

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17864 of Kuumba Learning Center, Inc., pursuant to 11 DCMR § 3104.1, for a special exception for a private school under section 206 and a special exception for a child development center under section 205, for a total of 60 children and 12 staff in three adjacent buildings in the R-4 District at premises 3328, 3330, and 3332 Martin Luther King, Jr. Avenue, S.E. (Square 5978, Lots 884, 1037, and 1036).¹

HEARING DATES: February 17, 2009 and March 17, 2009
DECISION DATE: March 24, 2009

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) 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. ANC 8C filed a report, dated February 25, 2009, indicating that, at a meeting with a quorum present, it voted to approve the Applicant's request to operate a private school and a child development center at the premises. (Exhibit 24, attachment). The Office of Planning (OP) submitted two reports, one dated June 3, 2008 recommending approval of the application subject to certain conditions (Exhibit 22), and a second report, dated March 10, 2009, indicating that it "[was] favorably inclined toward the application" but needed the Applicant to clarify or address several issues. (Exhibit 26). At the public hearing on March 17, 2009, OP indicated that, since its report had been filed, the Applicant had addressed the referenced issues, and that OP was in support of the application.

¹ The Applicant has been operating at the property with 40 students pursuant to BZA Order No. 17428. With this application, the Applicant seeks approval to add 20 new students at the building located at 3332 Martin Luther King, Jr. Avenue.

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 a special exception under section 205 and a special exception under section 206. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 205, and 206, and 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 be **GRANTED**, that this Order supersedes all previous Orders relating to this property, and that this approval is **SUBJECT** to the **FOLLOWING CONDITIONS**:

1. Approval shall be for **TEN (10) Years**.
2. The number of children for the private school and child development center at the three buildings shall not exceed 60, and the number of staff shall not exceed 12, with 5 staff assigned to the private school and 7 staff assigned to the child development center.
3. Pick-up and drop off for the 20 additional children at the 3332 Martin Luther King, Jr. Avenue location shall take place as provided in the Applicant's submission dated March 23, 2009 (Exhibit 28). Specifically, a shuttle van will transport children to the Kuumba Learning Center from a the Applicant's related facility located at 1320-B Good Hope Road, S.E.

VOTE: **4-0-1** (Marc D. Loud, Ruthanne G. Miller, Shane L. Dettman, Anthony J. Hood, to APPROVE as conditioned. Mary Oates Walker, not participating, not voting.)

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

FINAL DATE OF ORDER: April 3, 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 § 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.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX

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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 April 3, 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:

Maja T. Rasheed, Director
The Kuumba Learning Center, Inc.
3328 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20032

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

Single Member District Commissioner 8C03
Advisory Neighborhood Commission 8C
3125 Martin Luther King Jr. Avenue, S.E.
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Marion Barry, City Councilmember
Ward Eight
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