

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday, April 19, 2023. The following Board Members were present: Chairman John F. Ribble III; Vice Chairman James R. Hart; Thomas W. Smith III; Rebecca Ballo; Donte Tanner (arrived at 9:28 a.m.); Roderick Maribojoc and Karen L. Day. Daniel Aminoff was absent from the meeting.

Chairman Ribble called the meeting to order at 9:03 a.m. He asked if there were any Board Matters to bring before the Board.

Vice Chairman Hart moved that the Board recess and enter into Closed Session for consultation with legal counsel and/or briefings by staff members and consultants regarding litigation in Re: February 2, 2022 decision of the Board of Zoning Appeals of Fairfax County, Virginia and Washington Gas Light Company versus Christine Chen Zinner Consolidated Cases numbers CL 2022-2942 and CL 2022-3061 in the Circuit Court of Fairfax County and consultation with legal counsel and/or briefings by staff members and consultants regarding Berry versus Board of Supervisors of Fairfax County, record number 21143, in the Supreme Court of Virginia, BZA by-laws, BZA electronic meeting policy and Virginia Code Section 2.2-3708.3, BZA meeting cancellation policy, BZA taking oaths and witness testimony by telephone, BZA alternates under Virginia Code Section 15.2-2308, and BZA minutes pursuant to Virginia Code Ann. Sec. 2.2-3711 (A) (7) (LNMB Supp. 2002). Ms. Day seconded the motion, which carried by a vote of 6-0. Mr. Tanner was not present for the vote. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

The meeting recessed at 9:05 a.m. and reconvened at 9:28 a.m.

Vice Chairman Hart then moved that the Board of Zoning Appeals certify that, to the best of its knowledge, only public business matters lawfully exempted from the open meeting requirements prescribed by the Virginia Freedom of Information Act and only matters identified in the motion to convene Closed Session were heard, discussed, or considered by the Board during the Closed Session. Ms. Day seconded the motion, which carried by a vote of 7-0. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

Chairman Ribble called the first scheduled case.

~ ~ ~ April 19, 2023, Scheduled case of:

**Trustees of Shining Star Community Church, SP-2022-PR-00149**

Chairman Ribble noted that application SP-2022-PR-00149 had been administratively moved to May 24, 2023.

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~ ~ ~ April 19, 2023, Scheduled case of:

**Trustees of Garfield Memorial Christian Church, SP 2022-DR-00143**, to permit the continuation of an existing religious assembly including construction of a new principal building, modification to site conditions, and deletion of land area. Located at 1731 Great Falls St., McLean, 22101 on approx. 4.10 ac. of land (0.87 acres proposed after deletion) zoned R-3. Dranesville District. Tax Map 30-3 ((1)) 21A. (Admin move from 12/7/2022, and 2/8/2023)

Chairman Ribble noted that application SP 2022-DR-00143 had been administratively moved to May 24, 2023.

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~ ~ ~ April 19, 2023, Scheduled case of:

**The Most Reverend Michael F. Burbidge, Bishop of the Catholic Diocese of Arlington, Virginia and his successors in office (Historic St. Mary's Catholic Church), SPA-88-S-092** amend SP-88-S-092 previously approved for a place of worship (religious assembly) to allow for addition of land area and modifications to site conditions. Located at 5612 Ox Rd., 5607 Vogue Rd., and 5701 Vogue Rd., Fairfax Station, 22039, on approx. 2.94 ac. of land zoned R-C and WS. Springfield District. Tax Map 77-1 ((1)) 29, 30 and 31.

Chairman Ribble noted that application SPA-88-S-092 had been administratively moved to April 26, 2023.

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~ ~ ~ April 19, 2023, Scheduled case of:

**Hazem A. Elariny, ZAPL-2022-DR-00020** (concurrent with ZAPL-2022-DR-00017) Appeal of a notice of violation (NOV) that the appellant is operating a short-term lodging (STL) use on the property in violation of the STL permit standards contained in the Zoning Ordinance; appeal of a denial of a request for renewal of the previously approved STL permit which expired on November 25, 2022. Located at 612 Rivercrest Drive, McLean, Virginia 22101, on approx. 1.2 ac. of land zoned R 1, Dranesville District, Tax Map 21-2 ((3)) 19R.

**Hazem A. Elariny, ZAPL-2022-DR-00017** (concurrent with ZAPL-2022-DR-00020) Appeal of a notice of violation (NOV) that the appellant is operating a short-term lodging (STL) use on the property in violation of the STL permit standards contained in the Zoning Ordinance; appeal of a denial of a request for renewal of the previously approved STL permit which expired on November 25, 2022. Located at 612 Rivercrest Drive, McLean, Virginia 22101, on approx. 1.2 ac. of land zoned R 1, Dranesville District, Tax Map 21-2 ((3)) 19R.

