

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



**Application No. 18360 of Huckleberry Cheesecake Child Development Center**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, for a child development center in the DC/C-3-C District at premises 1307 19th Street, N.W. (Square 138, Lot 803).

**HEARING DATE:** June 19, 2012

**DECISION DATE:** June 19, 2012

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 2B, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report in support of the application. ANC 2B submitted a report dated March 25, 2012, that indicated that at a duly scheduled and noticed public meeting on March 14, 2012, at which a quorum was present, the ANC voted to support the application by a vote of 8:0. (Exhibit 20.)

The Office of Planning ("OP") submitted a timely report in support of the variance request for relief from off-street parking spaces, where two parking spaces are required and none are proposed, per § 2101.1. (Exhibit 27.) A letter of support for the application was submitted to the record from a representative of the owner of the property where the Applicant's child development center is located. (Exhibit 9.)

As a preliminary matter and based on the letter in Exhibit 9 which stated that the property owner did not object to its tenant's variance application, the Board waived<sup>1</sup> the requirements of

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<sup>1</sup> The Board approved a waiver of the requirements of § 3113.4 and found the letter at Exhibit 9 sufficient to grant authorization by a vote of 5:0:0 (Lloyd J. Jordan, Rashida Y.V. MacMurray, Nicole C. Sorg, Jeffrey L. Hinkle, and Michael G. Turnbull, to Approve).

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§ 3113.4 which requires a letter of authorization from the property owner for its authorized agent to pursue an application before the Board.<sup>2</sup>

As directed by 11 DCMR § 3119.2, the Board 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 strict application of the off-street parking requirements under § 2101.1. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for an area variance under § 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

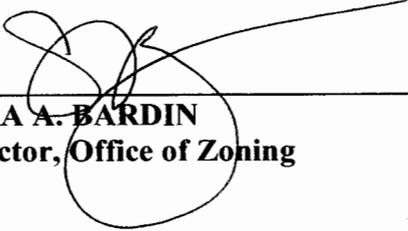
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED**.

**VOTE:**       **5-0-0** (Lloyd L. Jordan, Rashida Y.V. MacMurray, Nicole C. Sorg, Jeffrey L. Hinkle, and Michael G. Turnbull, to Approve.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
A majority of the Board members approved the issuance of this order.

**ATTESTED BY:** \_\_\_\_\_

  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:**       **JUN 22 2012**      

<sup>2</sup> Subsection 3113.4 states:

An authorized agent may file an application on behalf of the owner. The application shall include a letter signed by the owner authorizing the agent to act on the owner's behalf in respect of the application. The Board may at any time require additional evidence demonstrating the authority of the agent to act for the owner.

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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.

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, 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



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As Director of the Office of Zoning, I hereby certify and attest that on **JUN 22 2012**, 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:

Colleen McCarthy  
1307 19<sup>th</sup> Street, N.W.  
Washington, D.C. 20036

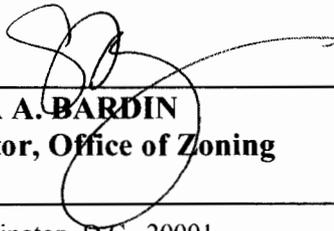
Chairperson  
Advisory Neighborhood Commission 2B  
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Washington, D.C. 20036

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Melinda Bolling, Esq.  
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Department of Consumer and Regulatory Affairs  
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**ATTESTED BY:**

  
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**SARA A. BARDIN**  
Director, Office of Zoning

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