

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12811, of Matyas Hunyadi, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the parking requirements (Sub-section 7202.1) to use the first, second and third floors of the subject premises as a day nursery preschool for sixty children and eight teachers in the C-4 District at the premises 1400 L Street, N.W., (Square 217, Lot 38).

HEARING DATE: November 22, 1978

DECISION DATE: November 22, 1978 (Bench decision)

FINDINGS OF FACT:

1. The subject property is located on the southwest corner of 14th and L Streets, N.W., and is known as 1400 L Street, N.W. It is in a C-4 District.
2. The subject site is 1,755 square feet in area and improved with a four story Victorian style residential building. The building, which has an approximate gross floor area of 4,800 square feet, has frontages on both 14th Street and L Street and occupies nearly one hundred percent of the lot. The first floor of the building on the 14th Street side consists of a women's clothing store and an adult bookstore. The upper floors where the proposed use will be located, front on L Street and have access by way of a stairway. Except for the stores on the street floor, the building is presently vacant other than one room which is occupied by the owner.
3. The subject site is one block south of Thomas Circle in an area whose use is predominantly devoted to offices. Other surrounding uses include restaurants, five parking lots, the McPherson Square Park and a variety of commercial uses which are aimed at serving the city-wide employment sector. A day care center operated by the United Planning Organization is across from the subject site on 14th Street.
4. The immediate and surrounding areas of the site at present are characterized as a red-light district. Prostitution is not limited to the evening and night hours.

5. The applicant, on behalf of Child's Play, proposes to operate a day care center for sixty children, ages two to five years, served by eight teachers and one director. The center will operate generally from 7:45 a.m. to 6:15 p.m. on weekdays. It is proposed that the children will be grouped according to age among the three floors of the building.

6. The children, for play activities, will be conducted to the nearby McPherson Square Park. Play activities will be scheduled to avoid the lunch hour use of the park by the working adult population.

7. The interior parts of the building will be converted to comply with the building and fire code requirements.

8. The proposed use would be permitted as a matter-of-right in the C-4 District if variances from the parking requirement were not requested.

9. Under the Zoning Regulations, three off-street parking spaces are required. None are provided since the building occupies nearly one hundred per cent of the lot. The proposed use is one of very few uses in the C-4 District which require any parking.

10. On street parking for other than short periods is prohibited by police regulations. There are five commercial parking lots nearby to serve the employees who choose to travel to the site by automobile.

11. It is anticipated that at least five of the staff will use public transportation to and from the proposed school.

12. The Municipal Planning Office, by report dated November 17, 1978, recommended that the application be approved on the grounds that the grant of the variance relief from the parking requirements would not adversely affect the area or intent and purposes of the C-4 District. The Board so finds.

13. The Government of the District of Columbia Dept. of Human Resources, by letter of November 14, 1978, stated that the applicant had been apprised of the necessary corrections to make in the premises in order to bring the facility into compliance with Regulations 74-34, Child Development Facilities Regulations and if said corrections were made at the time of final inspection the Department would not hesitate in issuing a license to the applicant to operate the premises as a child development center.

14. Advisory Neighborhood Commission 2C, filed no recommendation on the application.

15. There was no opposition to the application either on file or at the public hearing.

16. The applicant is fully aware of the undesirable kind of activities that occur in the immediate and surrounding areas of the proposed school. As required by the Department of Licenses a fence for security reasons shall surround that entire school building. The applicant proposes that the children when using the park play area will be conducted thereto in small groups and supervised. The students will not enter or exit on 14th Street. The basic school program is centered indoors and removed from any undesirable activities on the streets. The Board cannot dictate morality. It will determine the merits of an application based on the Zoning Regulations. However, it approves the awareness of the applicant and favors whatever precautions it takes in protecting the young students.

CONCLUSIONS OF LAW AND OPINION:

The applicant is seeking an area variance, the granting of which requires a showing of a practical difficulty stemming from the property itself. The Board finds that the subject premises occupies nearly 100 per cent of its lot. Accordingly, it is impossible for the applicant to provide the parking on the subject lot. The Board concludes that the practical difficulty is inherent in the property.

The Board notes that there are five parking lots in the immediate vicinity of the subject premises. The Board further notes that five of the staff of the proposed school will use public transportation. The Board further concludes that for all the aforementioned reasons the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

Accordingly, it is ORDERED that the application is GRANTED subject to the following CONDITIONS:

1. There shall be no entrance or exit for students on 14th Street.
2. The applicant shall erect a six foot wrought iron fence on the property line surrounding the building.

