

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No 17510 of Bertha Tucker**, pursuant to 11 DCMR § 3104.1, for a special exception to establish a child development center (60 children and 10 staff) under section 205, at premises 3219 9<sup>th</sup> Place, S.E. (Square 5942, Lot 824).

**HEARING DATE:** September 19, 2006  
**DECISION DATE:** October 3, 2006

**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) 8E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8E, which is automatically a party to this application. ANC 8E submitted a report that did not indicate the quorum and number of commissioners voting in support, therefore the report was not entitled to great weight. However, the Board recognizes and acknowledges the support of the ANC in this case. The Office of Planning (OP) also submitted a report in support of 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

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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 **FIVE YEARS** from the date of issuance of the Certificate of Occupancy.
2. The number of children on-site at any one time shall not exceed 34 based on the following breakdown: 13 infants; 13 children two- to four-years old; eight after-school.
3. The number of staff on-site at any one time shall not exceed eight.
4. The hours of operation shall be 7 a.m. to 6 p.m., Monday through Friday.
5. The Applicant shall provide two 9' by 19' parking spaces on the site.
6. The Applicant shall follow a pick up/drop off plan in accordance with the description set forth at Exhibit 28 of the record.

**VOTE:**       **4-0-1** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr. and John A. Mann II to approve; No Zoning Commission Member participating)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
Each concurring member approved the issuance of this order.

ATTESTED BY: \_\_\_\_\_

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

**FINAL DATE OF ORDER:**           OCT 12 2006

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."

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, 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.

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.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**BZA APPEAL NO. 17510**

As Director of the Office of Zoning, I hereby certify and attest that on **OCTOBER 12, 2006**, 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:

Bertha Tucker  
3219 9<sup>th</sup> Place, S.E.  
Washington, D.C. 20032

Chairperson  
Advisory Neighborhood Commission 8E  
P.O. Box 7080  
Washington, D.C. 20032

Single Member District Commissioner 8E05  
Advisory Neighborhood Commission 8E  
P.O. Box 7080  
Washington, D.C. 20032

Bill Crews  
Zoning Administrator  
Dept. of Consumer and Regulatory Affairs  
Building and Land Regulation Administration  
941 North Capitol Street, N.E., Suite 2000  
Washington, D.C. 20002

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

Ellen McCarthy, Director  
Office of Planning  
801 North Capitol Street, N.E., 4<sup>th</sup> Floor  
Washington, D.C. 20002

**BZA APPEAL NO. 17510**

**PAGE NO. 2**

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Jill Stern  
General Counsel  
941 North Capitol Street, N.E., Suite 9400  
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**ATTESTED BY:**

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

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