. Chair and the applicant,  
554 I think it's important to understand, there was a caveat  
555 there from one of the members of the -- or what was  
556 stated regarding the Board having to approve the use at  
557 the Scout House. Is this decision premature to that  
558 agreement being placed? Shouldn't we be, I guess,  
559 shouldn't we be making the decision after you have a  
560 firm agreement with the site rather than making a  
561 decision on a site that you're not yet in control of?

562 MS. WILLS: I cannot get the agreement without  
563 the approval.

564 MR. BOYLE: I can speak to that with our past  
565 experience.

566                   The Board has required approval in advance on  
567 occasion. It has also conditioned it on the approval  
568 with some indication from the property owner that  
569 they're aware of the process, so the Board isn't  
570 approving something on someone's property and they're  
571 not aware of it.

572                   This property owner is aware of it and perhaps  
573 Kelly Edwards could speak.

574                   Is there a reason the Scout House did not  
575 approve?

576                   MS. EDWARDS: Yes.

577                   MR. BOYLE: Are you awaiting some details?  
578 Could you speak to that, whether the Board objects to  
579 this use on the property.

580                   MS. EDWARDS: Yes, I can speak to that.

581                   The letter that was submitted by Tim Lewis,  
582 the Board members felt was submitted prematurely. A lot  
583 of members were unhappy it was submitted because we  
584 hadn't voted as a Board on it.

585                   After the Planning Commission meeting which I  
586 attended, the Scout House Board had sort of an emergency  
587 meeting last night to discuss this knowing that it was  
588 going to go before the BZA tonight.

589                   The Scout House Board did not approve it last  
590 night. There were five concerns that were put forth

591 that one of the members will be contacting Ms. Wills  
592 about.

593           And they are: We have a restriction on the  
594 daycare. It has to end at 3:00 and we wanted to make  
595 sure she was aware of that.

596           There is minimal storage. So we wanted to  
597 make sure she knew where she was going to store her  
598 equipment. Is she going to bring a trailer every day?  
599 There is no storage at the Scout House.

600           There is no air conditioning. The previous  
601 person who ran a daycare there was not running it during  
602 the summer which this applicant wants to and there is no  
603 air conditioning.

604           The Planning Commission had required that  
605 signage be erected and the Scout House wanted more  
606 clarification from the applicant on what that meant. Is  
607 it permanent signage that's going to be put on Scout  
608 House property and who would pay for that, or is it  
609 signage attached to like orange cones?

610           And also the Scout House noted that the  
611 handicap spot in the drawing that was submitted to the  
612 Planning Commission, the BZA, did not incorporate the  
613 handicap spot that is there. And the way the drawing is  
614 done, it looks like 12 cars can zoom around the lot.  
615 Twelve cars cannot fit in that lot, the Board noted.

616 And if you did put twelve or a number of cars going  
617 around the lot, they would run right over the handicap  
618 spot which has to be left open for use.

619 So the Board decided to table approving this  
620 applicant's request until one of the members spoke with  
621 her this week and then we are meeting again I believe  
622 next week once we get those answers.

623 But the Board has not approved this as of  
624 right now. I hope that answers your questions.

625 MR. MISLEH: Thank you very much. That was  
626 very insightful.

627 I feel based on that information, I feel like  
628 some of the terms and conditions that were included in  
629 the applicant's package are not in conformance with the  
630 property owner's requirements or limitations.

631 And so, John, I'd look to you to advise us how  
632 you think we should perceive that.

633 MS. WILLS: I think I notified that the hours,  
634 you know, that I talk about the hours and I did ask, you  
635 know, if I can operate maybe longer hours. I'm aware  
636 that, you know, I was kind of approved to operate until  
637 12 or 2 p.m. You know, that's what I know and that's  
638 what I put in the application.

639 The other things, you know, after this is  
640 approved would be worked through. And also, even, you

641 know, working through the summer or opening this  
642 facility will be worked actually with the Scout House  
643 Association.

644           So, I don't really know what else to say but I  
645 would like John to continue forward.

646           MR. BARTLETT: I'd like to ask a couple more  
647 questions before we actually go through that, because if  
648 and when we have a continuance of this meeting or we  
649 have a vote on this meeting, on this application, I have  
650 further information that I need before I can approve or  
651 vote to approve or vote to approve with conditions and  
652 so I'd like to just ask a couple more questions.

