GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16339 of Jerome Lindsey, on behalf of Kaleb LLC, pursuant to 11 DCMR 3108.1, as amended, for a special exception under Section 205 to establish an office and after care/child development center for children ages 10 months to 10 years and two staff in the basement through second floor of an existing structure in an R-2 District at premises 801 Rittenhouse Street, N.W. (Square 2980, Lot 24).

HEARING DATE: **May 6, 1998**
DECISION DATE: **June 3, 1998**

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4B and to owners of property within 200 feet of the site.

This application was amended at the public hearing to eliminate the request for a variance from the requirement for off-street parking. The Board determined that the applicant will be able to provide adequate parking to meet the requirements of the Zoning Regulations.

The site of this application is located within the jurisdiction of ANC 4B. ANC 4B, which is automatically a party to this application, did not submit a written statement of issues and concerns in a timely fashion. One of the single member district commissioners requested that the Board leave the record open to receive the official ANC report prior to making a decision. The Board agreed to leave the record open until May 18, 1998. However, the report of ANC arrived in the Office of Zoning on May 21, 1998 and did not request a waiver of the rules to allow the submission of the report after the deadline. In addition, the document was misplaced in the office and was not presented to the Board prior to the decision meeting of June 3, 1998. Therefore, the Board did not review the document prior to making a decision. The ANC report has been returned.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements, which are necessary to establish the case for a special exception pursuant to 11 DCMR 205. No person or entity appeared at the public hearing in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

BZA

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CASE No.
EXHIBIT No. 28

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, 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. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The center shall operate between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday.

2. The maximum number of children at the facility shall be 25, except to the extent that the maximum number is reduced by the licensing requirements of the Department of Consumer and Regulatory Affairs and/or the Department of Human Services.

3. The maximum number of staff shall be five.

4. The applicant shall meet all of the licensing requirements of the Department of Consumer and Regulatory Affairs and the Department of Human Services.

5. The applicant's after school/tutorial program shall begin at 3:30 p.m. and the weekend tutorial program shall operate between the hours of 9:00 a.m. to 5:00 p.m. The tutorial program s shall operate by appointment only.

6. The ages of the children attending the facility for either the day care center or the after care program shall be from 10 months to 10 years.

7. The drop-off and pick-up of children shall be from the north side of Rittenhouse Street. The applicant's staff shall monitor the drop-off and pick-up of children for the safety of the children and to ensure compliance with parking and traffic regulations for the streets surrounding the day care center.

8. The applicant shall provide three off-street parking spaces at the site.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 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.

VOTE: 3 – 0 (Sheila Cross Reid, Maurice Foushee and Betty King to grant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Sheri M. Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

Final Date of Order: JUN 16 1998

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR § 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

Ord16339/TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16339

As Interim Director of the Board of Zoning Adjustment, I hereby certify and attest that on JUN 16 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jerome Lindsey
501 Rittenhouse Street, N.W.
Washington, D.C. 20011

Karan Buster
801 Rittenhouse Street, N.W.
Washington, D.C. 20011

Attested by: Sheri M Pruitt-Williams
SHERI PRUITT-WILLIAMS
Interim Director

DATE: JUN 16 1998

Att./TWR