

DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*



**m e m o r a n d u m**

**TO:** The Urbana Zoning Board of Appeals

**FROM:** Christopher Marx, Planner I

**DATE:** October 14, 2016

**SUBJECT:** **ZBA Case 2016-MIN-03:** A request by Bervelyn Acheampong for a Minor Variance to allow a reduction in the amount of required parking from 17 spaces to 13 spaces at 1101 East Colorado Street in the R-5, Medium-High Density Multiple Family Residential Zoning District.

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**Introduction**

Beverlylyn Acheampong, of Kids Campus, CDC, is requesting a Minor Variance to allow a reduction in the amount of required off-street parking from 17 spaces to 13 spaces at 1101 East Colorado Street. She was recently granted a Conditional Use Permit to operate a Day Care Facility on the subject property. The Minor Variance would allow the day care facility to operate with a higher capacity than the existing number of parking spaces would otherwise allow.

**Background**

In ZBA Case 2016-C-01, the applicant was granted a Conditional Use Permit to operate a Day Care Facility at the subject property with conditions. Staffing requirements for day care facilities, as required by the Illinois Department of Children and Family Services, are based on the number of children as well as their age ranges and group size. The number of children allowed is also determined by the amount of floor area within the facility.

Table VIII-7 of the Urbana Zoning Ordinance requires three off-street parking spaces for every two employees of the facility. The current parking lot would allow the day care to staff as many as eight employees. However, the applicant would like to serve children which would require as many as 11 employees and therefore 17 parking spaces, four more than provided by the current parking lot. To make the day care financially viable, the applicant states that the number of children needed requires more than 8 employees. The applicant has requested the Minor Variance to reduce the number of required parking spaces to match the existing 13 spaces.

Prior to receiving the Conditional Use Permit to operate a Day Care Facility in August 2016, the subject property received a Conditional Use Permit to operate a Day Care Facility in 1971 under Plan Case No. 820. The property was later granted a Conditional Use Permit to operate as a Professional Business Office in 2005 in ZBA Case 2005-C-02. It also received a Minor Variance for a reduction in the required off-street parking from 18 spaces to 14 spaces in ZBA Case 2005-MIN-02 for that professional business

office use. However, the Minor Variance expired with the discontinuation of the Professional Business Office and the change of use to a Day Care Facility. The current Conditional Use Permit applies three conditions to the site that include conforming with all applicable regulations, siteplan conformity, and restriping the parking lot.

## Description of the Site

The subject property is a commercial building on a 0.65 acre lot close to the South Philo Road corridor in Southeast Urbana. It is zoned in the R-5, Medium High Density Multiple Family Residential. Towards the north and across Colorado Avenue is an apartment building zoned B-3, General Business. Towards the east is another apartment building zoned R-6, High Density Multiple Family Residential. Towards the south is a vacant property that is also zoned R-6. Towards the west, across Cottage Grove Avenue, is another apartment building also zoned R-5.

## Zoning and Land Use Table

The following is a summary of zoning, existing land uses and Comprehensive Plan future land use designations for the subject site and surrounding properties. (See Exhibits A, B and C)

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Site	R-5, Medium High Density Multiple Family Residential	Vacant Building	Multi-Family Residential
North	B-3, General Business	Apartment Building	Multi-Family Residential
South	R-6, High Density Multiple Family Residential	Vacant Property	Multi-Family Residential
East	R-6, High Density Multiple Family Residential	Apartment Building	Multi-Family Residential
West	R-5, Medium High Density Multiple Family Residential	Apartment Building	Multi-Family Residential

## Discussion

The applicant is requesting a Minor Variance for a reduction in the required number of parking spaces due to the limited size of the existing parking lot and the fact that many of their employees will not be driving to work or will use nearby transit routes. As many as half of their employees will reside close to the day care and not require a vehicle to travel to work.

