

Case 3268

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Carrole A. Welsh
2702 Debbie Court
Finksburg, Maryland 21048

REQUEST: A conditional use for a child care center within the dwelling, with a fenced play area in the southerly side yard and part of the rear yard

LOCATION: 2702 Debbie Court in Election District 4; Eastview Estates subdivision, Section II, lot 59

BASIS: Article 7, Sections 7.2(f) and 7.5; Ordinance 1E

HEARING HELD: October 24, 1989

On October 24, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use request for establishment of a child care center within the dwelling, with a fenced play area in the southerly side yard and part of the rear yard, at 2702 Debbie Court.

For purposes of clarification, the proposed child care center is considered to be a group day care center as defined and regulated by Title 14 of the Annotated Code of Maryland, and the Code of Maryland Regulations, Title 10, Subtitle 05.

The Board visited the site on October 18, 1989, prior to the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will authorize the conditional use, subject to the conditions noted below. The pertinent findings include the following facts.

FINDINGS OF FACT

The applicant's home is located within Eastview Estates subdivision, and is further identified as Section 2, lot 59. As depicted by the plot plan submitted with the application, the width of the lot is 135 feet and the area is 30,329 square feet. It is improved with a single family dwelling, above ground swimming pool, paved driveway, well, and sewerage disposal system.

The dwelling is one story with ground level access to the basement on the southerly side of the building. A fenced play area, connecting to the dwelling, is proposed in the southerly side yard and part of the rear yard. As shown on the plot plan, the fencing projects into the 7.5 feet wide drainage and utility easement paralleling the southerly side property line. Such encroachment is unacceptable and the Board will not authorize the play area fencing to extend into the easement.

The driveway, as depicted on the plot plan, was constructed in conjunction with the dwelling to provide for on-site residential parking only. Two on-site parking spaces are required for single family dwellings. [Article 14, Division I, Section 14.1(a)(24), Ordinance 1E.] The driveway does not comply with the requirements for on-site parking facilities for other than residential use. No additional parking facilities for loading or unloading children, or for employees are proposed.

The child care center is proposed within the basement of the dwelling. The principal, or primary land use of the property will continue to be the single family residence. The applicant requests authorization for a maximum of twelve children at one time; however, the applicant may limit care to ten children because of requirements governing staffing. The center will operate five days a week, Monday through Friday, from 7:00 a.m. until 5:30 p.m. Children attending school will be accepted on a part-time basis and be escorted to, and presumably from, established school bus stops. Children enrolled in special education are transported by school bus to and from the premises.

The applicant presently provides family day care for up to six children at one time. The total enrollment is ten children, and licensing as a group day care center will allow additional children to be cared for at the same time.

Presently, several of the children are enrolled full time. The majority are enrolled part-time. While this practice generates greater vehicular traffic to and from the premises than if enrollment consisted solely of children cared for full time, there is no evidence that the vehicular traffic has, or would, unduly affected the residents of adjacent properties.

No business identification sign is proposed.

APPLICABLE LAW

The property is zoned "R-20,000" Residence District as shown on zoning map 59A. The land use provisions for the district are incorporated in Article 7 of Ordinance 1E, and list child care centers as conditional uses in Section 7.2(f).

Article 17, Board of Appeals; Section 17.7, Limitations, guides and standards of Ordinance 1E governs the Board in considering conditional uses.

Article 14, Special Provisions; Division I, Parking Space Requirements; Section 14.1, Off-street (on-site) parking spaces, paragraph (a) 27(A) of Ordinance 1E requires one parking space for each employee of a group day care center. Failure to comply with the requirement would constitute a violation of Ordinance 1E.

REASONING

There is no evidence indicating that the child care center, as proposed and conditioned below, will unduly affect the residents of adjoining properties, the values of their properties, or the public interest.

CONCLUSION

The Board hereby authorizes the conditional use, subject to the following conditions which are imposed to promote the intent and purpose of the Carroll County Zoning Ordinance:

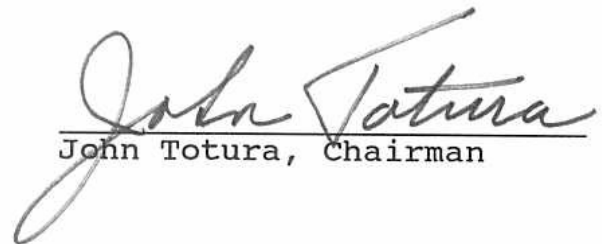
1. In accordance with the applicant's testimony, the child care center shall be established within the basement of the single family dwelling. The principal, or primary use of the property shall continue to be the single family residence.
2. In order to minimize the impact of the operation of the child care center, including the play area, on the residents of adjoining properties and the values of their properties, authorization of the child care center is limited to a maximum of twelve children at one time.
3. The applicant is directed to submit a revised plot plan to the Board of Zoning Appeals for inclusion in the case file, and to the Bureau of Permits and Inspections for Permit Application and Zoning Certificate #89-2807, relocating the play area not closer than 7.5 feet to the southerly side property line, so as not to encroach within the drainage and utility easement. It shall be the applicant's responsibility to insure that the proposed fence not be erected closer than 7.5 feet to the southerly side property line.

4. The applicant shall also show additional on-site parking spaces on the revised plot plan as required by Section 14.1(a)27(A) of Ordinance 1E for employees of the child care center, other than the applicant. Such parking spaces and maneuvering space shall comply with the minimum requirements as specified in Section 14.1(b) of Ordinance 1E.

If there are no employees of the child care center, no additional on-site parking will be required.

5. No business identification sign is authorized.
6. Due to the particular circumstances in this case, the authorization for establishment and operation of the child care center, as conditioned above, is restricted solely to the applicant and shall not inure to the benefit of assigns, or heirs. This condition does not preclude successors from reapplying for a conditional use in accordance with the provisions of the zoning ordinance in the future.

Nov. 17, 1989
Date


John Totura, Chairman