

COUNTY OF YORK

MEMORANDUM

DATE: September 12, 2024

TO: York County Board of Supervisors

FROM: Mark L. Bellamy, Jr., County Administrator

SUBJECT: Queens Lake Day Care Request for Information



At the August 20, 2024, Board of Supervisors meeting, Mr. Holroyd asked staff to investigate the concerns he had received regarding a day care/preschool operating at 263 Kings Court in the Queens Lake neighborhood. The current property owner purchased the property in July 2023 and requested a Special Use Permit in August 2023 to operate a daycare for up to ten (10) children as a home occupation. The applicant withdrew their application upon finding out that staff would not be recommending approval to the Planning Commission due to the traffic that would be generated on Kings Court and the adjacent road network.

The property owner then applied for a business license to operate a preschool in the home. Based on the review of the application and the Code of Virginia, the applicant received a business license to operate Nature's Way Preschool on October 18, 2023. According to the Code of Virginia (22.1-289.030), it is lawful to operate a childcare if there are no more than four children in care at one time. Therefore, the business license stipulated that she could have no more than four children at one time and must comply with other requirements for home occupations.

County staff received several questions from adjacent residents and other Queens Lake residents about the preschool operation and its limitations. Staff clarified the use's limit to no more than four children. Additional questions arose about a young grandchild who lived with the current property owner most of the week and spent the rest of the time with her parents in Maryland. Staff considered this child a family member, which is not counted toward the four-child limit. Further concerns arose because pick-up and drop-off were not occurring within the boundaries of the property and cars were blocking the cul-de-sac. Staff advised the property owner that all pick-up and drop-off must be staggered and occur within the home's driveway. The property owner was unaware of the impact of the drop-off and pick-up and stated they would stagger pick-up and drop-off so that it could happen within the driveway.

Recently, it was brought to the County's attention that the property owner was operating two shifts for the preschool, one in the morning and another in the afternoon, with four children participating in each shift. Mr. Holroyd expressed concerns about the staff's interpretation of the Day Care's ability to have up to four children and that this should not be applied to four children at one time but as an overall number of children, with the property owner operating what he considers illegally having eight children overall.

Zoning enforcement is a snapshot visit to a business to determine compliance with the

code's restrictions. If a zoning officer visits the property and finds only 4 children (in addition to the owner's grandchild), the business is in compliance. Similar to occupancy limits established by the Building Code, if a fire marshal visits a business and the occupancy of the business does not exceed the occupancy limit at the time of the site visit, there is no violation. Therefore, it is the staff's conclusion that we have no evidence that the preschool has more than four children at one time.

The Zoning Office has received complaints from an adjacent property owner. These complaints have been investigated. However, in each case, the business has been in compliance. The adjacent property owner is not supportive of the preschool and continues to monitor the situation, which raises tensions with the legally operating preschool provider. County staff has tried to support all parties in satisfying the concerns that both groups have. Unfortunately, the situation may not be resolved unless all parties sit down and discuss a better way to live harmoniously.

Anderson/3497

Attachment:

- Business License



Acct#: 10134147

COUNTY OF YORK
ZONING AND CODE ENFORCEMENT

BSL2023-20795

ZONING CLEARANCE FOR HOME OCCUPATION STATEMENT

Commissioner of the Revenue * Zoning & Code Enforcement * Building Regulations * Fire & Rescue
(757) 890-3383 (757) 890-3523 (757) 890-3522 (757) 890-3600

RECEIVED

01/02/2023

10-5-2023

I, the undersigned applicant for a business or professional license, understand that to conduct a business of any nature in a residential district is strictly limited by the Zoning Ordinance of the County of York. All home occupations shall be subject to the following provisions of Section 24.1-281:

- (a) No person other than individuals residing on the premises shall be engaged on the premises in such operation unless otherwise authorized under Section 24.1-283(e).
- (b) The home occupation shall be clearly incidental and subordinate to the residential use of the property. The use may not exceed four hundred (400) square feet or twenty-five percent (25%) of the floor area of the residence, whichever shall be less.
- (c) 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. Wall signs cannot exceed 3 sq. ft. in area, and free standing signs cannot exceed 3 sq. ft. in area, and 3 sq. ft. in height. Outdoor storage is not permitted.
- (d) There shall be no on-premises sales of goods or materials to the general public except as may be authorized by special use permit in accordance with the standards established in Section 24.1-283.
- (e) Such home occupation shall not generate traffic, parking, sewage or water use in excess of that which is normal in the residential neighborhood.
- (f) No mechanical or electrical equipment or flammable or toxic substances shall be utilized other than that which would customarily be utilized in the home in association with a hobby or avocation not conducted for gain or profit.
- (g) Any demand for parking generated by the conduct of such home occupation which is in addition to the spaces required for the residential use shall be accommodated off the street in a suitable located and surfaced space. Parking must be ten feet (10') [3m] from any property line and where three (3) or more spaces are required they shall be effectively screened and buffered by landscaping from view of adjacent residential properties and the home occupation shall be authorized only by issuance of a special use permit by the board. If more than five (5) parking spaces are required in addition to the residential use for the home occupation, the home occupation shall be prohibited.
- (h) The occupation or activity shall not require the use of machinery or equipment that creates noise, odor, smoke, dust or glare or is dangerous or otherwise detrimental to persons residing in the home or on adjacent property. Commercial vehicles must be kept in a garage or an enclosed and screened storage yard.
- (i) No equipment or process used as a part of the occupation or activity shall disrupt residents of nearby dwellings.
- (j) No heavy truck or vehicle, or piece of equipment having a gross rated carrying capacity of more than one (1) ton [9000 lbs] gross weight shall be parked or stored on or operated from the site in connection with a home occupation unless such vehicle or equipment has been specifically authorized in conjunction with a use permit authorizing a small contracting business.

RECEIVED
COUNTY OF YORK
ZONING & CODE ENFORCEMENT
OCT 06 2023

OATH: I the undersigned applicant do swear (or affirm) that the foregoing figures and statements are true, full and correct to the best of my knowledge and belief, and that I understand the limits of this license. I understand and acknowledge that completion of this application and payment for a county business license shall not be deemed approval to operate the desired business activity at the desired location without first obtaining permits, inspections and approvals as required by applicable Zoning, Building and Fire Codes.

Theresa Young [Redacted]
Print Name of Applicant(s) Signature of Applicant

Nature's Way Preschool [Redacted]
Print Trade Name of Business (if applicable) Telephone Number

263 Kings Court Williamsburg 10/05/2023
Location of Business/Street Address Date of Application

I intend to use my home (please initial as applicable):

As an office in home only

To keep four (4) children or less

To instruct four (4) or less at one time

Other - Explain:

To care for four (4) children or less in our lower level preschool classrooms in our home and yard
Describe in detail nature of business to be operated at the above street address

Approved Denied by: Debra Yoder Young Supervisor
Signature Title Date

REMARKS: No more than four (4) children @ one time

RR