The applicant has indicated she will need as many as 11 employees to accommodate the number of children needed to make the facility financially viable. State approval of the facility's license is contingent on meeting any local requirements, such as zoning regulations. If a site does not meet a local requirement the state license would limit the number of children the center could serve based on that local restriction. To accommodate the number of children necessary, the applicant seeks a parking variance that would

allow up to 11 staff members as opposed to the initial five or six. The applicant raised the potential to apply for a parking variance during the public hearing for the Conditional Use Permit.

The applicant contacted nearby property owners to attempt to find off-site parking to meet the parking requirement without requiring a variance. However, she was not able to secure an off-site parking agreement.

The day care would be located in a residential neighborhood with a large number of apartments. It is also located near major transit lines and bike lanes along Philo Road. The building and parking lot was originally constructed as a day care facility with the current number of parking spaces. Staff is not aware of any parking issues on the site when it was first used as a day care center. Additionally, a previous Minor Variance was granted for the subject property to allow 14 spaces when 18 spaces were required by an office use. That variance permitted a similar reduction in the amount of required parking without any disruption to the neighborhood.

The requested variance would not cause any significant changes to the property. The physical footprint of the building and parking lot would remain the same. The drop-off drive aisle would remain functional and be unaffected. The Minor Variance would allow the property to once again operate as a day care and to meet both City and State regulations without placing a burden on the applicants to provide more parking for their employees than is needed.

## **Variance Criteria**

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

*1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The requested variance is due to of special circumstances regarding the property. The building and parking areas were constructed before the current Zoning Ordinance or State Daycare regulations were enacted. The amount of required parking restricts the number of employees the applicant would be able to hire, which would limit the number of children the center could serve and its ability to operate as a successful business. The applicant states that a significant number of employees would be hired from the nearby neighborhood and do not require automobiles to get to work.

*2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The proposed variance would not serve as a special privilege. The parking lot is preexisting to the current use and cannot reasonably be expanded because of the driveway drop-off requirements of the Day Care Facility and the location of the building. The subject property was previously granted a Minor Variance in ZBA Case 2005-MIN-02 for a reduction in the amount of required parking spaces from 18 spaces to 14 spaces. The building was constructed as a Day Care Facility with the same number of parking spaces as there are currently.

*3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The lot was platted and the building was constructed before the current Zoning Ordinance was enacted. The applicants do not have control over the staffing requirements for Day Care Facilities from the State of Illinois. The request is not the result of a situation created by the applicants.

*4. The variance will not alter the essential character of the neighborhood.*

The variance will not alter the essential character of the neighborhood. The Day Care Facility is intended to have both patrons and employees in the surrounding neighborhood that will be able to walk or bike to the facility, as opposed to driving.

*5. The variance will not cause a nuisance to the adjacent property.*

The proposed variance would not cause a nuisance to the adjacent properties, which are mostly multi-family residential in use. It would not interfere with the flow of traffic to the day care as the drop-off area would remain uninterrupted.

*6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The variance generally represents the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request. The request to reduce the parking requirement to the existing number of parking spaces is just one space less than an amount previously approved.

## **Summary of Findings**

1. Beverlylyn Acheampong, of Kids Campus, CDC, has requested a Minor Variance to allow a reduction in the amount of required off-street parking from 17 spaces to 13 spaces at 1101 East Colorado Street.

2. The Zoning Ordinance requires 17 parking spaces for the 11 employees the applicant estimates she will need to meet staffing requirements imposed by the State. The subject property currently provides 13 off-street parking spaces.

3. The applicant states that approximately half of their employees will reside close to the day care and commute to work by walking or taking transit. Their variance request is for a reduction of required parking spots to the existing amount on the property.

4. The applicants were granted a Conditional Use Permit to operate a Day Care Facility on the property in ZBA Case 2016-C-01.

5. The subject property was previously granted a Minor Variance in ZBA Case 2005-MIN-02 for a reduction in the required off-street parking from 18 spaces to 14 spaces for a Professional Business Office use in 2005. The variance expired because the use was discontinued.

