

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18475 of The Preparatory School of D.C., pursuant to 11 DCMR § 3104.1, for a special exception to allow an increase in the number of child development center students from 15 to 29 children under § 205, in the R-5-B District at premises 3220 17th Street, N.W. (Square 2607, Lot 2023).

HEARING DATE: December 18, 2012
DECISION DATE: December 18, 2012

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated June 8, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment ("Board" or "BZA") approval is needed for a special exception, to establish the use of a "Child development center for twenty-nine (29) children, ages three (3) months to twenty-four (24) months with nine (9) staff" in a R-5-B zone, per § 3104.1. (Exhibit 4.)

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") 1D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1D, which is automatically a party to this application. ANC 1D filed a report, dated November 27, 2012, which indicated that at a properly noticed, regularly scheduled public meeting held on November 27, 2012, with a quorum present, the ANC voted unanimously (5:0:0) to support the application. (Exhibit 24.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application, subject to six conditions. (Exhibit 26.) By its letter, dated October 11, 2012, the Office of State Superintendent of Education ("OSSE") recommended that the application be approved. (Exhibit 20.) The District Department of Transportation ("DDOT") also submitted a letter of no objection dated November 1, 2012. (Exhibit 21.)

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A letter of support for the application was submitted for the record by Wayne Gleason on behalf of the property owner, Argyle Properties LLC which is the landlord of the Applicant. (Exhibit 27.)

A letter of opposition to the application was submitted to the record by Dana Keeney, 1726 Park Road, N.W.¹ (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, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The hours of operation shall be from 7:00 a.m. to 6:00 p.m., Monday through Friday.
2. The number of enrolled children shall not exceed 29.
3. The number of staff shall not exceed four teachers and five aides.
4. Outdoor activities shall be supervised by staff.
5. The Applicant shall keep all trash on-site and keep the property free of debris. The Applicant shall provide for trash collection at least twice a week.
6. Staff shall monitor the dropping off and picking up of the children.

¹ The Board took up the issues raised in the letter of opposition at the public hearing. The Applicant responded to the concerns raised in the letter in its testimony. The Board addressed the concerns in the conditions.

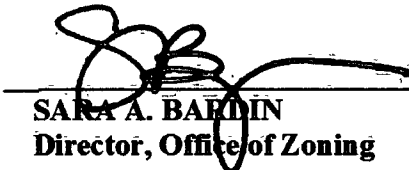
7. The Applicant shall not allow pick up or drop off from the rear door entrance of the building, except for staff persons or in an emergency.

VOTE: **4-0-1** (Lloyd J. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle, and Peter G. May to APPROVE; the 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 21, 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

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**PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT
BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.**