



Zoning Board of Adjustment Special Hearing
Monday, June 15, 2009, 7:00 p.m.
City Council Chambers, City Hall, Claremont

Meeting Minutes
Approved 7/6/09

Meeting Called to order at 7:00 pm by Chair Hurd

Roll Call

Present: Robert Woodman, Jim Hanson, Michael Hurd, Ed Friedman, Pierre Caouette, Carolyn Towle

Absent:

City Staff: Ed Tinker, Director of Planning and Development; Jane Taylor, City Solicitor; Katrina Spaulding, Administrative Assistant

I. New Business

- **(ZO2009-00015) Jessica & Ruben Ramirez**, seek a Use Variance from Section 22-226 of the City Zoning Ordinance to have a Group Child Day Care Center and Pre-School Program in the R-2 Zoning District. The location being requested is **10 Royce Street**. Tax Map: 107, Lot 199.

Project Description:

The applicant is proposing to utilize the existing school building and site for a pre-school and child care center. The building has historically been used as a school, with the additional use for the past 2 years as a place of public assembly as a worship center.

The proposed school use is permitted in the R-2 District; however, it is restricted to public or non-profit establishments. "Family Day Care" (up to 6 children from unrelated families) and "Family Group Day Care," (7-12 children from unrelated families), coupled with a residential component, are permitted uses, regardless of whether they are profit or not-for-profit facilities. The applicant's development plan is to have a for-profit "Child Day care Agency" and "Preschool Program". This proposal requires a Use Variance from Section 22-226 of the City Zoning Ordinance.

Planning Considerations:

The historic use of the site is essentially the same as the proposed use, and is therefore well-suited for the proposed facility. The size of the building and site are sufficient to accommodate the proposed services. Occupancy loading is determined during the building code and life safety review process.

Play Space

Outdoor play space is required for licensing from the state. A significant outdoor fenced play area is located on the eastern side of the lot. The size of this area appears adequate. Playground equipment is provided within the fenced enclosure.

Parking and Traffic Circulation

Traffic circulation should facilitate orderly pick-ups and drop-offs. The corner lot offers the opportunity for drop-offs and pick-up on two sides of the building. This is not a problem given that

access to the site is from local streets where traffic volumes and speeds are low. The site also has an entrance and parking lot. The site is designed to handle school buses and has ample room for traffic circulation and parking for roughly 20 vehicles.

Screening

Given the established school use of the site screening is unnecessary. The city has no record of complaints.

There are a couple of sewer lines running through the property.

There will be no residence and the facility will be used strictly for a daycare and pre-school – which will be “for-profit”. This building is currently on the tax roll for the use it was previous to this applicant. This will be 100% taxable with the new use. This was sold originally with a deed restriction for the school where there was only a certain amount paid towards taxes. This provision doesn’t apply to the transfer of the property.

There wouldn’t be a lot of code issues – the building is up to code currently as it was a school previously.

Bob Haight, Architect, was present to speak for the applicant. The intention is to use the two lower floors at basement level and the main floor for the daycare and preschool. The daycare regulations limit them to 40 square feet per student. The entire building is set up with a sprinkler system.

No Abutters Present

Public Hearing Closed

Review and Findings of Fact:

1. **The value of surrounding properties will not be diminished;** Consensus
2. **The variance will not be contrary to the public interest;** Consensus
3. **Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.**
 - **The zoning restriction as applied interferes with the landowner’s reasonable use of the property, considering the *unique setting of the property in its environment*;**
 - Is the property so different from the surrounding parcels that the proposed use is “reasonable” in this unique setting (i.e. does the burden arise from the property, not from the individual situation of the landowner)?
 - Does the restriction with the proposed use result in any decline in value of the property or diminished return on investment to the owner?
 - Would the proposed use alter the essential character of the neighborhood?
Consensus
 - **No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property as applied to this specific parcel;** Consensus

- **The variance would not injure the public or private rights of others;** Consensus
- 4. **Substantial justice is done (i.e. Is the loss to the applicant outweighed by the benefit to the public if the variance were denied; would granting the variance threaten the public health, safety or welfare?);** Consensus
- 5. **The variance is consistent with the spirit of the ordinance and does not interfere with the underlying purpose of the restriction.** Consensus

Conditions

If the ZBA approves the application for a Use Variance, the following **Condition of Approval** should be considered:

1. All approvals that may be required for the applicant to operate its business at this location must be obtained prior to active operation of the Group Day Care at this facility.
2. Existence of the use variance, if approved, will be recorded in the chain of title at the Sullivan County Registry of Deeds.

Motion to: Grant the Use Variance from Section 22-226 of the City Zoning Ordinance to have a Group Child Day Care Center and Pre-School Program in the R-2 Zoning District with the conditions listed above.

Made by: Pierre Caouette **Second:** Carolyn Towle **Vote:** Unanimous

II. Other

In the future, if there are any issues with Building Code or Fire Code, there will be more information in the packets for the board with a better clarification. It will be a better explanation of what the City is looking for regarding the application.

Motion to: Adjourn

Made by: Carolyn Towle **Second:** Jim Hanson **Vote:** Unanimous

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Katrina Spaulding
Administrative Assistant