6. The variance is a result of special circumstances regarding the property in carrying out the strict application of the ordinance.

7. The proposed variance would not serve as a special privilege.
8. The variance requested was not the result of a situation or condition knowingly created by the applicant.
9. The variance would not alter the essential character of the neighborhood.
10. The variance would not cause a nuisance to the adjacent property.
11. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance.

## Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2016-MIN-03:

- a) **Approve** the variance as requested based on the findings outlined in this memo;
- b) **Approve** the variance as requested along with **certain terms and conditions**. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c) **Deny** the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

## Recommendation

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward ZBA Case 2016-MIN-03 to the City Council with a recommendation to **APPROVE** the Minor Variance to allow a reduction in the amount of required parking from 17 spaces to 13 spaces with the following conditions:

1. Adequate bicycle parking is installed as required by the Zoning Ordinance.

*The specifics of this recommendation may change during the course of formal review of ZBA Case 2016-MIN-03. The staff recommendation contained herein represents the professional opinions of the City's planning staff and does not bind the recommendations and decisions which may be made by the City's appointed and elected officials.*

Attachments: Exhibit A: Location and Existing Land Use Map  
Exhibit B: Existing Zoning Map  
Exhibit C: Future Land Use Map  
Exhibit D: Site Plan  
Exhibit E: Site Photos  
Exhibit F: ZBA Case 2005-MIN-02 Decision Sheet  
Exhibit G: Application

CC: Bervelyn and Robert Acheampong

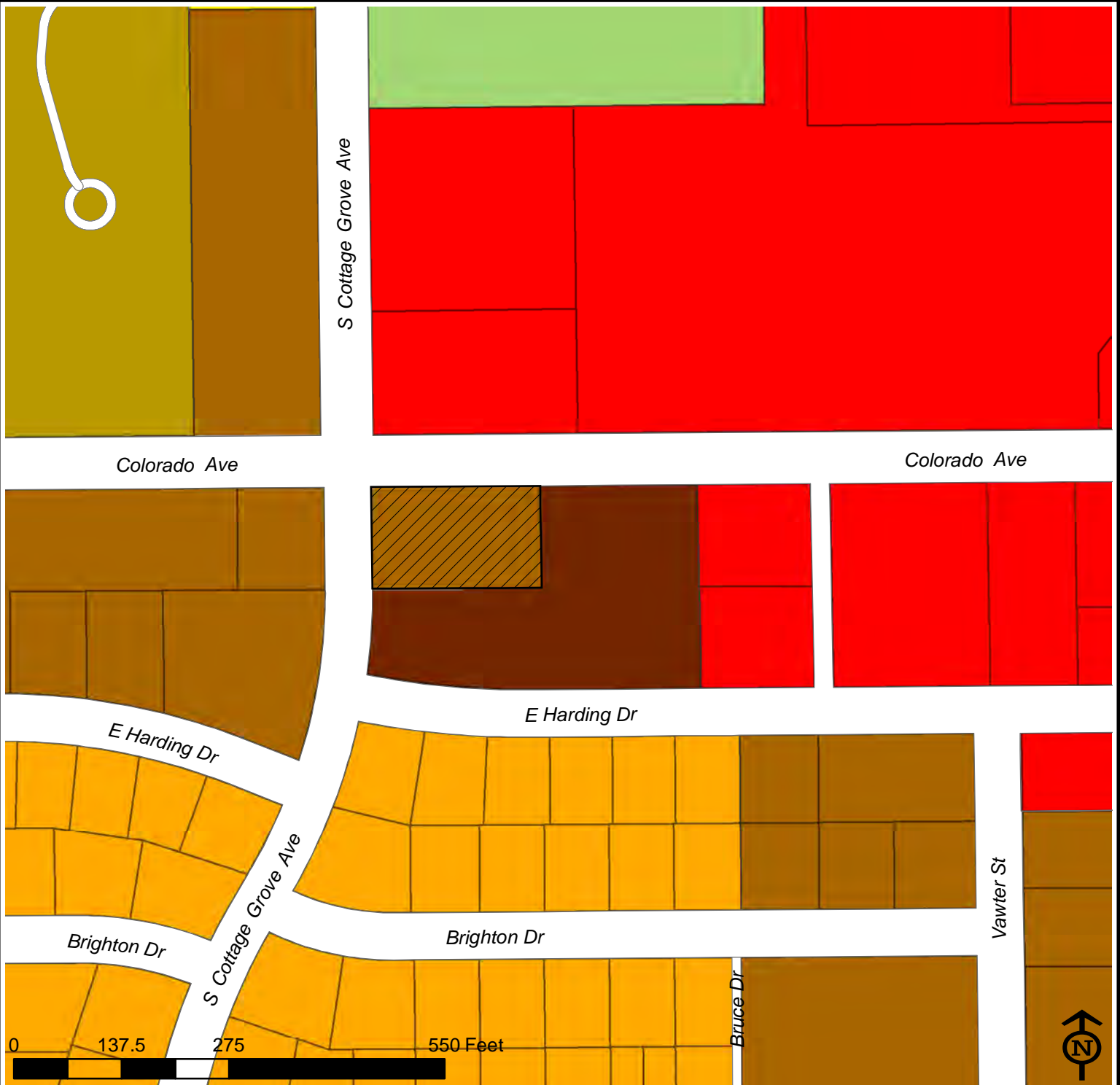
# Exhibit A: Location & Existing Land Use Map











