

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18472 of Excel Academy, D.C. Public Charter School, pursuant to 11 DCMR § 3103.2, for a variance to reduce the off-street parking requirements under § 2101.1, for a school in the R-5-A District at premises 2501 through 2553 Martin Luther King, Jr., Avenue, S.E. (Square 5862, Lot 960).

HEARING DATE: December 18, 2012

DECISION DATE: December 18, 2012

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18472

EXHIBIT NO. 34

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 (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 the Applicant, Advisory Neighborhood Commission ("ANC") 8C, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 8C, which is automatically a party to this application. On December 10, 2012, the Chair of ANC 8C submitted an undated letter in support of the application. The letter indicated that while the Applicant presented its application at a duly noticed, regularly scheduled ANC meeting on December 5, 2012, no quorum was present and no vote taken.¹ (Exhibit 26.) The Chair of the ANC also was present and testified at the hearing in support of the application.

The Office of Planning ("OP") submitted a timely report dated December 11, 2012, recommending approval of the requested areas of relief, subject to adoption of Transportation Demand Management ("TDM") and parking strategies. (Exhibit 27.) The District Department of Transportation ("DDOT") submitted a letter of no objection, subject to conditions listed in the DDOT report. (Exhibit 28.)

¹ As no quorum was present nor a vote taken, the letter did not meet the requirements for the ANC to receive great weight.

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As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance to reduce the off-street parking requirements under § 2101.1. No parties appeared at the public hearing in opposition to the 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 report 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 the Zoning Regulations, and that the requested relief 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 § 3100.5, the Board has determined to waive the requirements 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 the application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Approval shall be for a period of three years from the beginning of the 2013-2014 school year.
2. The Applicant shall designate a TDM Coordinator to oversee and implement the TDM measures.
3. At the beginning of the school year, the Applicant shall distribute information to faculty, staff, and students explaining the benefits of sustainable transportation practices.
4. The Applicant shall provide incentives to encourage more employees to carpool. The incentives shall include those listed in the TDM plan.
5. The Applicant shall work with Metropolitan Washington Council of Governments ("MWCOC") to help parents to identify other parents to share vehicle trips to the site.
6. The Applicant shall allow employees to withhold funds from their paycheck for transit under the WMATA SmartBenefits program.
7. The Applicant shall monitor the trip generation and mode split for employees and students and report this information on an annual basis to DDOT in order to monitor the progress of the TDM program.

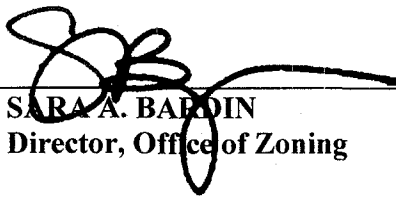
8. The Applicant shall restripe the existing parking areas to accommodate additional vehicle spaces.
9. The Applicant shall finalize the parking agreement between Excel Academy and Matthews Memorial Baptist Church across Martin Luther King, Jr., Avenue to lease 15 spaces with an option to increase the number of leased spaces, as necessary.
10. The Applicant shall complete a trip generation analysis of existing and future conditions associated with the population increase.
11. The Applicant shall maintain a comparable site trip generation rate for future conditions.
12. The Applicant shall develop and implement the student drop-off and pick-up plan presented as part of the TDM strategies in the December 18, 2012 Technical Memorandum in Exhibit 30.
13. The Applicant shall install at least five inverted bicycle U-racks at the main building entrance.
14. The Applicant shall install at least 10 inverted bicycle U-racks in an accessible and secured location within the building.
15. The Applicant shall implement the TDM strategies as outlined in Conditions 2 – 6 above.

VOTE: **4-0-1** (Lloyd J. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle, and Peter G. May to approve; third Mayoral appointee vacant.)

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: December 27, 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 THEREOF, 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.