

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18681 of Shirley H. Cox, pursuant to 11 DCMR § 3104.1, for a special exception to establish a child development center (15 children and three staff) under § 205 (last approved under BZA Order No. 18079) in the R-2 District at premises 3008 K Street, S.E. (Square 5482, Lot 8).

HEARING DATE: December 17, 2013
DECISION DATE: December 17, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated December 22, 2009, from the Zoning Administrator, which stated that Board of Zoning Adjustment ("Board" or "BZA") approval is required for a special exception to allow conversion from a single family dwelling to a child development center in the R-2 residential zone district. (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") 7B, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 7B, which is automatically a party to this application. ANC 7B did not attend the hearing, nor submit a written report. The Office of Planning ("OP") submitted a timely report in conditioned support of the application. (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a timely report raising no objection to the approval with conditions of the requested special exception. (Exhibit 23.) The Office of the State Superintendent of Education ("OSSE") submitted a timely report recommending approval of the application. (Exhibit 22.)

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 pursuant to § 3104.1 for a special exception under § 205. 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 proof, pursuant to 11 DCMR § 3104.1, that the requested relief can be granted as being in harmony with the general purpose and

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Board of Zoning Adjustment
District of Columbia
ZONING COMMISSION
CASE NO. 18681
District of Columbia
EXHIBIT NO. 28
CASE NO. order-18681
EXHIBIT NO.

BZA APPLICATION NO. 18681
PAGE NO. 2

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 properties 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 shall be for a period of **THREE (3) YEARS**, beginning on the date upon which this order became final.
2. The hours of operation of the child development center shall not exceed 6:30 a.m. until 6:30 p.m., Monday through Friday.
3. The maximum enrollment shall not exceed 15 children, and the number of staff shall not exceed three.
4. The Applicant shall plant 14 Green Spire Euonymus along the eastern lot line to buffer the use from the adjoining residence.
5. The Applicant shall be permitted one non-illuminated flush-mounted outdoor sign, no more than 144 square inches in area.
6. The Applicant shall maintain the property in a clean and orderly condition, including the regular upkeep of all landscaping, regular removal of trash, and property storage of play equipment when the child development center is not in operation.

VOTE: **3-0-2** (Lloyd J. Jordan, Michael G. Turnbull, and Jeffrey L. Hinkle to APPROVE; S. Kathryn Allen, not present or participating, one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY: _____


SARA A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: December 19, 2013

BZA APPLICATION NO. 18681
PAGE NO. 3

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 THERETO, 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.