Case: ZBA Case 2016-MIN-03  
 Subject: Minor Variance for Parking Requirements  
 Location: 1101 East Colorado Avenue  
 Petitioner: Bervelyn Acheampong

 Subject Property

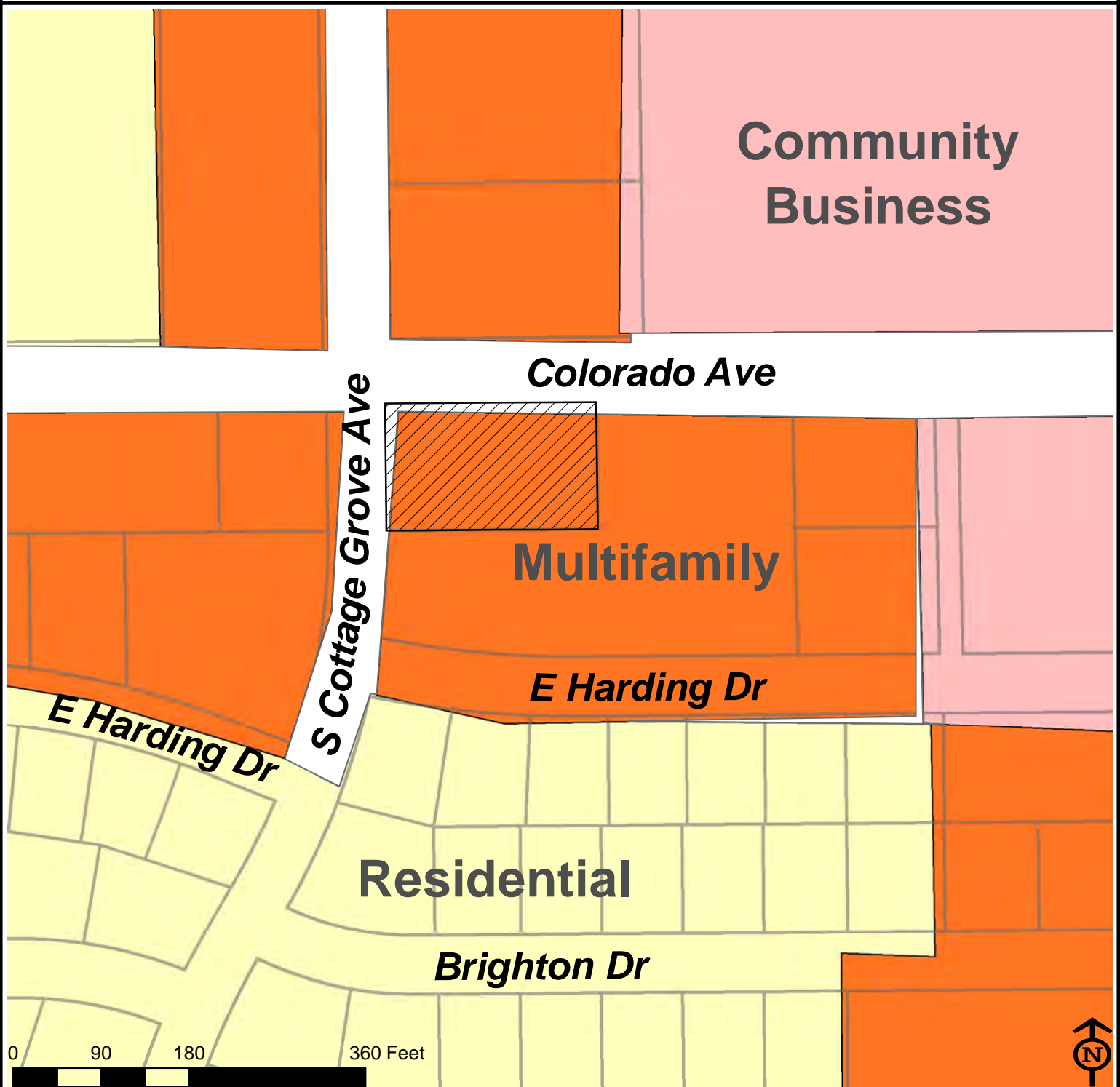
# Exhibit B: Zoning Map



Case: ZBA Case 2016-MIN-03  
 Subject: Minor Variance for Parking Requirements  
 Location: 1101 East Colorado Avenue  
 Petitioner: Bervelyn Acheampong

- |   |     |   |    |   |                  |
|---|-----|---|----|---|------------------|
|  | B3  |  | R3 |  | R6               |
|  | CRE |  | R4 |   |                  |
|  | R2  |  | R5 |   |                  |
|   |     |   |    |  | Subject Property |

# Exhibit C: Future Land Use Map



Case: ZBA Case 2016-MIN-03  
Subject: Minor Variance for Parking Requirements  
Location: 1101 East Colorado Avenue  
Petitioner: Bervelyn Acheampong

