

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts, Project Manager
JL Joel Lawson, Associate Director Development Review
DATE: October 5, 2018

SUBJECT: BZA Case 19835 (2902 North Capitol Street, NE) to permit an expanded child development home for 12 children.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the requested special exception review under Subtitle U § 251.1(3) and Subtitle U § 251.3 to increase the number of children in an existing expanded child development home from 9 to 12. OP supports the following conditions proposed by the applicant which would generally mitigate potential impacts of the proposal:¹

1. Enrollment shall not exceed 12 children, age 15 years or less;
2. There shall be a maximum of five staff;
3. The days and hours of operation are Monday through Friday from 7:00 A.M. to 6:00 P.M.:
 - a. Drop-off hours are between 7:00 a.m. to 9:00 a.m.; and
 - b. Pick-up hours are from 3:00 p.m. to 6:00 p.m.
4. One parking space shall be reserved on-site for use by staff;
5. Trash collection shall be scheduled at least once a week.

Board of Zoning Adjustment
District of Columbia
CASE NO. 19835
EXHIBIT NO. 38

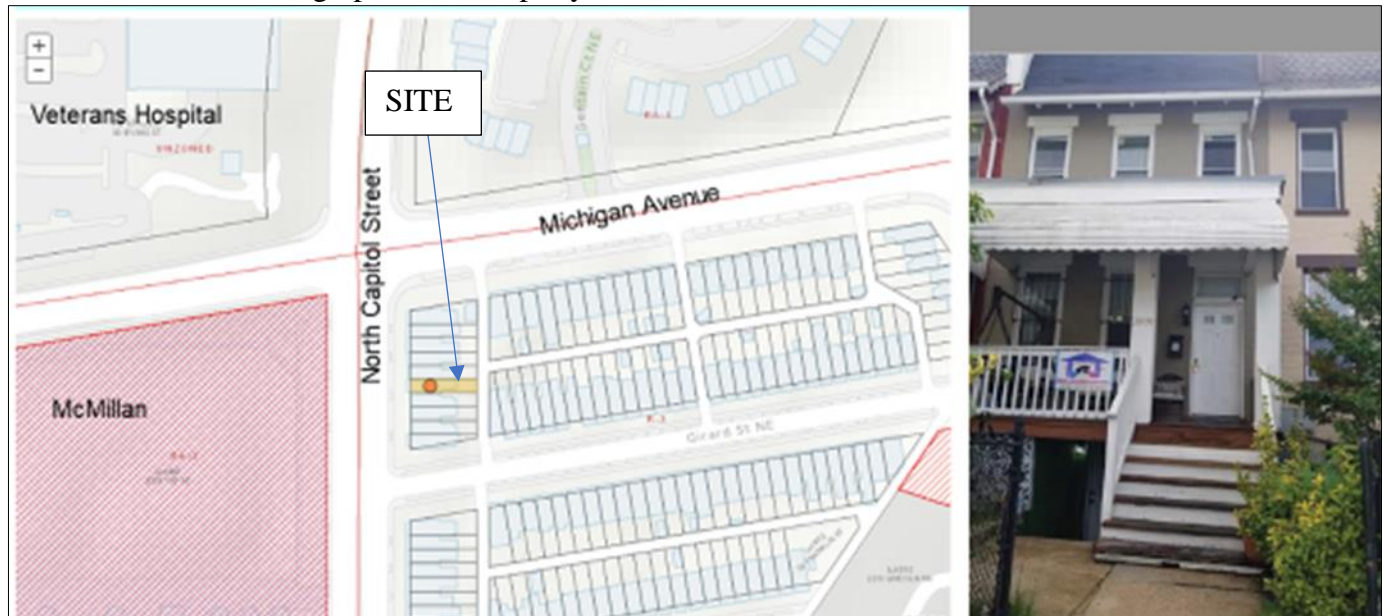
II. LOCATION AND SITE DESCRIPTION

Address	2909 North Capitol Street, NE
Applicant	Maria Naranjo, represented by Dennis Hughes of Holland & Knight LLP
Legal Description	Square 3500, Lot 0037
Ward, ANC	5, 5E
Zone	R-3 – Intended for attached rowhouses on small lots. Expanded child development homes are home occupations permitted by special exception.
Historic District	None

¹ OP has removed the word “center” wherever it occurs in the applicants proposed conditions, as it refers to child development centers, whereas this request is for an expanded child development home.

