

PGCPB No. 00-138

File No. ROSE-SE-476/1

VSE-No. 476

AC-00035

Prince George's County Special Exception No. ROSE-SE-476/1 - VSE-476 - AC-00035

Applicant: Philip J. Kay

Location: South side of Ardwick-Ardmore Road, approximately 57 feet west of Manders Place.

Request: Revision of Site Plan (Minor Change) to a Special Exception for a Day Care Center; One-Foot Variance from Side Yard Setback; Alternative Compliance from the Buffering and Setback Requirements of Section 4.7 of the *Landscape Manual*.

R E S O L U T I O N

WHEREAS, the applicant is requesting approval of a minor change to Special Exception No. 476 in accordance with Section 27-325(b) of the Prince George's County Zoning Ordinance; and

WHEREAS, under this provision the applicant is requesting revision of the site plan for an approved day care center for children; and

WHEREAS, the applicant is also requesting a variance in conjunction with the revised site plan; and

WHEREAS, the advertisement of the public hearing was posted on the property in accordance with the adopted Rules of Procedure of the Prince George's County Planning Board; and

WHEREAS, the Technical Staff Report released July 19, 2000, recommended ROSE-SE-476/1 by approved with conditions and VSE-476 be approved subject to a condition; and

WHEREAS, after consideration of the Technical Staff Report and testimony at its regular meeting on July 27, 2000, the Prince George's County Planning Board agreed with the staff recommendation; and

WHEREAS, the Planning Board decision is based on the findings and conclusions found in the Technical Staff Report and the following DETERMINATIONS:

- A. Location and Field Inspection: The subject property is located on the south side of Ardwick-Ardmore Road, 57 feet west of Manders Place. It is a 2.9-acre, L-shaped parcel developed with a one-story (4,200 square foot) building to be used as a day care center. The building is set back more than 300 feet from the street, at the end of a long driveway. Parking for the use is located in front of the building. Part of the rear yard is to be used for play area, the remainder is wooded and will be preserved.
- B. History: The subject property was retained in the R-R Zone by the 1990 *Sectional Map Amendment for Largo-Lottsford*. A special exception for a 75-child day care center was approved for the site on May 20, 1959.

- C. Master Plan Recommendation: The 1990 *Master Plan for Largo-Lottsford* recommends a public/quasi-public use for the site.
- D. Request: The applicant proposes to revise the site plan for an approved day care center for children. The original building has been razed, and a new building erected. Apparently the applicant had secured several permits from the Department of Environmental Resources which were not sent to M-NCPPC for review. The applicant proposes 72 students, 3 fewer than approved in 1959.
- E. Neighborhood and Surrounding Uses:

The neighborhood is defined by the following boundaries:

North - Ardwick-Ardmore Road

East - Lottsford Vista Road

South - Lottsford Road/Landover Road

West - The Capital Beltway

The neighborhood is characterized as suburban-residential in nature, with single-family residences predominating.

The property is surrounded by the following uses:

North - Across Ardwick-Ardmore Road are single-family residences in the R-80 Zone.

East - Single-family residences and outbuildings in the R-R Zone

South - Undeveloped land in the R-R Zone.

West - Single-family residences in the R-R and R-80 Zones.

- F. Minor Change Provisions: Sec. 27-325(b) - Minor Changes to Properties Less Than Five (5) Acres in Size:

Changes of site plans for property of less than five (5) acres may be permitted by the Planning Board, provided that either of the following two (2) situations exists:

(A) Situation No. 1.

- (1) There is a proposed increase in gross floor area of a building or in land area

covered by a structure other than a building (over that approved on the original site plan) which is not greater than ten percent (10%) of the gross floor area or covered land area or five hundred (500) square feet, whichever is less; or

- (ii) There is a proposed relocation (in any direction) of any improvement (approved on the original site plan) which is not greater than ten percent (10%) of the distance to the boundary line of the Special Exception property or twenty (20) feet, whichever is less.

(B) Situation No. 2.

- (1) There is a proposed change in the design of a parking lot or loading area; or
- (ii) There is a proposed change in a landscape plan.

Finding: The proposed amendment meets these conditions. It is difficult to accurately determine the size of the building approved in 1959 due to the lack of a recognizable site plan. However, photographic evidence from 1965, 1971 and 1993 suggests a building roughly rectangular in shape comprising approximately 4,000 square feet in area. This size and shape of the building is also depicted in a permit application from 1982.

At 4,000 square feet, the applicant would be permitted to add up to 400 square feet. Although not noted on the site plan (and it should be), the now-existing building is 4,200⁷ square feet in area, an increase of

200 square feet. Therefore, the addition is permitted as a minor change.

