

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17602-A of The National Presbyterian Church, pursuant to 11 DCMR Section 3104.1, for a special exception to establish a child development center under Section 205 (16 children, ages infant to 4 years, and 5 staff), in the R-1-B District, on the first floor of the multi-purpose building, at premises 4101 Nebraska Avenue, N.W. (Square 1724, Lot 805).

HEARING DATE: May 8, 2007

DECISION DATE: May 8, 2007 (Bench Decision)

DECISION DATE ON CLARIFICATION: July 31, 2007

CORRECTED SUMMARY ORDER¹

SELF-CERTIFIED

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

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) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a report in support of the application. The Office of Planning (OP) also submitted a report in the application.

As directed by 11 DCMR Section 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 Section 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.

As indicated above, this is an application for a child development center in an existing building at The National Presbyterian Church. The Applicant represented that priority enrollment will be offered at the child development center based on a three-tiered system. The first tier will consist of children of faculty and staff of the school; the second tier will consist of children of families of the church and school; and the third tier will consist of children from the general public, with

¹ This order amends the order issued on May 17, 2007, to clarify that the third tier of enrollment will consist of children from the general public with preference given to children of families residing within the boundaries of ANC 3E.

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preference given to children of families residing within the boundaries of ANC 3E. In addition, two parking spaces will be designated for the staff of the child development center (Exhibit No. 33). Finally, the play area for the children will be located behind the building.

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 Sections 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 Section 3101.6, the Board has determined to waive the requirement of 11 DCMR Section 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. The maximum number of children shall not exceed 16, ages infant to four years old.
2. The hours and days of operation shall be 7:30 a.m. to 6:00 p.m., Monday through Friday.
3. The total number of staff shall not exceed 5.

VOTE: **5-0-0** (Ruthanne G. Miller, Marc D. Loud , Curtis L. Etherly, Jr. and John A. Mann II (by absentee ballot) to approve, the Zoning Commission member not present, not voting)

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: May 17, 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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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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.

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As Director of the Office of Zoning, I hereby certify and attest that on August 7, 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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ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning 

TWR