

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17851 of Silvia and William Moten, pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (40 children) under section 205, in the R-5-A District at premises 355 Parkland Place, S.E. (Square 5988, Lot 78).¹

HEARING DATE: December 9, 2008
DECISION DATES: February 3, 2009 and March 3, 2009

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 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) 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. No written report was received from ANC 8C. The Office of Planning (OP) submitted two reports in support of the application, with conditions. (Exhibits 28 and 33) After the hearing on December 9, 2008, the record was left open for additional information which the Board received from OP and the Applicants. The OP supplemental report addressed objections that were raised by the Metropolitan Police Department (MPD) in its report of January 13, 2009 (Exhibit 33). The District of Columbia Department of Transportation (DDOT) submitted a letter indicating that DDOT has no objection to the application (Exhibit 30). Two reports in support of the application also were received from the Office of the State Superintendent of Education, Early Childhood Education, Child and Residential Care Facilities (Exhibits 25 and 34). Additionally, letters of support were received from the building's tenants (Exhibit 26)

¹ The Application was amended to omit a cap for teachers.

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and neighbors to the property (Exhibit 32). While letters of opposition were received (Exhibit 31), no one appeared as a party in opposition.

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 reports, 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 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 § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 12 – Plans) be **GRANTED** subject to the following **CONDITIONS**:

1. The maximum number of children shall not exceed 40.
2. The child development center shall operate between the hours of 6:00 a.m. and 6:30 p.m., Monday through Friday, for children under the age of six years.
3. The after-school program shall operate between the hours of 3:00 p.m. to 6:30 p.m., Monday through Friday, for kindergartners through sixth grade.
4. Approval shall be for TEN (10) YEARS from the date of the issuance of this order.

VOTE: 5-0-0 (Mary Oates Walker, Ruthanne G. Miller, Marc D. Loud, Shane L. Dettman, Michael G. Turnbull, FAIA, to APPROVE with CONDITIONS.)

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

ATTESTED BY:


RICHARD S. NERO, JR.
Acting Director, Office of Zoning

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FINAL DATE OF ORDER: March 5, 2009

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

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BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

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As Acting Director of the Office of Zoning, I hereby certify and attest that on March 5, 2009, 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:

Charles C. Iweanoge, Esq.
Iweanoge Law Center
1026 Monroe Street, N.E.
Washington, D.C. 20017

Chairperson
Advisory Neighborhood Commission 8C
3125 MLK Jr., Avenue, S.E.
Washington, D.C. 20032

Single Member District Commissioner 8C03
Advisory Neighborhood Commission 8C03
3325 MLK Jr., Avenue, S.E.
Washington, D.C. 20032

Marion Barry, City Councilmember
Ward Eight
1350 Pennsylvania Avenue, N.W.
Suite 102
Washington, D.C. 20004

Harriet Tregoning, Director
Office of Planning
2000 14th Street, N.W. (Reeves Center)
4th Floor
Washington, D.C. 20009-4473

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

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Bennett Rushkoff, Esq.
General Counsel
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

ATTESTED BY:



RICHARD S. NERO, JR.
Acting Director, Office of Zoning