

Statement of Compliance with the Applicable Zoning Regulations

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Ms. Payne's application for a special exception meets the tests identified by the D.C. zoning Regulations. Compliance with each section is explained below:

205.1: Use as a child/elderly development center or adult day treatment facility shall be permitted as a special exception in an R-1 (R-2, R-3) District if approved by the Board of Zoning Adjustment under §3104, subject to the provision of this section.

Ms. Payne's residence is located in an R-3 zone-district (620 Southern Avenue, SW). She holds a home occupation permit ("HOP") from the Department of Consumer and Regulatory Affairs ("DCRA") for operation of a day care service from her home¹. Her application to the DCMR to expand her day care business was rejected, and she was directed to obtain a special exception from the Board of Zoning Adjustment ("BZA")². As shown below, Ms. Payne's special exception application meets all the criteria for a special exception. The BZA should therefore grant that application.

205.2: The center or the facility shall be capable of meeting all applicable code and licensing requirements.

Ms. Payne's application complies with all the applicable code and licensing requirements:

1. Ms. Payne plans to construct an additional space when her application for a special exception is approved. As shown in the blue prints prepared by Mr. Wallace J. Lane, with the additional space, Ms. Payne will have enough space to employ one other care-giver and have 11 students. DCMR 29 requires 45 sq ft encumbered play space which is measured from wall-to-wall dimensions.³ As shown in the blue prints prepared by Mr. Lane⁴, Ms. Payne will have 607 sq ft space. This will be enough to meet the requirement to have 11 children and 2 care-givers at the center.
2. Ms. Payne will also have another half bathroom built in⁵, which will be dedicated to the children's use. DCMR 29 requires at least one flush toilet and one sink for every ten occupants of the facility⁶. Ms. Payne will have 2 flush toilets and 2 sink for a total of 13 occupants.
3. DCMR 29 requires children to be provided regular opportunities for safe play at a nearby park or playground⁷. Ms. Payne has a fenced playground at her facility. More importantly, there is a public park, that is minutes away from the facilities where Ms. Payne currently takes the children to play. She plans to continue to use this park when she expands her business.

¹ See current Bert's Family Day Care Home Occupation Permit.

² Letter from the Department of Consumer and Regulatory Affairs, dated 12 July 2011.

³ DCMR 29, 341

⁴ See blueprints prepared by Mr. Wallace J. Lane.

⁵ *Id.*

⁶ DCMR 29, 361

⁷ DCMR 29, 355

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4. Ms. Payne's planned construction is fully consistent with applicable zoning laws:
- a. Title 11.401: The structure already meets with the minimum lot occupancy requirement
 - b. Title 11, 403: the property is in R-2 zone and the maximum lot occupancy cannot exceed 40% of the whole lot. With the new addition, the lot occupancy will remain below 40%.
 - c. Title 11.404: The new addition will leave a 28 feet depth of rear yard, thus will meet with minimum 20 feet requirement set forth.
 - d. Title 11.405: The new addition will not make any change with regards to side yards.
 - e. Title 11.406: The new addition does not create a court.
 - f. Title 11. 2001.3: The addition does not exceed the percentage of lot occupancy requirements, does not increase or extend a nonconforming aspect and conforms with the use and structure requirements.

205.3 The center or the facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance.

Bert's Family Day Care is on D-12, D- 6 and D-14 bus routes and is close to Southern Avenue Metro station; therefore, public transportation is always an option for the students and their parents.

Also, most of the current students walk to the facility and most of the prospective students are expected to commute by foot. Thus the facility does not and will not create traffic.

The facility has access from the back and front of the building, both safe for picking up and dropping off children.

Entrance at the back of the facility from the public alley is also a good option for prospective clients who would like to drive their children to the facility since this option reduces the possibility to create traffic on the more busier Southern Avenue.

205.4: The center or facility shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors.

Ms. Payne has two parking spaces in the back of the facility.⁸ One of these parking spots is reserved for Ms. Payne and the other is spared for the prospective care-giver. The parking space looking towards the public alley is extra- large; thus, there is room for clients to pull over without creating any traffic obstacle in public alley.

205.5: The center or facility, 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, or other objectionable conditions.

⁸ See pictures of the premises attached to this application.

There is a fenced playground in front of the Bert's Day Care for the use of the children. However, the public park is preferred most of the time.

As can be seen from the letter provided by Ms. Heather Touch, one of Ms. Payne's current clients, and Mr. Timothy Johnson, the owner of the adjacent property, Bert's day Care has not caused any objectionable conditions to these neighbors⁹.

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

The playground at Bert's Day Care is fenced and has a direct access from the facility. Thus the individuals safely can travel between the facility and the play area. In addition, the children are always accompanied while using the playground, therefore; their safety is ensured.

The trip between the facility and the public park is made in the care-givers presence by car. Children are escorted to the car which is parked in the rear side of the facility. There is much less traffic in the back side of the house and the cars are parked right by the entrance; thus, the children are easily escorted to the car and back to the facility.

⁹ See letters from Ms. Touch and Mr. Johnson.