653           And if you don't have the answers now, then we can  
654 find the answers eventually.

655           So you've proposed a preschool operation or a  
656 child care operation that includes nature, the outdoors,  
657 and I truly like the concept and I love the approach.

658           But you talk about the use of Berman Park as a  
659 selling point of your operation. And that includes the  
660 use of city-owned and public property as part of your  
661 curriculum. I don't know if -- I know everyone can use  
662 City property but I don't know if you can operate a  
663 child care center as part of your curriculum on the  
664 premise that you're going to have access to the City  
665 park that is adjacent to you.

666 I just want to ask John, I don't know if this  
667 was discussed with the Planning Commission, but part of  
668 this business plan basically requires the use of City  
669 property and I just wanted to know if you have some  
670 insight on that and maybe, Lisa, you have insight as  
671 well.

672 MS. WILLS: By my experience, you know, many  
673 child care facilities use public parks. The reason for  
674 that, the reason why they use them, because they operate  
675 in a facility that they have maybe about 100 children  
676 and they don't have any outdoor space. So they were  
677 approved, you know, with strict Arlington regulations,  
678 you know, that they can operate without any outdoor  
679 space.

680 So I know that they cross busy streets and  
681 then they go to use the public park. However, this  
682 location is located on over 1.09 acres of land. So if  
683 you are telling me that I cannot use Berman Park, you  
684 know, I would be fine with that.

685 MR. BARTLETT: I just want to clarify, I'm not  
686 telling you or recommending that you can't. I'm asking  
687 the question of, can you, should you advertise that as  
688 part of your curriculum and if so, does the City need to  
689 approve that?

690                   MR. BOYLE: Mr. Chair, we do have an example  
691 of this in the past, fairly recently actually, with a  
692 daycare off of Hillwood. And it did require a letter of  
693 support from the Parks and Recs. All the property  
694 owners involved need to sign off and be in approval with  
695 the use.

696                   So if her plan needs the use of a City park,  
697 it would require approval by the City, separate from  
698 this Board.

699                   MR. BARTLETT: So I just have one further  
700 question. I actually walked by the property. I live in  
701 the neighborhood. I notice that it's a large, open  
702 area. There's a trail that's parallel to a stream that  
703 is right adjacent on the property.

704                   Do you have any plans or are you required to  
705 fence in that area to operate a child care center for  
706 child safety, etcetera?

707                   MS. WILLS: Yeah, I think that's a very good  
708 question. Actually, you know, the child care office  
709 actually changes the regulation. So as much as I know,  
710 it was required maybe a few years ago but now actually  
711 they changed the regulation. So whatever really they  
712 suggest and recommend, I will just go with that.

713                   So far I know, you know, they don't require  
714 any more but I will definitely talk to them and follow  
715 their advice.

716                   MR. BARTLETT: Does anyone else have any  
717 questions, Mr. Misleh or Mr. Eppler?

718                   MR. EPPLER: I do not.

719                   MR. MISLEH: I think I go back to my previous  
720 question for staff.

721                   John, you know, given that there's still  
722 unresolved points with the property owner prior to the  
723 business being able to secure the site, how do we  
724 address that in a vote?

725                   MR. BOYLE: It may be too much to condition  
726 the approval of a property owner. That should really  
727 come to the Board as part of the application and now  
728 potentially we have two property owners, one of which is  
729 the City.

730                   It may be prudent for the Board to list some  
731 pieces of information that it requires and continue this  
732 item rather than take it to a vote. I think there's  
733 some things we still need resolved.

734                   MR. BARTLETT: I completely agree with John's  
735 position, Mr. Misleh's position, and the potential  
736 approach that you've provided, Mr. Boyle.

737                   Ms. Wills, I feel like the intent is great,  
738 the approach is great. The facility is needed. I just  
739 don't have enough information and I don't think that you  
740 have an actual agreement that we can approve. Does that  
741 make sense?

742                   So I don't know if I or we make a  
743 recommendation to continue.

744                   I will just reiterate that you have a right to  
745 request a continuance if you don't feel at this point  
746 you're going to get three affirmative votes from the  
747 three members of the Board of Zoning Appeals tonight.

748                   MS. WILLS: Yes, please, I would request a  
749 continuance.

750                   Yes, I would please request a continuance.

751                   MR. BARTLETT: Okay.

752                   MS. WILLS: What would you need from me,  
753 please.

754                   MR. MISLEH: Keith, I couldn't hear you. Are  
755 you there?

756                   MR. BARTLETT: I'm here. I was sort of  
757 pantomiming. I was sort of waiting to hear from her.  
758 Sorry, I wasn't speaking.