Chairman Ribble noted that appeal applications ZAPL-2022-DR-00020 and ZAPL-2022-DR-00017 had been administratively moved to June 14, 2023.

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~ ~ ~ April 19, 2023, Scheduled case of:

**Masood M. Rahimi, ZAPL-2022-SP-00011** Appeal of a notice of violation (NOV) that the appellant's driveway exceeds the front yard coverage requirements in violation of subsection 6100.2.B(3) of the Zoning Ordinance. The appeal application identifies the subject property as 5513 Clifton Road, Clifton, Virginia 20124 on approx. 31,297 square feet of land zoned R 1, Braddock, Tax Map 55-3 ((4)) 23.

Chairman Ribble noted that appeal application ZAPL-2022-SP-00011 had been administratively moved to June 7, 2023.

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~ ~ ~ April 19, 2023, Scheduled case of:

**Suzanne Schillmoeller, SP-2022-DR-00182** to permit a reduction to the minimum yard (setback) requirements based on an error in building location to permit an addition to remain 9.6 ft. from the southeast side lot line. Located at 1616 Great Falls St., McLean, 22101 on approx. 6,500 sq. ft. of land zoned R-3. Dranesville District. Tax Map 30-3 ((2)) 17.

Chairman Ribble noted that application SP-2022-DR-00182 had been withdrawn by the applicant.

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~ ~ ~ April 19, 2023, Scheduled case of:

**Ghazala Tabassum, SP-2022-LE-00181** To permit a home child (day) care. Located at 6427 Silver Ridge Circle., Alexandria, 22315 on approx. 2,640 sq. ft. of land zoned R-8. Lee District. Tax Map 91-3 ((10)) 263.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Ghazala Tabassum, Applicant with an interpreter

Mr. Krasner explained that the cases were being heard under the 1978 Zoning Ordinance, which was currently in effect. Staff had included analysis under both the 1978 Zoning Ordinance and the ZMOD Ordinance.

After the hearing where testimony was presented by Mr. Isaiah, Mr. Krasner, and Ms. Tabassum, with no testimony from the public, Mr. Tanner moved to approve SP-2022-LE-00181 for the reasons stated in the Resolution. Mr. Hart seconded the motion, which carried by a vote of 7-0. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

**Ghazala Tabassum, SP-2022-LE-00181** To permit a home child (day) care. Located at 6427 Silver Ridge Circle., Alexandria, 22315 on approx. 2,640 sq. ft. of land zoned R-8. Lee District. Tax Map 91-3 ((10)) 263. 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 April 19, 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-8.
3. The area of the lot is 2,640 square feet.
4. The applicant has read, understands, and concurs with the proposed development conditions as modified at the hearing.

AND WHEREAS, the Board of Zoning Appeals has reached 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. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

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

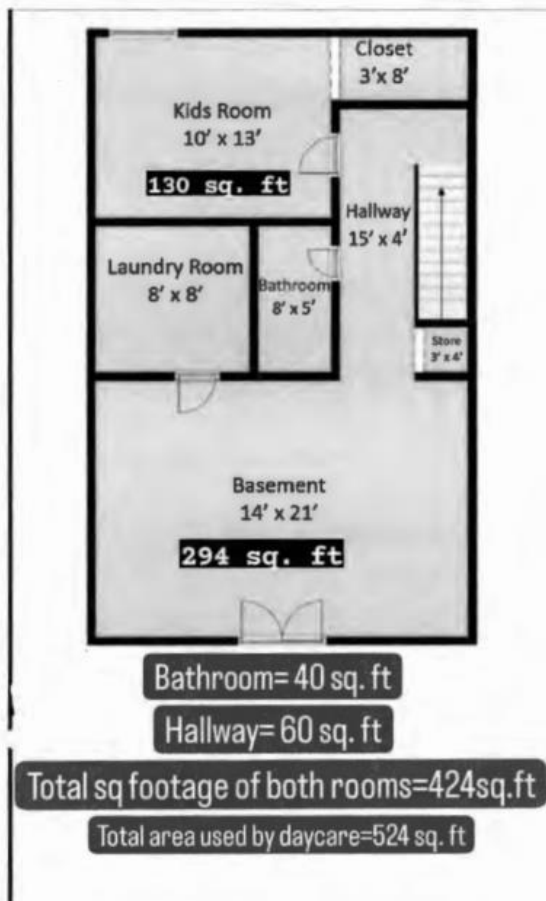
1. This approval for a home child (day) care facility is granted to the applicant, Ghazala Tabassum, and is not transferable without further action of the Board, is for the location indicated on the application, described as Tax Map 91-3 ((10)) 263, and addressed at 6427 Silver Ridge Circle, Alexandria 22315, and is not transferable to other land.
2. This special permit is granted only for the home child (day) care use as indicated on the plat entitled "Special Permit Plat Lot 263, Section 5, Windsor Park, Lee Magisterial District, Fairfax County,

Virginia,” prepared by Scartz Surveys, dated October 26, 2022, and approved with this application, as qualified by these development conditions.

