

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen J. Mordfin, Case Manager  
 JL Joel Lawson, Associate Director Development Review  
**DATE:** January 25, 2019

**SUBJECT:** BZA Case 19911: Request for special exception relief pursuant to Subtitle D § 5201.1 from U § 251.6 to allow an Expanded Child Development Home for ten to twelve individuals age six weeks to twelve years plus four staff.

### **I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following area special exception pursuant to Subtitle D § 5201:

- U § 251.6, Expanded Child Development Home as a home occupation from 9 individuals ages 6 weeks to 12 years to 12 individuals age 6 weeks to 12 years of age plus 4 staff

### **II. LOCATION AND SITE DESCRIPTION**

Address	508 60 <sup>th</sup> Street, N.E.
Applicant	Latrell Duncan-Fitchett
Legal Description	Square 5258, Lot 809
Ward, ANC	Ward 7, ANC 7C
Zone	R-2
Lot Characteristics	Rectangular lot with no alley access
Existing Development	One-family semi-detached dwelling with no off-street parking
Adjacent Properties	North, South and West: Semi-detached dwellings East: Across 60 <sup>th</sup> Street. 3-story apartment building
Surrounding Neighborhood Character	Mixture of detached, semi-detached dwellings and low-rise apartment buildings
Proposed Development	Increase enrollment from 9 to 12 children, plus four nonresident staff

### III. OP ANALYSIS

#### Subtitle U Chapter 251, Home Occupation Uses

##### *251.1(b)(3) Expanded Child Development Home*

*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;*

*251.6 A home occupation that is neither permitted 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:*

- (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 application is in conformance with the above noted sections as described 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 requests to modify one condition, § 251.3(d), to permit more than two outside employees, as described below.

- (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;*

The application is for the provision of a day care for up to twelve children, between six weeks and fifteen years of age, some of whom may be special needs children. The ratio of care givers per child will vary depending on the age and abilities of the children. Therefore, the applicant requests that more than the two-person limit on employees up to four who are not residents of the subject home be permitted to adequately serve the needs of the children and as required by OSSE, as discussed further below under U § 251.6(d) and U § 251.

- (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 requests to modify only one requirement.

- (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 finds the request consistent with the provisions of the Zoning Regulations for an Expanded Child Development Center for up to twelve children aged fifteen or less, as described below.

*251.2 A Home Occupation Permit (HOP) shall be required prior to the practice of a home occupation and subject to the following requirements:*

- (a) A HOP shall be obtained by the practitioner;*
- (b) A HOP shall be granted only to a designated person or group of persons who reside at a residential address;*
- (c) A HOP may not be transferred from one (1) person to another or from one (1) address to another;*
- (d) A HOP shall require evidence of the property owner's concurrence for any HOP that involves employees, clients, customers or other non-residents to attend the property;*
- (e) A HOP shall be issued without a public hearing if the requirements of this subsection are met, or after a public hearing by the Board of Zoning Adjustment pursuant to Subtitle U § 251.6 and Subtitle X;*
- (f) If the Zoning Administrator determines that an application for a HOP appears to meet the conditions of this chapter, but is inconsistent with the general purpose and intent of this section, the Zoning Administrator may certify the application to be decided as an appeal by the applicant to the Board of Zoning Adjustment; and*
- (g) In making the determination to refer the HOP to the Board of Zoning Adjustment, the Zoning Administrator may consider, but not be limited to, the cumulative impact of one (1) or more home occupations.*

The home occupation would continue to be in conformance with this subsection.

*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 applicant would continue to operate the proposed use out of her home, making no exterior modifications, except for possibility affixing a business sign to the exterior in conformance with the U § 251.1, and in conformance with subsection (b) below, limiting the size of the 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 applicant indicates that no more than 420 square feet or twenty-five percent of the dwelling would be used for the home occupation.

- (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;*

All materials used in associating with the expanded child development center would be stored within the home only.

- (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;*

The applicant informed OP that she would like to waive this requirement, the only requirement for which she is requesting this waiver. The number of employees necessary to operate her business is expected to vary, depending on the number of children, the ages of the children, and the degree of disability any of the children may or may not experience. At a minimum the applicant proposes to have three outside employees, as permitted, two of which would be full time and a third to work part-time in the middle of the day to give the full-time employees breaks for lunch. However, because the applicant is unable to predict the ages and disabilities, if any, that future children may experience and the number of employees that OSSE would then require for the applicant to maintain her license, the applicant requests that up to four non-resident employees be permitted. Based on past experiences with the existing day care center, the applicant expects that most of the employees would arrive by public transportation.

- (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;*

The application indicates that no structural alterations are proposed that would make it difficult to return the home to an exclusive residential use.

- (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;*

The use would take place exclusively within the home. No items associated with the use would be stored outside and the yards would not be used for outdoor play. For outdoor play the applicant proposes to take the children to either the Deanwood or Watts recreation centers.

- (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;*

As an expanded child development center, the applicant would not make use of any equipment or process that would result in electrical interferences, consistent with how the center currently operates.

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

The use, an expanded child development center, would not result in noxious odors, vibrations, glare or fumes detectable outside the home.

- (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;*

The use would take place within the dwelling only and would not be exceed a level of noise normally occurring within a residential neighborhood.

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

The home occupation would not possess any vehicles but would utilize two Uber vehicles when transporting the children to and from a recreation center.

- (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;*

Not applicable.

- (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;*

Not applicable.

- (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*

The expanded child development center would be the only home occupation proposed to be operated in the dwelling unit.

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

No changes to the exterior of the building or the lot are proposed.

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;*

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

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

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

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

The applicant proposes one flush-mounted non-illuminated sign no more than 144 square feet in area, stating only the name and type of business.

#### **IV. COMMENTS OF OTHER DISTRICT AGENCIES**

DDOT submitted a report stating that it has no objections to the application. (Exhibit 36)

No other comments were received from other District agencies as of the filing of this report.

## V. COMMUNITY COMMENTS TO DATE

Eight letters were submitted to the file in support of the application. (Exhibit 35)

As of the date of this report, no comments from ANC 7C had been submitted to the record.

Location Map