759                   MR. MISLEH: She's requesting a continuance.  
760 So, I think, Ms. Wills, thank you for all of the  
761 information. I think the use is, I echo Mr. Bartlett's

762 sentiment that the use is in much need and that would be  
763 a great site for it. I just think that you've got a  
764 couple of details to work out before the Board can give  
765 you an affirmative vote.

766           So thank you for your time this evening and  
767 we'll look forward to seeing you when you're ready for  
768 this Board to move.

769           MS. WILLS: And you will let me know what I  
770 need to provide.

771           MR. BARTLETT: I will clarify that we are not  
772 an advisory Board to provide you a list of all the items  
773 that you need that would grant approval by the Board of  
774 Zoning Appeals.

775           I would encourage you to work with staff at  
776 the City of Falls Church, including the Zoning  
777 Administrator, the Parks and Recs Department, the  
778 Building Department, and Child Care Services and whoever  
779 the authorizing authority is, and then I would encourage  
780 you to work with, based on the questions that we had  
781 today and the information that was discussed, work with,  
782 amongst others, your potential landlord for this  
783 facility.

784           MR. BOYLE: Mr. Chair, that's an excellent, I  
785 think, summary of where the Board sits.

786                   Speaking on behalf of staff, I think based on  
787 what we heard tonight, the application is actually  
788 incomplete. And so the applicant should, as the Chair  
789 said, approach the City's Recreation Department for  
790 permission to use that park, if you need it; and  
791 secondly, firm up your agreement with the property  
792 owner. The Board cannot hear an application where the  
793 property owner does not agree.

794                   So that's your homework before the next  
795 meeting.

796                   With that, I think we need a motion from the  
797 Board to continue and then a vote.

798                   MR. MISLEH: I make a motion to continue this  
799 application to a future date when the applicant is ready  
800 and has a completed application.

801                   MR. EPPLER: I'll second that motion.

802                   RECORDING SECRETARY: Mr. Bartlett.

803                   MR. BARTLETT: Yes.

804                   RECORDING SECRETARY: Mr. Misleh.

805                   MR. MISLEH: Yes.

806                   RECORDING SECRETARY: Mr. Eppler.

807                   MR. EPPLER: Yes.

808                   RECORDING SECRETARY: Thank you.

809

810 6. APPROVAL OF MINUTES

811 MR. BARTLETT: Moving on, we'd like to review  
812 the minutes of the Board of Zoning Appeals from April  
813 2021. Please take a few minutes and review those  
814 minutes and let me know if you have any concerns. I'll  
815 give you a few minutes.

816 MR. EPPLER: Keith, this is Dale. I  
817 unfortunately was not here for that meeting so I'm  
818 assuming I have to abstain. If I abstain, there's only  
819 two votes. Is that feasible?

820 MR. BARTLETT: That's correct, Mr. Eppler.  
821 We'll have to table this until our next meeting until we  
822 have a sufficient quorum from those that were present.

823 Do I have to make a motion to continue that to  
824 the next meeting, Mr. Boyle or Akida?

825 MR. BOYLE: I think just by a voice vote, any  
826 objections.

827 MR. MISLEH: No objection.

828 MR. BARTLETT: No objection.

829 MR. EPPLER: No objection.

830

831 7. OTHER BUSINESS

832 MR. BARTLETT: All right. Moving on, is there  
833 any Other Business before the Board of Zoning Appeals  
834 this evening?

835 MR. BOYLE: Just on behalf of staff, I think  
836 the Board's received several requests for information or  
837 comment from the City Clerk so we encourage you to  
838 participate in that.

839 In terms of future meetings, in addition to  
840 this continued item, we're likely to have -- what month  
841 are we in, May, June, and there's a good chance we'll be  
842 back in the building by then.

843 It looks like the governor has said that the  
844 restrictions will be lifted on interior meeting spaces  
845 and restaurants and what have you on June 15th.

846 So potentially we will be back in City Hall if  
847 not in June, then by July.

848 But it looks like we will have a June agenda.

849 MR. BARTLETT: Great.

850

851 8. ADJOURNMENT

852 MR. BARTLETT: With that, I'd like to adjourn  
853 the Board of Zoning Appeals meeting for Thursday, May  
854 31st (sic).

855 Thank you very much.

856 MR. BOYLE: Christine, thank you for  
857 attending.

858

859