COUNTY OF YORK
MEMORANDUM

DATE: November 14, 2001 (BOS Mtg. 11/20/01)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. UP-583-01, Iyobosa Associates, Inc. (Joe and Eleanor Osamwonyi)

ISSUE

This application requests a Special Use Permit to authorize the operation of a limousine service as a home occupation at 100 Douglas Drive in the Carver Gardens subdivision. The parcel is located at the intersection of Douglas Drive (Route 1101) and Merrimac Trail (Route 143) and is further identified as Assessor's Parcel No. 11D-(1)-15.

DESCRIPTION

- Property Owner: Eleanor L. Osamwonyi
- Location: 100 Douglas Drive
- Area: 11,215 square feet
- Frontage: 75 feet on Douglas Drive (Route 1101) and 150 feet on Merrimac Trail (Route 143)
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: High Density Residential
- Zoning Classification: R13 – High-density single-family residential
- Existing Development: Single-family detached home
- Surrounding Development:

  North: Single-family detached home
  East: Douglas Drive; single-family detached home beyond
  South: Merrimac Trail (Route 143); CSX railroad tracks beyond
  West: Single-family detached home

- Proposed Development: Operation of a limousine service as a home occupation with non-resident employees and parking for four (4) vehicles.

BACKGROUND

In 1996 the applicant applied for and received a York County business license to operate a limousine service out of his home at 100 Douglas Drive. As part of that approval, he signed a zoning clearance statement authorizing him to have an office in his house in connection with the limousine service, under certain prescribed conditions (copy of signed statement attached). In 1997 he relocated the office to an apartment complex in Williamsburg, and the limousines were garaged there. The applicant has stated that he was required to remove the limousines in 1998 after the apartment complex repaved the parking lot and restriped the parking spaces in such a way that they could no longer safely accommodate the limousines. At that point he started parking his limousines at the house – not in a garage and not just on the driveway but in the front, side, and rear yards as well. The vehicles were frequently parked less than the required ten feet from the property line. In March 2000 the County cited the applicant for violation of various provisions of the Zoning Ordinance that regulate conduct of home occupations (and that had been reflected in the statement authorizing the home office). The applicant appealed this decision to the Board of Zoning Appeals, which upheld the decision of the Zoning and Code Enforcement Supervisor. Litigation ensued and ultimately led the applicant to remove the limousines from the subject property, at least for the time being, pursuant to a court order.

CONSIDERATIONS/CONCLUSIONS

1. The subject parcel is located on a corner lot in the Carver Gardens subdivision at the intersection of Douglas Drive and Merrimac Trail (Route 143). The only road access is to Douglas Drive. Although located along a primarily commercial corridor, this property, like all of the lots in Carver Gardens, is designated for High-Density Residential development in the Comprehensive Plan and is zoned R13. Most of the rest of the Route 143 corridor is designated for General Business development and is zoned either General Business or Limited Business.

2. The applicant operates a limousine service out of an office in Williamsburg, but he wishes to park the limousines at his home within an existing detached carport/garage structure behind the existing house. The carport/garage is large enough to accommodate four vehicles. Section 24.1-283(a) of the Zoning Ordinance requires a Special Use Permit for any home occupation that creates a parking demand for three but not more than five spaces. In addition, Section 24.1-281(h) requires that commercial vehicles used in connection with a home occupation be kept in a garage or an enclosed and screened storage yard. Because not all of the limousine drivers live on the premises, the applicant is also seeking a use permit under the provisions of Section 24.1-283(e), which requires a use permit for any home occupation that has one or more non-resident employees.

3. By definition, home occupations are accessory uses and, pursuant to Section 24.1-281(b) of the Zoning Ordinance, must "be clearly incidental and subordinate" to the residential use of the property. They may not exceed four hundred (400) square feet or twenty-five percent (25%) of the floor area of the residence, whichever shall be less, unless a greater area is authorized by the Board of Supervisors by a special use permit. In addition, Section 24.1-281(c) states that "There shall be no change in the outside

appearance of the building or premises or other evidence of the conduct of such home occupation visible from the street or adjacent properties."

The area of the carport/garage is 960 square feet (24 feet wide and 40 feet long), or approximately 57% of the floor area of the residence, which is approximately 1,691 square feet in area. I have concerns about the size of the carport in relation to both the lot and the residence; however, the Zoning Ordinance does not contain any provisions limiting the size of accessory carports and garages as long as they meet the building setback requirements and are "clearly incidental and subordinate." The carport is smaller than the house and can therefore be considered subordinate; whether it is "clearly incidental" is somewhat subjective. Located within a residential subdivision, the parcel is surrounded by single-family detached homes. A privacy fence partially screens the structure from adjacent properties and Merrimac Trail. Because the structure is so large, I believe that if the application is approved, it is important to require that this privacy fence be maintained, and a condition to that effect has been included in the proposed approving resolution. Where there are gaps in the fence, it will need to be improved to provide a continuous screen.

4. The Institute of Transportation Engineers (ITE) Trip Generation manual contains no figures for limousine services. According to the applicant, Saturdays will be the busiest days of the week for the business, generating an estimated twelve (12) trips per day. On other days, it is estimated that an average of six (6) trips per day will be generated. Although traffic will be greater than would typically be associated with a single-family home, the number of trips is not significant (approximately 48 trips per week). Furthermore, the impact on the neighborhood would be inconsequential since the parcel abuts and has almost direct access to Merrimac Trail, which is itself a major arterial road and provides ready access to all major transportation corridors in the area, including Interstate 64, Route 199, and Route 60. The limousines will not need to drive through Carver Gardens to get to or from the lot.

