

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 18139 of District of Columbia Public Schools**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the off-street parking location requirements under subsection 2116 and for special exception relief for the approval of the minimum lot area and lot width requirements under subsection 401.3 and to establish a child development center (Educare Center for 175 children and 60 staff) under section 205 (§ 352), in the R-5-A District at premises 650 Anacostia Avenue, N.E. (Parcel 170/14, and 170/16).<sup>1</sup>

**HEARING DATE:** October 19, 2010  
**DECISION DATE:** October 19, 2010 (Bench Decision)

**SUMMARY ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5).

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”) 7D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7D, which is automatically a party to this application. ANC 7D filed a report, dated October 13, 2010, in support of the Applicant’s project. The ANC’s letter indicated that at a duly-noticed public meeting with a quorum present, the ANC voted to approve the motion by a vote of 4:0. (Exhibit 30). The Office of Planning (“OP”) submitted a timely report recommending approval of the application.<sup>2</sup> (Exhibit 29). The Office of State Superintendent of Education recommended that the application be approved and indicated that all licensing requirements had been met. (Exhibit 34). Two letters of support were received, one

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<sup>1</sup> The caption was amended to add a reference to § 352, per the Office of Planning’s recommendation. (Exhibit 29).

<sup>2</sup> In response to the Applicant’s request (Exhibit 14), OP also filed a recommendation for an expedited hearing. (Exhibit 21).

**BZA APPLICATION NO. 18139**  
**PAGE NO. 2**

from the Parkside Civic Association, Inc. and the other from Geraldine S. Bell, Parkside Townhomes resident. (Exhibits 31 and 32).

Based upon the record before the Board, and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103 and 2116 that there exists an exceptional or extraordinary condition or situation related to the property that creates a practical difficulty 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 Zoning Map.

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 §§ 205 (§ 352) and 401.3. 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.

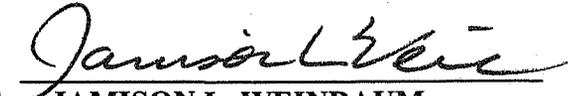
Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 205 (§ 352), and 401.3, that the requested relief can be granted as being in harmony with the general purpose 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 10 – Plans) be **GRANTED WITH THE FOLLOWING CONDITIONS:**

1. The Applicant's enrollment shall be limited to 175 children, ages six weeks to five years old.
2. The Applicant's staff shall be limited to a maximum of 60 persons.
3. The Applicant's days and hours of operation shall be Monday through Friday, 6:30 a.m. to 8:00 p.m.

**VOTE: 3-0-2** (Meridith H. Moldenhauer, Jeffrey L. Hinkle, Greg M. Selfridge to APPROVE. No other Board members participating, or 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: OCT 20 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 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.

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.

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.

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**BZA APPLICATION NO. 18139**

**OCT 20 2010**

As Director of the Office of Zoning, I hereby certify and attest that on \_\_\_\_\_, 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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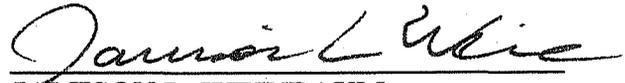
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**BZA APPLICATION NO. 18139**  
**PAGE NO. 2**

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**ATTESTED BY:**

  
JAMISON L. WEINBAUM  
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