

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13070 of Amazing Life Games Pre-school Inc., pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to use the second floor of the subject premises as an elementary school for sixteen children, ages six to eight years, one full time teacher and one assistant and for a variance from the parking requirements (Sub-section 7202.1) in an R-5-B District at the premises 1844 Mintwood Place, N.W., (Square 2549, Lot 176).

HEARING DATE: October 24, 1979
DECISION DATE: November 7, 1979

FINDINGS OF FACT:

1. The subject property is located on the south side of Mintwood Place just west of Columbia Road, N.W. and is known as 1844 Mintwood Place, N.W. It is in an R-5-B District.

2. The subject site is improved with a semi-detached dwelling of brick construction. The dwelling consists of three stories and a basement. There is a screen porch addition on the rear of the premises. Mintwood Place at this location is one-way travelling west. There are restrictive neighborhood parking signs posted in this area.

3. To the north of the site is Mintwood Place, followed by row dwellings in the R-5-B District. To the east, abutting the subject site is the Visiting Nurse Association building, followed by apartment houses in the R-5-B District. To the south is the Kalorama Park grounds and to the west is the side yard and driveway of an apartment house, followed by row dwellings in the R-5-B and R-5-C Districts.

4. The subject improvements were built in 1900. A Certificate of Occupancy, No. B-102147, was issued May 25, 1977 for the use of the first floor of the subject premises as a pre-school consisting of twenty children and three teachers.

5. The applicant proposes to use the second floor of the subject premises as an elementary school for sixteen children, ages six to eight years, with one full time teacher and one assistant.

6. The hours of operation of the school will be from 9:00 a.m. to 3:00 p.m., Monday through Friday.

7. The Co-director of the school lives at the subject premises.

8. The majority of the children who attend the school come from the immediate and neighboring areas.

9. There will be no articles of commerce for sale on the subject premises.

10. Kalorama Park, which is directly south of the subject property, will be used for outdoor activities for the subject school.

11. The Zoning Regulations require that the school provide one off-street parking space for its teachers. There is no off-street space provided on-site. The applicant is seeking a variance from the parking requirements.

12. In order to support the grant of a variance from the off-street parking requirements, there must be a showing of practical difficulty or hardship upon the owner of the property due to reasons relating to the peculiar physical characteristics of the site, and a showing that the variance if granted, would not cause substantial detriment to the public good.

13. There is no manner in which the site could accommodate the required parking space. The subject premises' frontage on Mintwood Place extends from side lot line to side lot line, leaving no room for a driveway to the rear yard of the site where there is sufficient room for a nine by nineteen feet space if access could be achieved.

14. There is no alley access to the rear of the site.

15. The subject property has twenty-two feet of frontage on Mintwood Place, with the width of the lot narrowing down to a rear lot line width of 14.30 feet.

16. The applicant testified that two of the teachers walk to the school from their home in the nearby community while the other two staff persons take the bus to the site.

17. The applicant has arranged to provide two parking spaces for the exclusive use of the school staff. One is located at 1837 Mintwood Place and the other at 1850 Mintwood Place.

18. The Office of Planning and Development, by report dated October 19, 1979, recommended that the application be approved. It reported as follows:

"The OPD is of the opinion that the special exception to allow a pre-school for sixteen children and two teachers and variance relief from having to provide one off-street parking space will not cause substantial detriment to the public good. The OPD notes the practical difficulty upon the owner resulting from the lot's vehicular inaccessibility from a rear alley or Mintwood Place. The OPD further recognizes the methods of teacher transportation to the site and believes it to be a satisfactory alternative to automobile transportation. The OPD is of the view that the proposed use is not likely to become objectionable because of noise, traffic or number of students if this application is granted. In conclusion the OPD recommends that this application be approved as it will not substantially impair the intent, purpose and integrity of the Zoning Regulations and Map."

The Board so finds.

19. ANC-1C recommended that the application be approved. The ANC reported as follows:

"The Adams Morgan ANC-1C, by unanimous voted, adopted the following resolution: "TO SUPPORT THE AMAZING LIFE GAMES APPLICATION BEFORE THE BOARD OF ZONING ADJUSTMENT TO EXPAND ITS SCHOOL FACILITIES TO THE SECOND FLOOR ON MINTWOOD PLACE, N.W., SUBJECT TO ANY CONDITIONS BY THE SINGLE MEMBER DISTRICT COMMISSIONER FROM THE AREA."

