

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18400-B¹ of Jewish Primary Day School, as amended,² pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the lot occupancy requirements under § 403, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, and a special exception from the private school requirements under § 206, and from the roof structure requirements under § 411.11, to increase the enrollment cap to 350 students and 72 staff and construct an addition to the existing school building in the R-1-B and R-5-A Districts at premises 6045 16th Street N.W. (Square 2726, Lots 825 and 831).

HEARING DATES: December 22, 2015³ and January 12, 2016
DECISION DATE: January 12, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) The zoning relief requested was subsequently amended when the Applicant submitted a revised self-certification form to request additional special exception relief from the roof structure requirements of § 411.11. (Exhibit 26.) The Applicant's Prehearing Statement further clarified that it seeks relief pursuant to § 411.11 from the requirements of § 411.3 to allow two separate equipment penthouse enclosures. (Exhibit 27.)

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") 4A, and to owners of property within 200 feet of the site.

¹ This application was processed and noticed as Application No. 18400-A; however, an order denying reconsideration to Application No. 18400 was previously issued as Order No. 18400-A, therefore this order has been re-numbered as Application No. 18400-B.

² The Applicant submitted a revised self-certification form to amend the application and add a request for special exception relief for roof structures under § 411.11 to its originally requested relief. (Exhibit 26.) The caption has been revised accordingly.

³ This case was scheduled for December 22, 2015 and postponed to January 12, 2016 at the Applicant's request. (Exhibit 22.)

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The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. The ANC submitted a resolution indicating that, at its regularly scheduled and properly noticed public meeting of January 5, 2016, at which a quorum was in attendance, ANC 4A voted 6-0 in support of the application. (Exhibit 33.) The Single Member District Commissioner for ANC 4A07, Dave Wilson, also testified in support at the public hearing and noted that the ANC was particularly impressed with the Applicant's efforts to secure off-site parking and to subsidize bus transportation for students.

The Office of Planning ("OP") submitted a timely report on January 5, 2016, recommending approval of the application with five conditions (Exhibit 29), and testified in support of the application at the hearing. The Applicant testified that it accepted OP's proposed conditions, but noted that one condition, requiring the Applicant to provide 16 bicycle racks, should be modified based on prior discussions between the Applicant and the District Department of Transportation ("DDOT") regarding bicycle parking. OP concurred with the Applicant's comment, and accordingly, the Board adopted the proposed conditions, with the suggested modification.

DDOT submitted a timely report on January 5, 2016, indicating that it had no objection to the Applicant's requests for variance and special exception relief and recommending several conditions related to the Applicant's Performance Monitoring Plan, curb ramps, and bicycle parking spaces. (Exhibit 32.) The Applicant testified that it accepted these conditions, but that the final condition regarding ten long-term, indoor bicycle parking spaces had been reduced to require six long-term, indoor bicycle spaces, based on conversations with DDOT prior to the hearing. OP also testified that it was part of the Applicant's discussions with DDOT and confirmed that DDOT was satisfied with the Applicant's agreement to provide six bicycle spaces. The Board adopted DDOT's proposed conditions with the modified requirement for long-term bicycle parking spaces.

Letters in support were submitted to the record from Sixteenth Street Heights Civic Association (Exhibit 30) and from Shepard Park Citizens Association (Exhibit 31.)

Variance Relief

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 § 3103.2, from the lot occupancy requirements under § 403, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1. 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 adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 403, 2101.1, and 2201.1, the Applicant has met the burden of proving under § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a

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practical difficulty for the owner in complying with the Zoning Regulations, and that the 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.

Special Exception Relief

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, from the private school requirements under § 206, and from the roof structure requirements under § 411.11. 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 adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 206, and 411.11, 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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 25, AND THE FOLLOWING CONDITIONS:**

1. Enrollment shall not exceed 350 students.
2. Faculty and staff combined shall not exceed 72.
3. The Applicant shall implement the recommendations contained within the Transportation Impact Study under Exhibit 24 of the record.
4. A minimum of 25 off-site parking spaces shall be provided to faculty and staff, enabling those employees to carpool to the school, with reserved or preferential parking provided onsite.
5. The Applicant shall amend the Performance Monitoring Plan and establish a trip cap to include the following:
 - a. The Applicant shall conduct counts and provide a monitoring report to DDOT's Policy, Planning, and Sustainability Administration twice per year (fall and spring semesters, not to coincide within a week before or after any extended school

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breaks) for two years beginning when the school reaches 275 enrolled students and again when the school reaches the proposed cap of 350 students.

- b. Trip generation counts and queuing shall be observed a minimum of 7:00 a.m. to 9:30 a.m. and 2:30 p.m. to 6:00 p.m.
 - c. Vehicle trip generation shall include all vehicle trips to the site, inclusive of vehicles traveling to the site but not entering the driveway.
 - d. The Applicant shall establish a vehicle trip generation cap of 271 total trips (ins and outs) during the a.m. peak hour and 135 total trips during the school p.m. peak hour (not commuter p.m. peak hour).
 - e. Vehicle queueing for pick-up and drop-off shall be within the property line. Vehicle queueing shall not extend to block the sidewalk across the driveway or onto any public streets.
 - f. If vehicle queueing does not meet the above-mentioned criteria or the site exceeds the vehicle trip generation count, the Applicant shall employ additional Transportation Demand Management (“TDM”) measures and continue monitoring twice per year for two years for a total of four successful monitoring reports.
 - g. The Applicant shall document all current TDM measures.
 - h. The Applicant shall include any proposed updates to the TDM plans.
 - i. The Applicant shall return to the BZA to seek relief, lower their student and staff enrollment, or provide additional and more aggressive TDM measures should vehicle queue length not meet the criteria established above or should trips generated exceed the 271 total trips during the a.m. peak hour and 135 total trips during the school p.m. peak hour threshold for two consecutive monitoring periods.
6. The Applicant shall construct three ADA-compliant curb ramps at the intersection of Fort Stevens Drive and Rock Creek Ford Road
7. The Applicant shall provide six long-term bicycle parking spaces.

Vote: 4-0-1 (Peter G. May, Frederick L. Hill, Marnique Y. Heath, and Jeffrey L. Hinkle to APPROVE; one Board seat vacant.)

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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 15, 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 TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, 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.

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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.