

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17544 of the National Child Research Center, pursuant to 11 DCMR § 3104.1 for a special exception for an addition to *and continuation of* an existing child development center, with a total maximum enrollment of 185 children and a maximum of 44 staff, under section 205, in the R-1-B District at premises 3209 Highland Place, N.W. (Square 2072, Lot 30).¹

HEARING DATE: January 9, 2007
DECISION DATE: January 9, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Office of Zoning 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) 3C, and to owners of property within 200 feet of the site that is the subject of this application.

The property is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C submitted a report dated November 29, 2006, in support of the application. The Office of Planning (OP) also submitted a report recommending approval of the application subject to conditions. In addition, the District's Department of Transportation submitted a report recommending approval with no conditions. The Applicant also submitted for the record the recommendation of the D.C. Historic Preservation Review Board approving the alterations and addition to the existing building on the subject property pursuant to the District's Historic Landmark and Historic District Protection Act.

PRELIMINARY MATTERS

The Board noted as a preliminary matter that the special exception under which the child development center is operating will be expiring March 13, 2007 and clarified with the

¹ The italicized language reflects relief that was not advertised, but recognized at the hearing.

Applicant that a special exception to continue operations of the center was also being sought. Although this relief was not included within the notice of public hearing, the Board found that no additional public notice was required in light of the evidence in the record reflecting informed support for the continued operations of the center, notably the settlement agreement, dated March 15, 2006, by and among the Applicant and neighboring property owners (Settlement Agreement), and the ANC and Office of Planning (OP) reports.

The Applicant also requested relief pursuant to 11 DCMR § 3103.2 for a variance from the parking requirements under Section 2100 in the event such relief might be necessary. The Board determined that relief from the parking requirements was not needed due to the waiver for historic properties under Section 2100.5.

MERITS

As directed by 11 DCMR §§ 3119.2 and 205, 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 a special exception. No person or entity appearing as a party to this case at the public hearing testified in opposition to this application. The Board finds that based on the evidence in the record and subject to the conditions set forth below, a decision by the Board to grant this application will not be adverse to any party.

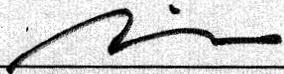
The record reflects that the child development center has had a successful traffic management plan in place for three years with no adverse impacts resulting from traffic, parking or other operations related to the school. In addition, the Settlement Agreement, a copy of which was submitted to the record, comprehensively addresses and conditions all aspects of the child development center's operations that might give rise to any adverse impacts. The Settlement Agreement includes, among other matters, limitations on student enrollment and faculty and staff, hours of operation, traffic management procedures, and the number and type of school events permitted after regular hours. Because the Settlement Agreement has a term of 20 years, the Board has conditioned this order to mitigate potential adverse impacts beyond that time.

The Board is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001) to give great weight to OP recommendations and under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C. Code § 1-309.10(d)(3)(a)) to give great weight to the issues and concerns raised in the written report of the affected Commission. The Board has carefully considered the OP and ANC reports and finds their recommendation to grant the application persuasive.

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: MAR 01 2007

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 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 § 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.

EB

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As Director of the Office of Zoning, I hereby certify and attest that on **MARCH 1, 2007**, 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:

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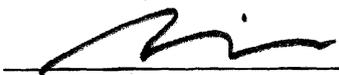
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