

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 17280 of Newcomb Day Care Center**, pursuant to 11 DCMR § 3104.1, for a special exception to expand an existing child development center from 29 to 70 children, and 14 staff, under section 205, in the R-5-A District at premises 541 Newcomb Street, S.E. (Square 5985, Lot 818).

**HEARING DATE:** February 8, 2005  
**DECISION DATE:** March 1, 2005

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board 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) 8C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. ANC 8C submitted a letter in support of the. The Office of Planning (OP) submitted a report in conditional support of the application. The Department of Transportation submitted a report having no objection to the application.

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 under section 205. 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 adverse to any party.

Based upon the record before the Board and having given great weight to the OP report 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 § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. Approval shall be for **THREE (3) YEARS**.
2. The days and hours of operation shall be Monday through Friday, between 7:00 AM and 6:00 PM.
3. Enrollment shall be limited to a maximum of 70 children between the ages of 6 weeks and 5 years old, and 14 staff persons.
3. One on-site parking space shall be maintained at the rear of the property.
4. All outdoor activities shall take place under staff supervision.
5. Outdoor playtimes shall begin no earlier than 9:00 AM.
6. The trash storage and parking areas shall be properly maintained and kept free of trash and debris.

**VOTE:**      **4-0-1**      (Curtis L. Etherly, Jr., Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II to approve, the Zoning Commission member not hearing the case, not voting).

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

Each concurring member approved the issuance of this order.

**ATTESTED BY:**

  
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**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning 

**FINAL DATE OF ORDER:** March 4, 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, 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.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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**BZA APPLICATION NO. 17280**

As Director of the Office of Zoning, I hereby certify and attest that on MAR 04 2005 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Andrea Cannon  
Newcomb Day Care Center  
1235 Queen Street, N.E.  
Washington, D.C. 20002

Chairperson  
Advisory Neighborhood Commission 8C  
3125 Martin Luther King Jr. Avenue, S.W.  
Washington, D.C. 20032

Single Member District Commissioner 8C  
Advisory Neighborhood Commission 8C03  
3125 Martin Luther King Jr. Avenue, S.W.  
Washington, D.C. 20032

Marion Barry, City Councilmember  
Ward Eight  
1350 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, D.C. 20004

Toye Bello, Zoning Administrator  
Building and Land Regulation Administration  
Department of Consumer and Regulatory Affairs  
941 N. Capitol Street, N.E.  
Washington, D.C. 20002

Ellen McCarthy, Deputy Director  
Office of Planning  
801 North Capitol Street, N.E.

4<sup>th</sup> Floor

Washington, D.C. 20002

Alan Bergstein, Esq.

Office of the Attorney General

441 4<sup>th</sup> Street, N.W., 6<sup>th</sup> Floor

Washington, D.C. 20001

rsn

**ATTESTED BY:**

  
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**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning 