GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

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Application No. 18335 of Washington Ethical Society, pursuant to 11 DCMR § 3104.1, for a special exception to allow a child development center (40 children and 14 staff) under § 205, in the R-1-A District at premises 7750 16th Street, N.W. (Square 2745F, Lot 81).[1]

HEARING DATE: April 17, 2012
DECISION DATE: April 17, 2012 (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 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 Advisory Neighborhood Commission ("ANC") 4A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. ANC 4A filed a letter report, dated December 12, 2011, which indicated that at a properly noticed, regularly scheduled public meeting held on December 6, 2011, with a quorum of seven of eight Commissioners present, the ANC voted 7:0, to support the application. The ANC voted to recommend renewal of the special exception contingent upon the continuation of the voluntary neighborhood agreement between the Applicant, nearby neighbors, and the appropriate ANC Commissioners.[2] Additionally, the ANC requested that the Applicant

[1] This property and the child development center ("CDC") use has been the subject of prior Board holdings. In 2009, the Board approved a CDC with 40 children and 14 staff, subject to conditions, with a three-year term ending May 30, 2012. (See, BZA Order No. 17896.) The property and its CDC use were the subject of two previous orders as well. (See, BZA Order Nos. 16590 and 12005.) While the application in this case was advertised as requesting approval to establish a CDC, the application is a renewal application, as the Applicant is continuing operation of an existing CDC use in compliance with previously adopted conditions, other than the term which will be eight rather than three years, and with a neighborhood agreement (Exhibit 11), albeit with a different CDC provider.

[2] The voluntary neighborhood agreement is at Exhibit 11 in the record.

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"be afforded the maximum amount of time allowed by law before the next renewal submission requirement." (Exhibit 21.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application for continuation of a child development center, including daycare center, subject to conditions.[3] (Exhibit 31.) By its letter, dated January 9, 2012, the Office of State Superintendent of Education recommended that the application be approved. (Exhibits 25 and 22.) The District Department of Transportation ("DDOT") submitted a letter dated April 6, 2012, indicating that there is no adverse impact to the transportation system due to the application and that DDOT has no objection to approval of the application. (Exhibit 33.)

A letter from The Rev. Amada Poppei to which was attached numerous letters and signatures of support from local business owners and neighbors was submitted for the record. (Exhibit 31.) A letter of support also was submitted by Joanne Hurt, Executive Director of Wonders Child Care Center. (Exhibit 23.)

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 ANC and OP reports, 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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED WITH THE FOLLOWING CONDITIONS:**

1. This approval shall be for a period of eight years, beginning on the date upon which the order became final.

[3] The conditions OP recommended for this application are essentially identical to those previously imposed by the Board in Order No. 17896. (Exhibit 34.)

2. The child development center shall enroll no more than 40 students, ages one and a half to five years old.

3. The child development center's staff shall be limited to no more than 14 persons.

4. Hours of operation of the child development center shall be limited to 7:00 a.m. to 6:30 p.m., Monday through Friday.

5. The Applicant and any future operator of the child development center shall maintain the following traffic and parking management plan provisions:

   a. The following restrictions shall be included in the child development center's enrollment agreement with parents or guardians of students enrolled in the child development center and in the family handbook that it distributes to parents.

   b. Parents and caregivers shall not be allowed:

      (i) To drive through or into any of the 16th Street alleys to pick up or drop off students (except in the case of a physically disabled student, and then subject to certain conditions), or to attend meetings with staff members at the child development center;

      (ii) To use any driveways to execute a three-point turn near the subject property;

      (iii) To park on Jonquil Street, N.W., on either side of 16th Street, N.W., or within five feet of the entrance of any garage or driveway in the community. Drivers shall be encouraged to seek a parking space first on Kalmia Road west of 16th Street, then on Kalmia Road east of 16th Street, and, if more spaces are available at either location, park on 16th Street if permitted by applicable parking restrictions; and

      (iv) To use a vehicle to transport a student to or from the subject property that does not display a placard provided by the child development center.

   c. For at least 30 minutes during the morning and evening peak pick-up and drop-off periods, which the Applicant expects will be 8:15 a.m. to 8:45 a.m. and 5:15 p.m. to 5:45 p.m., the child development center shall post at least one member of its staff at the entrance to the alley at Kalmia Road and 16th Street to direct drivers to park on Kalmia and walk students to the entrance of the center.

d. Employees of the child development center shall monitor the parking area at the subject property during peak morning and afternoon activity, and randomly at other times, to assure that drivers comply with the neighborhood cooperation agreement.

e. Employees of the child development center shall park in the parking lot at the subject property, where at least four parking spaces shall be reserved for their use. Staff drivers shall enter on Jonquil Street and exit at Kalmia Road.

f. The child development center shall offer its staff an employee benefit to encourage the use of public transportation.

6. The Applicant's facility shall remain capable of meeting all applicable codes and licensing requirements.

VOTE: **5-0-0** (Lloyd J. Jordan, Michael G. Turnbull, Nicole C. Sorg, Rashida Y.V. MacMurray, and Jeffrey L. Hinkle 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: APR 26 2012

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 THERETO, 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 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.