BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION
APPLICANT'S STATEMENT

Crystal Hammond (Property Owner and Director of The Rainbow Child Development Center)

Rainbow Child Development Center
505 57th St NE; Square 5227, Lots 3 and 4

I. Introduction.

The Rainbow Child Development Center ("Rainbow") was established in 2006 by Ms. Crystal Hammond, who wanted to provide more than a place where children would play with blocks. Ms. Hammond created a center where children would learn valuable school readiness skills and have a place for them to develop self-esteem, leadership, and respect for others. Rainbow has done what it can to address the early childhood development education demand in Ward 7.

Since its inception, Rainbow has provided quality early childhood development education services to more than 300 children in Ward 7. Rainbow's mission is to help Ward 7 children close the achievement gap by providing high quality early childhood education with knowledgeable and experienced staff so that they become school ready and maximize their quality of life.

Rainbow is currently a Silver Tier, going for Gold, OSSE-subsidized daycare center provider. Rainbow was recently awarded a significant financial grant from the District's Office of the State Superintendent of Education ("OSSE") for the purpose of renovating and expanding Rainbow's existing facility at 505 57th Street, NE. This grant provides the necessary funds to allow Rainbow to create a state-of-the-art child care facility and to expand to meet the fast-growing demand for quality child development services in Ward 7.

Among the District's wards, Ward 7 has the second highest number of children under the age of five for a total of almost 5000. The ward also has the second highest number of children that

Board of Zoning Adjustment
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CASE NO.19002
EXHIBIT NO.9

need early childhood development opportunities and is also faced with high unemployment and families below the federal poverty rate. The OSSE grant is targeted to address these concerns by expanding opportunities for the young children of Ward 7.

This BZA application (the "Application") seeks special exception approval for Rainbow's use of the subject property for a maximum possible population of seventy-two (72) children, ages 6 weeks to 12 years, and up to twelve (12) staff.[1]

II. The Subject Property and Surrounding Area.

Rainbow Child Development Center operates within an existing one-story building (the "Building") located at 505 57th Street, NE (Square 5227, Lot 0003)(the "Property"), in the R-2 zone district. A copy of the Zoning Map showing the Property is attached as Exhibit B. The Property is located one lot in from the northeast corner of Eads St, NE and 57 St., NE, on a very short, dead-end street. Drew Elementary School, the eventual destination of most of Rainbow's graduates, is located directly across 57th Street. On this block of 57th Street is a lot to the south which is used to garage a vehicle from the funeral home on the opposite corner, Drew Elementary across the street, and an adult community-based residential facility to the north and east. 57th Street dead-ends on this block as it travels north. Across Eads Street, to the south is multifamily housing to the east of 57th Street, and a funeral home and row dwellings to the west of 57th Street. See exterior photographs attached as Exhibit C.

[1] It appears from a letter from the Zoning Administrator's office (Exhibit A) that DCRA is requiring that Rainbow file for special exception relief for the *establishment* of the use, since Rainbow received a C of O from DCRA in 2010 without having received the required special exception approval. It is not clear on what basis DCRA is requiring such relief, since DCRA has recently declined to require such relief in a high-profile CDC case in Ward 3. In any event, without waiving any right to oppose DCRA's said action against Rainbow, Rainbow is hereby asking the BZA to sanction both the *establishment* and the *expansion* of the existing CDC use.

The Building is a one-story structure with a basement. See interior photographs attached as Exhibit D. The entire Building is used for the Rainbow Child Development Center. The OSSE grant has allowed Ms. Hammond to plan to construct a one-story addition to the existing Building, which will also be used entirely by Rainbow. The construction will increase the existing lot occupancy from 26% to the maximum permitted 40%. The Building and Addition together will still be a one-story structure. The construction of the Addition will require the removal of the one parking space on the Property.

The Center has operated at this location with up to forty-two (42) children, pursuant to the existing C of O (see C of O attached as Exhibit E), since 2006. The large majority of children served live in the surrounding neighborhood, and only three (3) of the current staff of nine (9) travel to the Center by automobile. So the impact for traffic and parking is very limited, and is handled well because of the Property's location on a dead-end street with no real neighbors on this block. Drew Elementary is the only property on the west side of this block of 57th Street, and it has a large parking lot which handles all of its parking needs. The area in general has plenty of on-street parking spaces available. Those that drive their children to the Property, usually park in front of or near the Center, on this block of 57th Street, and then turn around to exit the neighborhood.

III. The Application Satisfies the Special Exception Requirements of Sections 3104 and 205.

A. Overview. Pursuant to Subsection 3104.1 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Section 205 of the Zoning Regulations.

Uses that are permitted by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000). This application provides sufficient evidence to show that the Applicant satisfies the relevant zoning requirements of Sections 205 and 3104.1, as described below.

B. The Requirements of Section 205.

The proposal in this application satisfies the requirements of Section 205 of the Zoning Regulations, as described below:

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

The Rainbow Child Development Center currently operates pursuant to a license from OSSE – Division of Early Learning (attached as Exhibit F). OSSE is providing significant grant funds to Rainbow to renovate and expand its existing facility with the expectation that Rainbow will continue to operate as a licensed child development facility.

205.3 The center or 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.

Rainbow's location on a dead-end block with essentially no other occupants other than Drew Elementary – which has a large parking lot across the street from the Property – makes traffic conditions safe for the neighborhood and for the children and their families and caregivers. Most of the children are residents of the local neighborhood, and those that drive drop off and pick up their children on this block of 57th Street. Cars can then turn around at the end of the dead-end block and exit the neighborhood, never impacting non-Center traffic. Rainbow has operated in this fashion successfully and without incident or complaint for up to 42 children since 2006.

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

The Property is triangular-shaped; narrowing as it goes north. The only space for a possible expansion is to the north of the existing Building, where there was previously one parking space. The shape of the lot makes provision of a parking space impossible, even when the Building and Addition will only occupy forty percent (40%) of the Property. Only three (3) of the Center's staff commute to the Center by car, and there is typically plenty of on-street parking spaces available in this area, including on this dead-end portion of 57th Street. The expansion will not significantly add to the staff level, requesting a maximum of twelve (12) staff.

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, visual, or other objectionable conditions.

The Rainbow CDC is fairly isolated from the residential properties in the neighborhood. Of the three other properties which have frontage on this block, one is Drew Elementary, one is just a

garage for funeral home vehicles, and the other is an adult CBRF which accesses its building from Eads Street. As part of the renovation and addition, outdoor play space will be provided on the Property.

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.

There is no off-site play area currently.

205.8 The Board may approve more than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

It does not appear, from a review of the GIS map, that there is another child/elderly development center or adult day treatment facility within one thousand (1,000 ft.) of the Rainbow Child Development Center.

C. The Requirements of Subsection 3104.1.

Granting of the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.

Rainbow CDC has been operating successfully on the Property since 2006, with a maximum of 42 children and 9 staff. The Addition, and an increase of up to 30 children and 3 staff, should not materially alter the existing situation. The Property is uniquely located directly across the street

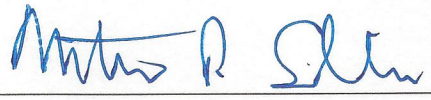
from the place – Drew Elementary – to which most of Rainbow's children will graduate. In fact, one the great benefits for neighborhood residents is being able to drop off and pick up siblings of different age groups from both Drew Elementary and Rainbow.

In general, the proposed intensity of the use is compatible with other similarly-situated centers located within residential zones.

IV. Conclusion.

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,



Martin P. Sullivan, Esq.

Sullivan & Barros, LLP

List of Exhibits

Exhibit A	ZA Memorandum
Exhibit B	Zoning Map
Exhibit C	Exterior Photographs
Exhibit D	Interior Photographs
Exhibit E	Certificate of Occupancy
Exhibit F	OSSE License

Exhibit A

ZA Memorandum

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR

February 5, 2015

Crystal Hammond
505 57th Street, NE
Washington, DC 20019

Re: Lots 0003 and 0004 in Square 5227
505 57th Street, NE
Washington, DC 20019
(1st Floor and Basement)
Zoned R-2
DCRA File Job # B1410043

Dear Ms. Hammond:

Your certificate of occupancy application #CO-1501189 filed to use the subject premises as a "Child Development Center with a total of 42 children consisting of nineteen (19) infants ages ranging from 6 weeks to 24 months and twenty three (23) children ages ranging from 2 to 12 years with nine (9) staff" is disapproved due to the need for Board of Zoning Adjustment approval.

