

FREDERICK COUNTY BOARD OF APPEALS
VIRTUAL HEARING STAFF REPORT for March 24, 2022 @ 7pm

Case Number: B-22-07 (B267939)

Applicant: Go Baby Go Daycare: Rachel Litten and German Boryachinskiy

Appeal: Requesting Special Exception approval to add a Child Care Center to a previously approved Camp or Retreat

Location: 6328 Yeagertown Road, New Market, MD 21774, Tax Map 79, Parcel 97, Tax ID #07-200102), Zoning Agricultural (A), Size 5.5 Acres

Planning Region: New Market

Zoning District: Agricultural (AG)

Comp. Plan Designation: Agricultural / Rural

Applicable Ordinances: Sec. 1-19-3.210 Special Exceptions
Sec. 1-19-8.323 Child Care Center / Nursery School

Background:

The original approval for the Applicants Day Care Center was approved for up to 8 children in accordance with the definition below. No Board of Appeals approval was needed to establish the Go Baby Go Daycare.

Ordinance Section 1-19-11.100 defines *CHILD CARE CENTER / NURSERY SCHOOL* as "The use of property which is licensed by the State of Maryland, as a child care center or nursery school pursuant to COMAR 13A.09.09.10B as amended." *Note this section has since been amended by the State to COMAR 13A.16.01 CHILD CARE CENTERS.*

Proposal:

This is a request for a Special Exception to allow an expansion of Go Baby Go Daycare. Since opening in 2019, the facility has had a capacity of 8 children, including 2 of the owners' children. The owners are requesting approval to increase the capacity of the facility to 12 children total, including 2 of the owners' children. In order to increase capacity, the existing in-home daycare must transition to a daycare center. Under the Use Table, found in §1-19-5.310 of the Frederick County Code, a property zoned R1 can establish a child care center through approval of a special exception with site plan review and approval.

§ 1-19-3.210 - Special Exception - General Criteria

(A) An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

The Applicant states that Rachel Litten and German Boryachinskiy are the current owners of Go Baby Go Daycare, and the facility is located at 6328 Yeagertown Road, New Market MD 21774, which is owned by Rachel Litten.

(B) A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

(1) The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of Chapter 1-19 of the Frederick County Code; and

The Applicant states that the proposed use is consistent with the purpose and intent of the Comprehensive Development Plan.

(2) The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and

The Applicant states that the special exception request does not change the current harmony or orderly development of the surrounding neighborhood. The daycare expansion will not add any additional traffic to Yeagertown Road, nor will the expansion adversely impact the neighbors.

*Please note this use is subject to Site Plan review and approval. During this time Staff will evaluate a traffic impact analysis on site for the proposed increase in use activity.

(3) Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and

The Applicant states that there will be no additional or adverse effects from noise, fumes, vibration, or other characteristics on neighboring properties. The current business has operated for over two (2) years as a daycare with no negative impact related to noise, fumes, vibration, or other characteristics on neighboring properties. The special exception request will not change the operations.

(4) Parking areas will comply with the off street parking regulations of Chapter 1-19 of the Frederick County Code and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicant states that current parking for the daycare center is located at the end of their driveway with a turnaround area and additional parking spaces. The current parking area meets the off street parking regulations of Chapter 1-19 of the Frederick County Code. The entrance and exit are laid out to achieve maximum safety. Parents' drop-off and pick-up times are staggered by 15 minutes to minimize any congestion concerns on the driveway, parking spaces, and turnaround area. There is designated parking for staff. Parking is outlined on the attached property map with additional pictures of the entrance, exit, and entire driveway. The daycare space is 1400 sq. ft. There is also a designated temporary space for loading. The daycare does not have extensive deliveries and does not receive deliveries regularly.

*Please note this use is subject to Site Plan review and approval. During this time Staff will evaluate a traffic impact analysis on site for the proposed increase in use activity.

