

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17700-A of Jewish Primary Day School of the Nation's Capital, Inc., pursuant to 11 DCMR § 3104.1, and 3103.2, for a variance to allow stacked parking spaces under subsection 2117.4, and a special exception to allow an increase in the number of students from 225 to 275, and an increase in the number of faculty from 42 to 56, and the use of a portion of the lot for play area serving an existing private school under section 206 (352), in the R-1-B and R-5-A Districts at premises 6045 16th Street, N.W. (Square 2726, Lot 824).

HEARING DATE: December 18, 2007
DECISION DATES: January 15, 2008 and March 11, 2008
DATE OF FINAL ORDER: February 19, 2008

CORRECTED SUMMARY ORDER

On February 27, 2008, the Applicant filed a request to correct a language error in Condition No. 6 of the final summary order in Application No. 17700. The Applicant maintains that the description of the change in grade between the proposed play area and the adjacent property is erroneously stated as 10 feet. The Applicant maintains that the grade change should be approximately four feet, as reflected in the approved plans. Therefore the Applicant requests that the Order be corrected.

In filing the subject request, the Applicant must to meet Subsection 3129.3 which requires that the motion be filed "not later than six months after the date of the final order...". This motion was filed only eight days after the issuance of the final order dated February 19, 2008. Therefore, the Board concludes that this provision has been met.

The Board also determines that the Applicant has met Subsection 3129.4, requiring that all requests be "served on all other parties..." to give them an opportunity to file a response with the Board. In this case, ANC 4A, the only party of record, was served; however the ANC did not file written comments on the motion.

Finally, the Board determined that, pursuant to Subsection 3129.7 of the Zoning Regulations, the motion in this case would be limited to a "minor change" that "does not

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Board of Zoning Adjustment
District of Columbia
CASE NO.18399
EXHIBIT NO.26D

change the material facts” relied on by the Board in making its decision. Accordingly, the Board granted the motion to correct **Condition No. 6** as reflected in bold and underlined below. In all other respects the final summary order remains the same.

SELF-CERTIFIED

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

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) 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 submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

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 sections 206 and 352. 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 and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 206, that the requested relief can be granted 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.

Based upon the record before the Board and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR § 3103.2, 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 11 DCMR § 2117.4 of the Zoning Regulations, and that relief from this provision 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 § 3101.6, 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**, **SUBJECT to the following CONDITIONS:**

1. Enrollment shall not exceed 275 students.
2. Faculty and staff combined shall not exceed 56.
3. No more than 65 students shall be permitted at one time on the play area adjacent to the residential property on the southern property line (play area).
4. Use of the play area as part of the School's program shall be limited Monday through Friday to the hours of 10:00 am – 2:30 pm and 3:30pm – 4:30 pm.
5. The School shall publish its programmed use of the play area for both the School and the summer camp.
6. The play area shall be set back 15 feet from the south property line and landscaped in accordance with the attached landscaping plan (Exhibit 40(B)) that includes an open lawn, a **4-foot** grade change between the play area and the adjacent property, and a buffer of evergreen trees between the play area and the adjacent property.
7. No permanent play equipment will be permitted on the play area.
8. The School shall implement and maintain a transportation demand management program that maintains a trip generation level 10% lower than what existed at the time of the filing of this Application. Applicant shall identify clearly these figures on a yearly basis in its transportation demand management program which shall be available to the ANC and the community upon request.

VOTE: **4-0-1** (Ruthanne G. Miller, Marc D. Loud, Shane L. Dettman and Curtis L. Etherly, Jr. to approve; no other Board members participating)

MOTION TO CORRECT THE ORDER

VOTE: **4-0-1** (Ruthanne G. Miller, Curtis L. Etherly, Jr., Marc D. Loud and Shane L. Dettman to approve the motion; no other Board members participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 13 2008

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 TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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,

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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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Director of the Office of Zoning, I hereby certify and attest that on **MARCH 13, 2008**, 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 who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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