

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**  
**Stella B. Werner Council Office Building**  
**Rockville, Maryland 20850**  
**(240) 777-6660**

**IN THE MATTER OF:**

**JAWAIRIA IQBAL**  
**Applicant**

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\* **CU 23-01**  
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**ORDER GRANTING REQUEST FOR AN EXTENSION OF TIME TO  
IMPLEMENT THE CONDITIONAL USE**

**I. BACKGROUND**

On January 3, 2023, a Hearing Examiner approved Ms. Jawairia Iqbal’s (Applicant or Ms. Iqbal) application for a conditional use to operate a Day Care Center under Section 59.3.4.4.E of the Zoning Ordinance at 108 E. Melbourne Avenue, Silver Spring, Maryland. The property is zoned R-60.

On November 20 2024, the undersigned Hearing Examiner received a request to extend the 24-year deadline to implement the conditional use established by Section 59.7.3.1.I.1 of the Zoning Ordinance.

In her request, Ms. Iqbal described her efforts and steps taken to receive a building permit and work with the Maryland State Department of Education (MSDE) regarding the licensing required for the expansion. Specifically, Ms. Iqbal stated the architecture firm she hired experienced unexpected delays in ensuring compliance all the County’s requirements and obtaining the proper permits. In addition, she stated that MSDE did not provide a clear timeframe for granting the necessary licenses for her expanded daycare. *See* request for extension letter dated October 7, 2024. The Hearing Examiner reviewed the Department of Permitting Services website and could not find a pending building permit application for 108 E. Melbourne Drive or that an application had been submitted by Ms. Iqbal’s architect.

**II. OPINION AND ORDER**

Zoning Ordinance §59.7.3.1.I. provides:

**Duration of Approval**

*1. A conditional use that is not established or has not obtained a building permit within 24 months from the date of the issuance of the decision or resolution expires, unless a longer period is established by the decision or resolution.*

*2. After the decision, the Board of Appeals or the Hearing Examiner may extend the time limit for a conditional use to be established or obtain a building permit if the*

*evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity. An individual extension must not exceed 12 months. If the Board of Appeals or the Hearing Examiner grants an extension, it must set a date by which the erection or alteration of the building must begin or the use must be established.*

\* \* \*

While Ms. Iqbal’s justification of unexpected difficulties for an extension could not be confirmed independently via the Department of Permitting Services website, she has clearly expressed the difficulties she is facing in working through the permit and licensing process noting that it has taken longer than originally expected. The Hearing Examiner has no reason to doubt that Ms. Iqbal is not doing her best to move forward with the required permitting and licensing. As such, the Hearing Examiner finds that Ms. Iqbal has met Zoning Ordinance standards for a one-year extension of time to implement the conditional use. Because this record demonstrates that Ms. Iqbal has been unable to within the prescribed deadline to obtain the required permits, the Hearing Examiner finds she had a legitimate reason for extending the validity period for one year.

The Hearing Examiner finds that the reason for the delay in implementing the conditional use is a legitimate basis for extending the implementation period until January 3, 2026, as requested.

Therefore, it is, this 3<sup>rd</sup> day of December, 2024,

ORDERED: That the record in CU 23-01, Application of Jawairia Iqbal d/b/a Curiosity Preschool and Childcare Center, is hereby re-opened to receive the Applicant’s letter dated October 7, 2024, but received by OZAH via email on November 20, 2024 (Exhibit 21); and it is further

ORDERED: That the Conditional Use Holder’s request to extend the implementation period for CU 23-01 for a period of 1 year is hereby GRANTED; and it is further

ORDERED: That the implementation period for CU 23-01, is hereby extended until January 3, 2026; and it is further

ORDERED: That all the conditions imposed in the grant of the conditional use on January 3, 2023, shall remain in effect unless and until modified by the Hearing Examiner; and it is further

ORDERED: That, if there are any changes to the approved Conditional Use Site Plan (Exhibit 7, pg. 2), the Applicant must promptly submit a request to OZAH for modifications to the approved plans, in accordance with Zoning Ordinance §59.7.3.1.K.<sup>1</sup>

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<sup>1</sup> If the conditional use holder believes that the proposed plan changes amount to only to a Minor Amendment, it may seek administrative approval from OZAH for a Minor Amendment under Zoning Ordinance §59.7.3.1.K.2. If



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Kathleen E. Byrne  
Hearing Examiner

COPIES TO:

Jawairia Iqbal, Applicant  
Barbara Jay, Executive Director  
Montgomery County Board of Appeals  
Robert Kronenberg, Deputy Director Planning Department  
Katerine Mencarini, Planning Department  
Greg Nichols, Manager, DPS Zoning & Site Plan Enforcement

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OZAH determines that the proposed plan changes are significant enough to warrant a Major Amendment, the conditional use holder will be instructed to follow the procedures outlined in Zoning Ordinance §59.7.3.1.K.1.