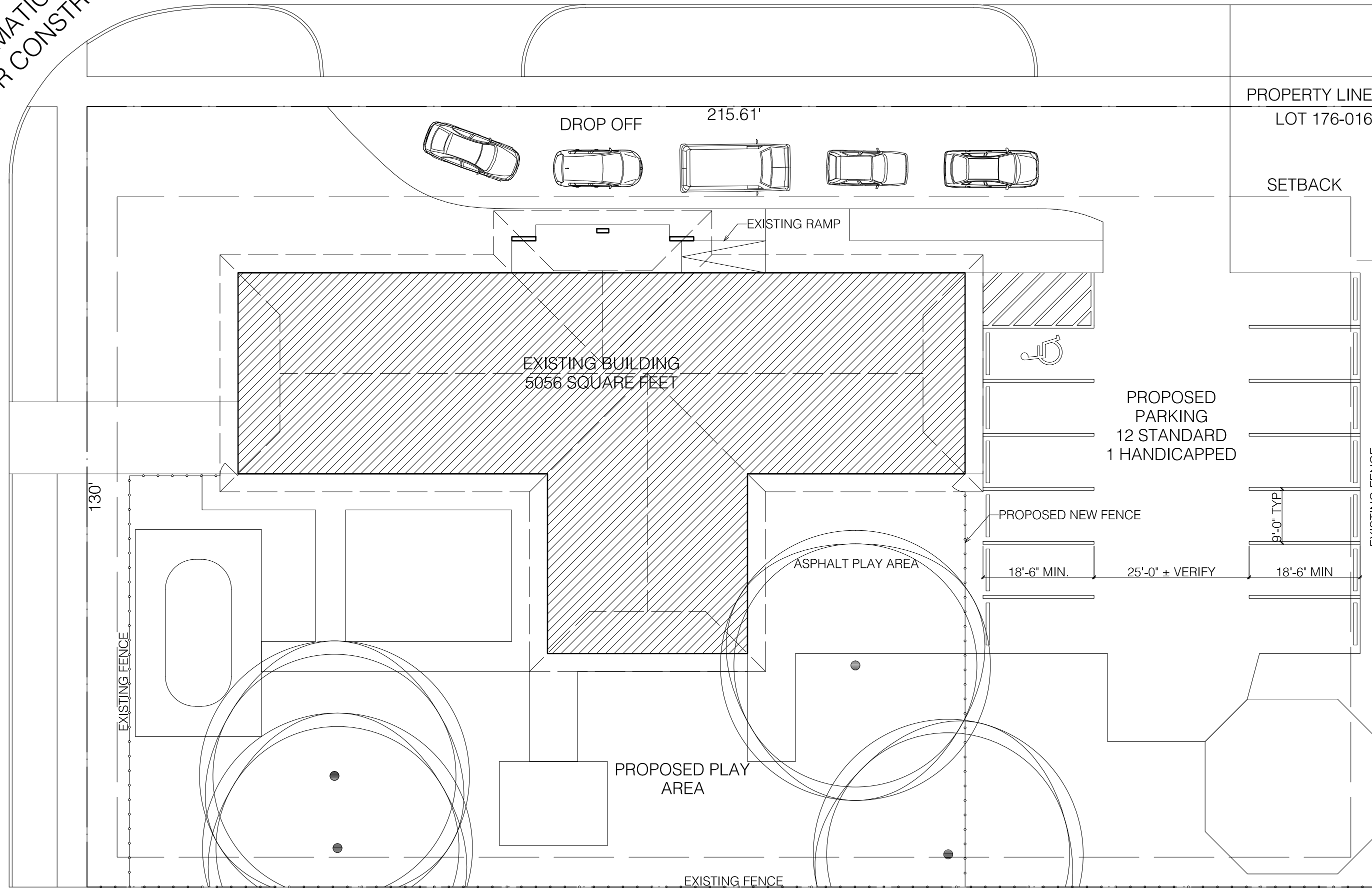
- Residential
- Multi-Family Residential
- Community Business
- Subject Property



SCHEMATIC PLAN  
NOT FOR CONSTRUCTION

COLORADO AVENUE

COTTAGE GROVE AVENUE



1 PROPOSED SITE PLAN  
A1 SCALE: 1/8" = 1'-0"



PROJECT INFORMATION	
PROJECT:	DAYCARE CENTER 1101 E COLORADO AVENUE URBANA, IL 61801
SCOPE:	REMODEL
ZONING:	R-5 MEDIUM HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL
FRONT YARD:	15'
SIDE YARD:	5'
REAR YARD:	5'

**RYAN REBER | ARCHITECT**

1918 HAGAN BLVD  
URBANA, IL 61801  
(217) 898-2984  
ryan@ryanreberarchitect.com

**DAYCARE CENTER**  
REMODEL  
1101 E COLORADO AVENUE  
URBANA, ILLINOIS  
EXISTING / PROPOSED SITE PLAN

THESE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE ARCHITECT AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE ARCHITECT. ONLY WRITTEN DIMENSIONS SHALL BE USED. DO NOT SCALE DRAWINGS. DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. ANY DISCREPANCY SHALL BE BROUGHT TO THE NOTICE OF THE ARCHITECT PRIOR TO THE COMMENCEMENT OF ANY WORK.

