

BOARD OF ZONING APPEALS PUBLIC HEARING MINUTES

The regular meeting of the Board of Zoning Appeals was held on
Thursday, October 11, 2018
At 7:30 P.M. in City Council Chambers, City Hall, Alexandria, Virginia

The proceedings of the meeting were recorded; records of each case are on the web at www.alexandriava.gov/dockets and on file in the Department of Planning and Zoning.

Members Present: Laurence Altenburg, Chair
Mark Yoo
Lee Perna
Timothy Ramsey
Jonathan Buono
Walter Marlowe

Members Absent: Daniel Poretz

Staff Present: Chrishaun Smith, Planning & Zoning
Tony LaColla, Planning & Zoning

CALL TO ORDER

1. Chairman Altenburg called the October 11, 2018 Board of Zoning Appeals to order at 7:30pm.

NEW BUSINESS

2. BZA #2018-0016
346 Commerce Street
Appeal of the determination by the Planning Director that section 4-507 (E) of the zoning ordinance requires the day care center at 346 Commerce Street to provide an adequate drop off and pick up plan.
Appellant: J S & Family, LLC.

BOARD OF ZONING APPEALS ACTION: The Board of Zoning Appeals took action on the appeal with four motions acting on four determinations of the Planning Director in his determination letter dated July 13, 2018.

1. On a motion by Mr. Perna, seconded by Mr. Ramsey, the Board of Zoning Appeals voted to affirm the director's determination that the SUP is no longer needed for the day care use. The motion carried on a vote of 6 to 0.
2. On a motion by Mr. Yoo, seconded by Mr. Marlowe, the Board of Zoning Appeals voted to affirm the director's determination that Section 4-507(E) of the Zoning Ordinance requires day care centers to provide adequate drop off and pick-up facilities so as to create minimal impact on pedestrian and vehicular traffic and that staff administrative approval of a drop-off and pick-up plan is required to ensure that Section 4-507(E) is met. The motion carried on a vote of 6-0.
3. On a motion by Mr. Perna, seconded by Mr. Ramsey, the Board of Zoning Appeals voted to affirm the director's determination that the drop-off and pick-up plan approved for SUP #2007-00064 is still in effect for this business. The motion carried on a vote of 4-2, with Mr. Yoo and Mr. Buono voting for denial of the motion.
4. On a motion by Mr. Perna, seconded by Mr. Marlowe, the Board of Zoning Appeals voted to partially affirm and modify the director's determination regarding pick-up by parents at 211 Commerce Street: "Absent an approved plan specific to 211 Commerce Street, pick-up by parents at this location constitutes a violation of Section 4-507(E) of the Zoning Ordinance. The motion carried on a vote of 4-2, with Mr. Yoo and Mr. Buono voting for denial of the motion.

Speakers:

David Chamowitz, lawyer, represented the appellant J&S Family, LLC in this appeal case.

- o Stated that because day cares are a permitted use in the zone, a day care center is not required to have administrative pre-approval of a drop-off and pick-up plan because it was not required by city council when they approved the zoning ordinance change to allow these uses by-right.

- Stated that violations of a pick-up plan by a third party (parents) cannot be a violation.

Christina Zechman Brown, Assistant City Attorney for the City of Alexandria, presented the findings of the Director of Planning and Zoning and a recommendation to uphold his determination.

Discussion: Mr. Yoo asked staff if this particular use would be considered a non-complying use. Staff stated that the use would be considered a permitted use as the use is now allowed by-right within the CD zone granted that they have an administratively approved pick-up and drop-off plan. The pick-up and drop-off plans for day care centers within the zone that previously had SUPs was administratively allowed to continue.

Mr. Buono asked if the appellant submitted an appeal beyond the 30-day window of appeal and if the applicant still had standing to submit the appeal to the Board of Zoning Appeals. Staff and the appellant explained that because the 30-day appeal deadline was on a weekend, Virginia state law grants the ability to file for appeal on the next available business day.

Mr. Yoo asked if Bluebird can continue to operate under the approved pick-up and drop-off plan? Staff stated that it can continue to operate. Staff further stated that this has been the policy of the director to allow the pick-up and drop-off plans that were approved with the SUPs of day care centers that were now deemed to be by-right to continue as Section 4-507(E) of the zoning ordinance required them to be submitted as a minimum development standard prior to business license approval.

MINUTES

3. Consideration of the minutes from the September 13, 2018 Board of Zoning Appeals.

BOARD OF ZONING APPEALS ACTION, OCTOBER 11, 2018: On a motion by Mr. Perna, seconded by Mr. Yoo, the Board of Zoning Appeals voted to amend the minutes to change certain language. The motion carried on a vote of 5 to 0, with Mr. Buono abstaining. On a motion by Mr. Perna, seconded by Mr. Yoo, the Board of Zoning Appeals voted to approve the amended minutes. The motion carried on a vote of 5 to 0, with Mr. Buono abstaining.

Discussion:

4. Other Business

The Board members discussed the recommended changes to the Rules of Procedure that were presented at the September hearing. The original proposed changes encompassed a change in the meeting date and time to 2nd Mondays of the month beginning at 7:00 pm. The Board members voted to approve these changes and to initiate a subcommittee that would identify additional changes to the rules of procedure. Mr. Perna and Mr. Buono volunteered to be members of the subcommittee. Staff stated that they will coordinate

meetings of the subcommittee to draft these changes and any recommendations would be presented to the Board at a future meeting.

ADJOURNMENT

5. The Board of Zoning Appeals hearing was adjourned at 10:15 p.m.