GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16911 of Brandywine Street Association, pursuant to 11 DCMR § 3104.1 for a special exception under section 205 for a child development center, a special exception under section 334 for a community service center, and pursuant to 11 DCMR § 3103.2, a variance from the floor area ratio requirements under section 402, a variance from the lot occupancy requirements under section 403, a variance from the open court requirements under section 405, and a variance from the off-street parking requirements under section 2101, to convert and expand an apartment building into a community service and child development center in the R-5-A District at premises 700 Brandywine Street, S.E. (Square 6163, Lot 125).

HEARING DATE: **September 17, 2002**
DECISION DATE: **September 17, 2002 (Bench Decision)**

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

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 the applicant, Advisory Neighborhood Commission (ANC) 8E, and to owners of all property within 200 feet of the property that is the subject of this application.

The subject property is located within the jurisdiction of ANC 8E. ANC 8E, which is automatically a party to this application, did not submit a report to the Board on this application.

The D.C. Office of Planning (OP) generally testified in support of the application as presented by the Applicant and, based on the additional evidence and testimony presented at the hearing, recommended approval of the application. The D.C. Division of Transportation (DDOT) submitted a report stating it had no objection to the parking variance on the condition that: (1) the applicant coordinate with DDOT to amend regulatory parking signage in front of the site to dedicate parking spaces for the exclusive use of visitors and staff and on other required permits; and (2) the applicant develop a program to encourage employees to use Metrobus service that is available nearby.

BZA
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Board of Zoning Adjustment
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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 special exception under §§ 205 and 334, and pursuant to § 3103.2 for variance pursuant to §§ 402, 403, 406, and 2101. No persons or entities appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, 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 the OP report, dated September 11, 2002, filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, and that the requested relief can be granted, subject to the conditions set forth below, 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.

The Board also concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty 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 § 3101.6, the Board has determined to waive the requirement 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 this application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for **THREE (3) YEARS**, commencing upon issuance of the Certificate of Occupancy.

2. The child development center shall not exceed 61 children, and twelve staff at any given time.

3. The child development center hours of operation shall be 6:00 a.m. to 7:00 p.m., Monday through Friday.

4. The applicant shall develop a program to encourage employees of the child development and community service center to use Metro bus service that is available nearby.

5. The applicant shall coordinate with DDOT to amend regulatory parking signage in front of the site to dedicate parking spaces for the exclusive use of visitors and staff and on other required permits.

VOTE: **4-0-1** (David A. Zaidain, Anne M. Renshaw, Geoffrey H. Griffis, and James H. Hannaham to approve; the third mayoral appointee not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: OCT - 1 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH TWO-YEAR PERIOD.

PURSUANT TO 11 DCMR § 3205, 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 SECTION 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, FAMILIAR STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION, WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE

ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. cwm