DATE: 08.11.16  
DRAWN BY: RTR  
SCALE: AS NOTED  
JOB #: 1618  
DRAWING: **A1**

# Exhibit E: Site Photos



**CITY OF URBANA  
ZONING BOARD OF APPEALS**

**DECISION SHEET**

**REQUEST FOR A MINOR VARIANCE  
IN CASE # ZBA 05-MIN-2**

At a called meeting of the Urbana Zoning Board of Appeals, public hearings held on Wednesday, August 17, 2005 at the City of Urbana Council Chambers, 400 S. Vine Street, Urbana, Illinois, at which time and place the Board considered the following request for a Minor Variance pursuant to Section VI-2.E of the Urbana Zoning Ordinance.

**A request by Marino Engineering Associates, Inc. to reduce the required off-street parking by 25%, from 18 spaces to 14 spaces at 1101 E. Colorado Avenue, in Urbana's R-5, Medium High Density Multiple Family Residential Zoning District.**

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The subject property affected by this case is described more particularly as follows:

**Common Street Address:** 1101 E. Colorado Avenue

**Owner of Record:** Colorado Avenue, LLC

**Champaign County Permanent Parcel #'s:** 93-21-21-176-016

**Legal Description:** Lots 546 and 547 of Ennis Ridge 7th Subdivision, as per plat recorded in Plat Book "O" at Page 36, situated in Champaign County Illinois.

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After careful review of staff's findings in this case, and upon considering all the evidence and testimony presented at the public hearing, the following decision was made by the Urbana Zoning Board of Appeals: By a roll call vote of five ayes, zero nays, and zero abstentions, the Urbana Zoning Board of Appeals voted to **APPROVE** the requested minor variance **with Conditions**.

The **Conditions** of approval for the variance are as follows:

1. That the petitioners will not allow any vehicle parking or standing in the Cottage Grove Avenue service drive to ensure that vehicles are not backed onto the road.
2. If the petitioners business grows to 12 employees they will inform the City in writing within 30 days, and within 120 days, with all required permits from the City, the petitioners will construct a minimum of four additional parking spaces on the subject property.

The Urbana Zoning Board of Appeals voted to **APPROVE** the requested minor variance based upon the following findings:

1. The special circumstance with reference to the parcel concerned is that the subject lot already provides all the parking the users will need. Installing additional parking area will increase the paved surface without providing any additional benefit to the owners or the surrounding neighborhood. In addition it may threaten the viability of large existing trees on the site.
2. The variance is not a special privilege given the circumstances because the parking provided is all that is necessary for the new use which is not necessarily the case at other properties.
3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner. The need for the variance has not yet been created. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for the variance prior to purchasing the property.
4. The requested variance should not detract from the essential character of the neighborhood. There should be no excess demand for parking because the petitioners have a small staff. The petitioners will preserve the existing mature trees on the site that contribute to the neighborhood.
5. The variance should not cause a nuisance to adjacent properties. The current parking provided will serve all the needs for the business. There should be no spill-over parking because the business has a small staff and few visitors.
6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request. The petitioner is only requesting the minimum deviation from the requirements so they can occupy the building without unnecessarily sacrificing open spaces on the site.

I do hereby affirm, that to the best of my knowledge, the forgoing is a true and accurate record of Case No. ZBA 05-MIN-2.

---

Anna Merritt, Chairperson

Date

The complete and official record of this case is on file at the City of Urbana Department of Community Development Services located at 400 S. Vine Street, Urbana, Illinois.

**DOCUMENT TO BE FILED AT THE CHAMPAIGN COUNTY RECORDER'S OFFICE**

APPROVED FOR RECORDING BY:

---

James Gitz, Corporation Counsel

Date

Please return original decision sheet to the attention of Paul Lindahl at Community Development Services, 400 S. Vine Street, Urbana, IL 61801. Phone 217/384-2440.