You will be required to obtain a special exception under the provisions of DCMR Title 11, Section 205 to establish your use in the **R-2** Zone.

The Board of Zoning Adjustment has authority to grant special exception under provisions of DCMR Title 11, Section 3104.1.

Additionally, Section 2101.1 requires one (1) off-street parking space for every four (4) teachers and other employees. Since you will not be providing any off-street parking, you are required to obtain a variance from Section 2101.1 to provide no off-street parking where three (3) spaces are required. (Section 3103.2)

This letter must be presented to the Office of the Board of Zoning Adjustment, Room 210, 441 4th Street, N.W., when filing for the hearing. If your request is granted, a new certificate of occupancy application must be filed.

Note: *All applicants must provide the Office of the Zoning Administrator with submission verification, in the form of a formal receipt from the BZA, within 30 days of the date this memo.*

Best Regards,

Matt LeGrant
Zoning Administrator

Exhibit B

Zoning Map

Zoning Map | Other Zoning Maps | Zoning Information | Help

District of Columbia Zoning Map

Address: 505 57th Street, NE

Search

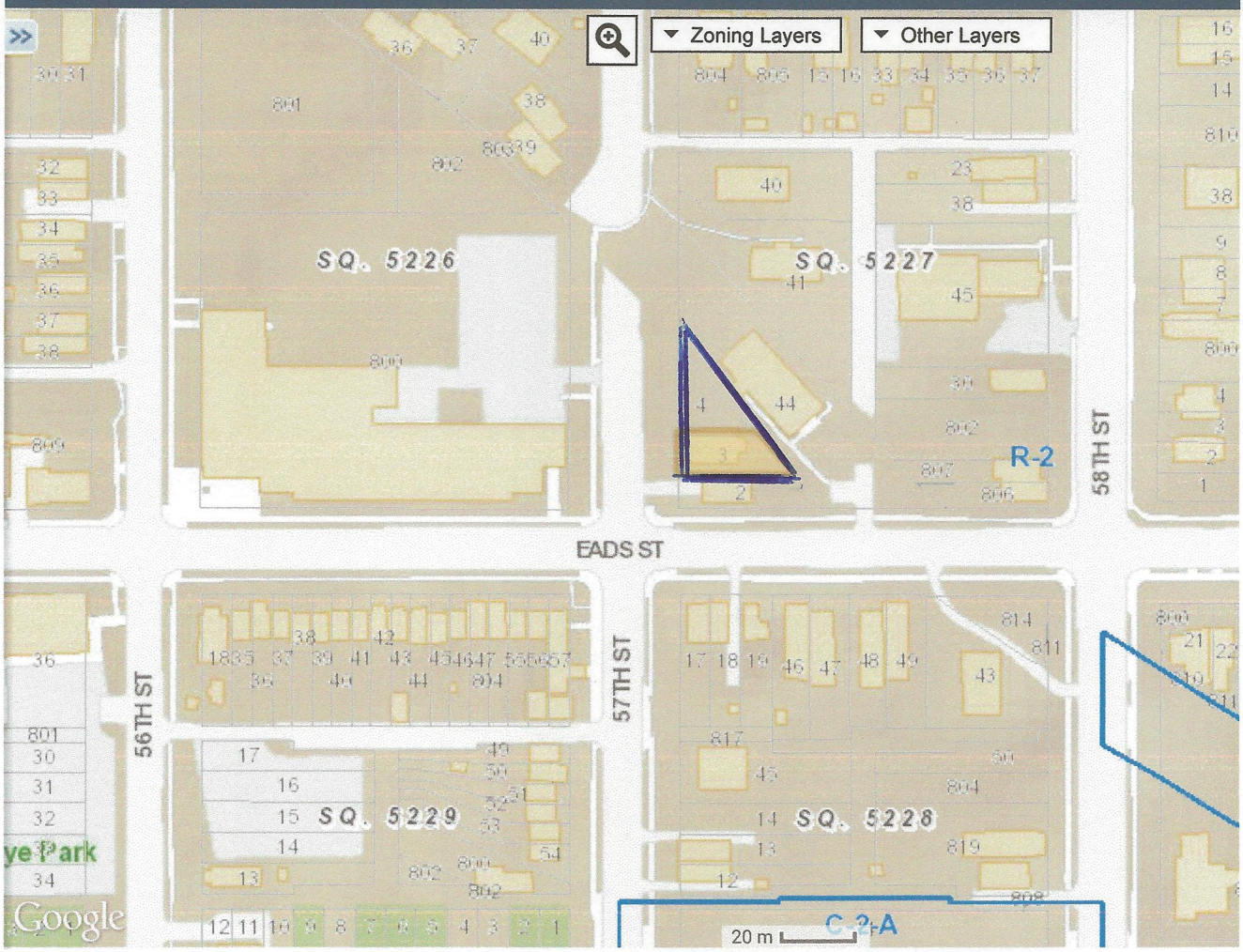


Exhibit C

Exterior Photos

Exhibit D

Interior Photos

Exhibit E

Certificate of Occupancy

Department of Consumer and Regulatory Affairs
Permit Operations Division
1100 4th Street SW
Washington DC 20024
Tel. (202) 442 - 4589 Fax (202) 442 - 4862

C OF O

CERTIFICATE OF OCCUPANCY

THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE

PERMIT NO. CO1001158

Date: 02/05/2010

Address of Use:	Zone:	Ward:	Square:	Suffix:	Lot:
505 57TH ST NE	R-2	7	5227		0003

Description of Occupancy:

CHILD DEVELOPMENT CENTER 19 INFANTS TODDLERS (6 WEEKS TO 24 MONTH) & 23 CHILDREN 2YRS-12YRS OLD TOTAL OF 9 STAFF

Permission Is Hereby Granted To:	Trading As:	Floor(s) Occupied	PERMIT FEE:
Rainbow Child Development Center	N/A	BSMNT, 1ST FLOOR	$76.00
Property Owner:	**Previous Use(s):**	**Occupant Load:**	**BZA Number:**
Rainbow Child Development Center	Other (Specify)	42	

Type of Application:	Occupied Sq. Footage:	Approved Use(1):
Ownership Change	2997	Other (Specify)

Conditions/ Restrictions:

As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.

