

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18199 of the Church of Jesus Christ, pursuant to 11 DCMR § 3104.1, for a special exception to permit a child development center (80 children, 30 of which are under two years old, and 14 staff) under section 205, in the R-1-B District at premises 3456 Pennsylvania Avenue, S.E. (Square 5528, Lot 30).

HEARING DATE: April 12, 2011
DECISION DATE: May 17, 2011

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated December 6, 2010, from the Zoning Administrator stating that a review of the Applicant's application for a certificate of occupancy to use subject property as a "Child development center for eighty (80) children with thirty (30) children under two (2) years old and, fifty (50) children from two and a half (2) [sic] to five (5) years old, with fourteen (14) staff" was disapproved due to the need for Board of Zoning Adjustment ("Board") approval for a special exception pursuant to the Zoning Regulations. (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") 7B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7B, which is automatically a party to this application. ANC 7B filed a letter report, dated April 13, 2011, which indicated that at a regularly scheduled public meeting with a quorum of Commissioners present, the ANC voted unanimously to support the application.¹ (Exhibit 31.) The Office of Planning ("OP") submitted a timely report recommending approval of the application for use as a child development center, as requested,

¹ The Board acknowledged the ANC report and its support of the application. In its deliberations, however, the Board stated that the ANC's letter did not meet all the requirements of § 3115.1 of the Zoning Regulations which would entitle the report to great weight.

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subject to conditions.² (Exhibit 28.) By its letter, dated March 9, 2011, the Office of State Superintendent of Education also recommended that the application be approved. (Exhibit 26.) Eighteen letters of support were submitted for the record from neighbors, all of whom also have children who attend or have attended the child development center that currently exists at the subject property. (Exhibit 32.)

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. 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 report, 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 WITH THE FOLLOWING CONDITIONS**:

1. The number of children shall not exceed 80.
2. The number of employees shall not exceed 14.
3. The ages of the children shall be infants through five years old.
4. The hours and days of operation shall be 6:00 a.m. to 7:00 p.m., Monday through Friday.
5. The applicant shall provide 40 on-site parking spaces.
6. Outdoor playtime shall be staggered so that all the children shall not be on the play area at one time. Diligent efforts shall be taken by the applicant to reduce noise in the play area and when the children are escorted through the neighborhood.

² The Board accepted OP's recommendations with respect to which conditions to retain and which to remove, including a term of years, since this child development center has been in existence for about 20 years without problem.

7. Drop off and pick up of children shall occur at the entrance into the building from the parking lot. Access to the site shall be via a one-way driveway accessed by the ramp from Pennsylvania and exiting onto 38th Street.
8. The applicant shall mitigate soil erosion on the 38th Street frontage of the property by planting the appropriate materials. All landscaping on the site shall be maintained in a neat and healthy condition.
9. The property shall be kept free of refuse and debris at all times. Any outdoor trash storage containers shall be screened from view by fencing or landscaping.

VOTE: 3-0-2 (Nicole C. Sorg, Lloyd J. Jordan, and Jeffrey L. Hinkle to APPROVE; Meredith H. Moldenhauer and a Zoning Commission Member not participating.)

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 26 2011

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, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THEREOF, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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

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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, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS 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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As Director of the Office of Zoning, I hereby certify and attest that on MAY 26 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, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Anora Golding, Director
Lena Sears Child Development Center
3456 Pennsylvania Avenue, S.E.
Washington, D.C. 20020

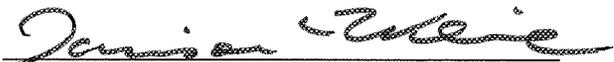
Chairperson
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

Single Member District Commissioner 7B07
Advisory Neighborhood Commission 7B
3524 Carpenter Street, S.E.
Washington, D.C. 20020

Yvette Alexander, Councilmember
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1100 4th Street, S.W., 5th Floor
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ATTESTED BY:


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