



City of West Allis

Legislation Text

File #: R-2008-0157, **Version:** 2

Resolution relative to Termination of The Learning Years child day care center Special Use Permit, located at 932 S. 60 St. (former Roosevelt School building). (Tax Key No. 438-0196-001)

WHEREAS, in 1999 Laura Cagle, d/b/a The Learning Years, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.16, Sec. 12.36(3) and Sec. 12.31(3) (g) of the Revised Municipal Code, to establish a child daycare center; and,

WHEREAS, on May 14, 2008 the Safety and Development Committee of the Common Council voted to terminate the Learning Years Special Use due to unmet conditions of approval from Resolution No. 26239 adopted November 16, 1999; specifically the property is not in compliance with the site, landscaping and screening improvements approved by the West Allis Plan Commission on October 27, 1999, the subsequent Plan Commission recommendation from June 25, 2008; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on October 21, 2008, at 7:00 p.m., in the Common Council Chambers to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts, noted:

1. The applicant, Laura Cagle, d/b/a The Learning Years has offices at 932 S. 60 St., West Allis, WI 53214
2. The applicant leases the property from the West Allis-West Milwaukee School District (the owners). The property is located within the former Roosevelt School located at 932 S. 60 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner located in the Southwest $\frac{1}{4}$ of Section 35, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

Lot 1 in Block 1 in the Assessors Plat No. 273.

Said land being located at 932 S. 60 St.

TAX KEY NO. 438-0196-001

3. Under Special Use Resolution No. 26239 adopted November 16, 1999, the applicant proposed and received approval to occupy the building with a child daycare use. The applicant had proposed that all site and landscaping improvements would be completed in one year (by November, 2000)

The following timeline of events is noted:

- a. **May 1999** - Application for special use to establish the Learning Years Child Day care facility at 932 S.

- 60 St.
- b. **October 1999** - Plan Commission Approval of Learning Years Site, Landscaping and Screening Plans. \$5,000 landscape surety submitted by Learning Years.
 - c. **November 1999** - Common Council grants Special Use Approval (R-26239).
 - d. **October 2000** - Letter from Laura Hirschboeck (Cagle) requesting an extension of time to complete the approved site plan improvements until 8/15/2001.
 - e. **August 2002** - One year extension of time granted by the City of West Allis Plan Commission to complete the May 1999 approved plan.
 - f. **July 2007** - Landscape island and landscape bed curbing installed, but not in compliance with plan.
 - g. **May 2008** - Letter to Laura Cagle (Learning Years) from City restating non-compliance with Special Use and requiring appearance before Safety and Development Committee May 14, 2008 at 6:00 p.m. at City Hall.
 - h. **June 17, 2008** - Common Council Public Hearing relative to termination of Special Use for non-compliance. Action held in Committee
 - i. **June 25, 2008** - Plan Commission recommended approval of staff's recommendation (to submit a revised site plan and schedule for completion of recommended improvements) Completion of site improvements required by October 15, 2008 and review consideration of termination by Common Council on October 21, 2008 (Public Hearing).
 - j. **August 1, 2008** - revised plans and subsequent revisions submitted for approval. On October 2, 2008 a letter was sent to the Learning Years advising Ms. Cagle that the revised plans dated September 25, 2008 were approve. The Learning Years/Laura Cagle submitted a \$10,000 cash surety in accordance with the Plan Commission recommendations. Construction commenced on site.

4. The aforesaid premises is zoned RB-2 Residence District under the Zoning Ordinance of the City of West Allis, which permits child day care facilities as a special use, pursuant to Sec. 12.16, Sec. 12.31(3)(g) and Sec. 12.36(3) of the Revised Municipal Code.

5. The subject property is part of a block along the east side of S. 60 St. between W. Mineral St. and W. Walker St. Abutting properties to the north and east are developed for single and two-family use. Properties to the south and west are developed for single, two-family and commercial uses.

WHEREAS, notice concerning the hearing regarding the possible termination of the Special Use Permit was properly mailed to Laura Cagle (The Learning Years), and,

WHEREAS, a public hearing on the issue of termination was held on June 17, 2008 and held in committee; and,

WHEREAS, the Plan Commission reviewed and recommended approval of staff's recommendation on June 25, 2008 to submit a revised plan by August 1, 2008 and completion of the recommended conditions of approval by October 15, 2008. If 100 percent of the Plan Commission recommended conditions were not satisfied, Common Council would consider termination on October 21, 2008; and,

WHEREAS, a public hearing on the issue of termination was again considered on October 21, 2008; and,

WHEREAS, the Common Council, being fully advised in the premises, finds that a termination decision may be executed after a public hearing in accordance with Sec.12.16(13)(a). The Special Use has not continued in conformity with the conditions imposed in the approval (specifically Resolution No. 26239) or any subsequent amendments to it. The site, landscaping and screening plans approved by the West Allis Plan Commission on

October 27, 1999 and June 25, 2008 and set forth in Resolution No. 26239 have not been satisfied specifically:

- a) Landscaping along S. 60 St. not installed per approved plan. Asphalt paved slope to be removed and replaced with landscaping up to the property line. The property line is 0.5 ft. inside the sidewalk.
- b) Landscaping bed along south property line not installed per the approved plan and reduces required parking.
- c) Parking lot layout/configuration and striping is not per approved plan.
- d) ADA parking is not proper in accordance with plan.
- e) Proposed grass/turf not installed north of entrance drive (currently used for parking). Proposed landscape island south of entrance drive not installed per plan.
- f) Proposed super-graphics shown on approved plan (over former tennis courts) not installed.
- g) Refuse area is not screened from view in accordance with plan.
- h) S. 58 St. driveway opening not closed in accordance with Plan Commission recommendation.
- i) Landscaping areas within planting beds lack plantings, mulch and some landscaping appears dead.

Items below were not part of approved 1999 plan, but staff notes as deficient:

- j) Curbing installed poorly in 2007 (faulty construction).
- k) Retaining wall along the south property line is in dilapidated condition and requires repair and/or replacement.
- l) A gated entry-way which exists on the north side of the property is dilapidated and should be removed.

WHEREAS, the Common Council determines that credible evidence exists to support the termination of the Special Use Permit based upon the factors identified in Sec. 12.16(13)(a) of the Revised Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the applicant has failed to continue in conformity with the site, landscaping and screening improvements and has failed to satisfy conditions as required in Resolution No. 26239, and that the Special Use Permit of Laura Cagle, d/b/a The Learning Years, to establish/continue a child daycare facility, be, and is hereby terminated.

BE IT FURTHER RESOLVED that the application shall not be resubmitted for a period of one year from the date of said termination, except on the grounds of new evidence or proof of change of conditions found to be valid by the Common Council.

Mailed to applicant on the
day of _____, 2008

Assistant City Clerk

cc: Dept. of Development
Dept. of Building Inspections and Zoning
Div. of Planning

ZON-R-678-6-17-08