



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Special Exception Application No. 4521 (VSE-4521)

Application	General Data
Project Name: Precious Tots, Inc. Location: West side of Middleton Lane, east of Rayburn Drive, known as 5721 Middleton Lane. Applicant/Address: Anthony E. and Valore Mathis Cave 10083 Mike Road Fort Washington, Maryland 20744	Date Accepted: 11/12/04
	Planning Board Action Limit: N/A
	Plan Acreage: 1.15
	Zone: R-R
	Dwelling Units: N/A
	Square Footage: 6,837
	Planning Area: 76B
	Tier: Developing
	Council District: 08
	Municipality: N/A
	200-Scale Base Map: 208SE05

Purpose of Application	Notice Dates
SE-4521—Day Care Center for Children (85) VSE-4521—Variance of 1.5 feet for side yard setback. Alternative compliance for bufferyard requirements.	Adjoining Property Owners Previous Parties of Record Registered Associations: 11/3/04 (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: N/A

Staff Recommendation		Staff Reviewer: Jimi Jones	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

July 11, 2005

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board

FROM: Jimi Jones, Acting Supervisor, Zoning Section

SUBJECT: **Special Exception Application No. 4521**
Variance for Special Exception Application No. VSE-4521

REQUEST: **Validate improvements made to existing day care center subsequent to approval of special exception and increase enrollment from 68 children to 85.**
Variance of one foot from side yard setback requirements.

RECOMMENDATION: **APPROVAL, with conditions**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. Location and Field Inspection:** The subject property is a rectangular-shaped parcel located on the northwest side of Middleton Lane. This site is developed with a one-story, frame single-family home with an attached two-car garage. The front yard contains a paved circular driveway with nine parking spaces and a grass island area where a small sign identifies the Middleton Lane Child Care Center and Precious Tots, Inc. A large play area is located at the rear of the house. A four-foot-high, chain-link fence encloses the play area. A small metal shed is behind the house near the northern property line.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Day Care Center for 68 children	Day Care Center for 85 children
Acreage	1.15	1.15
Lots	1	1
Parcels	1	1
Square Footage/GFA	4,087	6,837

- C. History:** Special exception SE-1410 was approved on August 19, 1966, for a day nursery in the R-R Zone. The applicant is in the process of acquiring the day care center from the previous owner.
- D. Master Plan Recommendation:** The 1981 Subregion V11 master plan recommends “Low Suburban” residential development (1.6–2.6 dwelling units/acre). The 1984 sectional map amendment retained the property in the R-R Zone.
- E. Request:** The subject day care center, which has been in operation since the mid-1960s, is undergoing a change in ownership. The new applicant filed for a Use and Occupancy permit in January 2000. Staff found that the site plan filed by the new applicant was not consistent with the 1966 approved site plan. The permit has been put on hold to allow the applicant to seek approval of a new site plan that accurately reflects the current development of the property. The proposed site plan shows the existing play area, building additions, landscaping, signage, sheds, and parking area. The current capacity of the center is 68 children. The applicant proposes to expand the day care center with a 2,750-square-foot building addition and increase the enrollment to 85 children. The subject property is not currently used for residential purposes.

The applicant also requests that a variance be granted from the side yard requirement. A minimum eight-foot building setback is required (Section 27-442(e)) from the side property line. The site plan indicates that a seven-foot setback is provided. A variance of one foot is required.

Due to the location of the existing house, the use does not meet the minimum 30-foot building setback or the 20-foot-wide landscaped yard along the north and south property lines as required by the *Landscape Manual*. Alternative compliance application AC-05006 has been received in conjunction with this special exception request.

- F. Neighborhood and Surrounding Uses:** The subject property is located in an established neighborhood dominated by single-family detached homes on lots ranging generally from a quarter to one-and-a-half acres. The property is surrounded by single-family detached homes in the R-R Zone.

