

ORDINANCE NUMBER 2014 - 13

GRANTING SPECIAL USE
3437 WOLF CROSSING ROAD
SHARA STEPHENS D/B/A NEW DAY MONTESSORI SCHOOL

WHEREAS, Shara Stephens d/b/a New Day Montessori School filed a petition for a Special Use within the A-1 Agricultural Zoning District for the operation of a day care and school facility pursuant to Section §7.01.D.28 of the Kendall County Zoning Ordinance for a 2.6 acre property located on the north side of Wolf Crossing Road, west of Southbury Boulevard, commonly known as 3437 Wolf Crossing Road, (PIN# 03-16-176-002), in Oswego Township; and

WHEREAS, the subject property is improved with an existing single family residence which does not comply with the required front yard setbacks in the A-1 Zoning District; and

WHEREAS, said petition is to allow the operation of a day care and school facility with a maximum of 30 students; and

WHEREAS, said property is legally described as:

THAT PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, NORTH 89 DEGREES 22 MINUTES 21 SECONDS WEST, 300 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, SOUTH 00 DEGREES 12 MINUTES WEST, 429.74 FEET TO THE CENTERLINE OF THE "OSWEGO-WOLF'S CROSSING ROAD"; THENCE NORTHEASTERLY ALONG SAID CENTERLINE, NORTH 81 DEGREES 22 MINUTES EAST, 303.59 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTH ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, NORTH 00 DEGREES 12 MINUTES EAST, 380.88 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS

WHEREAS, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact in accordance with Section 13.07.J of the Zoning Ordinance, and recommendation for approval by the Special Use Hearing Officer on January 23, 2007; and

WHEREAS, the findings of fact were approved as follows:

That the establishment, maintenance, and operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort, or general welfare.

(Staff) FALSE, as proposed. The proposed number of students (80), while less than originally proposed, will be generating an additional traffic burden in an area noted for residential usage – notwithstanding traffic studies to the contrary. The proposed hours of operation are from 7:00 am to 6:00 pm. Parents dropping off and picking up their children will be generating traffic backups when attempting to make left turns into the site, at times where the morning and evening rush hour traffic is already substantial. *Once Wolf Crossing Road is upgraded to 5 lanes, the additional carrying capacity of the road will be such as to lessen this burden.* As well, a student count of 30 or less will create a minimal traffic burden on the existing two-lane Wolf Crossing Road.

(Hearing Officer) There is a strong likelihood that the proposed special use as requested with 80 students will be detrimental to the public safety and general welfare. Traffic will increase at certain drop-off and pick-up times. Petitioner's traffic studies while showing that a left turn is unwarranted, is not convincing that there will not be ingress and egress dangers created on the well traveled two-lane road. The issue then becomes whether these traffic issues can be minimized by reducing the number of students in attendance.

That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole.

(Staff) FALSE, as proposed. The property immediately surrounding the site is in residential usage. The traffic levels during drop-off and pick-up of students may very well be injurious to the use and enjoyment of adjacent residential property. While the subject property is zoned A-1 Agricultural, property in the immediate vicinity along the north side of Wolf Crossing Road is zoned R-2 and R-3 One Family Residential, and the property across the street is in residential usage in the Village of Oswego. While the petitioner is providing a level of screening of the proposed parking area from view of these properties, it is doubtful that the proposed use *at the proposed scale* can be considered compatible with the surrounding area. After Wolf Crossing Road is upgraded to five lanes, it is anticipated that the area of Wolf Crossing Road between Route 34 and Douglas Road will transition to a mixture of residential and non-residential uses. As such, the compatibility of the proposed use with surrounding uses will gradually increase. Additionally, with a student population at 30 or under, the proposed use will more than likely blend in with the surrounding residential uses and not substantially diminish or impair property values within the two-lane Wolf Crossing Road neighborhood.

(Hearing Officer) The special use of a school/child care facility should not be injurious to the use or enjoyment of nearby property, which is mostly large lot residential. Schools are placed in residential areas to accommodate the needs of young families. While not a public school, this facility is based upon a Montessori teaching method, which has a proven track record. The negative effects of this special use, such as noise, will be minimized by maintaining mostly indoor activities. All activities including the transportation of the students will occur during the less intrusive daytime. The size of the parcel (2.6 acres) will permit buffering and landscaping, particularly around the parking lot. The existing building with the proposed addition will preserve the residential character of the area. The proposed raising of goats on the premises will not adversely effect the nearby property owners if properly contained.

