

DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

Applicant's Statement in Support of Special Exception Relief

5104 MacArthur Blvd. N.W.; Square 1418, Lot 43, A&T Lot 807

I. Introduction.

This Statement is submitted on behalf of 5104 MacArthur, LLC (the "Applicant"), the owner of the property located at 5104 MacArthur Blvd., N.W., Square 1418, Lot 43, A&T Lot 807 (the "Property"). The Property is located in the MU-3 zone district and is currently improved with a one-story masonry building.

The Applicant proposes to use the existing building as a Child Development Center. According to 11-C DCMR § 701.5, a "Daytime Care" use is required to provide 0.5 space per 1,000 square feet with a minimum of one (1) space. The existing building is approximately 2,800 square feet; therefore, the Applicant has calculated that a child development center of this size must provide two (2) parking spaces. For the reasons discussed below, the Applicant is unable to provide any parking. Accordingly, the Applicant is requesting special exception relief pursuant to 11-C DCMR § 703 from the parking requirements of 11-C DCMR § 701.5.

II. Background

A. Description of the Property and the Proposed Project.

The Property is currently improved with a one-story building that was previously used for commercial/retail purposes. The Property has 2,812 square feet of land area and is located in the MU-3 Zone District. Abutting the Property to the north is a large condominium building. Abutting the Property to the south are other retail properties. Abutting the Property to the west are residential buildings. To the east, across MacArthur Blvd. are other retail properties.

The Applicant proposes to use the property for a child development center, which is permitted as a matter-of-right without limit on the number of students. The number of staff will be limited to eleven (11) and the Applicant anticipates that staff will utilize public transportation and bus routes in the area. In this area, the typical profile for an aide in a daycare is someone who does not own a car.

B. Requested Relief

Pursuant to the table provided in Subtitle C § 701.5, the Applicant is required to provide at least one parking space and one-half (0.5) space per 1,000 square feet. The Building has approximately 2,800 square feet of gross floor area, accordingly the applicant is required to provide two (2) spaces.

Subtitle C § 703 provides flexibility from the minimum required number of parking spaces when the provision of the required number of spaces would be contrary to other District of Columbia regulations; or impractical or unnecessary due to the shape or configuration of the site, a lack of demand for parking, or proximity to transit. Accordingly, the Applicant is requesting special relief pursuant to 11-C DCMR § 703.

III. The Application Satisfies Special Exception Requirements of Subtitle 11-X DCMR § 901.2 and 11-C DCMR § 703.

A. Overview. Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle C § 703 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. Requirements of Subtitle X § 901.2.

The granting of a special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2). Given the location of the Building, the granting of a special exception will not adversely affect the use of the neighboring properties, as there is

currently no parking at the site, and the proximity to multiple forms of public transportation alleviate any foreseeable issues with staff transportation.

C. Requirements of Subtitle 11-C DCMR § 703.

The Proposal in this Application satisfies the requirements of Subtitle C § 703 as follows:

Section 703.2 *“The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of at least one (1) of the following:*

As provided below, the Applicant can satisfy several of the requirements, even though only one (1) is required to grant the requested approval. The information below includes only the sections that safely apply to this Property and Application.

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot. The Property is an interior lot with no alley access. The rear of the Property abuts residential properties. The required parking spaces cannot be provided on a lot within six hundred feet (600 ft.). From the Applicant’s investigation, there are no available parking lots within six hundred feet (600 ft.)

(h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:

- a. A curb cut permit for the property has been denied by the District Department of Transportation; or*
- b. Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any*

*other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24
DCMR;*

The Property does not have access to an open public alley, as it is landlocked, and any driveway that could access an improved public street from the Property would violate the applicable zoning regulations.

Section 703.3 *Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.*

The reduction in the required number of parking spaces is only for the amount that the Applicant is physically unable to provide, as the Property is landlocked with no alley access and directly abuts residential properties.

Section 703.4 *Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.*

The Applicant will provide a transportation demand management plan and work with the District Department of Transportation to obtain approval.

IV. Conclusion.

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

Applicant's Statement
5104 MacArthur Blvd., N.W.

A handwritten signature in black ink that reads "Martin P. Sullivan". The signature is written in a cursive style with a large initial "M".

Martin P. Sullivan, Esq.