Director:	Permit Clerk	Expiration Date:
Linda K. Argo	Lucretia Hackney	

TO REPORT WASTE. FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639

FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557

TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.

Exhibit F

OSSE License

District of Columbia
Office of the State Superintendent of Education

Division of Early Learning

LICENSE FOR CHILD DEVELOPMENT FACILITY
License Number: CDC - 909700

Type of Facility: Child Development Center
Maximum Licensed Capacity: 40

Date Issued: 01/22/2015
Date Expires: 09/25/2015
Hours of Service: 7:00am – 6:00pm

PERMISSION IS GIVEN TO: RAINBOW CHILD DEVELOPMENT CENTER
FACILITY ADDRESS: 505 57TH STREET, NE

To establish, operate and maintain a Child Development Facility, subject to the following restrictions, in accordance with Title 29 of the District of Columbia Municipal Regulations, Chapter 3, Child Development Facility Regulations.

RESTRICTIONS:

AGES: SIX (6) WEEKS THROUGH TWELVE (12) YEARS OF AGE.

ONLY SIXTEEN (16) CHILDREN MAY BE UNDER TWO (2) YEARS OF AGE.

STANDARD CONDITIONS:

1. **The standards of care described in the Child Development Facility Regulations (Title 29 DCMR Chapter 3) shall be provided at all times in order to protect the health, welfare, and safety of children.**

2. **The State Superintendent of Education or his/her designee and other District of Columbia government agencies having jurisdiction over, or responsibilities pertaining to, Child Development Facilities shall have the right, with or without prior notice, to inspect the above-named facility and the records kept.**

3. **This license and the Certificate of Occupancy or Home Occupation Permit for the premises, or equivalent proof that the premises complies with all applicable Federal and District of Columbia fire, safety, building, and zoning regulations and codes shall be posted in a central location on the licensed premises.**

Signature: _____ **Date:** 2/5/15

Elizabeth Groginsky
Assistant Superintendent of Early Learning
Office of the State Superintendent of Education

THIS PERMIT APPLIES ONLY TO THE ABOVE NAMED LICENSEE AND FACILITY ADDRESS. THIS LICENSE IS NOT TRANSFERABLE AND SHALL NOT BE VALID FOR USE BY ANY OTHER PERSON(S) OR ENTITY(IES), OR AT ANY PLACE OTHER THAN THAT DESIGNATED IN THE LICENSE.