That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

(Staff) FALSE, as proposed. The scale of the proposed use will create, in effect, a commercial use surrounded on three sides by residential usage (to the north is a golf course). This may have the effect of accelerating the conversion of this area of Wolf Crossing Road from residential to commercial usage, which by definition will impede the normal and orderly development and improvement of surrounding property for uses permitted in the area. With a student population of 30 or less, the level of impediment to the normal and orderly development and improvement in the area of the two-lane Wolf Crossing Road is minimal.

(Hearing Officer) This proposed special use will not impede surrounding development. This is the type of commercial use, which complements the residential development since it provides an essential service in a convenient and unobtrusive setting. There is no indication that property values will decrease, and may in the greater area increase values since it will be meeting the community need for child care and pre-school. This is not the type of use that will accelerate commercial growth in the way that a convenience store or gas station would.

That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided.

(Staff) FALSE, as proposed. The petitioner has not proposed the provisioning of a left turn lane on Wolf Crossing Road to allow for through eastbound traffic to travel unimpeded. In addition, there is no provision for additional parking to handle activities at the day care that involve parent attendance and/or participation. With a student population of 30 or less, the need for turn lanes is minimal. Once Wolf Crossing Road is upgraded to five lanes with paved shoulders, the need for turn lanes is eliminated.

TRUE, to the extent that the site has – or will have – adequate utilities, drainage, and employee parking.

(Hearing Officer) There are adequate public utilities on the property. The existing building with the proposed addition will accommodate the child care/pre-school use for a reasonable number of students. The existing driveway provides an adequate access to the roadway. The pond on the premises presents safety issues that must be addressed. There is adequate space for a parking lot on the property. However, these same features most likely will not support the proposal for 80 students.

That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(Staff) FALSE, as proposed. As mentioned previously, the level of vehicles entering the site during morning drop-off and evening pick-up of students will increase traffic congestion on Wolf Crossing Road. At a student population of 30 or less, the additional traffic congestion is minimal. As well, once Wolf Crossing Road is upgraded to five lanes with paved shoulders, traffic flow will be improved, the need for turn lanes is eliminated.

(Hearing Officer) As proposed, there have been no measures taken to minimize traffic congestion, except to suggest that Wolf Crossing Road can handle the increased traffic from 80 students. Wolf Crossing Road is a highly traveled two-lane road, which needs to be upgraded. Traffic ingress and egress from this property is a serious safety concern. The most persuasive approach is to limit the frequency of the ingress and egress by limiting the number of students.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer.

(Staff) TRUE, if the requested variances to the County's parking prohibition inside required yard areas, and

a variance to the County's front yard area requirement for construction of the proposed addition to the primary structure, are approved.

(Hearing Officer) This finding is met to the extent that the ZBA has granted a front yard variance for the construction of the addition. However, with the denial of a setback variance for the parking lot, the petitioner must reconfigure the shape of the parking lot and its location.

That the special use is consistent with the spirit of the Land Resource Management Plan and other adopted County or municipal plans and policies.

(Staff) TRUE. The County's LRMP designates this area as "Contiguous Growth Area-Suburban Residential", which contemplates a mixture of uses.

(Hearing Officer) This special use is consistent with Kendall County's LRMP designation of this area as Contiguous Growth-Suburban Residential. This designation contemplates a mixture of uses.

WHEREAS, the Kendall County Board has considered the findings and recommendation of the Hearing Officer and denied said petition on April 17, 2007; and

WHEREAS, a suit was filed naming County of Kendall as the defendant in case number 07 MR 50, Shara Stephens and New Day Montessori, Inc. v. County of Kendall, State of Illinois, n/k/a Kendall County; and

WHEREAS, Resolution 08-36 was approved authorizing the settlement of the 07 MR 50 lawsuit on November 5, 2008; and

WHEREAS, pursuant to Resolution 08-36 and the Settlement Agreement and Release for the above cited case, a special use permit shall be granted to said property; and

WHEREAS, this special use shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns of the property owner as to the same special use conducted on the property; and

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby grants approval of a Special Use zoning permit for the use indicated in the recitals section of this Ordinance and as indicated on the submitted Site Plan included as Exhibit "A" attached hereto and incorporated herein, subject to the following conditions:

1. The maximum enrollment shall be limited to thirty (30) students with three (3) staff members. Any future expansion of the use will require submittal of an amendment to the Special Use for review and approval.
2. Goat manure shall be stored in enclosed dumpsters and removed from the site as appropriate.
3. Dedication of an additional 17' of right-of-way to the Village of Oswego will be required prior to issuance of a building permit to provide a total R.O.W. width of 50' from the

- centerline along Wolf Crossing Road.
4. The site shall be developed in substantial conformance with the site plan attached as Exhibit A.
 5. A Site Development permit and engineering/landscape plan will need to be submitted for review and approval prior to the issuance of a building permit. The plans shall include:
 - a. A detailed landscape plan which includes a planting plan for the berm that utilizes “salt tolerant” species that provide 100% screening year round.
 - b. A plan for tree protection and preservation indicating that the existing tree line along the east and west sides of the property will be retained.
 - c. Details demonstrating that the fencing to be employed around the goat enclosure is adequate to contain the animals.
 - d. Details demonstrating that the fencing and signage to be employed around the pond is appropriate to minimize the hazard of drowning.
 - e. Parking stalls must be 9’ x 20’ to comply with today’s parking ordinance and access ways and circulation aisles shall be designed to adequately accommodate emergency service vehicles.
 - f. There must be a hard surfaced walkway from the handicap stall to the nearest entrance a minimum of 6’ wide.
 - g. Must locate on the site plan one loading space that is 12’ x 30’ unless the Board decides it is not needed.
 - h. Show signage for circulation pattern and stop sign onto Wolf Crossing to alert drivers.
 - i. A photometric plan shall be submitted to demonstrate that any exterior lighting or parking lot lighting shall not exceed 0.2 foot candles at the property line.
 6. Review and approval of the proposed well and septic systems prior to issuance of a building permit.
 7. The special use may not open for business until it has been determined by the Kendall County PBZ Department that the existing structure meets the building code requirements for commercial structures including those requirements of the local fire protection district and issuance of an occupancy permit.
 8. The structure on the property will also be used as a single family residence with shared parking for 1 employee.
 9. In the event a drop off or by-pass lane is required for safety reasons, the petitioner is willing to incorporate these changes into the site design.
 10. The parking stalls, a walking path from the handicap stall and up to the ROW must be paved. The remaining driveway shall be paved with asphalt within five (5) years of the date of the adoption of this ordinance.
 11. Signage must comply with the provisions of the sign regulations of the Kendall County Zoning Ordinance.
 12. Any change or modification to the Special Use that does not modify the original intent, purpose, or need for the Special Use, shall be submitted to and reviewed by the Planning, Building, & Zoning Department. Notice that if a change or modification is sought it shall be provided by the applicant in the manner provided in 55 ILCS 5/5-12009.5. Upon

proper notice, the Planning, Building, & Zoning Department shall forward the request for change or modification to the Planning, Building & Zoning Committee. The Committee may return the matter to ZPAC and/or Plan Commission for further consideration and findings or forward the matter to the full County Board to grant, deny, or return the requested change or modification to the Committee for further consideration and findings.

Failure to comply with the terms of this ordinance may be cited as a basis for amending or revoking this special use permit.

IN WITNESS OF, this ordinance has been enacted on May 20th, 2014.

Attest:



Debbie Gillette
Kendall County Clerk



John Shaw
Kendall County Board Chairman



SITE DEVELOPMENT PLAN

MORRISON SURVEYING CO., INC.

2021-D Lisbon Road, Morris, Illinois 60450-5633
Phone (815) 942-8680 FAX (815) 941-8680



