

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18867 of Growth Spurts, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow a child development center (30 children and five staff) in the C-1 District at premises 1802 D Street, N.E. (Square 4547, Lot 814).

HEARING DATES: December 2, 2014¹ and January 6, 2015

DECISION DATE: January 6, 2014

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated July 16, 2014, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a variance from the off-street parking requirements of § 2101.1. (Exhibit 7.)²

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”) 6A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A filed a report, which indicated that at a properly noticed, scheduled public meeting held on November 13, 2014, with a quorum of Commissioners present, the ANC voted to support the application with five conditions. (Exhibit 27.)

¹ The public hearing on the application was rescheduled from December 2, 2014 to January 6, 2014 to allow the Applicant to post the property. An affidavit of posting was submitted to the record. (Exhibit 30.)

² The Board found that relief under §2116 to provide required parking elsewhere other than on the subject property was not needed, since by granting variance relief under § 2101.1 from required parking, the Board eliminated the need for the Applicant to provide any parking.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

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The Office of Planning ("OP") submitted a timely report indicating its support of the application. (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a timely report of "no objection" to the application with conditions. (Exhibit 28.)

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 variance under § 3103.2 from the strict application of the off-street parking requirements under § 2101.1, to allow a child development center (30 children and five staff) in the C-1 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.

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 proof pursuant to 11 DCMR § 3103.2 for a variance under § 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or undue hardship 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.

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 APPROVED PLANS AT EXHIBIT 10 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall not permit the vehicles of employees or parents to double-park or idle outside the premises.
2. The Applicant shall not permit the vehicles of employees or parents to block the alley behind the premises.
3. The Applicant shall require that the vehicles of employees or parents park only in legal parking spaces.
4. The Applicant shall require that parents hold the hands of their children when crossing the street.

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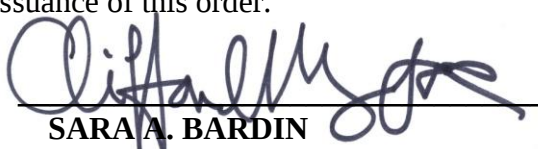
5. The Applicant shall notify the ANC and agree to abide by further restrictions to be determined by the ANC in the event that more than eight children and/or employees are regularly arriving or departing by car.

VOTE: **4-0-1** (Lloyd L. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull to Approve; S. Kathryn Allen, not participating or voting.)

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: January 9, 2015

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 TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME 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.

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.