G. Specific Special Exception Requirements (Sec. 27-348.01 - Day Care Center for Children).

(a) A day care center for children may be permitted, subject to the following:

- (1) The District Council may specify the maximum number of children to be enrolled, which may not be increased by State or local health, education, or fire regulations;

Finding: The District Council approved a day nursery for the site in 1959 for an undetermined number of children. In 1982, a use and occupancy permit for the site was issued for 75 children. The applicant is proposing an enrollment of 72 children.

(2) An ample outdoor play or activity area shall be provided, in accordance with the following:

- (1) All outdoor play areas shall have at least seventy-five (75) square feet of play space per child for fifty percent (50%) of the licensed capacity or seventy-five (75) square feet per child for the total number of children to use the play area at one (1) time, whichever is greater;

Finding: With an enrollment of 72, the applicant would be required to provide a maximum play area of 5,400 square feet. The site plan reflects a play area of more than 16,000 square feet. The site plan should be revised to show a note to this effect.

- (2) All outdoor play areas shall be located at least twenty-five (25) feet from any dwelling on an adjoining lot, and shall be enclosed by a substantial wall or fence at least four (4) feet in height;

Finding: The play area is more than 100 feet from the nearest adjoining dwellings and is surrounded by a 6-foot-high stockade fence.

- (3) A greater set back from adjacent properties or uses or a higher fence may be required by the District Council if it determines that it is needed to protect the health and safety of the children utilizing the play area;

Finding: No additional means are necessary to protect the children.

- (4) Any off-premises outdoor play or activity area shall be located in proximity to the day care center, and shall be safely accessible without crossing (at grade) any hazardous area, such as a street or driveway;

Finding: The play area is accessed directly from the building.

- (5) The play area shall contain sufficient shade during the warmer months to afford protection from the sun;

Finding: The play area contains four mature shade trees which will provide adequate shade during the warmer months.

(6) Sufficient lighting shall be provided on the play area if it is used before or after daylight hours to insure safe operation of the area; and

(7) Outdoor play shall be limited to the hours between 7 A.M. and 9 P.M.;

Finding: The applicant proposes play hours of ~~10:00~~ a.m. to 10:30 a.m. and 3:00 p.m. to 3:30 p.m. This should be noted on the site plan. No lighting will be necessary if these are to be the play hours.

(3) Not applicable to this case

(2) In addition to the requirements of Section 27-296(c), the site plan shall show:

(1) The proposed enrollment;

(2) The location and use of all buildings located on adjoining lots; and

(3) The location and size of outdoor play or activity areas.

Finding: The site plan does not show the location and use of all buildings on adjoining lots. Therefore, it must be revised accordingly.

(3) Any day care center for children which has, on or before the effective date of this Ordinance, fully complied with the provisions of this Subtitle in effect at the time the use commenced shall not be required to meet the requirements of this section, provided that the use has not been expanded or changed since that time. Any expansion or change shall be governed by the provisions of this section, or of Sections 27-445.03, 27-464.02, 27-475.02, or 27-541.02.

- (4) For the purposes of this section, enrollment shall mean the largest number of children enrolled in the center in any one (1) session.
- H. Parking Regulations: With an enrollment of 72, the day care center is required to have 9 parking spaces (one for every 8 children). The site plan shows nine spaces. The parking spaces appear to be drawn at a scale of 1 inch equals 30 feet. They should be amended to reflect the 1 inch equals 40 feet scale of the plan. The width of the drive aisles must also be shown.
- I. Landscape Manual Requirements: The Landscape Plan submitted with the application does not meet the requirements of the *Landscape Manual*. The deficiencies are:
1. The "Landscaping Schedule" does not clarify which trees and shrubs are existing and to be retained.
 2. In the Commercial and Industrial landscaped strip along Ardwick-Ardmore Road, three (3) shade trees and 12 additional shrubs would need to be added.
 3. In the Commercial and Industrial landscaped strip where Carol Street butts into the property, 10 shrubs would need to be added.
 4. Correct quantities would need to be calculated and provided on the plan to demonstrate fulfillment of Section 4.3.c. of the *Landscape Manual* for the area of the parking compound, the amount of interior green required and provided, and the number of shade trees required and provided. The required shade trees would need to be shown in appropriate locations inside the parking compound.
 5. Appropriate tables for Section 4.7, Buffering Incompatible Uses, would need to be provided on the plan.

The applicant has submitted an application for Alternative Compliance (AC-00035). Approval is recommended for AC-00035 from Section 4.7, Buffering Incompatible Uses, along the

entire western boundary (except the Carol Street frontage) and along the portion of the eastern boundary extending from the house to Ardwick-Ardmore Road.