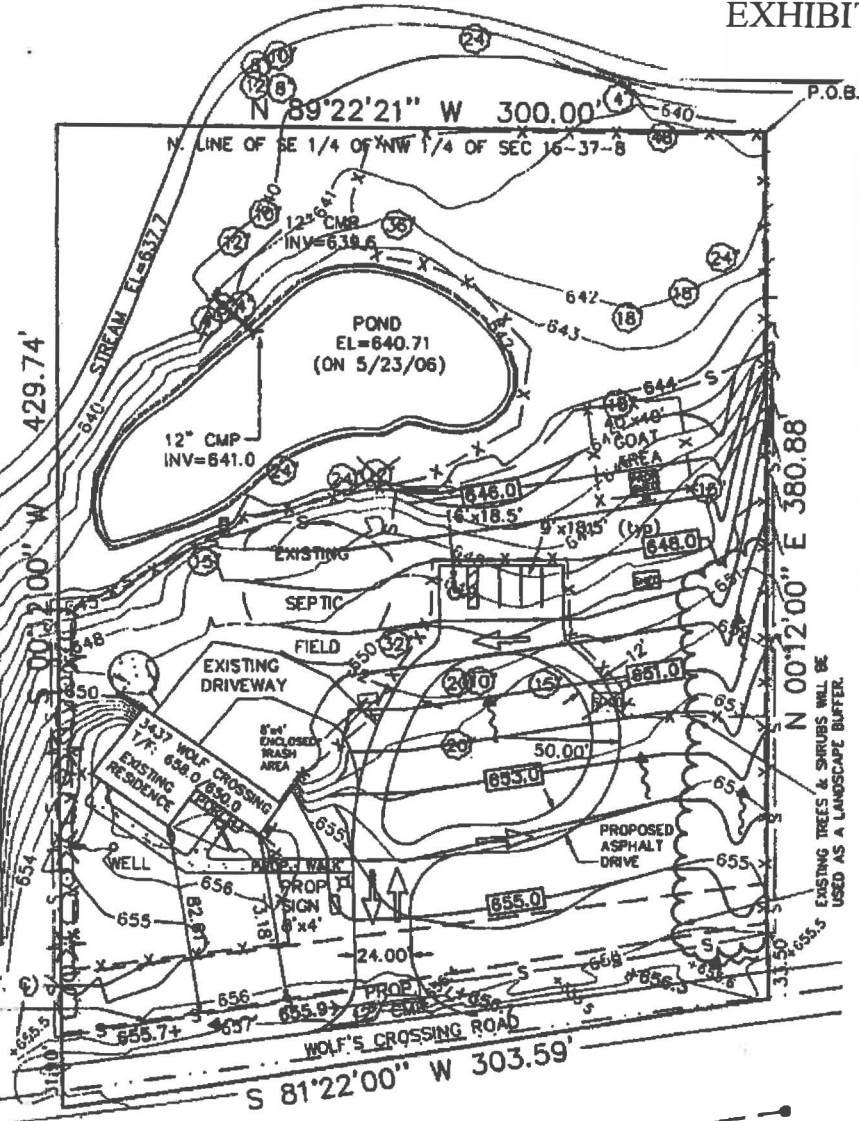
THAT PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, NORTH 89 DEGREES 22 MINUTES 21 SECONDS WEST, 300 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, SOUTH 00 DEGREES 12 MINUTES WEST, 429.74 FEET TO THE CENTERLINE OF THE "OSWEGO-WOLF'S CROSSING ROAD"; THENCE NORTHEASTERLY ALONG SAID CENTERLINE, NORTH 81 DEGREES 22 MINUTES EAST, 303.59 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTH ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, NORTH 00 DEGREES 12 MINUTES EAST, 380.88 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS.

EXHIBIT A

LEGEND	
●	FOUND IRON ROD
⊗	EXIST. X" TREE
⊗	EXIST. TREE TO BE REMOVED
—X—X—	12" CULVERT
X—X	PROP. CHAIN LINK FENCE
---	EXISTING CONTOUR
+675.6	EXISTING SPOT ELEV.
659.0	PROPOSED CONTOUR
+675.6	PROPOSED SPOT ELEV.
~>	DRAINAGE FLOW
—S—	SILT FENCE/BAILS
~~~~~	EXIST. TREELINE
⊥	PROPOSED LIGHT POLE
▲	MOUNTED LIGHT

LEGEND FOR ALL LANDSCAPE BUFFERS:	
○	CRABAPPLE TREE
○	COMMON LILAC
★	TECHNY ARBORVITAE (EVERGREEN)

PROPOSED R.O.W. (50' N'y of EXIST. C)  
EXISTING R.O.W. (AS MONUMENTED)



SITE BENCHMARK  
NE'y CORNER OF  
CONCRETE PAD  
EL=655.69

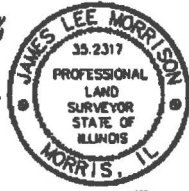
RIGHT-OF-WAY  
(AS MONUMENTED)

State of Illinois  
County of Grundy

We, MORRISON SURVEYING CO INC., (PDF License #184-003915) do hereby certify that a land survey has been made under our supervision of the above described property and that the plot hereon drawn is a correct representation of said survey. Distances are given in feet and decimal parts thereof. Given under my hand and seal at Morris, Illinois. Date: 07/27/06

*J.P. Morrison*

Date: 07/27/06



*NOTE: ENCLOSED TRASH AREA TO BE CONSTRUCTED OF BOARD ON BOARD FENCING

REVISIONS: 10/9/06, 1/16/07, 3/2/07, 3/22/07  
4/11/07, 10/29/08

ORDERED BY: NEW DAY MONTESSORI, INC.  
SCALE: 1" = 50' ORDER NO. 2787

Compare All Dimensions Before Building And Report Any Discrepancies At Once. For Building Lines, Easements and other restrictions not shown hereon refer to your Deed, Title Policy, Zoning ordinance, ETC..