G. Specific Special Exception Requirements: Section 27-348.01 provides the following specific requirements for a 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;**

The current enrollment of the day care center is 68 children. The applicant requests to increase the enrollment to 85 children. The additional 17 children constitutes a 20 percent increase in enrollment. Staff has concerns regarding traffic impact. (See Part L of this report.)

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

- (A) 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;**

Based on the above requirement, a 6,375-square-foot play area is required for 85 children. The site plan shows a play area that meets this requirement.

- (B) 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;**

The site plan demonstrates compliance with this requirement.

- (C) 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;**

The location of the play area does not raise any additional safety concerns.

- (D) 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;**

No off-premise play area is proposed with this application.

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

The site plan demonstrates compliance with this requirement.

- (F) **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**

The site plan indicates that the play area will be in use from 7 a.m. to 7 p.m. No lighting is shown on the plan. Staff notes that during the fall and winter months there are fewer hours of daylight. Use of the play area during the proposed hours would make lighting necessary during the fall and winter. The plan should be revised to either show adequate lighting or the plan be noted that the play area will only be used during daylight hours.

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

The site plan indicates that the play area will be in use from 7 a.m. to 7 p.m.

- H. **Parking Regulations:** The parking computations in the site plan notes are incorrect. The plan notes that 10 parking spaces are required to serve a day care center for 85 children. Based on the standard of one parking space per eight children, 10.6 parking spaces are required. This figure must be rounded up to 11. While the site plan notes propose a total of 13 spaces, the plan actually shows 14 spaces. The plan notes should be consistent with what is shown on the plan. The applicant also provides that the use will be a day care center only. The existing house will not serve as a residence. A parking space for the dwelling is not, therefore, required. The existing day care center with an enrollment of 68 children must have at least nine parking spaces.

- I. **Landscape Manual Requirements:** The site plan does not demonstrate compliance with the bufferyard requirements of Section 4.7 of the *Landscape Manual*. Due to the location of the existing house, the applicant cannot provide the required 30-foot building setback or 20-foot-wide landscaped yard along the north and south property lines. The applicant filed for alternative compliance (AC-05006) and has received a recommendation of approval from the Alternative Compliance Committee. The committee found that the proposed board-on-board fence, which surrounds all activity areas including parking, building and playground, and the use of larger evergreen plant materials would sufficiently buffer adjacent properties.

- J. **Zone Standards:** Section 27-442(e) requires a minimum eight-foot building setback along the southern property line. The existing building is set back seven feet from the southern property line. The applicant is requesting approval of a variance of one foot (per VSE-4521). Section 27-230 provides the following findings for approval of a variance:

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

The subject lot is narrow (100 feet wide) and the existing garage as shown on the 1954 plat for the approved special exception encroaches into the required side yard by one foot. The requested variance essentially validates the location of the existing garage.

- (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**

The strict application of this Subtitle will result in exceptional or undue hardship upon the owner of the property. The existing garage that encroaches into the required side yard was constructed in its current location in the early 1950s. The applicant is the new owner of the property and wishes to continue to operate the existing day care center. Strict compliance with the side yard setback requirement would require the garage to be demolished and relocated. The cost of moving the structure to correct a deficiency of one foot would result in undue hardship on the new owner of the property.

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

The variance will not substantially impair the intent, purpose, or integrity of the 1981 Subregion VII master plan. The plan recommends “Low Suburban” residential development (1.6–2.6 dwelling units/acre). The property is a single-family detached home which is consistent with the plan; however, the existing day care center is permitted by special exception and is a common use in a residential zone.

