

IN THE MATTER OF	:	BEFORE THE
Kenisha Martins t/a	:	HOWARD COUNTY
Persons' First, Inc	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 26-010C

.....

.....

DECISION AND ORDER

On August 18, 2026, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, held the evidentiary hearing for the Petition of Kenisha Martins t/a Persons' First, Inc (Petitioner) for a Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities Conditional Use in a R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.0.N.13 of the Howard County Zoning Regulations (HCZR).

The Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Ms. Kenisha Martins, Petitioner, testified in support of the Petition. No one appeared in opposition.

FINDINGS OF FACT

Based upon the evidence of record, the Hearing Examiner finds the following facts:

1. Property Identification. The Property is located west of Md Rt. 29, north of Baltimore National Pike (Rt. 40), south of I-70 and on the east side of Saint John's Lane. The Property consists of 8.97 acres (Conditional Use Area: approximately 2,075 square feet) of land located at Tax Map 24, Grid 5, Parcel 21, Council District 5 and identified as 3291 Saint John's Lane, Ellicott City. The Property is developed as a religious facility and includes an existing 12,567 square-foot church and 178 parking spaces. In 1996, a Conditional Use for a Child Day Care Center and Private academic School was granted, and subsequent expansions were approved. Access onto the site is by way of one two-way entrance onto Saint John's Lane. The site descends from an elevation of 408 feet at the west corner of the Property to 378 feet at the northeastern property line. The Property has two approved site development plans (SDP-79-058 & SDP-99-129).

2. Vicinal Properties

North of the Property is land in the R-20 zoning district developed with Single-Family Residential

South of the Property is land in the R-20 zoning district developed with Single-Family Residential

East of the Property is land in the R-20 zoning district and developed with BGE R.O.W/ Route 29

West of the Property is land in the R-20 zoning district and developed with Single-Family Residential / Saint John's Lane

3. Roads. Saint John's Lane has two travel lanes within a 60-foot right-of-way.

The speed limit is 30 miles per hour. In 2024 the Annual Average Daily Traffic data for this portion of Saint John's Lane was 5,951 vehicle trips.

4. Water and Sewer Service. The Property is within the Planned Service Area for water/sewer services.

5. The General Plan. The Property is designated Single-Family Neighborhood on the Future Land Use Map of HoCo by Design. Saint John's Lane is a County owned Minor Collector.

6. Reported Agency Comments. There are no Agency or Department comments in objection to the Petition.

The Office of the Fire Marshall stated that determination of maximum child Occupancy shall be subject to review and approval from the MSDE Division of Early Childhood. Areas used for child care shall meet all requirements of the Howard County and State of Maryland Fire Prevention Codes including, but not limited to, fire protection systems and caretaker-to-child staffing ratios.

The Development Engineering Division stated that it takes NO EXCEPTION to the request for a conditional use for a child care center, nursery school, day treatment or care facilities based on the justification presented in the application. This is subject to meeting all current development requirements such as APFO roads test, stormwater management, and connecting to public water and sewer. A Simplified ECP shall be approved for the new construction if the LOD exceeds 5,000 sq ft. If the LOD is under 5,000 sq ft then the exemption note for the improvements shall be included on the redline revision for SDP-99-129.

The Division of Land Development (DLD) has no objection to this Conditional Use petition. Since the proposed use will take place within the existing building and no expansion is proposed, submission of a subdivision plan or Site Development Plan is not

required. If this Conditional Use is approved, the applicant must submit a redline revision to the approved Site Development Plan, SDP-99-129, to note the change in use and update the parking chart. The existing parking appears adequate to support the change in use. The site is currently required to provide 128 parking spaces, and there are 178 parking spaces provided. Parking will be further evaluated with the redline. The subject property is located in the Design Advisory Panel review area and will need to be evaluated by the Design Advisory Panel or through an administrative review once a decision is made on the Conditional Use. There is no evidence that the existing landscaping on site will hinder or discourage the development and/or use of adjacent properties. Since no expansion to the existing development on site is proposed, additional landscaping is not required. There are no environmentally sensitive features on site, and there is no evidence that the proposed use will adversely impact environmentally sensitive features on vicinal properties since there is no proposed expansion to the existing development on the subject property

7. Zoning History.

Case No: BA-956-C

Request: Special Exception for a religious facility

Action: Granted, April 14, 1978

Churches, convents and monasteries were permitted as a matter of right in the R-20 zoning district until 1977, when it changed to a special exception.

