



# AMERICAN UNIVERSITY

W A S H I N G T O N , D C

CLINICAL PROGRAM

Mr. Richard Nero  
Deputy Director of Operations  
Office of Zoning  
441 4<sup>th</sup> St. NW, Suite 200  
Washington, DC 20007

June 3, 2014

Re: Mana Bilingual Child Development LLC  
6524 8<sup>th</sup> St. NW  
Washington, DC 20012  
BZA Application No. 18781

Request to Amend Application

Dear Mr. Nero:

Please find attached the Applicant Mana Bilingual Child Development LLC's Request for Leave to Amend its Application for Special Exception. I will post this letter and the document through IZIS.

Please feel free to contact me if you have any questions.

Yours,

A handwritten signature in black ink, appearing to read 'Susan Bennett'.

Susan Bennett  
Attorney for Mana Bilingual Child Development LLC  
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Board of Zoning Adjustment  
District of Columbia  
CASE NO.18781  
EXHIBIT NO.26

WASHINGTON COLLEGE OF LAW

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Before the Board of Zoning Adjustment

Mana Bilingual Child Development, LLC  
6524 8<sup>th</sup> St. NW  
Square 2973, Lot 81

Case No. 18781  
Application for a Special  
Exception under Section 205  
Hearing Date: June 17, 2014

Request for Leave to Amend Application for Special Exception

Applicant Mana Bilingual Child Development, LLC, (Mana Bilingual), by its attorney, Susan D. Bennett, requests leave to amend its application for a special exception under Section 205 for operation of a child development center in an R-1 district. Applicant seeks to amend in order to conform the exception to that granted by the Board in its Order of March 9, 2010, Case No. 17975. In that order, the Board granted an exception under Section 205 and under Section 2116.6 for the operation of a child development center with two off-site parking spaces. That exception expires on March 15, 2015, five years from the effective date of the Board's order.

Applicant asks this Board for leave to amend its application to include a request under Section 2116.6 for approval of two off-site parking spaces, in effect requesting an extension of the relief granted by this Board in its Order of March 9, 2010. Applicant asks for extension of the exceptions awarded in that Order for a term of ten years.

I. Procedural History

Cleotilde Kimmell, principal and executive director of Mana Bilingual, has operated a home-based child care facility at the current location since 2007. Mana Bilingual was initially licensed by the Office of the State Superintendent of Education (OSSE) as a child development home with a capacity of six children. In 2009, in response to intense community demand for high quality child care, Mrs. Kimmell applied for a special exception to allow the operation of a child development center in an R-1 district. The change in designation from child development home to child development center was necessary in order to expand the number of children allowed under the existing home occupancy permit from six to twelve children.<sup>1</sup>

The Board of Zoning Adjustment ruled in Case No. 17975 that Mrs. Kimmell had satisfied requirements under Sections 205 and 2116.6 for a special exception to operate a child development center with offsite parking. The Board conditioned its order on the availability of one off-site parking space at 6520 8<sup>th</sup> Street, NW, with another space available at 6512 8<sup>th</sup> Street, NW, in case of lack of access to the primary space.

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<sup>1</sup> For the distinction between the definitions of "child development home" and "child development center," see Section 199, D.C. MUN. REGS. tit. 11 § 199 (2014).

Mana Bilingual's pending application, Case No. 18781, requests the continuation of the special exception for a child development center at the same address, with expanded capacity. Included as exhibits to Applicant's Burden of Proof – Detailed Statement are letters from the residents of 6520 8<sup>th</sup> Street NW and 6512 8<sup>th</sup> Street NW, confirming that both parking spaces mentioned in the Order for Case No. 17975 will be available to the employees of Mana Bilingual as off-site parking.<sup>2</sup> The application was filed on April 14, 2014.

On April 17, 2014, ANC4B held a special meeting to review Mana Bilingual's request for support for its application. The commissioners received copies of the application, including the Burden of Proof - Detailed Statement which detailed the measures that Mana Bilingual had taken to accommodate and minimize the need for parking by staff. The commissioners received the letters from the two neighbors as part of the Burden of Proof –Detailed Statement.

## II. Argument

A. Mana Bilingual meets the requirements for a special exception pursuant to Section 205, as stated in the Application, and by extension for a special exception from general parking requirements pursuant to Section 2116.6.<sup>3</sup>

1. Mana Bilingual's continued access to off-site parking spaces justifies the use of a special exception to the broad requirements of Section 2116.

Applicant has explained the support for its application under Section 205 in its Burden of Proof-Detailed Statement. This argument will focus on the justification for the special exception available from general parking requirements pursuant to Section 2116.6.

Section 2116 requires that properties include parking on-site, on the same lot within a garage or on an open area.<sup>4</sup> Properties may be exempted from these requirements if the Board determines that the locations are "...not practical," based on any of several factors. The most salient of these involves the superiority of an off-site location, providing "... more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties."<sup>5</sup>

The off-site spaces available to Mana Bilingual offer more efficient use of land, greater safety, and less impact on neighboring properties. They do so by virtue of conserving the property at 6524 8<sup>th</sup> Street, NW for its best use: the efficient provision of safe child care in a welcoming, homelike atmosphere. The property does not have its own garage. Any open space on Mana Bilingual's site that could theoretically be converted to construction of a garage or a parking pad would divert space from the small play yard. The yard as presently constituted offers

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<sup>2</sup> See Application No. 18781, Exhibit 5, Burden of Proof – Detailed Statement, pp.

