

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday, February 15, 2023. The following Board Members were present: Chairman John F. Ribble III; Thomas W. Smith III; Rebecca Ballo; Daniel Aminoff; Donte Tanner; and Karen L. Day. Vice Chairman James R. Hart was absent from the meeting.

Chairman Ribble called the meeting to order at 9:02 a.m. He asked if there were any Board Matters to bring before the Board. As there were no Board Matters, he then discussed the policies and procedures of the Board of Zoning Appeals. Chairman Ribble called for the first scheduled case.

~ ~ ~ February 15, 2023, Scheduled case of:

Protection of the Holy Mother of God Orthodox Church (St. Mary Orthodox Church), SP 2021-PR-00091 to permit building/site modifications to an existing religious assembly use, and an increase in fence height in the front yard adjacent to Roosevelt Avenue. Located at 7219 and 7223 Roosevelt Ave., Falls Church, 22042 on approx. 1.16 ac. of land zoned R-4. Providence District. Tax Map 50-3 ((9)) 56 and 50-3 ((1)) 9. (Admin Moved from 5/25/2022, 7/13/2022, 9/28/2022, and 11/16/2022)

Chairman Ribble noted that application SP 2021-PR-00091 had been administratively moved to April 26, 2023.

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~ ~ ~ February 15, 2023, Scheduled case of:

AAR Investment, LLC, A 2022-LE-012

Chairman Ribble noted that appeal application A 2022-LE-012 had been administratively moved to June 28, 2023.

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~ ~ ~ February 15, 2023, Scheduled case of:

The Korean Evangelical Association of America, Inc. T/A Good Shepherd Evangelical Church of Washington, SPA-2007-SP-006 to amend SP 2007-SP-006 previously approved for a religious assembly to allow for a change in permittee, the addition of an accessory child care center use, and modifications to site and development conditions. Located at 12609 Braddock Rd., Fairfax, 22030, on approx. 4.76 ac. of land zoned R-C and WS. Springfield District. Tax Map 66-2 ((3)) 4.

Chairman Ribble noted that application SPA-2007-SP-006 had been administratively moved to May 3, 2023.

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~ ~ ~ February 15, 2023, Scheduled case of:

GBA Associates Limited Partnership, VC-2022-PR-00015 to permit a fence 8.0 ft. in height in the front yard adjacent to Arlington Blvd, the eastern and western side yards, and the rear yard. Located at 7700 Arlington Blvd., Falls Church, 22042 on approx. 43.6 ac. of land zoned I-3. Providence District. Tax Map 49-4 ((1)) 59A, B, and C.

Chairman Ribble noted that there was a deferral request to March 1, 2023.

Brent Krasner, Chief, Special Permit and Variance Branch, explained the reason for the deferral request.

Mr. Aminoff moved to defer VC-2022-PR-00015 to March 1, 2023. Mr. Tanner seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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~ ~ ~ February 15, 2023, Scheduled case of:

First Christian Church of Falls Church, SP-2022-MA-00112 to permit the continuation of an existing religious assembly use after the deletion of land area. Located at 6165 Leesburg Pike, Falls Church, 22044 on approx. 2.79 ac. of land zoned R-3 and HC. Mason District. Tax Map 51-3 ((1)) 25 (pt.).

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Sharon Williams, Staff Coordinator
- Sara Mariska, Odin Feldman & Pittleman, P.C., Agent for the Applicant
- Aaron Vinson, Engineer for the project
- Steven Moore, Reverend, First Christian Church of Falls Church
- Public Speakers
 - Martin Machowsky, 6208 Colmac Drive, Falls Church, VA 22044

After the hearing where testimony was presented by Ms. Williams, Mr. Krasner, Ms. Mariska, Rev Moore, and Mr. Vinson, which was then followed by public testimony from the above referenced speaker, Mr. Aminoff moved to approve SP-2022-MA-00112 for the reasons stated in the Resolution. Mr. Tanner seconded the motion which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

First Christian Church of Falls Church, SP 2022-MA-00112 to permit the continuation of an existing religious assembly use after the deletion of land area. Located at 6165 Leesburg Pike, Falls Church, 22044 on approx. 2.79 ac. of land zoned R-3 and HC. Mason District. Tax Map 51-3 ((1)) 25 (pt.). Mr. Aminoff moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 15, 2023; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-3 and HC.
3. The area of the lot is 2.79 acres.
4. The Board adopts the rationale in the staff report and in the testimony presented at the hearing.
5. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. The approval is granted to the applicant, First Christian Church of Falls Church, only, is not transferable without further action of the Board, is for the location and special permit area indicated on the application and further identified on the special permit plat, 6165 Leesburg Pike (2.79 acres),

and is not transferable to other land.