(5) The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicant states that the road system providing access is adequate. They are only adding one member to the daycare staff from an existing family currently utilizing the daycare. There will be no additional cars or traffic as a result of the granting of the special exception. The daycare is currently approved and operates under the road system without issue. Under the special exception, this will be the same and/or similar road system without an additional impact or change.

(C) In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ 1-19-8.320 through 1-19-8.355 of this Code.

§ 1-19-8.323. CHILD CARE CENTER/ NURSERY SCHOOL IN THE A DISTRICT ode.

The following provisions shall apply to a child care center/nursery school in the A District:

(A) The child care center/nursery school shall be operated not for profit within buildings or structures on premises which are owned or leased by an existing, or with final site development plan approval, permitted institutional use and which premises are regularly used by the institutional use, or are located on premises owned or leased by an institutional use adjacent to premises regularly used by the institutional use. Institutional use for the purposes of this section shall be limited to the uses as provided in § 1-19-5.310 Use Table.

The Applicant states that the child care center/daycare is not operated for profit within buildings or structures on a premise, which are owned or leased by an existing permitted institutional use, or adjacent to premises regularly used by the institutional use.

(B) The minimum size of a child care center/ nursery school shall be determined based on the amount of square footage required under Maryland law.

The Applicant states that under Maryland law, the usable square footage of the rooms for children 0-5 are as follows:

- **Room 1: Total square feet $455.5/35 = 13$, maximum capacity is 10 children, ages 0-5**
- **Room 2: Total square feet $264.1/35 = 7$, maximum capacity is 5 children ages 1- 4.**
- **Room 3: Total square feet $111/35 = 3$, maximum capacity is 3 children ages 0-2**

The Applicant further states that according to the above calculation, based on Maryland requirements for measuring usable space per child, the daycare/child care center can safely accommodate 18 children. However, this request is for a maximum of 12 children.

(C) All recreation and open space shall be provided in accordance with state law for outdoor activity area. Play areas provided must be fully fenced.

The Applicant states that, as shown on the business floor plan, all recreation and open space for outdoor activity areas are fenced. There is a 6 ft. white vinyl fence that surrounds the entire outdoor activity area, which is further documented in the attached outdoor activity pictures accompanying this application.

(D) The minimum lot area, lot width, and setback requirements shall be as provided in § 1-19-6.100 for an institutional use, in the Agricultural Zoning District.

The Applicant states that the daycare/child care center meets the requirements for both the Agricultural Zoning District for a single-family dwelling and for an institutional structure. The daycare/child care property is located on 5.5 acres.

(E) The maximum number of children in attendance at any one time shall be established by the Board of Appeals based on the following:

(1) A maximum of one pupil per 1,000 square feet of lot area.

The Applicant states that they are only asking to expand the daycare/child care center to increase the capacity to accommodate 4 additional children ages 2-5.

(F) The maximum building floor area devoted to the child care center/nursery school shall be established by the Board of Appeals.

(G) The subject property shall have frontage and access on a paved public road.

The Applicant states that the attached Yeagertown Road photos confirm the frontage is on a paved road. This property also has access on a paved road.

(H) A child care center/nursery school meeting the provisions within § 1-19-8.230.3 shall be considered a permitted accessory use and therefore not subject to this section.

The Applicant states that this does not apply to them because they are not an accessory use within a building utilized for a place of worship.

Action Needed:

Staff requests that the Board review the request for Special Exception as per Sections 1-19-3.210 (*Special Exceptions*) and 1-19-8.323 (*Child Care Center*) and render a decision on the Applicant's request.

Please note that this use requires site plan review and approval as well as building permit review and approval prior to the establishment on this new proposed use. Please contact Senior Planner Ashley Moore 301.600.1165 in order to discuss the site plan review and approval process.

Attachment 1 - Pictures of the entrance and exit

Main Entrance



Attachment 2 – Fenced in Play area



Attachment 3



Site Maps:







