

MINUTES OF THE MEETING
OF THE
CITY OF LOUISVILLE BOARD OF ZONING ADJUSTMENT

OCTOBER 1, 2001

DOCKET NOS. B-203-01 & B-204-01

Applicant: Christal Williams

Subject: An application for a Conditional Use Permit to allow a day care center in an R-5 zone (B-203-01) and a variance from the Zoning District Regulations to allow proposed off-street parking and existing structures to encroach into the required yards (B-204-01).

Premises affected: On property known as 4106 Greenwood Avenue and being in the City of Louisville.

Appearances for Applicant:
Tom Lewis, ClasSickle Inc., 4501 Bardstown Road, Louisville, Kentucky 40218.

Appearances-Interested Party:
No one.

Appearances Against Applicant:
No one.

On September 4, 2001, Christal Williams, filed an application for a Conditional Use Permit from the Zoning District Regulations to allow a day care center in an R-5 zone.

On October 1, 2001, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

In accordance with the Board Bylaws, the staff report prepared for this case was incorporated into the record. The Board members had received this report in advance of the hearing and it was available to any interested party prior to the public hearing. See Addendum for staff report in full.

A video of the site and surrounding area was shown.

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Wendy McLaughlin, Court Reporter, recorded the testimony given in the public hearing.

After the public hearing and a further discussion of the case by the members of the Board in open executive session, on a motion by Member Foreman, seconded by Member Schnell, the following resolution was adopted:

WHEREAS, the Board finds, from the file of this case, the staff report, and the evidence and testimony submitted at the public hearing that the day care center shall be allowed in an R-5 zone; and

WHEREAS, the Board finds that the applicant is requesting a Conditional Use Permit to allow a day care center in an R-5 zone; the proposed center will be located in an existing building that has been in the neighborhood for more than 75 years; the hours of operation are Monday through Friday, from 6:00 a.m. to 6:00 p.m.; the maximum number of children will be 69 with 11 employees; and

WHEREAS, the Board finds that the property is within the Traditional Neighborhood Form Area; the structure is compatible with commercial buildings at the Greenwood Avenue/Cecil Avenue intersection; no additional lighting is proposed; the access will be from Greenwood Avenue; therefore, the proposal complies with plan elements and the goals and objectives of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Board finds that the proposal is in compliance with Comprehensive Plan because it complies with all other applicable guidelines, principles and objectives of the Comprehensive Plan; and that the conditions attached to the permit will ensure compatibility with the surrounding neighborhood, and

WHEREAS, the Board finds that the proposal will promote and will not adversely affect the public health, safety or general welfare, as it has received preliminary approval from the Department of Inspections, Permits and Licenses and the Louisville and Jefferson County Metropolitan Sewer District;

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NOW, THEREFORE, BE IT RESOLVED, that the Conditional Use Permit is hereby **APPROVED ON CONDITION**.

1. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.
2. The hours of operation shall be limited to Monday through Friday with regular working hours between 8:00 a.m. and 5:00 p.m.
3. The maximum number of clients shall be limited to 69.
4. The maximum number of staff shall be limited to 11.
5. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within one year of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a day care center without further review and approval by the Board.

The vote was as follows:

YES: Members Foreman, Schnell, Crawford and Griffin.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: No one.

ABSTAINING: No one.

VARIANCES -(B-204-01)

WHEREAS, the Board finds, from the file of this case, the staff report, and the evidence and testimony submitted at the public hearing that the off-street parking and existing structures will encroach into the required yards; and

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WHEREAS, the Board finds that the size of the lot and the location of the existing structure are special circumstances which do not generally apply to land in the general vicinity or in the same zone; and

WHEREAS, the Board finds that the chief result of a denial of these variances would be that the site plan would have to be extensively altered; therefore, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant; and

WHEREAS, the Board finds that the applicant is not responsible for the size of the lot or the placement of the existing building; therefore, such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

WHEREAS, the Board finds that the structure has been at this location for more than 75 years; that commercial uses are west of the site at the Greenwood Avenue/Cecil Avenue intersection; that the building will remain the same with no exterior changes; that the day care center will serve the neighborhood; therefore, the granting of the variances will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations;

NOW, THEREFORE, BE IT RESOLVED, that the variances are hereby **APPROVED**.

The variances allow:

1. The existing structure to be located 3.38 feet from the west side property line.
2. The existing structure to be located 0 feet from the rear property line.
3. The existing structure to be located 0 feet from the rear property line.

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4. The proposed dumpster to be located 7 feet from the rear property line.
(Half the width of the 15 foot wide alley was used).
5. Five proposed parking spaces to be located 5 feet from the front property line.
6. The existing house & barber shop to be located 19 feet from the front property line.

The vote was as follows:

YES: Members Foreman, Schnell, Crawford and Griffin.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: No one.

ABSTAINING: No one.