Lot Characteristics	The site is rectangular, 1,487.5 square foot lot which abuts a 15-foot wide alley to the rear.
Existing Development	The lot is currently developed with a row dwelling that is used as a single-family dwelling and an expanded child development home as an accessory use. A parking pad in the rear yard abuts the public alley. There is also a fenced play area to the rear of the dwelling. The rear yard is surrounded by a gated wooden picket fence approximately 6-feet tall.
Adjacent Properties	To the east, north and south are two-story row dwellings, while to the west across North Capitol Street is McMillan property.
Surrounding Neighborhood Character	Generally, two- and three-story row dwellings to the north, east and south; the McMillan property to the east; and the Veterans, Children’s and Washington Hospital Center Hospitals to the northwest.
Proposed Development	To expand the existing expanded child development home from nine to twelve children.

Site Location and Photograph of the Property



III. OFFICE OF PLANNING ANALYSIS

The applicant currently operates an expanded child development home for a maximum of nine children. The expanded child development home has been in operation since 2009. In 2012, the Board of Zoning Adjustment approved with conditions an application to increase the number of children from nine to twelve children and five staff (BZA Order No. 18354) for a period of five years. However, the permitting process was not completed and the BZA approval expired. The applicant proposes to retain the conditions of BZA Order No. 18354 except for the time limit. OP is supportive of not having a time limit as the use has existed at the property for 18 years, has been in good standing and has the support of neighbors and the ANC.

The expanded child development home would continue to operate on the first floor and basement of the house while the operator would continue to reside on the upper floors. Subtitle U § 251.1 classifies expanded child development homes as a home occupation permitted in R-3 district subject to the requirements of Subtitle U § 251.1(3). Subtitle U § 251.3 also outlines additional requirements for home occupations.

A - Subtitle U § 251.1(3)

- (3) *Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X and subject to the provisions of Subtitle U § 251.6; provided a minimum of thirty-five square feet (35 sq. ft.) of floor area per individual is provided including the basement but excluding any accessory structure;*

The proposal is to increase the number of children from nine to twelve up to 15 years of age. The area dedicated to the use would be on the first floor and basement of the home and would total 600 square feet, or 50 square feet of floor area per child. The home would meet the requirements of Subtitle U § 251.6 as follows:

*251.6 A home occupation that is ~~not~~**neither** permitted ~~or is~~ **nor** prohibited in this chapter may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X, subject to the following conditions:²*

- (a) *The proposed use and related conditions shall be consistent with the purposes of this chapter and shall generally comply with the requirements of Subtitle U §§ 251.1 through 251.4, subject to specific findings and conditions of the Board of Zoning Adjustment in each case;*

The expanded child development home is allowed by special exception and its enlargement would meet the requirements of Subtitle U §§ 251.1 through 251.4 as demonstrated in subsections **B and C** below.

- (b) *An applicant for a home occupation that is permitted by Subtitle U § 251.1 may request the Board of Zoning Adjustment to modify no more than two (2) of the conditions enumerated in Subtitle U §§ 251.3 and 251.4;*

The applicant has requested a modification to Subtitle U § 251.4(b). There is currently a sign which has an area of 450 square feet. The maximum area of the sign allowed under Subtitle U § 251.4(b) is 144 square feet. The sign has existed for some time and as shown in the photograph is not unsightly or obtrusive and is not located in an area which would be detrimental to the children, staff or visitor to the home. OP is supports the requested modification.

- (c) *In no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;*

² Amended by ZC Case No. 08-06P. ZC took Final Action on this amendment on September 17, 2018.

Subtitle U § 251.1(b) does not limit the number of persons who are not a resident of the dwelling for an expanded child development home. However, the applicant states that they envision there would be three persons on-site at any one time, of which two would be non-residents.

- (d) *Any request to modify more than two (2) of the requirements found in Subtitle U §§ 251.3 and 251.4 shall be deemed a request for a variance; and*

The applicant has requested only one modification.

- (e) *In considering any request for approval under this section, the Board of Zoning Adjustment shall determine that the request is consistent with the general purposes and intent of this chapter and may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this chapter.*

OP does not recommend any specific conditions. However, OP is supportive of the conditions proffered by the applicant regarding hours of operation, number of students, number of staff persons, and trash pick-up.

