

ITEM 13  
MANAGER'S REPORT NO. 72  
COUNCIL MEETING Nov. 4/74

Re: Community Care Facilities Licensing Application  
Welfare Reference #23/74  
6243 Silver Avenue

Following is a report from the Director of Planning regarding an application to the Community Care Facilities Board for permission to operate a day care centre at 6243 Silver Avenue.

RECOMMENDATION:

THAT the Municipality grant a variance of Section 401.1 of the Burnaby Zoning Bylaw, under the provisions of Section 8 of the Community Care Facilities Licencing Act, to permit the approval of the home occupation use as requested in conjunction with the present application for a licence to give family day care to children.

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PLANNING DEPARTMENT  
NOVEMBER 1, 1974

TO: MUNICIPAL MANAGER  
FROM: PLANNING DIRECTOR  
SUBJECT: COMMUNITY CARE FACILITIES LICENCING APPLICATION  
WELFARE REFERENCE #23/74  
6243 SILVER AVENUE

An application to the Community Care Facilities Board, Victoria has been made by Mrs. Irene Levesque, 6243 Silver Avenue, for permission to operate a Family Day Care centre for 5 children at that address. Approval has been recommended, following examination of the matter, by the Human Resources Department and the Inspection Committee, comprised of the Chief Public Health Inspector, Chief Building Inspector, and Chief Fire Prevention Officer. However, for zoning reasons, it has not been possible to advise the Board that the proposal complies with the necessary Municipal regulations and by-laws.

The captioned property is situated in an M1 Manufacturing District zone, a category which does not permit residential dwellings or home occupations as an approved principle use. The residential dwelling use that exists on this property, in common with most other properties on the block, predates the current zoning by-law, and under both the By-law and the Municipal Act may be continued provided certain conditions are met. In this sense the present dwelling use is legally non-conforming; however, as the home occupation being proposed is a new additional use that did not exist at the time the zoning by-law was adopted, its creation would be at variance with the permitted uses of the present by-law.

Under Section 8 of the Community Care Facilities Licencing Act, provision is made for dealing with conflicting regulations. Specifically, provision is made for arbitration in the event that a building or structure for which an application for a licence as a community care facility is made does not comply with the applicable municipal zoning by-laws but does comply with all other pertinent regulations cited in the Act. This provision for arbitration comes into effect if the municipality refuses an application for a variation of the by-law to permit the licence to be approved.

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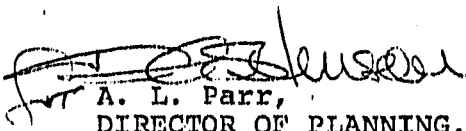
- 2 -

In response to a request for variance by the applicant, the Planning Department has examined the particulars of this situation from a zoning and land use point of view, and is able to advise as follows:

- 1) The area, though currently zoned M1, is designated in the Apartment Study for redevelopment as part of the Commercial Centre of Area "L". Moreover, the Kingsway Town Centre in general is proposed for development as a metro town centre, and major land assembly including the captioned property will be involved in the future leading to intensive commercial redevelopment in accordance with the goals.
- 2) Although the prevailing zoning is M1, there are no immediately adjacent industrial uses in this block that would adversely affect the use of this property for the care of children - the majority of the properties in the block are used residentially and a high and adequate fence exists to protect the children.
- 3) The subject property is being occupied on a rental basis at this time, and may be considered an interim use in the light of the redevelopment potential described above.
- 4) The existing residential single-family occupancy has legal non-conforming status as the use was in existence prior to the adoption of the 1965 Zoning By-law; the proposed home occupation would create an additional element of non-conformity and Council is being asked to consider granting a variance in this regard under the special provisions of Section 8 as described.
- 5) The area and width requirements of the By-law are excepted by virtue of the exemption set out in Section 6.11 (1) of the Zoning By-law for properties in this zoning district which were created prior to 1965.
- 6) Under the terms of the Community Care Facilities Licencing Act, the licence being requested will be issued in the name of the individual proposing to operate the facility and will expire automatically if the person to whom it was issued ceases to operate the facility. In this sense then, the variance being requested is specific to this application, and does not automatically apply to subsequent tenants or operators.
- 7) The Inspection Committee is satisfied that all requirements relating to the safety and adequacy of the premises are met, and have recommended approval from a physical use point of view.

Recommendation:

In view of the foregoing, the Planning Department is able to recommend in this case that the Municipality grant a variance of Section 401.1 of the Burnaby Zoning By-law, under the provisions of Section 8 of the Community Care Facilities Licencing Act, to permit the approval of the home occupation use as requested in conjunction with the present application for a licence to give family day care to children.

  
A. L. Parr,  
DIRECTOR OF PLANNING.

DGS:cm