

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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DISTRICT OFFICE OF ZONING

APPLICATION OF VICTORIA MANLEY
4628 H STREET, S.E 20019

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STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. BACKGROUND

The subject property, 4628 H Street, SE also known as square 5359 Lot 328 (hereinafter referred to as the "property") currently consist of 1 office 2 classrooms, 1 infant sleep room, 1 infant play room, 1 toddler room, 2 full bathrooms 3 half bathrooms semi detached CBO. Square 5359 is bounded by Marlboro Pike to the north, East Capital St. to the south, and Alabama Ave to the east, and southern Ave to the west. The property is located on a two-way street traveling west and approximately, one elderly building, and three single family homes away from Benning Rd. facing 46th place, SE. The property is zoned R2 and is located in the 7th district. The owners of property are applying to the Board of Zoning Adjustment (the "Board") to allow continuing the use of the property as a child development center of 15 children and to increase my load to 15 additional children which would give us a total of 30 children. The center is currently registered with the District and operates by the name of Manley Science and technology Center, which requires special exemption under section 205 of the Zoning Regulations (the "Regulation").

The intended use for the property is a child development center providing care, supervision, guidance, education, recreation to infants and children under the age of 12 years 23 hours per day from Monday through Friday. The child development center will provide care, supervision, guidance, and education to the children within the confines of the property including recreational activities that is located in the rear of the property H Street is a two-way street with very low traffic.

At inception, it is anticipated that the child development center would commence operation upon approval of the special exemptions with 3

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classes. The first class of no more than 5 infants under the age of 24 months with the ratio of 1to3 and two teachers assigned to that room. The second class 10 two year olds ,1 teacher and 2 aids with a ratio 1to4 and the third room is for preschool age 4 to 5 years old no more than 15 students, 1 teacher and 1 aid with a ratio of 1 to 10. Pursuant to DCMR 343.5(a), Applicant may be able to establish a child development center but it will be limited to 30 children. However since the applicant is asking for an expansion of 15 additional children with a permanent license, a special exemption is required. The center would have a maximum of 38 individuals including myself and shall comprise of mostly children living in the neighborhood.

Pursuant to section 3113.8 of the regulations, the center will file any additional materials with the board no fewer than 14 days prior to public hearing. At the public hearing, the applicant will provide testimony to meet its burden of proof to obtain the board's approval of the requested special exception. In support of the application, applicant states:

II. BURDEN OF PROOF FOR CHILD DEVELOPMENT CENTER USE 205

A. 205.1- General requirement of special exceptions pursuant to Section 3104.1 of the regulations.

Section 205.1 of the regulations states that use as a child development center shall be permitted as a special exception in an R-1 District if approved by the board of Zoning Adjustment under 3104, subject to the provision of this section. The general requirement for approval of special exceptions pursuant to 3104.1 of the regulations are as follows:

I. How will the proposed special exception be consistent with the general intent and purpose of the zoning regulations and map?

The approval of this application for special exception as a child day care center would be consistent with the general intent and purpose of the zoning regulations and map which is to promote public health, safety, morals, convenience, order, prosperity and general welfare. Section 101.1 of the Regulations states:

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Adopt for the promotion of the public health, safety, morals, convenience, order, prosperity, and general welfare to: (a) Provide adequate light and air; (b) prevent undue concentration of population and the overcrowding of land; and (c) Provide distribution of population, business and industry, and use of land that's will tend to create conditions favorable to transportation, protection and property, civic activity, and recreational, education, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.

The proposed use of the property would not result in any addition to the building, thus the granting of the special exception would not result in any changes to the adequate provision light and air in the property.

The granting of the exception would not be inconsistent with preventing undue concentration of population and the overcrowding of land. The center would not provide habitation for student and teachers, thereby would not be adding new residents to the neighborhood. There would be no addition to the property; there would be no overcrowding of land.

The Child Development Center's mission statement is to stay fully committed to offering affordable, safe, wholesome, and convenient child care in a developmentally appropriate environment for infants, toddlers, preschoolers and school age children licensed Daycare Center. The parents would not have to drive long distances to drop off their children at daycare or brace the rush hour traffic to pick up their children. With the neighborhood child development center, parents would be able to walk their children to the center or pick them up before it closes at 6pm.

The center proposes to help fill the shortage of day care centers with quality programs for the children living in the neighborhood. The Center's mission is to give each child a warm environment that encourages the development of socialization, skills, independence, and a positive individual pattern and timing of social, physical, and intellectual development as well as providing safe and affordable services to the neighborhood.

