

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
MONTGOMERY COUNTY, MARYLAND
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SPECIAL EXCEPTION OF ANA KOUSHAN

Case No. S.E. 11-03

ORDER OF REVOCATION

Background

Special Exception SE 11-03 was granted to Petitioner Ana Koushan by the Hearing Examiner, on July 28, 2011, to permit the operation of a Group Day Care Home for up to twelve (12) children on her property located at 1804 Sanford Road, Silver Spring, Maryland, in the R-90 Zone. For the reasons outlined below, this order will revoke the special exception, at the request of its holder, Ana Koushan, and in accord with the recommendation of the Department of Permitting Services (DPS). Exhibit 44.

According to the Department of Permitting Services, Ana Koushan notified Permitting & Code Enforcement Inspector Barbara Piczak Cox that she no longer had a day care business at the subject property and that the use ceased in March 2014. Ms. Cox then sent a letter to Ms. Koushan seeking written confirmation of the abandonment of the special exception. On April 2, 2015, Ms. Koushan confirmed the abandonment, in writing (Exhibit 44) and requested revocation of the special exception.

On April 30, 2015, Ms. Cox sent OZAH its recommendation that the special exception be revoked as abandoned. Exhibit 45.

Opinion

Pursuant to Section 7.7.1.B.1. of the new Zoning Ordinance, special exceptions approved before October 30, 2014 must be reviewed under the standards of the Zoning Ordinance in effect on October 29, 2014 (*i.e.*, under the old, 2004 Zoning Ordinance). Since the subject special exception clearly falls into that category, it will be reviewed under the old Ordinance.

Section 59-G-1.3(d) of the old Zoning Ordinance provides, in relevant part:

- (1) If, after making an inspection of a property governed by special exception, the Department finds that the special exception use as granted has been abandoned, it must forward written notice of its findings to the last recorded holder of the special exception and to the property owner, advising of the Department's finding and*

directing that they forward to the Department, within 60 days from the date of mailing of the notice, a written statement confirming the Department's finding that the special exception has been abandoned or challenging said finding and requesting that said special exception be continued.

- (2) *If the Department receives a written response from the special exception holder and the property owner acknowledges that the special exception has been abandoned, the Department must notify the Board of its findings, and the Board¹, upon receipt of such notice, must adopt and issue a written resolution finding the special exception to have been abandoned and ordering the special exception revoked.*

As detailed above, the special exception holder, Ana Koushan, has declared the special exception to be abandoned and has requested that it be revoked. As evidenced by the Maryland Real Property Tax Records (Exhibit 46), the special exception holder is also the property owner of the subject site. The Department of Permitting Services has met its obligations under Section 59-G-1.3(d)(2), and that section now requires that the Hearing Examiner issue a finding the special exception has been abandoned and order the special exception revoked.

Order

Based on this record, the Hearing Examiner hereby finds that the special exception granted in the above-captioned case has been abandoned. Accordingly, pursuant to Sections 59-G-1.3(d) and 59-G-1.3(f) of the 2004 Zoning Ordinance, Special Exception No. S.E. 11-03 is hereby REVOKED.

Dated: May 11, 2015



Martin L. Grossman
Director and Hearing Examiner
Office of Zoning and Administrative Hearings

cc: Ms. Ana Koushan
Barbara Piczak Cox, Department of Permitting Services
Planning Department

¹ Although this section refers to the "Board," meaning the Board of Appeals, the Hearing Examiner is authorized by Section 59-G-1.3(f) of the old Zoning Ordinance to conduct the same proceedings with regard to special exceptions, such as this one, that it has issued.