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**Title:** Substitute resolution relating to Board of Zoning Appeals consideration of variance and special use permit applications for day care centers.

**Sponsors:** ALD. DAVIS, ALD. BAUMAN

**Indexes:** BOARD OF ZONING APPEALS, DAY CARE CENTERS, ZONING

**Attachments:** 1. Fiscal Note, 2. Board of Zoning Appeals Response, 3. Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
3/3/2009	0	COMMON COUNCIL	ASSIGNED TO		
3/5/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
3/9/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
3/10/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
3/20/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	SUBSTITUTED	Pass	5:0
3/20/2009	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	5:0
3/20/2009	1	CITY CLERK	DRAFT SUBMITTED		
3/25/2009	0	COMMON COUNCIL	ADOPTED	Pass	15:0
4/23/2009	1	MAYOR	SIGNED		

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ALD. DAVIS AND BAUMAN

Substitute resolution relating to Board of Zoning Appeals consideration of variance and special use permit applications for day care centers.

This resolution requests that the Board of Zoning Appeals defer consideration of special use permit or use variance applications for a period of 6 months commencing on the effective date of this resolution and/or apply strict scrutiny to all such applications in accordance with the applicable criteria specified by the Zoning Code.

Whereas, The City’s Zoning Code defines a “day care center” as “an establishment in which the operator is provided with compensation in return for providing individuals with care for less than 24 hours at a time”; and

Whereas, This definition also includes a “family day care home” (facility providing care for 8 or fewer children) in which the operator does not reside; and

Whereas, The Zoning Code requires operators of day care centers located in various zoning districts or in certain other specified circumstances to obtain special use permits from the Board of Zoning Appeals; and

Whereas, In circumstances where a day care center is classified as a prohibited use, an interested party may still apply to the Board of Zoning Appeals for a use variance to allow operation of the facility; and

Whereas, A recent investigation by the *Milwaukee Journal Sentinel* uncovered numerous examples of fraud, deceit and loopholes within the State of Wisconsin's \$340 million taxpayer-funded "Wisconsin Shares" child-care assistance program, as well as evidence of inadequate caseworker oversight, regulatory leniency within the program and an overall lack of accountability for how taxpayer dollars are spent; and

Whereas, In response to the *Journal Sentinel* expose, a comprehensive audit of Wisconsin Shares has been initiated, with the objective of formulating new rules to cut fraud within the program, additional funding for fraud investigations and clearer guidelines on how to run the program; and

Whereas, The Common Council believes that the State of Wisconsin's taxpayer-funded child-care assistance program, Wisconsin Shares, is currently plagued by problems of fraud, deceit, regulatory loopholes and lax oversight; and

Whereas, The Common Council further believes that it is in the best interest of Milwaukee residents and taxpayers to defer or to apply strict scrutiny to the opening of additional day care centers in the city until these problems are corrected; and

Whereas, Until the State audit is completed and other actions are taken to improve the integrity and accountability of the Wisconsin Shares program, it is in the best interest of the City of Milwaukee and its residents and taxpayers for the Board of Zoning Appeals to defer the granting of and/or to apply strict scrutiny to applications for special use permits or use variances for new day care centers; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Common Council requests that the Board of Zoning Appeals:

- a. Defer consideration of applications for special use permits or variances for new day care centers for a period of 6 months commencing on the effective date of this resolution; and/or
- b. Apply strict scrutiny to consideration of all applications for special use permits and variances for new day care centers in accordance with the criteria established by sections 295-311-2-d-0 through 4, 295-311-3-d-0 through 6 and 295-311-2-h-0 through 2 of the Zoning Code, particularly those pertaining to protection of public health, safety and welfare (in the case of special use permit applications) and absence of detriment and hardship (in the case of variance applications).

LRB09102-1  
SSM:JDO  
03/06/2009