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The R-2 District consists of those areas that have been developed with one-family, semidetached dwellings, and is designed to protect them from invasion by denser types of residential development. It shall be expected that these areas will continue to contain some small one-family detached dwellings. In an R-2 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in § 9-301 through 319.

As previously stated, the property was previously a single home. The property has been used as a Daycare Center for the past 3 years. The proposed use will maintain the current appearance of the home with an exception of the evacuation ramp thus conforms to the height, density and area requirements established for the area.

The center operates during the hours of 8am to 7am providing day care and educational services to children under twelve (12) years old who live in the neighborhood. Thus, the center supports families living in the residential development.

(II.) Will allowing the use adversely affect the use of the neighboring property: traffic, noise, lightning, etc?

The nature and size of the proposed use would not materially increase traffic, H Street is a wide two-way street used by a few residents with ample street parking on both sides of the street. Staff using temporary traffic cones and driveway will control drop-off and pick-up of children. Curbside parking is always available on both sides of 46th St S.E. and H Street. Notwithstanding, the vast majority of participating students live within walking distance of the center and it is expected that most families would walk their children to and from the center.

There will be no additional lightning attached to the outside of the building or installed in the compound because the two light fixtures existing are sufficient for the intended and/or proposed use for the property. Generally, child development centers do not generate noise, lightning, and other adverse effects on the neighboring property. The center will be

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operated to minimize any negative impact in terms of noise, lightning, etc on neighboring property.

- B. 205.2 The center shall be capable of meeting all applicable code and license requirements.

The center will meet all applicable code and licensing requirements. The center has applied for licensing that was received June 2011 that conformed all applicable federal and District health, fire, safety, building, and zoning regulations and codes, and that any necessary permits for occupancy have been issued by the appropriate authorities and are in full force. Since the center population would exceed 16 individuals, which permitted by the right in the R-2 District, a special exception is required before submitting an application for license.

Not withstanding, the property would meet Physical requirement of facilities pursuant to 29 DCMR 327, program space requirement pursuant to 29 DCMR 328, toilets and lavatories requirement pursuant to 29 DCMR 329 and Health and safety requirement pursuant to 29 DCMR 330 as it demonstrated in plats and plans.

- C. 205.3 The center shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking and dropping of children.

The center will not create objectionable traffic condition and would be safe for picking up and dropping off children for the reasons previously stated above. Two schools, Davis Elementary and Kipp Elementary & Middle School are within walking distance of the continuously runs every twelve minutes, from 5am to 3am. This allows convenience to parents with no transportation.

- D. 205.4 The center shall provide sufficient off street parking spaces meet reasonable needs of teachers, other employees, and visitors.

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The center would have sufficient parking. Pursuant to Section 2101.2, the center is required to provide 1 parking space for each 4 teachers and other employees. The center is expected to grow up to a maximum of 3 teachers and 3 assistant teachers plus volunteers. The property currently has off street parking pursuant to section 2101.1 and 2101.2.

- E. 205.5 The center, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual, or other objectionable conditions.

The center shall not result in objectionable impacts on adjacent or nearby properties and would not produce noise, activities, visual or other conditions that would have an adverse or objectionable impact on neighboring properties.

- F. 205.6 The board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.

Applicant wants the Board to exercise this prerogative positively with a view to approving the special exception.

- G. 205.7 Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.

There is a large playground at back of the daycare center.

- H. 205.8 The Board may approve more than one child/elderly development center in a square or within on thousand feet (1,000 ft) of another child/elderly development center only when the Board finds that the cumulative effects of the facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

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Investigation revealed that there is no development center in square 5359. Additionally, there would be no cumulative effect and there would be no adverse impact on the traffic, noise, operations, in the area. The child development center instead of having an adverse impact would inject employment and vitality in the area.

The center would provide a crucial service to the families of the Congress Heights. There are several residential homes, including the new development on East Capitol and Benning with working parents that would benefit from the establishment of a quality child development center on the property.

III. PARKING SPACES

Section 2101.2 of the District of Columbia Municipal Regulations provide that the center would be required to have one parking space for every four teachers and assistant teacher. Based on the proposed maximum size of six teachers and assistant teachers, 1-2 off street parking spaces would be required and two parking spaces is provided in the rear.

IV. CONCLUSION

Applicants have presented sufficient information in the foregoing paragraphs to support their application for special exception. Applicants believe that the child development meets all relevant standards and requirements for the granting of zoning relief. The applicant has received her degree specializing infant and toddler early childhood education, is a member of an association National Association for Family Child Care (NAFCC), and has been working with infants and toddlers for 10 years. I respectfully requests that the special exception be granted based on the foregoing reasons and any other reasons that may appear at the public hearing.

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