Although technically Outlot A is residentially-zoned property and a bufferyard is required along the western boundary of the subject site adjacent to Outlot A, the outlot was included in the recently approved Detailed Site Plan for LaDova Heights cluster (SP-92035/01) and was designated in that plan as permanent cluster open space. Furthermore, the Planning Board required that an easement be placed over the outlot to ensure that it would be retained in this condition and dense landscaping will be planted along the length of Outlot A. For these reasons, the required bufferyard has for all intents and purposes already been secured in perpetuity on the adjacent outlots, so the plan as it stands provides an equal or better situation in comparison with normal compliance.

Alternative Compliance is required along the referenced portion of the eastern property line because the existing house and proposed parking lot will extend into the required "B" bufferyard. Along the referenced portion of this property line, 152 plant units are required (this reflects a reduction by one-half to reflect the existing wall and fence). Approximately 52 plant units are proposed on the plan.

To compensate for the reduction in the width of part of the bufferyard, 17 columnar shade trees shall be planted adjacent to the existing wall and fence, spaced evenly along the entire length of the eastern property line. This condition would result in plant units approximately 10 percent in excess of the normal requirement, which would result in a situation which is equal to or better than normal compliance.

- J. Zone Standards: The site plan meets the requirements of the R-R Zone with the exception of the side yard setback requirement of Section 27-442(e). That section of the Code requires a minimum setback of 8 feet, and if the building is over 30 feet in height, one-half foot for every foot over 30. The building is 31 feet in height. Thus, an eight-and-one-half-foot setback is required along the east side of

the new building. The site plan shows a seven-and-one-half-foot setback. Therefore, a one-foot variance is required.

Section 27-230 provides the following criteria for granting a variance:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

Finding: The subject property, though nearly three acres in size, is an irregular ■L• shape not found in the surrounding neighborhood. The existing structure, like the building it replaced, is within the relatively narrow ■panhandle• portion of the site.

- (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

Finding: The applicant has built a modern 4,200-square-foot building, unaware that a revision to a special exception was required. To force the applicant to remove one foot of the building would not result in any appreciable improvement, and would therefore create an undue hardship upon the owner of the property.

- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

Finding: The variance will not substantially impair the integrity of the 1990 *Master Plan for Largo-Lottsford*, which recommends public/quasi-public use for the site in recognition of its long use as a day care center.

K. Sign Regulations: The site plan does not show any signs on the property. If a sign is desired, it must be shown on the site plan.

L. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**
- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

Finding: The proposed day care use has previously been found to be in harmony with the purposes and in conformance with both the specific and general requirements for a special exception. The minor amendments proposed by the applicant will not negate these findings. While the submitted site plan is deficient in several matters, they can be easily rectified through conditions. The necessary side yard variance and Alternative Compliance requests are recommended for approval.

- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Master Plan, the General Plan.**

Finding: The proposal will not impair the integrity of the 1990 *Master Plan for Largo-Lottsford*, which recommends public/quasi-public use for the site.

- (4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**
- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Finding: The applicant proposes to continue a use that has successfully existed at this location four decades without proving deleterious to the health, safety or welfare of the neighborhood. By replacing the old ■day nursery■ with an attractive, modern building and reducing the number of

children from 75 to 72, the applicant has improved the situation for the neighboring properties and residents.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

Finding: The proposal is exempt from the Tree Conservation Ordinance because it will not result in the disturbance of any woodland, and it does not have a previously approved Tree Conservation Plan.

NOW, THEREFORE, BE IT RESOLVED, that Variance Request No. 476 and Alternative Compliance (AC-00035) are hereby APPROVED and the application for a "minor change" to Special Exception No. ROSP-SE-476/1, is hereby APPROVED, subject to the following conditions:

1. APPROVAL of ROSP-SE-476/01, subject to the condition that prior to the issuance of permits, the site plan shall be revised to show:
 - a. The finished gross floor area calculation for the building
 - b. The location and use of all buildings located on adjoining lots
 - c. A note showing the size of the outdoor play area
 - d. A note showing the proposed play hours
 - e. The parking spaces drawn to scale and dimensioned
 - f. Drive aisle dimensions
 - g. Business signs, if any
2. APPROVAL of VSE-476
3. APPROVAL of AC-00035, subject to the landscape plan being revised to show 17 evenly-spaced columnar shade trees being planted along the entire length of the eastern property line.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Brown, seconded by Commissioner Lowe, with Commissioners Brown, Lowe, Eley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, July 27, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of July 2000.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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