

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18036 of Newcomb Child Development Center, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception for a child development center (39 children and 13 staff) under section 205, and for a variance from the off-street parking requirements under subsection 2101.1, in the R-5-A District at premises 541 Newcomb Street, S.E. (Square 5985, Lot 818).¹

HEARING DATES: March 2, March 9, and May 4, 2010
DECISION DATE: May 4, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4).

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.² The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. The ANC filed two reports, dated March 4 and April 26, 2010, indicating that the ANC voted unanimously in support of the application at two duly-noticed, regularly-scheduled meetings at which a quorum was present.³ (Exhibits 28 and

¹ The Application was amended at the March 9th hearing to include area variance relief from the off-street parking requirements for the child development center use under 11 DCMR § 2101.1.

² At the Board's request, the Office of Zoning readvertised the application, including the relief from the off-street parking requirements, as well as sent notices to the Applicant, other property owners within 200 feet of the site, and the ANC (Exhibits 32 – 35), and the Applicant reposted the property with notice of the amended application. (Exhibits 25, 27, and 38).

³ The second ANC report dated April 26, 2010 indicated that the ANC considered and voted to support the amended application.

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40). The District of Columbia Office of the State Superintendent of Education also submitted a letter, dated February 19, 2010, in support of the application. (Exhibit 26).

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 § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

In addition, 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 SUBJECT TO THE FOLLOWING CONDITIONS:**

1. This approval shall be for a term of three (3) years, beginning on the date upon which the order became final.
2. The days and hours of operation shall be Monday through Friday, 7:00 a.m. to 6:00 p.m.

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3. Enrollment shall be limited to a maximum of 39 children.
4. Staff shall be limited to a maximum of 13 persons.
5. All outdoor activities shall take place under staff supervision.
6. Outdoor playtimes during the summer shall begin no earlier than 9:00 a.m.
7. All staff shall work to ensure that parents who drop off their children are met at the curb to escort the children into the building both at pick up and drop off.

VOTE: 3-0-2 (Meridith H. Moldenhauer, Nicole C. Sorg, Peter G. May to APPROVE. No other Board members participating, 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: MAY 07 2010

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, 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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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 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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ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning