

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19261 of Ryland Memorial Church., as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception from the child development center requirements under § 205, to allow the expansion of a child development center in the R-1-B District at premises 3200 S Street S.E. (PAR 207, Lot 80).

HEARING DATES: May 17, 2016 and June 7, 2016²
DECISION DATE: June 7, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated February 2, 2016, from the Zoning Administrator, certifying the required relief.³ (Exhibit 4.)

The Board of Zoning Adjustment (“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 located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7B, which is automatically a party to this application. The ANC submitted a report of support to the record that

¹ The Applicant originally filed an application for a variance from § 2002.3 based on a referral letter from the Zoning Administrator certifying the required relief as a variance from the nonconforming use requirements under § 2002.3. However, in its report, the Office of Planning (“OP”) noted that a childcare center is a permissible use in the R-1-B zone, and its establishment or expansion would require special exception approval pursuant to § 205. (Exhibit 21.) At the public hearing on June 7, 2016, the Applicant indicated that it wanted to amend its application to request special exception relief from § 205, per OP’s recommendation. The caption has been changed accordingly.

² The case was postponed at the request of ANC 7B and the child development center operating at the Applicant’s property from the hearing date of May 17, 2016. (Exhibits 20 and 23.) The Board heard the merits of the case at the June 7, 2016 public hearing.

³ The Board accepted the Applicant’s amendment of its application based on the Office of Planning’s recommendation without a revised Zoning Administrator’s letter on the advice of the Office of the Attorney General.

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indicated that at a regularly scheduled and properly noticed public meeting on May 19, 2016, at which a quorum was present, the ANC voted to approve the application, with conditions, by a vote of 5:1:1. In its report, the ANC noted that the Applicant made concessions regarding concerns raised by community members regarding trash and traffic during drop off. (Exhibit 27.) The Applicant testified that it accepted those terms.

The Office of Planning (“OP”) submitted a report of support for the application with conditions. (Exhibit 21.) As noted herein, OP recommended that the application be evaluated as a special exception under § 205 rather than as a use variance. At the hearing on June 7, 2016, OP testified to amend Condition No. 1 to increase the maximum student enrollment to 78 and to add “pick up” to Condition No. 5 regarding student drop-off. In addition to accepting OP’s recommendation of the relief required, the Applicant testified that it accepted OP’s conditions, as amended.

The District Department of Transportation (“DDOT”) submitted a report that indicated that it had no objection to the grant of the application. (Exhibit 22.) The Office of the State Superintendent of Education (“OSSE”) submitted a letter to the record recommending approval of the application. (Exhibit 32.)

As directed by 11 DCMR § 3119.2, the Board has 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 this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, 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 requirement of 11 DCMR § 3125.5, 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. Student enrollment shall not exceed 78.
2. The permitted age range of students shall be from three months up to and including 12 years old.
3. The number of staff shall not exceed 18.

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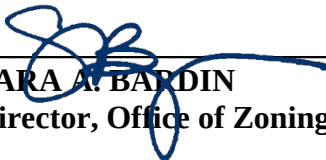
4. The hours of operation shall be between 7:00 AM and 6:00 PM, Monday through Friday.
5. Vehicular drop-off and pick-up of students shall only be from S Street, S.E.
6. The Applicant shall keep the premises of the church and the adjacent public space area cleaned of litter on a daily basis.
7. The Applicant shall inform parents dropping off children to not block traffic in the vicinity of the church.

VOTE: **4-0-1** (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, and Michael G. Turnbull, to APPROVE; Jeffrey L. Hinkle, not participating.)

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: June 20, 2016

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 THEREOF, 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.