

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 14493-A¹ of Star of Bethlehem Church of God, pursuant to 11 DCMR § 3104.1, for a special exception from the child development center requirements under § 205, to allow² a child development center for 150 children and 17 staff in the SSH-2/R-1-B District at premises 5331 Colorado Avenue, N.W. (Square 2718, Lot 804).

HEARING DATE: April 12, 2016

DECISION DATE: April 12, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 5.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report, dated March 14, 2016, indicating that at a duly noticed and scheduled public meeting on March 9, 2016, at which a quorum was in attendance, the ANC voted 10-0-0 in support of the application. (Exhibit 24.)

The Office of Planning ("OP") submitted a timely report on April 4, 2016, recommending approval of the application with conditions, (Exhibit 25) and OP testified in support of the application at the hearing. The Board adopted the conditions proposed by OP but for including a condition requiring

¹ The use was initially established by BZA Order No. 14493 which became final on December 4, 1986, for a three-year period of time. That approval was subject to six conditions, including the three-year term limit. According to the Office of Planning report, "The applicant requests to renew approval of a child development center that lapsed 26 years ago, subject to the same conditions as the original approval." (See, OP Report, Exhibit 25, p. 2.) However, the Applicant did not seek a term limit, nor did the Board impose one in the instant case.

² Regarding the use request, the Board revised the caption to replace "continue" with "allow" to denote the long period of time that has elapsed since the Board's approval of the use expired.

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compliance with the licensing requirements of the Office of the State Superintendent of Schools since such compliance is legally required to operate at the site.

The D.C. Department of Transportation submitted a timely report dated April 5, 2016 expressing no objection to the application. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 205. The only parties to the application were the Applicant and the ANC which expressed support for the application. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Student enrollment shall not exceed 150 children, ranging in age from two through five years of age.
2. The number of staff shall not exceed 17.
3. The hours of operation shall not exceed from 6:30 AM to 6:30 PM, Monday through Friday.

VOTE: 5-0-0 (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

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FINAL DATE OF ORDER: April 27, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.