3. A copy of this Special Permit must be posted in a conspicuous place on the property.
4. The hours of operation of the home child (day) care facility are limited to 6:30 a.m. to 6:00 p.m., Monday through Friday.
5. The dwelling that contains the home child (day) care facility must be the primary residence of the applicant.
6. Excluding the applicant's own children, the maximum number of children permitted at the home child (day) care facility at any one time must not exceed nine (9) children.
7. A maximum of one non-resident employee, whether paid or not for their services, may be involved in the home child (day) care facility. The home child (day) care facility must be operated in accordance with the Virginia Department of Social Services staffing requirements of 22 VAC 40-111-570.
8. The home child (day) care must operate only in the basement of the dwelling, including the areas labeled as “Basement,” “Kids Room,” “Bathroom,” and “Hallway,” as shown on the floor plan submitted with this application and included as attachment 1.
9. There must be no signage associated with the home child (day) care facility.
10. All pick-up and drop-off of children must occur within the applicant's assigned parking spaces. The applicant must notify the parents/guardians of the pick-up and drop-off instructions outlined in this application.
11. Any portions of the dwelling associated with the home child (day) care facility that are used as a children's sleeping area or rest area must be located in a room with an operable exterior window, door, or similar device that provides for a means of escape and access for rescue in the event of an emergency. Such emergency escape and rescue openings must be of the dimension and size specified by the Virginia Uniform Statewide Building Code.
12. The approval of the use is contingent upon maintenance of a state-issued family home day care license that permits the number and ages of children being cared for at the home day care facility.
13. The home child (day) care facility must be operated in accordance with Chapter 30 of the County Code, entitled “Minimum Private School and Child Care Facility Standards.
14. 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.
15. Pursuant to Sect. 8-015 (Sect. 8100.4.D(6)) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

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

Mr. Hart seconded the motion, which carried by a vote of 7-0. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.



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~ ~ ~ April 19, 2023, Scheduled case of:

**Rain Investment and Trading LLC, SP-2022-MA-00034** to permit a reduction of certain yard (setback) requirements to permit a roofed deck (covered porch) 15.1 ft. from the front lot line, an addition (enclosed carport) 24.0 ft. from the front lot line, and a second addition 25.1 ft. from the front lot line. Located at 2839 Meadow Ln., Falls Church, 22042 on approx. 8,325 sq. ft. of land zoned R-4. Mason District. Tax Map 50-4 ((7)) 47.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Reynaldo De Guzman, Applicant's agent

After the hearing where testimony was presented by Mr. McMahan, Mr. Krasner, and Mr. De Guzman, with no testimony from the public, Mr. Hart moved to approve SP-2022-MA-00034 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 7-0. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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**COUNTY OF FAIRFAX, VIRGINIA**

**SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS**

**Rain Investment and Trading LLC, SP-2022-MA-00034** to permit a reduction of certain yard (setback) requirements to permit a roofed deck (covered porch) 15.1 ft. from the front lot line, an addition (enclosed carport) 24.0 ft. from the front lot line, and a second addition 25.1 ft. from the front lot line. Located at 2839 Meadow Ln., Falls Church, 22042 on approx. 8,325 sq. ft. of land zoned R-4. Mason District. Tax Map 50-4 ((7)) 47. Mr. Hart 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 April 19, 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-4.
3. The area of the lot is 8,325 square feet.
4. There is a favorable staff recommendation, and the Board adopts the rationale in the staff report.
5. The request is relatively modest. There are three places where the front line is implicated. Two of the places are in line with the existing house and are similar to what has been done to other homes in the neighborhood, which predate the front yard setbacks. This is in keeping with the house next door with small additions matching the front plane of the house and a small porch over the front door.
6. This change is consistent with the neighborhood and consistent with other approvals. On many of these older homes, that did not have a covered porch over the front door, the Board has allowed relief to go into the front yard to cover the front steps.
7. With the imposition of the development conditions, there is not going to be any significant negative impact.
8. The applicant has read, understands, and concurs with the proposed development conditions.

AND WHEREAS, the Board of Zoning Appeals has reached 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. 8-006, and the additional standards for this use as contained in Sect. 8-922 in the Zoning Ordinance.

