

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 14493-B of MG Properties Management LLC, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the conditions of BZA Order No. 14493-A, to allow the enrollment of children ranging in age from two months to fourteen years of age for the child development center in the R-16 Zone at premises 5331 Colorado Avenue, N.W. (Square 2718, Lot 804).

HEARING DATE (14493-A):	April 12, 2016
DECISION DATE (14493-A):	April 12, 2016
ORDER ISSUANCE DATE (14493-A):	April 26, 2016
MODIFICATION OF CONSEQUENCE	
DECISION DATE (14493-B):	January 29, 2020

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

Original Application. In Application No. 14493-A, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Star of Bethlehem Church of God for a special exception from the child development center requirements under the Zoning Regulations of 1958 to allow a child development center for 150 children and 17 staff in the SSH-2/R-1-B District.¹ The Board issued Order No. 14493-A on April 26, 2016. (Exhibit 3.) The approval was subject to 3 conditions:

1. Student enrollment shall not exceed 150 children, ranging in age from two through five years of age.
2. The number of staff shall not exceed 17.
3. The hours of operation shall not exceed from 6:30 AM to 6:30 PM, Monday through Friday.

Proposed Modification. On November 12, 2019, MG Properties Management LLC, the owner of the property, submitted a request for modification of consequence to Order No. 14493-A. (Exhibits 1-2.) The Applicant proposes to modify Condition No. 1 to modify the permitted ages of students enrolled in the center as follows:

¹ The use was initially established by BZA Order No. 14493, which became final on December 4, 1986 for a three-year period.

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Condition No. 1: Student enrollment shall not exceed 150 children, ranging in age from ~~two through five~~ **2 months to 14 years of age**.

Notice of the Request for Modification. Pursuant to Subtitle Y §§ 703.8-703.9 of Title 11 of the DCMR (Zoning Regulations of 2016, the “Zoning Regulations” to which all references are made unless otherwise specified), the Applicant provided proper and timely notice of the request for modification of consequence. (Exhibits 1, 14.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission (“ANC”) 4C.

ANC Report. The ANC did not submit a written report regarding the modification request.

OP Report. Office of Planning submitted a report recommending approval of the proposed modification of consequence. (Exhibit 13.)

DDOT Report. The District Department of Transportation did not submit a written report regarding the modification request.

Request for Modification of Consequence

The Applicant seeks a modification of consequence under Subtitle Y § 703.4 to modify the conditions of BZA Order No. 14493-A, to allow the enrollment of children ranging in age from two months to fourteen years for the child development center in the R-16 Zone.

The Board determines that the Applicant’s request complies with Subtitle Y § 703.4, which defines a modification of consequence as a “proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.” Based upon the record, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under Subtitle Y § 703.4.

“Great Weight” to the Recommendations of OP

The Board is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8). The Board finds OP’s recommendation that the Board approve the application persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANC

The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2) As no written report was filed by the affected ANC, the Board has no issues or concerns to afford “great weight.”

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Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of consequence of BZA Order No. 14493-A is hereby **GRANTED**, subject to the following conditions, which shall replace and supersede the conditions of BZA Order No. 14493-A:

1. Student enrollment shall not exceed 150 children, ranging in age from 2 months to 14 years of age.
2. The number of staff shall not exceed 17.
3. The hours of operation shall not exceed from 6:30 AM to 6:30 PM, Monday through Friday.


In all other respects, Order No. 14493-A remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Peter A. Shapiro to APPROVE; no other Board members 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: January 30, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.