

COMMITTEE REPORT

TO: Board Members
FROM: Christine Haider, Chair
North Bayside/East Flushing Zoning Committee
RE: BSA Cal. No. 255-07A
New house number: 40-54 Francis Lewis Blvd.a.k.a.196-23 42 Avenue
Existing house number: 40-56 Francis Lewis Blvd. a.k.a. 196-29 42 Ave.
An Amended Application to build an as-of-right Day Care Center
in the bed of a mapped street (Francis Lewis Blvd.)
DATE: January 7, 2008

On December 10, 2007 the North Bayside/East Flushing Zoning Committee met again to discuss the above referenced BSA amended application. Present were Board Members, Christine Haider, Chair; Henry Euler, Frank Skala, Mohan Jethwani, Christine Scherer and community representative, Andy Rothman. Also present were Susan Seinfeld, District Manager and the applicant's attorney, Eric Palatnik. There were several residents in attendance. The owners were, again, not in attendance. The amended application, pursuant to General City Law 35 is to permit the proposed construction of an otherwise as-of-right, two story day care center, with two lower levels, in the bed of Francis Lewis Boulevard and 42nd Avenue, a legally mapped street.

PAST HISTORY: This application was originally filed under BSA Cal. No. 217-06A. The first committee meeting was held on October 11, 2006 and a second committee meeting was held on November 8, 2006. Barak Wrobel, from the office of Eric Palatnik presented the application and answered all the questions previously raised. The center will have 6 head teachers, 6 assistant teachers, 1 educational director, 1 janitor and 1 office worker. The applicants currently operate the Kon Wah Day School in Flushing, located in a commercial building at 135-27 38 Avenue. The staff travels by public transportation and plan to do the same for the new facility. It is a non-sectarian institution. The exact capacity of the school will be based on NYC Department of Health specifications. The day care will operate with both state funding and tuition. The sub-cellar will be used for recreational activities such as dance and exercise. A nurse is not required to be on site. Meals will be catered or children will bring their own lunch, no cooking will be done on premises. There are no plans to use the front or side yards for recreation; children may use the neighborhood park. There are no plans to provide bus service, at this time.

Frank Skala and Eileen Kenny told the committee that they visited the day school in Flushing operated by the same owners. They were very impressed by the staff, the high standard of education, large classrooms and cleanliness of this three floor school. They were allowed to view everything and the staff answered all questions. The teachers are all NYS Certified. One of the teachers is planning

to be the head teacher at the new facility. The children range in age from 2-5 years. They are taught math, music, dance, art, social studies and reading. Children bring their own lunch and only snacks are served. The children are dropped off in a private driveway and enter via a back entrance. Eileen and Frank discussed with the teachers the concerns they have with parking at the new location and suggested that the owners take into consideration staff parking and a location for parents to drop off children safely.

DECEMBER 10, 2007 MEETING: Eric Palatnik presented the new application to the committee and explained that this was not a variance application and that the day care center, a Use Group 3 school, can be built as-of-right. The application is only for permission to build in the bed of a mapped street. The application appeals a decision of the Department of Buildings that such construction is contrary to Section 35 of the General City Law. The owners have now purchased an additional lot, Block 5361, Lot 12, which is adjacent to lot 10 on Francis Lewis Boulevard. The enlarged zoning lot allows for a newly designed structure, which is not only lower in height, two stories, as opposed to the previously approved three story structure, and will contain 8,288 sq. ft of floor area to include a cellar and sub cellar level, each of which will include daycare classrooms, as will floors one and two, but which is better suited to meet the needs of the applicant. The plans are to operate the school from 8:00 AM to 6:30 PM and will now hold approximately 175 students plus staff, instead of 100 to 120, aged 2 years to 6 years of age.

Discussion ensued again on the status of the existing dismantled building and about the possibility that asbestos was improperly removed and that Councilman Avella had written to the Department of Buildings. Mr. Palatnik stated that this work was performed before the applicant owned the building and that they will conform to all rules and regulations set forth by DOB when they demolish the existing buildings. Research showed that the prior owner obtained an alteration permit in August, 2004 and that asbestos reports were submitted to DOB at the time.

The Board members and the residents had similar concerns about a school at this location. An elementary school (PS 130) is located across the street, 42nd Avenue is narrow, Francis Lewis Boulevard is very busy and there is no parking in the neighborhood because of the existing school. The new building plans do not provide parking for the staff or an area for parents to drop off the children as was recommended by the Committee previously. Mr. Palatnik stated that off street parking is not required for schools. The amended plans show a rooftop playground. What kind and height of fencing? Residents pointed out that all other homes on Francis Lewis Boulevard adjacent to the site were not built in the bed of the mapped street but are set back and provide parking. It was considered that the location was unsafe for another school. Other concerns involved the plans for the building, the licensing for the day care center and qualifications of the owners.

These same concerns about parking, dropping off children safely and the adverse effects on the character of the neighborhood continued to be discussed. It was stated that the owners did not reconsider the design of the building by putting in a circular driveway, as requested for the children's safety, or by providing an off street drop off area for the children and/or use of the side yard for parking.

The committee had other questions that could not be answered:

- Food service
- Truck deliveries
- Student Teacher Ratio
- Trash storage, disposal and pick up

- Disposal of diapers
- License from the State and City agencies (how long is the term)
- Fire plan, egress from the building (stairs only on the West side of the building) next to refuse room
- Traffic flow in the morning (8:00-9:00 AM) and after school (3:00-6:30 PM)
- Pollution from cars, vans and SUV's idling while dropping off and picking up children
- Height of the building (2 stories – 25 ft?)
- ADA Compliant
- Enlarged building will be a strain on the infrastructure (replacing two homes with a huge facility)
- Approval of city agencies DOT, DEP, FDNY and DOB
- Rooftop playground – fencing height and type
- Bus Service, Vans

Mr. Palatnik provided some answers to the Board in a letter dated December 18, 2007 and is attached to this report. These answers are based on the procedures of the Kon Wah Day School at the downtown Flushing location.

The committee agreed that the facility was still an inappropriate size building for the location and not an ideal location for children due to safety concerns at this already very busy intersection. A facility of this type would drastically change the character and nature of the neighborhood. It was also stated that it was a bad precedent to build in the bed of a mapped street. There were also concerns that Francis Lewis Boulevard narrows at the LIRR overpass just north of the site and in the future Francis Lewis Boulevard may have to be widened. The residents opposed this application for all the reasons stated.

After much discussion the Chair asked for a motion. Frank Skala made a motion to continue the previous position to oppose this application to build in the bed of the mapped street and for all the other reasons cited regarding the school. Henry Euler seconded the motion. The motion carried five in favor (Euler, Haider, Skala, Scherer, Rothman) and one abstention (Jethwani).