K. Sign Regulations: No sign is 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.**

With the recommended conditions, the proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance seek generally to protect and promote the health, safety, morals, comfort, convenience and welfare of county residents. The subject daycare center has provided safe and convenient service to the community for almost 40 years. With the growth in population in the county of the past 40 years, the proposal to increase the enrollment from 68 to 85 children is not unreasonable. However, given the character of the neighborhood and the secondary residential streets that serve the use, a day care center with 85 children may be too much of a burden for a subdivision with low-density suburban development. Absent a traffic study, staff cannot make a determination that 17 additional children and associated traffic can be accommodated in this community. We are, however, more confident that the day care centers’ current enrollment of 68 children can continue to be accommodated at this location.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

With the recommended approvals of a variance of one foot for the side yard setback and alternative compliance for landscaped yard requirements, the use is in conformance with all the applicable requirements. The proposed expansion requires a tree conservation plan and stormwater management plan. The applicant has not submitted these plans. Without

this information, we can only find that the existing day care center will be in conformance with all applicable requirements.

- (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 Map Plan, the General Plan.**

The proposed use will not substantially impair the integrity of the 1981 Subregion VII Master Plan, which recommends “Low Suburban” residential development (1.6–2.6 dwelling units/acre). A day care center is permitted by special exception in the R-R Zone. The subject day care center has operated in the community for nearly 40 years and is an integral part of the neighborhood.

- (4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. The subject day care center has operated in the community for nearly 40 years. No information has been submitted that suggests the use has an adverse impact on the neighborhood. Staff is concerned, however, that traffic associated with an increase in enrollment of 17 additional children may adversely affect the welfare of neighboring residents. The applicant has not provided a traffic study that addresses this issue. We do not therefore support the proposed expansion.

- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

With the recommended conditions, the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. Essentially the applicant requests an enlargement of a use that has existed for many years at this location. The applicant does not attempt to address the traffic impacts of an additional 17 children in the neighborhood. Staff also notes that the proposed plan shows access from Rayburn Drive and a parking lot. This additional impervious surface will require a stormwater management concept plan. The stormwater management plan must be reviewed prior to a Planning Board hearing. If the use continues to operate with an enrollment of 68 children, the proposed new parking area and driveway will not be necessary.

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

The proposed site plan is in conformance with an approved tree conservation plan. A letter of exemption from the requirements of the Woodland Conservation Ordinance, E-17-99, was issued as part of a use and occupancy permit, 505-99-U. That letter noted that no clearing of woodland was proposed. The letter of exemption is not valid for the current application because the plan indicates future clearing for an access to Rayburn Drive through the existing woodland. A Type I tree conservation plan is required at this time.

CONCLUSION:

The applicant originally requested only to continue operation of the day care center for 68 children. Subsequent to the submission of the original plan, the applicant decided to increase the

enrollment to 85 children. Currently, access to the site is from Middleton Lane. The proposed expansion will require additional parking and a new access from Rayburn Drive. No traffic study has been provided to address the impact of the additional trips on the neighborhood and in particular a new access point on Rayburn Drive. In addition, the new driveway and parking area will require the clearing of trees and tree conservation and stormwater management plans. No such plans have been submitted. Absent information regarding impacts of the proposed expansion on the neighborhood, staff is unable to recommend approval of the expansion the center. We do, however, recommend APPROVAL of SE-4521 and VSE-4521 for the existing day care center for 68 children, subject to the following conditions:

1. The site plan shall be revised as follows:
 - a. Indicate a day care center for 68 children.
 - b. Lot coverage calculations must be provided on the site plan.
 - c. Building height must be provided on the site plan.
 - d. The gross floor area of the existing day care must be provided on the site plan.
 - e. The building setback from both streets must be provided on the site plan.
 - f. The centerline of both streets must be provided on the site plan.
 - g. The surface of the parking lot must be provided on the site plan. It must be dust free in accordance with Section 27-554 of the Zoning Ordinance.
 - h. A ramp or other means of access from the van-accessible parking space to the building must be provided on the site plan.
 - i. The method of identifying the compact parking spaces “in the field” must be provided on the site plan.
 - j. Adequate lighting must be provided if the parking lot is to be used at night per Section 27-562 of the Zoning Ordinance.
 - k. Remove the proposed building addition from the plan.