2. The special permit is granted only for a religious assembly use and the proposed improvements as shown on the special permit plat entitled, "First Christian Church of Falls Church", prepared by Walter L. Philips, Inc. on May 13, 2022, as revised through January 27, 2023, and approved with this application, as qualified by these development conditions.
3. A copy of the Special Permit and the Non-Residential Use Permit (Non-RUP) must be posted in a conspicuous place on the property.
4. This special permit is subject to Zoning Ordinance Sect. 8100.7. Any plan submitted to the Department of Land Development Services (LDS) pursuant to this special permit, must be in substantial conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Sect. 8100.5 of the Zoning Ordinance.
5. Upon approval of Special Exception by the Board of Supervisors to permit an Office in a Residential District, the medical office clinic currently utilizing the church building may continue in the church building until such time as a Non-RUP is issued for the use in the proposed independent living facility associated with SE 2022-MA-00026, at which point it must be relocated to that facility.
6. The maximum number of seats permitted in the sanctuary is 454 persons at any one time.
7. Parking must be provided as generally depicted on the special permit plat. All parking associated with this use must be on-site or at the site of the adjacent proposed independent living facility approved with SE 2022-MA-00026.
8. The barrier requirement is waived along all property lines and/or adjacent uses, as applicable.
9. The applicant must ensure that Tree #787 is preserved during any construction on-site.
10. The addition must be generally consistent with the existing architectural character of the building. The primary building materials for the addition must be compatible brick masonry with coloring similar or complementary to the existing building.
11. Tree Inventory and Condition Analysis: The Applicant must submit a Tree Inventory and Condition Analysis as part of the first and all subsequent plan submissions. All inventoried trees must be tagged in the field with durable metal or plastic tags. The Tree Inventory and Condition Analysis must be prepared by a Certified Arborist or Registered Consulting Arborist and must include elements of PFM 12-0307 deemed appropriate to the project site as determined by UFMD.
12. Tree Preservation Plan: The Applicant must submit a Tree Preservation Plan and Narrative as part of the first and all subsequent plan submissions. The Tree Preservation Plan and Narrative must be prepared by a Certified Arborist or Registered Consulting Arborist and must include elements of PFM 12-0309 deemed appropriate to the project site as determined by UFMD.
13. Project Arborist/Pre-construction Meeting: Prior to the pre-construction meeting the Applicant must have the approved limits of clearing and grading flagged with a continuous line of flagging. The Applicant must retain the services of a Certified Arborist or Registered Consulting Arborist (Project Arborist) to attend the pre-construction meeting to review the limits of clearing and grading with an UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the limits of clearing and grading. Such adjustments must be recorded by the Project Arborist and tree protection fencing must be implemented under the Project Arborist's supervision based on these adjustments.
14. Tree Protection Fencing: The Applicant must provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by UFMD. Tree protection fence must consist of four-foot-high welded wire attached to six-foot steel posts driven 18 inches into the ground and space no further than 10 feet apart; or super silt fence.
15. Tree Preservation Measures: Tree preservation measures must be clearly identified, labeled, and

detailed on the Erosion and Sediment Control Plan sheets and Tree Preservation Plan. Tree preservation measures may include, but are not limited to the following: root pruning, crown pruning, mulching, watering, bio-char soil application derived from wood, etc. Specifications must be provided on the plan detailing how preservation measures must be implemented. Tree preservation activities must be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.

16. Site Monitoring: The Applicant's Project Arborist must be present on-site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, and demolition activities. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist must visit the site on a regular basis to continue monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by UFMD. Written reports must be submitted to UFMD and SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports must be described and detailed in the Tree Preservation Plan.
17. Invasive Plant Species Management: Forested areas containing plant species that are known to be invasive in quantities that threaten the long-term health and survival of the existing vegetation present must be the subject of an invasive plant species management plan for the area to be awarded full 10-year canopy credit. At the time of site plan submission, the applicant must provide a management plan for review and approval by UFMD specifying the common and scientific name of invasive species proposed for management, the target area for management efforts, methods of control and disposal of invasive plants, timing of treatments and monitoring, duration of the management program, and potential reforestation as needed.
18. Landscape Planting Pre-installation Meeting. Prior to installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer must coordinate a pre-installation meeting on the site with the landscape contractor, UFMD staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species substitutions shown on the approved plan must be reviewed and approved by UFMD staff prior to planting. The installation of plants not approved by UFMD may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs prior to bond release.
19. Soil Remediation. Soil in planting areas that contain construction debris and rubble, are compacted or are unsuitable for the establishment and long-term survival of landscape plants, must be the subject of remedial action to restore planting areas to satisfy cultural requirements of trees, shrubs and groundcovers specified in the landscape planting plan. The applicant must provide notes and details specifying how the soil will be restored for the establishment and long-term survival of landscape plants for review and approval by UFMD.
20. Landscape Planting Plan. As part of the first and all subsequent plan submissions, the Applicant must include a landscape planting plan and specifications for review and approval by UFMD. All landscaping must be installed prior to the issuance of the first RUP/Non-RUP on the property, or as determined by UFMD for a particular project, but no later than bond release. The landscape planting plan and specifications must incorporate sustainable landscape planting techniques designed to reduce maintenance requirements; and contribute to a cleaner and healthier environment with improved air quality, stormwater management, and resource conservation capabilities that can be provided by trees and other desirable vegetation.