<sup>3</sup> For a detailed statement of how Mana Bilingual meets the requirements for a special exception for a child care center under Section 205, please refer to Exhibit 5, Applicant's Burden of Proof-Detailed Statement.

<sup>4</sup> See D.C.MUN.REGS. tit.11 §2116.1(2014)(requiring parking spaces to be located on the lot with the buildings that they serve); D.C.MUN.REGS. tit.11 §2116.2 (2014)(generally requiring spaces to be located within a garage or carport, or on an open area of the lot).

<sup>5</sup> D.C.MUN.REGS. tit.11 §2116.6(d)(2014).

a sheltered place to play for four children at a time. Construction of any parking facility would be disruptive, both to the children and to the neighborhood, and would drain resources needed for the primary mission of the Center. With safe, nearby off-site spaces available to staff, Mana Bilingual can conserve its resources to focus on high quality, affordable child care.

2. The off-site spaces available to Mana Bilingual, in addition to use of other measures, enable Mana Bilingual to meet the parking requirements of Section 205.4.

Both Sections 205.4 and 2116 address requirements for parking specific to child development centers and for parking generally. Section 205.4 requires that the center or facility "...provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors."<sup>6</sup> As also explained in Applicant's Burden of Proof – Detailed Statement, Mana Bilingual has taken and will continue to take steps to minimize the impact of employees' parking on the environment of the neighborhood. Mana Bilingual's three current employees walk or take public transportation to the Center. Applicants who live within the neighborhood will be given priority to fill positions which any increase in enrollment will necessitate. Further, unrestricted parking is consistently available on the blocks surrounding the Center.

The lack of parking spaces on the property itself is mitigated by several additional factors. There are several garages in the vicinity, which offer monthly leases to the public.<sup>7</sup> Any future teachers in need of parking can use these monthly leases. There are also garages with hourly/daily parking for public use, which would accommodate the teachers as well as any visitors.<sup>8</sup> Ms. Kimmell's child development home is also well serviced by Metro and bus lines: Takoma Metro station is very close by (.7 miles); and there are many Metro buses with stops near Ms. Kimmell's child development home.

3. Mana Bilingual's success in accommodating the needs both of its children and of the neighborhood for over four years under the current special exception supports the argument for extending the special exception for more children, on a longer term.

Mana Bilingual has operated under the special exceptions pursuant to Sections 205 and 2116 for over four years, with commendations, but no complaints, from the neighbors. Letters of support submitted with and subsequent to the pending application attest to Mana Bilingual's value as a child care provider and a neighbor. The community has also responded to the Center's success by applying for child care at the Center in great numbers. The recognition that demand far exceeds the limit of twelve students for the home-based child care has compelled Mrs. Kimmell to the step of moving from her home, so that she can dedicate the entire space to the neighborhood's children.

Child care is a complicated business. Child care that is located within the community, and physically accessible to community members, provides tremendous benefit at significant cost to

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<sup>6</sup> D.C.MUN.REGS. tit.11§204.5 (2014).

<sup>7</sup> For example, there are parking garages operated by Marc Parc Inc., (8455 Colesville Rd., Silver Spring, MD); and Nawal/M&K Parking, Inc. (at 8720 Georgia Ave., Silver Spring, MD); and other locations in downtown Silver Spring near the Silver Spring Metro station.

<sup>8</sup> Id.

the provider. Mana Bilingual has needed and used every bit of the four years that have run of its current exception to stabilize its clientele, train its staff, develop its curriculum, and manage its logistics. To meet the need through increased enrollment will require a longer period of stability, particularly as Mrs. Kimmell will be relocating her personal household in order to do so. Should the Board grant the request for special exceptions, Applicant asks in addition that it allow a term of a minimum of ten years, to afford the stability necessary to achieve the goals of Mana Bilingual in and for the neighborhood.

B. No prejudice to the interests of the community or the enforcement of the zoning regime will result from Applicant's amendment to its pending application for a special exception.

An amendment to the application confirms and enhances the parking arrangements which the Board approved in 2010, while changing none of the other substance of the pending application. The pending application already includes a description and substantiation of the availability of two off-site parking spaces. The Applicant asks only that the Board extend its previous acknowledgment that Section 2116.6 applies to Mana Bilingual's situation, and that the off-site spaces now as then meet the standards set in Sections 205.4 and 2116.6.

Mana Bilingual will take steps to insure that its neighbors and other concerned parties are informed of the amendment of the application in ample time to respond at the hearing on June 17. As noted, ANC4B received the information concerning Mana Bilingual's access to two off-site parking spaces at its meeting held on April 17, 2014 to review Mana Bilingual's request for the ANC's support. Mana Bilingual will notify ANC4B of the filing of this request for amendment. The forty neighbors listed as living within 200 feet who received notice of the hearing will receive hand-delivered letters explaining Mana Bilingual's request to amend. Last, Mana Bilingual will modify the signage on its property notifying the neighbors of the substance and date of the hearing, to reflect the inclusion of the request for a special exception under Section 2116.6. Mana Bilingual will submit to the Board its certification of completion of these steps.

### III. Request for Relief

Mana Bilingual asks this Board to allow amendment of its pending application for a special exception, to include consideration pursuant to Section 2116.6. To avoid delay and prejudice to the child care center, Mana Bilingual asks that this Board consider both the pending and this amended request at the hearing currently scheduled for June 17, 2014. Last, Mana Bilingual asks that the Board grant the requested special exceptions for a period no less than ten years in duration.

Respectfully submitted,



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