5. For home occupations with non-resident employees, Section 24.1-283(e) of the Zoning Ordinance states that the "allowable number of non-resident employees shall be specified in the use permit approval." In this case, the number of employees will be related to the number of limousines since there is no need for more than one driver per vehicle. Both must be considered, however, in judging compliance with the five (5) vehicle maximum specified for any home occupation. Parking for four limousines plus parking for as many as four employees would exceed the five-vehicle limit. Even though the limousines would be taken off-site, there would be periods of overlap when the parking demand on-site could exceed 5 vehicles. Consequently, I believe the only way to ensure compliance with the five-vehicle limit is to restrict the number of limousines to two (2); (i.e., three limos plus three non-resident drivers' vehicles would exceed the limit; two and two would not). Accordingly, the proposed resolution limits the number of limousines to a maximum of two (2) and limits non-resident employees to drivers only. It should be noted that the applicant can operate a two-limousine business as a matter of right if there are no non-resident employees, and he has indicated that this is what he plans to do in the event that this application is denied.

6. In 1992 when the Board of Supervisors amended the Zoning Ordinance to allow, with a Special Use Permit, home occupations with non-resident employees, a provision was included limiting the term of such use permits to a maximum of two (2) years "or such other specific time period (either lesser or greater) as may be deemed appropriate by the board." The rationale behind this provision was that when a home occupation has grown to the point where non-resident employees are being hired, it is getting beyond the appropriate scale for a residential neighborhood. The intent of the two-year limit is to give the business-owner a reasonable period of time in which to find a more suitable location, preferably in a commercial area. I feel that a commercial location would clearly be more appropriate than a high-density single-family residential subdivision for the operation of a multi-vehicle limousine service. Accordingly, the two-year term limit has been included in the approving resolution in order to encourage the applicant to find a suitable commercial location for his business.

7. I have concerns that the proposed home occupation could set a precedent for the conversion of other residential properties along Merrimac Trail and other commercial corridors to a commercial use. While there are numerous residences along various commercial corridors in the County that are non-conforming by virtue of their commercial zoning, the Comprehensive Plan calls for such properties ultimately to be developed commercially. The subject parcel, in contrast, is zoned residential and, unlike such residences, is intended to remain residential pursuant to the Comprehensive Plan. If this were a proposal for a home office or some other home occupation less noticeable and with less visibility, I would not view this as such a great concern. However, this proposed use will alter the residential appearance and character of this property, which could begin to set an undesirable trend in motion for other residential properties along this frontage. In any event, if this application is approved it should be with the understanding that it stands on the merits and characteristics of this particular site and use and that it is not generally applicable to other properties on this section of Merrimac Trail.

8. The property has a hard-surface driveway, but it only runs from Douglas Drive to an attached garage. The carport/garage in which the limousines are to be stored is located in a difficult to access area on the site. In order to ensure that it is accessible in all weather conditions, it also should be served by a driveway constructed of asphalt, concrete, pavers, or gravel. If this application is approved, a condition has been included in the approving resolution to require the construction of a paved driveway providing access to the accessory carport. Conditions have also been proposed to limit the hours of operation to the period between 8:00 a.m. and 8:00 p.m. in order to protect neighbors from unreasonable noise associated with the movement of limousines into and out of the carport and to prevent servicing of vehicles on the site. Finally, a condition is proposed to make it clear that all non-resident parking demand must be satisfied on the site.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its regular meeting on October 10 and, subsequent to conducting a public hearing at which the applicants and another citizen spoke in support of the application, voted (5:2) not to recommend approval (i.e., denial).

COUNTY ADMINISTRATOR RECOMMENDATION

I am of the opinion that this use is too intensive for the subject residential lot. Although I believe the carport would constitute a "change in the outside appearance of the building or premises," it is a permitted structure on the lot regardless of the outcome of this application and it could be used to garage private vehicles owned by the applicant. However, its use for a four-vehicle limousine business would constitute "evidence of the conduct of [the] home occupation visible from the street [and] adjacent properties" by virtue of the maneuvering of the limousines and employee vehicles in and out. While the Zoning Ordinance does not limit the size of accessory garages and carports, it assumes that those garages will be used for residentially related purposes. This, on the other hand, proposes that it be used to support a commercial venture requiring more space than normally allowable for home occupations (960 square feet, versus the normal 400 square feet) and which, in my opinion, would be better accommodated in a commercial zoning district. While concerns about the size of the structure can be mitigated somewhat with the maintenance of an effective privacy fence, the potential disturbances to neighbors associated with the vehicle operations cannot be totally eliminated. Although the parcel's location and the relatively low trip generation of the proposed business would create negligible traffic impacts on the neighborhood, the vehicles are clearly distinguishable from those normally associated with residential properties and the maneuvering of the limousines and employee vehicles in and out and around the site is not in keeping with normal use of a residential property. As such, the proposal seems contradictory to the underlying objective that home occupations should be as innocuous as possible. Accordingly, I recommend that the Board deny this application.

Alternatively, if the Board wishes to approve the request, conditions have been drafted to address the various impacts and concerns expressed above and are included in the proposed resolution.

Carter/3337
Attachments

- Excerpts, Planning Commission minutes, October 10, 2001
- Zoning Map
- Vicinity Map
- Survey Plat
- Project Narrative
- Zoning Clearance Statement dated August 1996
- Proposed Resolution No. R01-190