B - Subtitle U § 251.3

251.3 A home occupation shall comply with the following conditions and requirements:

- (a) *A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;*

The expanded child development home occupies 600 square feet of the 2,400 square feet house which is 25 percent of the dwelling, making it a secondary use.

- (b) *Except for lodging, and as provided in Subtitle U §§ 251.1(b) and 251.1(f), no more than the larger of two hundred fifty square feet (250 sq. ft.) or twenty-five percent (25%) of the floor area of the dwelling, excluding basement or any accessory structure, shall be utilized for the home occupation;*

The expanded child development home occupies 600 square feet or 25 percent of the dwelling.

- (c) *All materials or finished products shall be stored within the floor area utilized for the home occupation or in a basement or accessory structure;*

N/A

- (d) *Except as provided in Subtitle U § 251.1(b), in no case shall more than two (2) persons who are not residents of the subject dwelling unit be permitted as employees of the home occupation except for the home office of a physician or dentist;*

Subtitle U § 251.1(b) does not limit the number of persons who are not a resident of the dwelling for an expanded child development home.

- (e) *No interior structural alteration shall be permitted if it would make it difficult to return the premises to a use that is exclusively residential;*

No internal structural changes are necessary to accommodate the additional children.

- (f) *No operations related to the home occupation shall be conducted outside a structure, nor shall any storage or other unsightly condition be permitted outside a structure;*

There are no operations or storage outside the building. The outdoor area of the lot comprises the current outdoor play area and a parking space.

- (g) *No equipment or process shall be utilized that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home;*

No equipment or processing would take place on the property.

- (h) *The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;*

The existing home does not produce any noxious odors, vibrations, glare, or fumes and would not change with the additional children.

- (i) *The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood;*

There have been no reports of excessive noise from the existing expanded child development home and it is not anticipated that the additional children would significantly change the noise level from the home.

- (j) *No more than two (2) vehicles may be used in the practice of the home occupation;*

The applicant is providing one, on-site parking space.

- (k) *Except for child development homes and expanded child development homes, vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;*

N/A. However, currently staff and students come mainly from the immediate neighborhood and many parents walk their children to and from the site. Additionally, parents and staff are able to use five bus routes which travel along Michigan Avenue and North Capitol Street with stops close to the site. Further, on-street parking is allowed along North Capitol Street and Girard Street, which can be used during drop-off and pick-up times.

- (l) *Except for child development homes and expanded child development homes, the practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period;*

N/A

- (m) *If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations shall not exceed any of the standards set forth in this chapter; and*

There would only be one home occupation on the site.

- (n) *The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot.*

No exterior changes are proposed to the building and the residential character and appearance of the dwelling unit and lot would be maintained as shown on a photograph of the property in Section II above.

C - Subtitle U § 251.4

251.4 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:

- (a) *No more than one (1) exterior sign may be displayed on a dwelling or other building in which a home occupation is practiced, regardless of the number of home occupations permitted in the dwelling or building;*

There is currently a sign displayed on the building and would not be changed with the increase in the number of children.

- (b) *The sign shall not exceed one hundred forty-four square inches (144 sq. in.) in area;*

The existing sign has a measurement of 18 feet by 25 feet for a total area of 450 square feet. As allowed by Subtitle U § 251.6(b), the applicant has requested a modification to this requirement to allow its retention. The sign has existed for some time, and as shown in the photograph, is not unsightly or obtrusive and is not located in an area which would be detrimental to the children, staff or visitor to the home.

- (c) *The sign shall be flush-mounted;*

The existing sign is flush-mounted and would remain at that location with the increase in the number of children.

- (d) *The sign shall not be illuminated; and*

The existing sign is not illuminated and would remain the same with the increase in the number of children.

- (e) *The sign may state only the name of the practitioner and the type of home occupation.*

The existing sign states the name of the expanded child development home and its telephone number.

IV. COMMENTS OF OTHER DISTRICT AGENCIES

The Department of Transportation (DDOT) will provide a report under separate cover.

V. COMMUNITY COMMENTS TO DATE

The property is within ANC-5E. At its September 18, 2018 regularly scheduled meeting, the ANC reviewed the proposal and voted to recommend approval of the expanded child development home (Exhibit 30). The Stronghold Civic Association submitted a letter in support of the proposal at Exhibit 34, and there are letters in support of the proposal at Exhibits 31, 32, 33, and 36A.