

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17772-A of Bishop George F. Haskins, Jr. and Dianne Haskins, pursuant to 11 DCMR § 3104.1, for a special exception to continue and expand the operation of a child development center by increasing the number of children served from 15 to 39 and the number of staff from three to eight under § 205, in the R-2 District at premises 4605 Kane Place, N.E. (Square 5154, Lot 901).¹

HEARING DATE: December 15, 2015

DECISION DATE: December 15, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated August 12, 2015, from the Zoning Administrator certifying the relief required. (Exhibit 3.)

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") 7C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. The ANC did not submit a report or participate in the hearing. At the hearing, the Applicant testified that they were not able to present before the full ANC because of a miscommunication about the ANC's meeting schedule, but that they communicated with the SMD Commissioner, who was supportive of the proposal.

The Office of Planning ("OP") submitted a timely report dated December 8, 2015, recommending approval of the application with five conditions (Exhibit 26) and testified in

¹ This application is to continue a previously approved child development center use that was granted in BZA Order No. 17772, but which expired on June 18, 2015. The application also is requesting an increase in the number of children to be served from 15 to 39 and the number of staff from three to eight. The caption has been amended to more clearly reflect the nature of the increase in the number of children and staff.

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support of the application at the hearing. The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR § 3104.1 for a special exception to continue and expand the operation of a child development center by increasing the number of children served from 15 to 39 and the number of staff from three to eight under § 205, in the R-2 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the 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 report filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 205, that the requested relief can be granted as 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. Approval shall be for a period of **SEVEN (7) YEARS**.
2. The hours of operation shall be Monday through Friday from 6:00 am to 6:00 pm.
3. The student enrollment shall not exceed 39, ranging in age from one year to 14 years. The final maximum number of students licensed for the center will be determined by the Office of the State Superintendent of Education (OSSE).
4. The center shall be operated by no more than eight staff members.
5. Drop-off of students shall take place at the front of the center between 6:00 am to 9:00 am, and pick-up shall take place between 3:00 pm and 6:00 pm.

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; one Board seat vacant.)

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

FINAL DATE OF ORDER: December 22, 2015

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 THEREOF, 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.