Prepared by:

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Paul Lindahl, Planner I  
Community Development Services Planning Division  
400 S. Vine Street  
Urbana, IL 61801

SEP 08 2016  
BY: *Jp 2:30 PM*



# Application for Variance

# ZONING BOARD OF APPEALS

**APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)**

The Applicants are responsible for paying the cost of legal publication fees as well. Estimated costs for these fees usually run between \$75.00 to \$225.00. The applicant is billed separately by the News-Gazette.

**DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY**

Date Request Filed 09-08-2016 ZBA Case No. ZBA-2016-MIN-03  
Fee Paid - Check No. 132 Amount \$150.00 Date 09-08-2016

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)  
Parking variance. About half of the employees come to work using public transportation and do not drive. on the property described below, and in conformity with the plans described on this variance request.

**1. APPLICANT CONTACT INFORMATION**

Name of Applicant(s): Kids Campus, CDC Phone: 608-807-9807  
Address (*street/city/state/zip code*): 1101 Colorado Avenue, Urbana, IL 61801  
Email Address: kidscampus2015@yahoo.com  
Property interest of Applicant(s) (*Owner, Contract Buyer, etc.*): Leasing

**2. OWNER INFORMATION**

Name of Owner(s): Kim Marino Phone: 217-238-3402  
Address (*street/city/state/zip code*): 1101 Colorado Avenue, Urbana, IL 61801  
Email Address: kk.marino@sbcglobal.net

Is this property owned by a Land Trust?  Yes  No  
*If yes, please attach a list of all individuals holding an interest in said Trust.*

**3. PROPERTY INFORMATION**

Location of Subject Site: 1101 Colorado Avenue, Urbana, IL 61801  
PIN # of Location:  
Lot Size:

Current Zoning Designation: **Child Care**

Current Land Use (*vacant, residence, grocery, factory, etc*): **Child care**

Proposed Land Use: **Child care**

Legal Description (*If additional space is needed, please submit on separate sheet of paper*):

**Single storey commercial building. Wood exterior zoned as daycare.**

#### 4. CONSULTANT INFORMATION

**Name of Architect(s):** Ryan Reber

Phone: 217-898-2984

Address (*street/city/state/zip code*): 1918 Hagan Blvd, Urbana, IL 61801

Email Address: rreber@gmail.com

**Name of Engineers(s):**

Phone:

Address (*street/city/state/zip code*):

Email Address:

**Name of Surveyor(s):**

Phone:

Address (*street/city/state/zip code*):

Email Address:

**Name of Professional Site Planner(s):**

Phone:

Address (*street/city/state/zip code*):

Email Address:

**Name of Attorney(s):**

Phone:

Address (*street/city/state/zip code*):

Email Address:

#### 5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

**The parking rules restricting the number of employees based on parking spots is limiting and prohibitive because about 50% of the employees in daycare rely on public transportation instead of driving, and we intend to hire people from the neighborhood who will most likely walk to work.**

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

- ✓ **The nature of the business is such that some employees do not own their own vehicles and therefore rely on public transportation. Parents also just drop off their children at the drop off area and leave and therefore there will not be congestion.**

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

- ✓ **The rule limiting number of employees to parking is City of Urbana law not us.**

Explain why the variance will not alter the essential character of the neighborhood.

- ✓ **It will not because most parents live in the area and will walk their kids to the daycare or take public transportation.**

Explain why the variance will not cause a nuisance to adjacent property.

- ✓ **It will not cause nuisance to the area because there is adequate parking in the area**

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

***NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.***

***By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.***

**CERTIFICATION BY THE APPLICANT**

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

  
\_\_\_\_\_

Applicant's Signature

9/8/16  
\_\_\_\_\_

Date

**PLEASE RETURN THIS FORM ONCE COMPLETED TO:**

City of Urbana  
Community Development Department Services  
Planning Division  
400 South Vine Street, Urbana, IL 61801  
Phone: (217) 384-2440  
Fax: (217) 384-2367