Case No: BA-95-070EV

Request: Expansion of a Religious Facility Conditional Use to establish a
Child Day Care Center and Private academic School along with a
variance to reduce the 20-foot use setbacks

Action: Granted, May 30, 1996

Case No.: BA-98-053E

Request: Expansion of a Child Day Care Center and a Private academic School.

Action: Granted, March 18, 1999

*Although the Petition requested the expansion of a Child Day Care Center, the expansion was never constructed and is not established by this case.

Case No.: BA-07-007C

Request: Expansion to the existing religious facility

Action: Granted, April 23, 2007

8. Conditional Use Proposal. The Petitioner is proposing to add a Day Treatment and Care Facility use to the existing religious facility at the Property but will operate separately from the religious institution. The Petitioner has indicated that the total size of the Day Treatment and Care Facility use will be approximately 2,075 square feet and will utilize three (3) classrooms within an existing structure on the Property. There will be a maximum of 40 students, ages 21 and older, in attendance at the Day Treatment and Care Facility which will operate Monday through Friday 8:00 A.M. to 3:00 P.M. No outdoor areas are proposed.

The proposed facility will provide supportive services for individuals with disabilities, including programs focused on independent living skills, healthy living education, social development, vocational readiness, and structured opportunities for community participation and volunteer engagement.

BURDEN OF PROOF

The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Conditional Use. The Conditional

Use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Conditional Use is a valid zoning mechanism that delegates to an administrative body a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The legislative body has statutorily determined that a Conditional Use is compatible in a particular zoning district absent specific facts adduced to the contrary at a particular location. The duties given the hearing body are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Zoning Plan.

The Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. These prescribed standards and requirements are conditions precedent to the approval of a conditional use. If he shows to the satisfaction of the zoning body that the conditions precedent have been met and that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest to a greater extent than if the proposed use were located elsewhere, he has met his burden.

The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the zoning body to decide. But if there is no probative

evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a Conditional Use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974).

These standards dictate that if a requested Conditional Use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

The appropriate standard to be used in determining whether a requested Conditional Use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Conditional Use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A2d 1253 (1995).

CONCLUSIONS OF LAW

1. General Criteria for Conditional Uses (Section 131.0.B)

HCZR Sections 131.0.B.1-3 require the Hearing Authority to evaluate whether the proposed Conditional Use will be in harmony with the landscape uses and policies indicated in the Howard County General Plan for district in which it is located through the application of three standards: harmony with the General Plan, overall intensity and scale of use, and atypical adverse impacts.

A. Harmony and Intensity of Use

Section 131.0.B.1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.

While Howard County General Plan policies are not directly related to Conditional Use requests for Day Treatment and Care Facilities; properly sited facilities are considered compatible with residential areas.

Section 131.0.B.2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.

The Day Treatment Facility will consist of 2,075 square feet and will utilize three (3) classrooms within an existing religious facility. The maximum number of students is 40 and the students will be 21 years old and older. No outdoor areas are proposed. The Property is 8.97 acres, which exceeds the one-acre lot size requirement. The religious facility's parking lot contains 178 spaces, the majority of which will be available during the daytime for drop-off/pick up. Saint John's Lane is a Minor Collector and appropriate for the type and number of vehicles associated with the proposed use.

The nature and intensity of the proposed use, the size of the Property in relation to the use, and the location of the site with respect to the streets that provide access, are such that the overall intensity and scale of the use are appropriate.

B. Adverse Impacts (Section 131.0.B.3)

Unlike HCZR Section 131.0.B.1, which concerns the proposed use's harmony or compatibility with the General Plan, or Section 131.0.B.2, which concerns the on-site effects of the proposed use, compatibility of the proposed use with the neighborhood is measured under Section 131.0.B.3's six off-site, "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading; (d) access; (e) environmentally sensitive areas; and (f) impact on the character and significant historic sites.

Inherent in the assessment of a proposed Conditional Use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an R-20 Zoning District. The proper question is whether there are facts and circumstances showing the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective of its location within the zones. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, Petitioner has met its burden of presenting sufficient evidence under HCZR Section 131.0.B.3 to establish the proposed use will not have adverse effects on vicinal properties beyond those ordinarily associated with a Child Day Care Center and Nursery School, Day Treatment and Care Facilities, in the R-20 Zoning District.

Section 131.0.B.3.a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.

The proposed use will not generate fumes or odors, nor will it cause glare vibrations, or hazards. The use of the access driveway may generate some noise but will not be significant due to infrequent use. The proposed use is unlikely to result in adverse effects at the Property greater than it would generally be elsewhere in the R-20 zoning district.