While the Commission arrived at a position of support for the application, it was felt important to assure the neighborhood that there would be future review of this use as a contingency against a change in the school's situation.

Our position, taken after full review of 3101.42, is related to the following considerations:

1. This is not a new proposed use, but rather a modest extension of an ongoing school. The school came to the house in 1971, replacing an earlier school which had been established in the 1960's. There is no displacement of residents, therefore, or additional diminution of housing units.

2. The parking does not appear to be a problem. While 3 spaces are required, the school has made arrangements for leased space next door, for free space across the street in the rear of a parent-of-enrollee's house, and at least one staff member lives very nearby and is not in need of parking. The site makes it physically impossible to provide additional parking. The present staff is not dependent on automobile travel.

3. There are no problems of traffic congestion. The street is not an arterial street designed for traffic flow, but rather a one block street designed for local traffic. Embarking and disembarking of passengers does not tie up traffic. When a car double-parks, the effect is minimal, in part because the street is a one-way street.

4. Kalorama Park, which backs up onto the row-house-school, provides very good playground space for both pre-schoolers and school aged children, since much of the park is designed for this age group. The park is directly accessible to the school through the back gate, with no alley or street in between.

5. There have been no complaints of noise "or other conditions" by neighbors in the vicinity, and there appears to be no opposition to the school on the block in which it is located. Several neighbors, however, indicated that they were unhappy with the previous school and expressed concern that this school could change in the future. The school is widely supported in the community.

6. The proposed number of students should not be a problem, although a large number of students in such a constricted rowhouse could pose problems for the neighbors.

7. The school is essentially a neighborhood facility. Approximately eighty percent (80%) of the students are from the immediate neighborhood. Spanish classes are held there, as are community meetings. It is the fact that it has a strong neighborhood orientation that assures its strong support in the community.

We urge the BZA to grant this special exception for usage of the second floor as an elementary school for sixteen children, with a limit on the number of children set at approximately 30 (including the fourteen or fifteen preschool children). The special exception should be granted for a five year period, so that the community will have opportunity to assess the situation within a reasonable period of time. In addition, we support the parking variance, on the condition that at least one space be procured off-site and off-street.

20. The Board is required to give "great weight" to the issues and concerns expressed by the ANC. The Board concurs with the ANC testimony so much as that testimony pertains to the subject application. The Board finds that with the conditions hereinafter imposed upon the grant of this application it will have given the ANC "great weight".

21. Two neighbors whose children attend the pre-school testified in favor of the school's new proposal for an elementary school. A petition containing some fifteen signatures from neighbors in favor of the application was filed in the record.

22. The Kalorama Citizens Association, by letters of October 17 and 23, 1979 recommended that the application be approved. It found that a good relationship existed between the school and its neighbors and there was an apparent lack of objectives by the immediate neighborhood. It further stated that because of the possibility that the school may change at some point in the future and become less oriented to families in the immediate neighborhood that the Board limit the special exception for a period of five years with a further limitation on the number of students.

23. There was no opposition to the application,

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant has substantially complied with the requirements of Paragraph 3101.42 of the Zoning Regulations and that the special exception, as conditioned below, can be granted as in harmony with intent and purpose of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

As to the variance from the parking requirements of the Zoning Regulations the Board concludes that this is an area variance the granting of which requires a showing of a practical difficulty stemming from the property itself. Based on findings Nos. 13 and 14 the Board concludes that the practical difficulty is inherent on the property. The Board also notes finding No. 17 wherein the applicant has made arrangements for off-street parking. The Board concludes that 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 in its entirety SUBJECT to the following CONDITIONS:

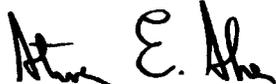
1. Approval of this application is limited to a facility operated by Mr. Martin Dutcher.
2. Approval shall be for a period of TWO YEARS.
3. There shall be a maximum enrollment of sixteen children, ages six to eight, one full-time teacher and one assistant.
4. The hours of operation shall be from 8:00 a.m. to 6:00 p.m., Monday through Friday.
5. The school shall be limited to the first and second floors of the building.
6. The third floor of the building shall be used as a residence.
7. One parking space located at 1837 Mintwood Place and one parking space located at 1850 Mintwood Place shall be provided for the exclusive use of the staff of the school as long as the school is in existence.

Application No. 13070
Page 7

VOTE: 3-0 (Walter B. Lewis, William F. McIntosh, Leonard L. McCants to grant, Charles Norris and Chloethiel Woodard Smith not voting, not having heard the case.)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 11 FEB 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.