

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18551 of Broad Branch Children's House, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to continue a child development center (60 children, eight staff) under § 205, and for a variance from the parking requirements under § 2101.1, in the R-1-B District at premises 5608 Broad Branch Road, N.W. (Square 1997, Lot 78).¹

HEARING DATES: May 21, 2013 and July 30, 2013

DECISION DATE: July 30, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is 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") 3G, 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 3G, which is automatically a party to this application. ANC 3G submitted two reports in support of the application. The ANC's first report was dated April 12, 2013, and indicated that at a duly noticed, regularly scheduled monthly meeting on April 8, 2013, with a quorum present, the ANC voted unanimously (6:0) to approve the application as originally advertised. The second ANC report was dated June 17, 2013, and indicated that at a duly noticed, public meeting on June 10, 2013, with a quorum present, the ANC voted 3:2:1 to support the application, as revised. (Exhibits 25 and 37.) The ANC also testified at the hearing in support.

¹ The Applicant amended the application from what was advertised by modifying its special exception request for continuation and expansion of the existing child development center (80 children and 12 staff) to one for 60 children and eight staff, thereby not expanding the existing use, as well as to add variance relief from the parking requirements under § 2101.1. (Exhibits 34 and 38.) The caption has been amended accordingly. The use was originally approved in BZA Case No. 17147, approved on May 4, 2004. (Exhibit 10.)

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Board of Zoning Adjustment
District of Columbia
ZONING COMMISSION
CASE NO. 18551
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EXHIBIT NO. 45
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EXHIBIT NO.

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The Office of Planning ("OP") submitted two timely reports, the first dated May 14, 2013 and the second dated July 23, 2013, recommending approval with conditions of the special exception under § 205, both the original and revised versions, but recommending denial of the variance under § 2101.1. (Exhibits 29 and 42.) In its report of July 23rd and at the hearing, OP stated that it believed that two compact parking spaces could be fit onsite for the Center's employees and recommended that the Board require that as a condition. The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 26.) The Office of the State Superintendent of Education ("OSSE") submitted a letter dated June 10, 2013, recommending approval of the application. (Exhibit 35.)

A letter of support was submitted by Edward Hall, the crossing guard assigned to the intersection of Northampton and Broad Branch Roads. (Exhibit 28.)

Letters of opposition were submitted to the record from Jill Schick and Howard Goldstein, 5604 Broad Branch Road (Exhibit 31); Ryan Conroy, 3419 McKinley Street, and Chantal Santelices, 3514 Northampton Street (Exhibit 32); and Vesna Zderic and Shahram Vaezy, 5606 Broad Branch Road (Exhibits 33 and 36 (duplicate).)

The Applicant testified at the hearing on July 30th that it had met with the neighbors who opposed the expansion of the Center and also presented the revised application at the ANC meeting where neighbors who had submitted letters in opposition also attended. The Applicant stated that those who opposed expansion who were at the ANC meeting expressed that they were comfortable with the amended application to continue the Center use at the current level and did not object to the application as amended. None of the neighbors in opposition attended the July 30th hearing.

Variance Relief

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 from the 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 ANC and OP reports 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.

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Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to §§ 3104.1 and 205, to allow the continuation of a child development center of 60 children, eight staff in the R-1-B District. 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.

The Board concludes that the Applicant has met the burden of proof for special exception relief, 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 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 of the child development center shall be for a period of **TEN (10) YEARS** from the effective date of this order.
2. Center operations shall be Monday through Friday, from 8:00 a.m. to 6:00 p.m.
3. The maximum Center capacity shall be 60 children and eight teachers and staff.
4. Two compact parking spaces shall be provided and appropriately stripped and lined onsite for Center employees.
5. Center drop-off and pick-up periods shall not coincide with drop-off and pick-up times at Lafayette Elementary School.
6. Center staff shall assist the children to and from cars during peak drop-off and pick-up periods.
7. The entire rear of the property shall be bordered by a fence six-feet tall made of wood.

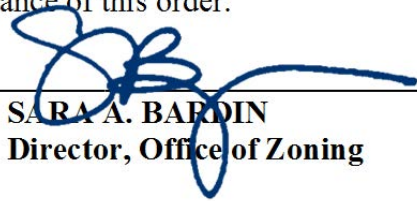
VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Anthony J. Hood to Approve; one Board seat vacant.)

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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: August 5, 2013

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 § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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.