Section 131.0.B.3.b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

The Petitioner is not proposing any new landscaping or structures. The proposed use will be within an existing religious facility. No outdoor areas are proposed. Therefore, the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the R-20 zoning district.

Section 131.0.B.3.c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be approximately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

The off-street parking requirement for a religious facility is 10 spaces per 1,000 square feet of assembly areas. The Regulations do not specifically give parking ratios for Day Treatment Facility uses; the closest use category would be child day care centers which requires and three (3) spaces per 1,000 square feet. A total of 178 parking spaces is on site, and the Petitioner is not proposing to modify the square footage of the existing religious facility assembly area. No changes are proposed to the parking and refuse areas.

Section 131.0.B.3.d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.

The existing ingress/egress areas to the Property were approved during the construction of the existing religious facility and no changes are being proposed to this area. The Property does not share a driveway with other residential uses.

Section 131.0.B.3.e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

There is a stream buffer encumbering a small portion of the northernmost corner of the Property and is approximately 405 feet from the existing structure on the lot. However, the Petitioner is not proposing any new structures or modifications to any existing structures or parking areas. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere in the R-20 zoning district.

Section 131.0.B.3.f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

The closest historic site in the vicinity (HO-142) the St John's Rectory and Cemetery, is located 0.40 mile to the south of the Property and is screened by existing structures, distance and vegetation. Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere in the R-20 zoning district.

2. Specific Criteria for Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities (Section 131.0.N.13.a)

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-ED, R-20, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-VH, HO, or HC Districts for day treatment and care facilities, child day care centers and nursery schools provided that:

- a. On-site circulation and parking areas shall be designed to minimize vehicular/pedestrian conflicts and to provide safe areas for dropping off and picking up passengers**

There is an existing drop-off/pick-up lane that will be used by the Day Treatment Facility. The religious facility's parking lot contains 178 parking spaces, the majority of which will be available for drop-off/pick-up from 8:00 am – 3:00 pm Monday through Friday.

- b. The minimum lot size in the RC and RR Districts shall be three acres and the minimum lot size in the R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, R-APT, R-VH, HO or HC Districts shall be one acre, except that uses approved prior to October 6, 2013 shall not be subject to this criteria.**

The Property is in the R-20 zoning district and is 8.97 acres.

- c. **Outdoor play areas or activity areas shall be fenced, located to the side or rear of the principal structure, and buffered from adjoining residential properties by landscaping or adequate distance or both.**

The Petitioner will be utilizing three (3) classrooms within the existing Religious facility and is not proposing any outdoor play areas or activity areas. Therefore, this criterion does not apply.

- d. **Parking areas shall be located and landscaped to minimize their visibility from roads and adjacent residential properties.**

The Petitioner proposes utilizing the religious facility's parking lot which was approved through BA-956-C. No changes are proposed.

- e. **The design and massing of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential properties in the vicinity of the site, as demonstrated by architectural elevations or renderings submitted with the petition. Additional setbacks from property lines and landscape buffering shall be required if necessary to make the appearance of the site compatible with surrounding residential properties.**

The Petitioner is not constructing any new structures or additions for the proposed Day Treatment Facility use. The existing religious facility is being utilized for the proposed use, and no other changes are being made to the structure or landscaping.

- f. **For facilities with a capacity of more than 30 children or adult clients at one time, the following standards apply:**

- (1) **The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a Conditional Use that was approved prior to July 12, 2001 are permitted.**

The site has frontage on Saint John's Lane which is designated as a Minor Collector road.

- (2) Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways.**

All structures and parking areas are at least 50 feet from adjoining residential properties.

- (3) At least 20% of the area within the building envelope shall be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.**

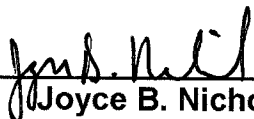
The Property is not changing from the previously approved Site Development Plan, and no additional structures are being proposed.

ORDER

Based upon the foregoing, it is this 19th day of August, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of Kenisha Martins t/a Persons' First, Inc , for a Conditional Use for Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities, for a total of 40 care students, in a R-20 (Residential: Single) Zoning District, Tax Map 24, Grid 5, Parcel 21, Council District 5, identified as 3201 Saint John's Lane, Ellicott City, Maryland, be and is hereby **GRANTED**.

HOWARD COUNTY BOARD OF APPEALS**HEARING EXAMINER**



Joyce B. Nichols

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.