

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
 JLS
 for Joel Lawson, Associate Director Development Review
DATE: June 29, 2016
SUBJECT: BZA Application No. 19266 (816 6th Street, N.E.) for special exception to permit a home occupation

I. BACKGROUND

The applicant proposes to operate an expanded child development home for twelve children out of her residence as a home occupation. Four infants would be cared for on the first floor and eight toddlers would be cared for in the basement. There would be no more than two employees, in addition to the applicant, employed at the home. Hours of operation would be Monday through Friday, 7:00 am to 6:00 pm. There would be no outdoor play area and all clients would enter through the front door only. The majority of the patrons are expected to walk to the site.

The applicant is currently in possession of a “License for Child Development Facility” from the Office of the State Superintendent of Education, Division of Early Learning, for up to six children.

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends approval of the following special exception:

- § 203, Expanded Child Development Home as a Home Occupation for twelve children subject to the following condition:
 - That access to the center is through the front door only, with no parking within the alley.

III. LOCATION AND SITE DESCRIPTION

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|----------------------|---|
| Address | 816 6 th Street, N.E. |
| Applicant | Elonda Edwards |
| Legal Description | Square 832, Lot 45 |
| Ward, ANC | Ward 6, ANC 6C |
| Zone | R-4: Row houses, flats and conversions |
| Lot Characteristics | Rectangular lot with rear alley access |
| Existing Development | Row house with two-stories and basement |

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| Adjacent Properties | North: Row houses and a church South: Row houses and commercial buildings along H Street East: Across 6 th Street, an 8-story mixed use building under construction and row houses West: Across the public alley, small apartment buildings and row houses |
| Surrounding Neighborhood Character | Moderate density residential, including institutional uses, and mixed use along H Street |
| Proposed Development | Operation of an expanded child development home as a home occupation for up to twelve children |

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

| Zone: R-4 | Regulation | Existing | Proposed | Relief |
|-----------------|--------------------|---------------|---------------|---------------|
| Height § 400 | 3-story max. | 2.5 stories | 2.5 stories | None required |
| Lot Width § 401 | 18-foot min. | 16 feet | 16 feet | None required |
| Lot Area § 401 | 1,800 sq. ft. min. | 1,521 sq. ft. | 1,521 sq. ft. | None required |

V. OFFICE OF PLANNING ANALYSIS

The subject application is in conformance with the applicable provisions of the Zoning Regulations as described below.

i. Special Exception Relief pursuant to § 203, Child Development Home as a Home Occupation

203.10 A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104; provided:

- (a) The proposed use and related conditions shall be consistent with the purposes set forth in § 203.1 and shall generally comply with the requirements of §§ 203.4 through 203.8, subject to specific findings and conditions of the Board in each case;*
- (b) An applicant for a home occupation that is permitted by §§ 203.6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with;*

- (c) *Except as provided in § 203.7(e)(1), 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;*
- (d) *Any request to modify more than two (2) of the requirements found in §§ 203.4 through 203.8 shall be deemed a request for a variance. However, a person with a demonstrated physical disability may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and*
- (e) *In considering any request for approval under this subsection, the Board 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 section.*

Child development homes are neither permitted as a matter of right, nor prohibited in the R-4. As described below, the application is in compliance with the applicable sections of the Zoning Regulations. No requests were made to modify any criteria, and no more than two persons not residents of the home would be employed. However, no off-street parking would be provided. Therefore, OP recommends the applicant permit access to the home from front door only, and informs parents that drive to the site not to park in the alley when picking up and dropping off children, to prevent blockage of the alley.

203.7 *The following uses shall be allowed as home occupations; provided, that the conditions specified in §§ 203.4 through 203.6 are met at the time of the establishment of the home occupation, and maintained on a continuing basis. The uses listed under this subsection shall include similar uses in each category:*

- (a) *Child development home provided no more than two (2) persons who are not a resident of the dwelling unit shall be engaged or employed in the child development home;*

The applicant proposes to employ two persons not residents of the dwelling, in addition to the resident herself.

An analysis of how the application conforms to the provisions of §§ 203.4 and 203.5 is contained below. Section 203.6 does not apply as sales are not applicable to child development homes.

- f) *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 § 3104 and subject to the provisions of § 203.10; 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;

Not including the basement, the dwelling has 1,464 square feet of gross floor area on the upper two floors, or approximately 732 square feet per floor. As a minimum of 420 square feet are required to care for twelve children, and the applicant proposes to use the basement and first floor for the use, the application is in conformance with this provision.

203.4 *A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§ 203.5 and 203.6, and 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 child development home would continue to be the residence of the applicant, utilizing only the basement and first floor. With the exception of a small sign on the front of the row house, no exterior modifications are proposed, maintaining the residential character of the structure.

(e) *The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;*

No alterations are proposed to either the dwelling or the lot.

(f) *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 construction is proposed.

(g) *Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure;*

No outdoor storage or activities are proposed.

(h) *Neither the practitioner nor any other person shall use any equipment or process 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 is proposed that would cause electrical interference or fluctuations in line voltage.

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

The use should produce no odors, fumes, vibrations, glare or fumes outside of the home. Diapers from the four infants would be stored within two garbage cans at the rear of the property and collected twice weekly.

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

The use would be operated from the interior of the dwelling only, with no excessive noise expected.

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

No vehicles are proposed to be used.

- (n) *If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.*

The expanded child development home would be the only home occupation operated out of the dwelling, if approved by the Board.

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

- (a) *A person may display one (1) exterior sign on a dwelling or other building in which a home occupation is practiced;*
- (b) *The sign shall not exceed one hundred forty-four square inches (144 in.²) in area;*
- (c) *The sign shall be flush-mounted;*
- (d) *The sign shall not be illuminated;*
- (e) *The sign may state only the name of the practitioner and the type of home occupation;*
- (f) *The practitioner shall not display more than one (1) sign outside a dwelling or building; and*
- (g) *The practitioner shall not display any sign that does not meet the requirements of paragraphs (b) through (e) of this subsection.*

One exterior sign unilluminated flush-mounted sign, 144 square inches area in area, is proposed for the exterior of the building, stating the name and type of business only.

ii. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The proposed use would be in conformance with all of the criteria contained within the Zoning Regulations for expanded child development homes within the R-4.

iii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposed expanded child development home would consist of no more than twelve children and be contained within the dwelling only. No outdoor play areas would be provided on site, minimizing impacts to neighboring property. Access to the use would be through the front door only, minimizing the impact on the public alley to the rear.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

The Fire and EMS Department issued a memorandum indicating that approval was given on May 25, 2016.

VII. COMMUNITY COMMENTS

ANC 6C, at its regularly scheduled meeting of June 11, 2016, voted to support the application.

Two letters in support of the application were submitted to the file, including the adjacent neighbor to the north.

Attachment: Location Map

