

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17979 of St. John's Episcopal Church., pursuant to 11 DCMR § 3104.1, for a special exception for continuation and expansion of an existing child development center (45 children and 13 staff), to increase the number of staff from 9 to 13, under section 205, in the R-3 District at premises 3240 O Street, N.W. (Square 1231, Lot 144).¹

HEARING DATE: November 3, 2009
DECISION DATE: November 3, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 7)

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) 2E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E filed a report dated October 2, 2009, indicating that the ANC did not object to the proposed staff increase.² The ANC's report was filed on a timely

¹ The application was reworded from that which was advertised to clarify that the application was for both the continuation of as well as the expansion of an existing child development center to expand the allowable number of staff from 9 to 13. The number of children (45) in attendance would not be increased. The child development center was previously approved by the BZA with conditions on April 17, 1996 for a term of 5 years (Order No. 16109), then on February 17, 1999 for a term of 10 years (Order No. 16430) until February 17, 2009. This Applicant also requested that the special exception be granted without a term. Continuation of the use requires BZA approval of a new special exception.

² The ANC's written report, while it approved the application, was silent regarding the Applicant's request to continue to exist perpetually. The Applicant testified that she presented that request to the ANC at the meeting at

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basis and met the requirements of section 3115.1 of the Zoning Regulations. (Exhibit 24). The Office of Planning (OP) submitted a report in support of the application. (Exhibit 26). According to the OP report, the District Department of Transportation (DDOT) did not formally express any concerns about the proposal for additional staff. (Exhibit 26). The District's Child Care Licensing Unit in the Office of the State Superintendent of Education (OSSE) recommended approval of the application. (Exhibit 19).

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 and ANC 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 be **GRANTED AS CONDITIONED**:

1. The child development center shall operate from 7:30 a.m. to 6:30 p.m., Monday through Friday, on a year-round basis.
2. The maximum number of students shall be 45; the ages shall not exceed five years old.
3. There shall be a maximum of 13 staff.
4. A secure and supervised drop-off and pick-up of the children shall occur on Potomac Street, N.W. A staff person shall be present to receive the children as they are dropped off and discharged.
5. All deliveries shall coincide with deliveries made to St. John's Episcopal Church.

which she presented the rest of the application. The Board determined that it could only give great weight to the report as written. The Board concluded that the ANC's silence in light of having heard the full application was either tacit approval to allow an established Child Development Center to continue its operations on a perpetual basis or that the absence of this part of the application from the ANC's written report meant that the ANC's decision on this part of the application was not entitled to great weight.

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6. Trash shall be picked up at least twice a week.
7. Outdoor play shall be in the fenced yard of the Church Rectory.
8. Efforts shall be made to reduce demand for parking by encouraging staff to walk or use public transportation. The applicant shall continue to arrange for off-street parking in the Georgetown community, as needed.

VOTE: 3-0-2 (Meridith H. Moldenhauer, Michael G. Turnbull, Shane L. Dettman to APPROVE. Two Board members not present, nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

ATTESTED BY:



JAMISON L. WEINBAUM

Director, Office of Zoning

FINAL DATE OF ORDER: NOV 10 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 § 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 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.

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,

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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 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 NOV 10, 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:

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Head of School
St. John's Episcopal Preschool
3240 O Street, N.W.
Washington, D.C. 20007

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Washington, D.C. 20007

Single Member District Commissioner 2E03
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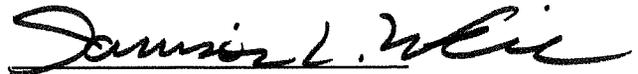
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ATTESTED BY:



JAMISON L. WEINBAUM
Director, Office of Zoning