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Real Estate | Zoning | Litigation | Business Law

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November 20, 2012

By E-mail Submission

Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001
bzasubmissions@dc.gov

RECEIVED
D.C. OFFICE OF ZONING
2012 NOV 21 AM 8:45

Re: BZA Application No 18464 of McKinley Battle (the "Applicant"); 4124 3rd Street, N.W., 2 New Heights Child Development Center (the "Center"); Amendment to Include a Request for a Variance from Parking Requirement

Dear Members of the Board,

I am writing on behalf of the Applicant to amend Application No 18464 – currently a special exception application for child development center – to include a request for a variance from the off-street parking requirement (2 spaces) under 11 DCMR § 2101.1. The Applicant also respectfully requests that the Board waive the 40-day notice requirement under 11 DCMR § 3113.13 to allow the amendment of this Application without postponing the December 11th hearing date.

A Request for Waiver of the 40-day notice requirement under § 3113.13

Regarding the 40-day notice requirement, the Applicant asks the Board to consider the following mitigating factors regarding the late addition of a variance request. (i) there is no change in the number of children or staff requested, rather, the Office of Planning has determined that the available parking area on the Property will not count toward the parking requirement since the space is used exclusively for a play area during the Center's operation, (ii) the 15-day Notice Poster will include notice of the variance request in addition to the special exception request; (iii) the Applicant will contact ANC 4C to advise it of the change, and to request confirmation of its unanimous support either before the hearing or shortly thereafter, and (iv) to date, there has been strong support from neighbors and no opposition regarding the special exception request, with no concerns expressed regarding parking or drop-off/pick-up

B Variance from Off-Street Parking Requirement under § 2101.1.

The subject property has the available space in the rear to provide two off-street parking spaces, but has opted not to make these spaces available during the child development center's operating hours. The space available for parking two cars is twenty (20) feet wide and approximately twenty-five (25) feet long. There is a wrought-iron fence with a lock-able gate along the rear property line. While this space is available for parking when the Center is not open, the Center considers it a child safety concern to have these spaces being used, or even available for use, while the children are utilizing the adjacent outdoor play space

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18464
EXHIBIT NO. 28

The conflict between the available outdoor play area and the available parking spaces represents an exceptional situation with the Property that makes providing the two parking spaces for the expanded child development center a practical difficulty. There is no other available outdoor play space available for the children. The only alternative would be to block off the parking space from the play area with another fence or gate, which would be greatly limit the available outdoor play space.

The Center has operated here since 2006 with 16 children and four staff and has a record of successful operation regarding pick-up and drop-off as well as parking. There is plenty of available on-street parking on 3rd Street, and there has never been a complaint about parking issues from neighbors over the last six years. With this proposal, the Applicant is proposing to add eight (8) children and only two (2) additional staff. With this small number of additional staff, a record of success with no adverse impacts, and the amount of on-street parking, it is extremely unlikely that granting variance relief will cause substantial detriment to the public good. The Application currently enjoys overwhelming support from the nearby neighbors, as well as the unanimous support of the ANC (albeit without previous notice of the variance request).

C Closing

For the reasons stated above, the Applicant respectfully requests variance relief from the parking requirement under § 2101.1, as well as a waiver from the requirement under § 3113.13 so that the hearing may proceed as scheduled on December 11th. Thank you for your consideration of this request and this application.

Sincerely,



Martin P Sullivan

cc. ANC 4C
Robert Mandle, SMD for ANC 4C-10