Reduce turf areas to minimize mowing operations and the resulting air pollution. Turf must be no more than (75) percent of the pervious area of each of lot (site). Mulched planting beds incorporating groups of trees and other vegetation must be used to provide a root zone environment favorable tree trees and other vegetation.

- Plant trees in areas to contribute to energy conservation for buildings, as depicted in Plate 4-12 of the Public Facilities Manual.
- Provide a diverse selection of native and non-invasive plants to encourage native pollinators and

reduce the need for supplemental watering, and the use of chemical fertilizers, herbicides and chemical control of harmful insects and disease.

- Sustainable landscape planting implemented with the subdivision/site plan should be made up of groups of trees including larger overstory trees (Category III and IV as listed in PFM Table 12.17) together smaller understory trees, (Category II) shrubs and groundcovers. In this application, it is acceptable for the 10-year projected canopies of overstory trees to overlap the canopies of understory trees as well as shrubs and groundcovers, as may occur in a multi-layer, wooded environment.

Inspection of mulch beds for conformance with the approved subdivision/site plan must be conducted at the time that the RUP/Non-RUP is issued for each building or phase of the plan. After mulch areas have been accepted, they must become the responsibility of the property owner who must not be precluded from managing or planting these areas according to their preference.

21. The applicant is responsible for identifying and complying with the terms of all legally enforceable easements, covenants, conditions, liens, judgements, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
22. Pursuant to subsection 8100.4.D of the Zoning Ordinance, this special permit takes effect upon a vote of approval by the Board of Zoning Appeals.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Tanner seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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~ ~ ~ February 15, 2023, Scheduled case of:

Paul A. Cashin and Jane L. Cashin, SP-2022-DR-00162 to permit a reduction in setback requirements to permit an addition 17.1 ft. from the rear lot line. Located at 2238 Casemont Dr., Falls Church, 22046 on approx. 8,612 sq. ft. of land zoned R-4. Dranesville District. Tax Map 40-4 ((37)) 6.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Paul A. Cashin and Jane L. Cashin, Applicants

After the hearing where testimony was presented by Mr. Isaiah and Mr. Cashin, with no testimony from the public, Mr. Tanner moved to approve SP-2022-DR-00162 for the reasons stated in the Resolution. Mr. Smith seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Paul A. Cashin and Jane L. Cashin, SP 2022-DR-00162 to permit a reduction in setback requirements to permit an addition 17.1 ft. from the rear lot line. Located at 2238 Casemont Dr., Falls Church, 22046 on approx. 8,612 sq. ft. of land zoned R-4. Dranesville District. Tax Map 40-4 ((37)) 6. Mr. Tanner moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 15, 2023; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The present zoning is R-4.
3. The area of the lot is 8,612 square feet.
4. The Board agrees with the rationale stated in the staff report.
5. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the standards for the Reduction of Setback Requirements as contained in Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the Board has determined that:

1. The application meets all the submission requirements set forth in Sect. 8101.3
2. A. The resulting gross floor area of the addition to the existing principal structure is not greater than 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. If a portion of the single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction will be removed;

B. The resulting gross floor area of the existing accessory structure and any addition to it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
3. The proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development.
4. The proposal does not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
5. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. These conditions must be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Development.
2. This special permit is approved for the location of the addition as shown on the special permit plat, entitled "*Special Permit Plat, #2238 Casemont Drive, TM# 0404-37-0006, Lot 6, McLean Meadows, Dranseville District, Fairfax County, Virginia,*" prepared by Merestone Land Surveying, PLLC, dated September 21, 2022, as submitted with this application and is not transferable to other land.
3. Pursuant to Par. 6 of Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,538 square feet existing + 3,807 square feet (150%) = 6,345 square feet permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single-family dwelling for the purpose of this paragraph will be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements will be permitted without an amendment to this special permit.

4. The addition must be generally consistent with the architectural elevations as shown on Attachment 1 to these conditions.
5. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments, or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit plat, as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
6. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will automatically expire, without notice, 30 months after the date of approval unless construction has commenced on the addition and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

This approval, contingent upon the above-noted conditions, does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Smith seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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Ballo and Mr. Aminoff seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Maria T. Stewart and Healing Together, PLC, SP 2022-SU-00174 to permit a home-based business (psychological therapy practice). Located at 11806 Waples Mill Rd., Oakton, 22124 on approx. 22,963 sq. ft. of land zoned R-1. Sully District. Tax Map 46-2 ((13)) 38. Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 15, 2023; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant and John R. Stewart are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 22,963 square feet.
4. The applicant proposes to see approximately 20 clients each week.
5. The driveway accommodates up to 5 vehicles. However, staff has included a development condition limiting scheduling so only one client is there at a time.
6. There is a favorable staff recommendation and analysis, which the Board incorporates into this resolution.
7. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This approval is granted to the applicant, Maria T. Stewart and Healing Together, PLC, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 11806 Waples Mill Road, Oakton, 22124, and is not transferable to other land. Upon termination of the applicant's residency at the subject property, this special permit approval becomes null and void.
2. This special permit is granted only for the home-based business (psychological therapy practice) at the property indicated on the plat titled, "Special Permit Plat, Lot 38, Section 1, Waples Mill Estates," prepared by Michael L. Flynn of Alexandria Surveys, LLC, dated September 7, 2022" and approved with this application, as qualified by these development conditions.
3. The hours of operation of the home-based business are limited to 10:00 am to 8:00 pm, Monday through Friday.
4. The maximum number of on-site client appointments is limited to twenty (20) per week and no more than five (5) on any one day.
5. Appointments must be scheduled so there is a minimum of thirty (30) minutes between the end of one appointment and the commencement of the next.

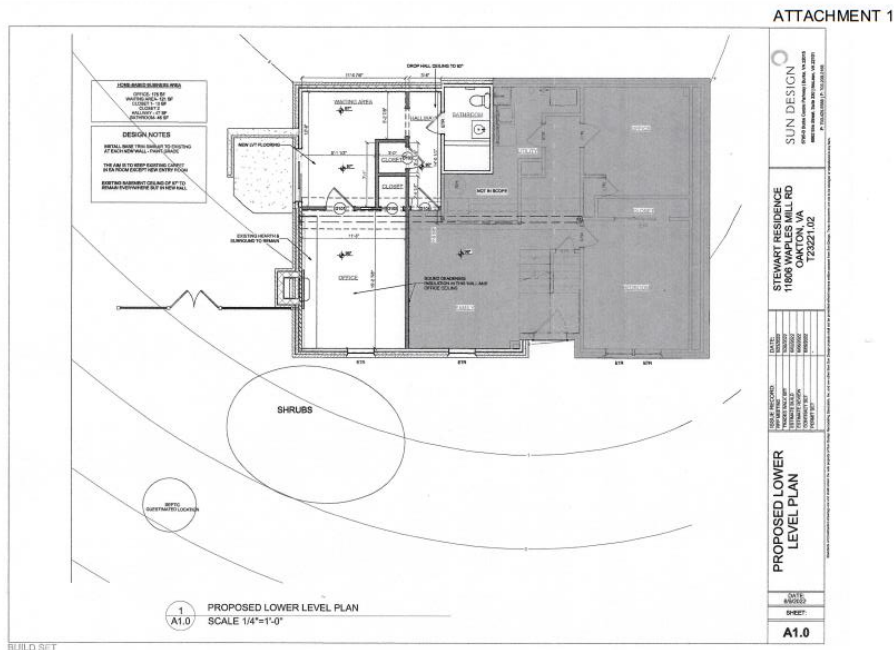
6. All client vehicles must exit the site facing forward onto Waples Mill Road.
7. The dwelling that contains the home-based business must be the primary residence of the applicant.
8. The applicant must be the sole operator of the home-based business, no on-site employees are allowed.
9. There must be no exterior signage associated with the home-based business.
10. The area of the dwelling devoted to the home-based business must not exceed 300 square feet and be generally as depicted on the floor plan provided in Attachment 1 to these development conditions.
11. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.

This approval, contingent upon the above-noted conditions, does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to subsection 8100.4.D this special permit takes effect upon a vote of approval by the Board of Zoning Appeals.

Ms. Ballo and Mr. Aminoff seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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~ ~ February 15, 2023, After Agenda Item:

Request for Additional Time
Chinese Christian Church of Virginia, SPA-94-M-025

Mr. Smith moved to approve additional time for application SPA-94-M-025 with a new expiration date of September 23, 2025. Ms. Ballo seconded the motion, which carried by a vote of 6-0. Mr. Hart was absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 10:10 a.m.

Minutes by: Mary Padrutt

Approved on: June 14, 2023