

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17975 of Cleotilde E. Galvez Kimmell, pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (12 children and 4 teachers) under section 205, and for a special exception to allow a required parking space to be located off-site under § 2116.6 in the R-1-B District at premises 6524 8th Street, N.W. (Square 2973, Lot 81).¹

HEARING DATES: October 20, 2009, January 19 and March 9, 2010

DECISION DATE: March 9, 2010

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The Application was accompanied by a letter, dated December 22, 2008, from the Zoning Administrator stating that the Applicant's Home Occupation Permit application to operate as a child development center for 12 children and 4 teachers was denied due to the need for Board of Zoning Adjustment approval. (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) 4B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4B, which is automatically a party to this application. ANC 4B recommended approval of the application. The ANC submitted two filings, one filed on March 8, 2010 that includes the ANC's unsigned draft

¹ On two occasions the Applicant amended the application to include parking relief. Initially, the application was amended to seek area variance relief under § 3103.1 from the off-street parking requirements under § 2101.1. At the March 9, 2010 public hearing, the Applicant amended the application a second time. Special exception relief was sought and ultimately granted from § 2116.6 to allow the Applicant to locate the one required parking space on a different lot than the subject property.

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minutes from its December 7, 2009 Special Public Meeting, at which the ANC heard a presentation from the Applicant and her attorneys and voted to support the application at a meeting at which a quorum was present. (Exhibit 44). The other filing, dated January 12, 2010, is a letter from the Single Member District (SMD) Commissioner in whose SMD the Applicant operates and resides, also indicating that the ANC heard from the Applicant and her attorneys on December 7, 2009 and that the ANC voted unanimously to support the application. (Exhibit 37).²

The Office of Planning (OP) submitted a timely report recommending approval of the application with a condition of a five year term. (Exhibit 38). DDOT recommended approval of the application. (Exhibit 36). The Office of the State Superintendent of Education (OSSE), Child Care Licensing Unit, recommended that the application be granted. (Exhibit 20). Letters in support of the application were submitted by Ayize Sabater, Interim Pastor, PLBC, Promised Land Baptist Church and two of the Applicant's neighbors, Francis R. Yates, and Juan P. Velasquez. (Exhibit 46). Moreover, the church as well as the two neighbors indicated their willingness to offer the Applicant access to and the use of their off-street parking spaces on their property. Letters in opposition of the application were submitted by Dianne and Ernest C. Carson (Exhibit 19), Laura B. Jackson (Exhibit 21), and Glennda Harrison (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 § 3104.1, for special exception under §§ 205 and 2116.6. 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, 205, and 2116.6 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 AS CONDITIONED**:

² Although the Board acknowledged the ANC's support of the application, the Board was unable to give either ANC report great weight as neither met the technical requirements of the Zoning Regulations.

- 1) The application is approved for FIVE (5) YEARS from the effective date of this order.
- 2) One off-site parking space shall be provided at 6520 8th Street, N.W. and, should that off-site location not be available, alternatively at 6512 8th Street, N.W.

VOTE: **4-0-1** (Marc D. Loud, Peter G. May, Meridith H. Moldenhauer, Nicole C. Sorg to APPROVE. Shane L. Dettman not present, 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: MAR 16 2010

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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.

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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As Director of the Office of Zoning, I hereby certify and attest that on March 16, 2010, 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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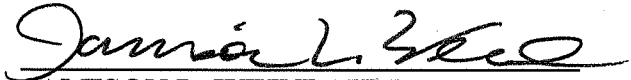
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ATTESTED BY:


JAMISON L. WEINBAUM
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