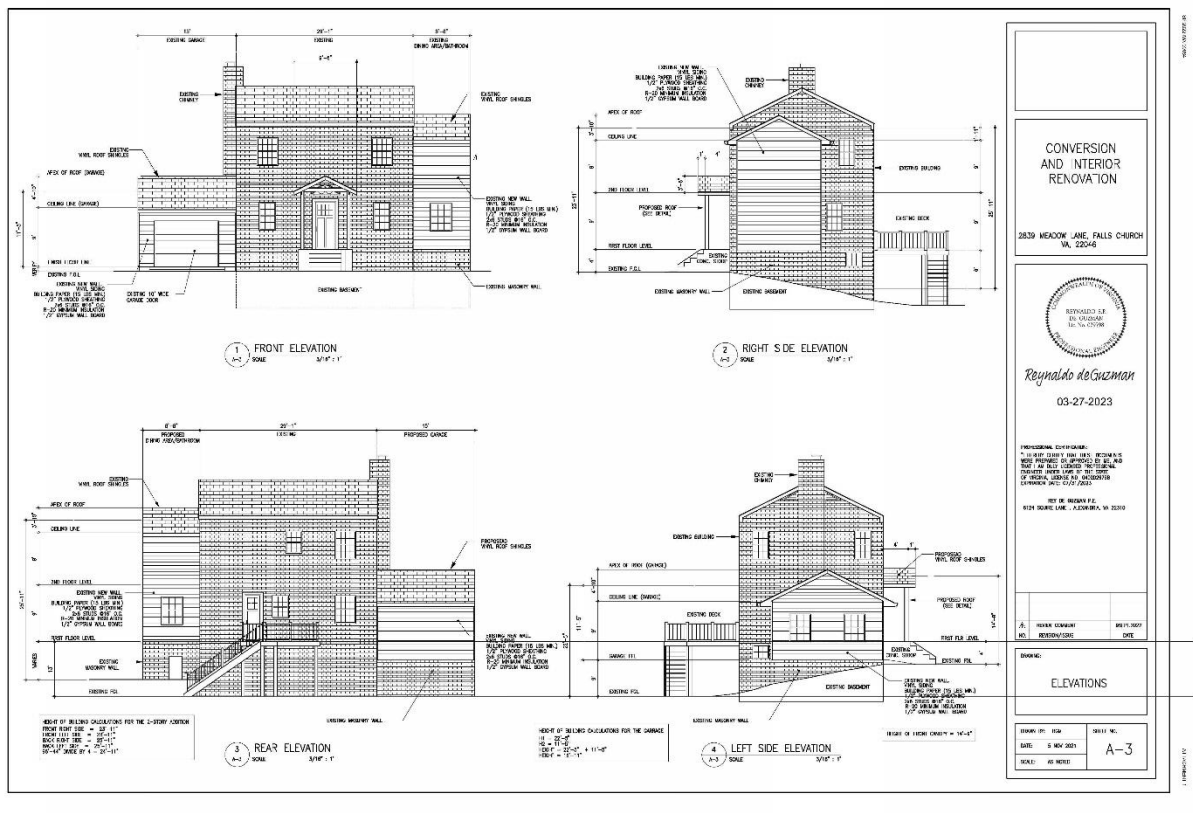
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. A copy of the Board's approval, including these accompanying 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 copy of the recorded conditions must be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location of the proposed roofed deck (covered porch), enclosed carport (one-car garage) addition, and two-story addition as shown on the plat, entitled "Special Permit Plat, Proposed Conversion and Interior Renovation," prepared by Reynaldo S.P. De Guzman, Professional Engineer, dated June 7, 2022 and revised on March 27, 2023, as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 [ZMOD Par. 6 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 (2,052 square feet existing + 3,078 square feet [150%] = 5,130 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Subsequent additions that meet minimum yard requirements must be permitted without an amendment to this special permit.

4. The roofed deck (covered porch), enclosed carport (one-car garage) addition, and two-story addition must be generally consistent with the architectural renderings as shown in Attachment 1 to these conditions.
5. The applicant must obtain all required trade permits and pass final building inspections for the proposed roofed deck (covered porch), enclosed carport (one-car garage) addition, and two-story addition which are the subjects of this special permit, within 120 days of approval of this special permit.
6. 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. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
7. Pursuant to Sect. 8-015 [ZMOD Article 8100.4.D (6)] of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction of the roofed deck (covered porch), enclosed carport (one-car garage) addition, and two-story addition has commenced 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, 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 7-0. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.



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~~~~~ April 19, 2023, After Agenda Item:

Approval of January 11, 2023 and January 25, 2023 Minutes

Mr. Smith moved to approve the Minutes. Ms. Ballo seconded the motion, which carried by a vote of 7-0. Mr. Aminoff was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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As there was no other business to come before the Board, the meeting was adjourned at 10:36 a.m.

Minutes by: Mary Padrutt

Approved on: September 20, 2023