

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18079-A of Church of the Pilgrims, Motion for Modification of Condition No. 7 of Order No. 18079 of Church of the Pilgrims, pursuant to § 3129 of the Zoning Regulations. The original application was pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (48 children, 10 staff) under § 205, in the R-3 District at premises 2201 P Street, N.W. (Square 2510, Lot 827).

HEARING DATE (original application):	July 13, 2010
DECISION DATE (original application):	July 13, 2010 (Summary Order)
FINAL ORDER ISSUANCE DATE (original application):	July 20, 2010
MODIFICATION DECISION DATE:	March 1, 2011

SUMMARY ORDER ON REQUEST FOR MODIFICATION

Background.

On July 13, 2010, the Board of Zoning Adjustment (the “Board” or “BZA”) approved the application of the Church of the Pilgrims (“Applicant”) for a special exception for a child development center (48 children, 10 staff) under § 205 of the Zoning Regulations in the R-3 District at premises 2201 P Street, N.W. (Exhibit 36.)

Motion for Minor Modification

On January 7, 2010, the Applicant filed a request for minor modification of Condition No. 7 to Order No. 18079, pursuant to § 3129 of the Zoning Regulations. The Applicant is requesting to replace Condition No. 7, which required three on-site monitors to coordinate the pick-up and drop-off of the children, with a condition calling for one “school employee” in the building assigned to coordinate the pick-up and drop-off of children and to address traffic concerns. (Exhibit 38.)

Sufficient notice of the motion for minor modification was provided to the Office of Planning (“OP”) and Advisory Neighborhood Commissions (“ANC”) 2B and 2D, as evidenced by the Applicant’s letter dated January 21, 2011, which stated that it had served a copy of its motion on each of those entities. (Exhibit 40.) In addition, the Office of Zoning sent notice of the public decision meeting to OP (Exhibit 41) and to ANC 2B, the ANC in which the subject property is located. (Exhibit 42.)

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request

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for modification. OP submitted a supplemental report dated February 22, 2011, in support of the request to modify Condition No. 7. (Exhibit 44.) No comments on the motion were submitted by ANC 2B, which was a party to the underlying case, and thus was required to be served with any modification request.

Section 3129, specifically § 3129.6, indicates that approval of requests for minor modification of approved plans shall be limited to minor modifications that do not change the material facts upon which the Board based its original approval of the application.

Moreover, § 3129.3 requires that minor modification “of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application.” The motion was filed within the two-year period following the final order in the underlying case.

Subsection 3129.5 indicates that the Board shall make a decision on a request for minor modification of plans on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. Subsection 3129.7 further states that “[a] request to modify other aspects of a Board order may be made at anytime, but shall require a hearing.” The Board waived its rules, by consensus, and decided the request based on the written materials that had been filed.

The Board determined that the modifications are minor and do not change the material facts on which the zoning relief was approved, and therefore no new relief is required. Further, the Board specifically found that modifying Condition No. 7, as requested, would not alter the underlying rationale for the condition and, according to the OP supplemental report, would provide adequate traffic monitoring. In its supplemental submission, the Applicant indicated that its provision of three dedicated traffic coordinators has proven excessive, given the purpose for the condition to address additional vehicle activity on-site and to provide assistance to parents with arrival and departure of the children. The Applicant stated that there has been little congestion in the adjacent parking area and that the relatively small student population, combined with staggered pick-up and drop-off times and the use of additional on-site parking spaces beyond the number required by the Zoning Regulations, have contributed to a smooth traffic pattern. The Applicant also indicated that the expense of providing multiple coordinators has been burdensome with no appreciable benefit. (Exhibit 43.) OP filed a supplemental report supporting the Applicant’s request for modification of Condition No. 7. In its report OP noted that the District Department of Transportation (“DDOT”) had conducted a site visit to observe current pick-up and drop-off at the school and reported that “the school performs very well and it does not need a traffic monitor to assist with the movement of vehicles in and out of the adjacent parking lot.” Additionally, DDOT recommended that a single school employee could sufficiently handle any traffic issues that may arise. Based on that information, OP recommended approval of the Applicant’s request to modify Condition No. 7 to require that one designated school employee coordinate the pick-up and drop-off and traffic flow, as needed. (Exhibit 44.)

Based upon the record before the Board, the Board concludes that the Applicant has met the

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burden of proof, pursuant to 11 DCMR § 3129.1, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. No parties opposed this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant's proposed modification of these conditions is consistent with the requirements of § 3129.7 of the Zoning Regulations in that the revisions represent a minor modification that does not change the material facts the Board relied upon in approving the original application.

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 AND CONDITION NO. 7 IS AMENDED TO READ AS FOLLOWS:**

7: The Applicant shall designate a school employee to be an on-site traffic-monitoring coordinator to ensure the safe pick-up and drop-off of children and to resolve any traffic flow issues and concerns, as may be appropriate.

In all other respects Order No. 18079 remains unchanged.

VOTE on Original Application (July 13, 2010): **4-0-1**

(Meridith H. Moldenhauer, Shane L. Dettman, Nicole C. Sorg, Anthony J. Hood, to APPROVE. The Third Mayoral appointee (vacant) neither participating, nor voting.)

VOTE on Minor Modification of Condition No. 7 (March 1, 2011): **3-0-2**

(Nicole C. Sorg, Meridith H. Moldenhauer, and Anthony J. Hood (by absentee vote) to APPROVE. Neither Jeffrey L. Hinkle or the third Mayoral appointee (vacant) participating, nor voting.)

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

A majority of Board members approved issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 08 2011

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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.

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As Director of the Office of Zoning, I hereby certify and attest that on March 8, 2011, 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 who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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ATTESTED BY: *Jamison L. Weinbaum*
JAMISON L. WEINBAUM
Director, Office of Zoning