

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18042 of The Fishing School, pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (65 children and 20 staff) under section 205, in the R-2 District at premises 4737 Meade Street, N.E. (Square 5156, Lot 70).¹

HEARING DATES: February 9² and 16, 2010

DECISION DATE: February 16, 2010 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The Application was accompanied by a letter, dated November 18, 2009, from the Zoning Administrator stating that the Applicant's Certificate of Occupancy application to use the subject premises as a child development center in the form of an After School Program for 65 children and 20 staff was denied due to the need for Board of Zoning Adjustment approval.³ (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) 7C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. ANC 7C submitted a letter of support, although no official vote was held. (Exhibit 23). The Single Member District (SMD) Commissioner also submitted a

¹ This application seeks to expand a use the Board had previously approved. In BZA Order No. 16152 the Board approved the use of the site as a child development center for 15 children, ages 5 to 15, and five staff on the first and part of the second floor. The site has been used as a child development center, providing after school, weekend and summer programs, since then.

² The February 9, 2010 hearing was postponed to February 16, 2010. No testimony was heard on February 9, 2010.

³ Having recently constructed a new, larger building on the site that replaced the older structure, the Applicant was seeking to expand its operations from that described in the previously-issued Certificate of Occupancy No. CO0903537 for a child development center for 15 children and 5 staff. (Exhibit 7).

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letter of support. (Exhibit 22). The Office of Planning (OP) submitted a timely report recommending approval of the application.⁴ (Exhibit 25).

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 section 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 report⁵, 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**.

VOTE: **4-0-1** (Marc D. Loud, Meridith H. Moldenhauer, Shane L. Dettman, Nicole C. Sorg to APPROVE. No Zoning Commission member participating, nor 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

FEB 18 2010

FINAL DATE OF ORDER: _____

⁴ According to OP's report, a Program Manager with the Child Licensing Unit (OSSE) indicated that the proposal would not require OSSE licensing. (Exhibit 25).

⁵ The ANC heard from the Applicant at a meeting and submitted a letter of support, but an official vote was not taken, since a quorum was not present at the meeting. Therefore, the Board could not give the ANC's position great weight.

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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, 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.

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 _____, 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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ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning