GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13209, of Mt. Zion Pentecostal Church, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the parking requirements (Sub-section 7202.1) and the play area requirements (Sub-paragraph 3104.342) to use the basement, first and second floors of the subject premises as a day care center consisting of forty-eight children, ages two through six years, and four teachers in an R-5-C District at the premises 1241 - 12th Street, N.W., (Square 314, Lot 21).

HEARING DATES: June 18 and July 16, 1980
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject property is located on the east side of 12th Street between M and N Streets, N.W., and is known as 1241 - 12th Street, N.W. It is in an R-5-C District.

2. The subject site is 19.70 feet wide and 94.0 feet deep. It is improved with a two story, attic and basement semi-detached dwelling and a one car garage in the rear of the property. To the rear of the dwelling is a 12.16 foot wide public alley. Directly north of the site is the applicant's church.

3. The application was advertised to use the subject premises as a day care center consisting of forty-eight children and four teachers. At the public hearing the Board granted the applicant permission to reduce the number of children to a maximum of thirty and the number of teachers to two, plus two teacher aides.

4. The subject site was purchased by the applicant church two years ago. It had formerly been used as a residence of a doctor. The Church had no immediate plans for the dwelling when it purchased the building. In late 1979 the idea of a day care center was suggested to the trustees of the church.

5. It is tentatively proposed that the hours of operation of the center will be from 6:00 a.m. to 6:00 p.m. The ages of the children will be from two to six years. The purpose of the center is to give mothers an opportunity to work while their young children are being cared for at the center.

6. The children will be reached through advertisement. The enrollment may or may not be limited to the immediate neighborhood.

7. The subject property has one on-site parking space. The church grounds have none. Under the Zoning Regulations two on-site parking spaces are required. A variance of one parking space is thus required. The Center will provide no transportation for the children. The children will be dropped off on 12th Street or in the public alley to the rear of the center.

8. No director of the program at the center has yet been selected. The staff is still to be assembled.

9. The center is required under the Zoning Regulations to provide 100 square feet of play area per child. The applicant can provide 2,371 square feet, thus requiring a variance of 629 square feet. The play area includes house and church yard as well as the lower auditorium of the church. Not all of the play space is proposed to be provided on the same lot as the proposed center.

10. The applicant, although requested by the Board, did not provide a break down for the total 2,371 square feet of play area. If the yard area is used, then the yard area cannot be used as a parking space. No program was developed as yet to show what areas the children would use for eating, sleeping and playing and whether the subject property could provide such facilities.

11. There was no opposition to the application at the public hearing. There was a letter of record objecting to the application on the following grounds:

> "While Mt. Zion Church is a good neighbor and a neighborhood asset, the absence of parking and certain neighborhood conditions described below would combine to make the proposed day care center dangerous.
>
> Twelfth Street is very heavily travelled during the evening rush hour, seemingly carrying more outbound traffic than either 11th or 13th. Parents stopping to pick-up children will create, inevitably, serious bottlenecks and risks of accidents. While parking, and standing there are prohibited, parents will park to pick-up children. That is the nature of a day care center. Alternatively, they will park in the alley behind the church and center, obstructing it. The application should not be approved unless some method is found to allow drop-off and pick-up without parking.

> There is also an intolerable drug traffic situation at 12th and N, on the front steps of the proposed center and church. Almost every evening, at least two meen will be at the curb waving down motorists while offering marijuana and/or illicit drugs for sale. The existence of this traffic is known to the police department, but it has been going on openly for the two years I have lived here. No day care center should be allowed in that location until the City has cleared the drug operations from in front of it and assured that the intersection will be kept free of pushers.
>
> I would not object if the two conditions - parking and drugs - were corrected. Both conditions pose risks to the children in the small house, their parents, the staff, and neighbors."

12. The Board requested the applicant to address itself to the issues of automobile traffic, play area and the drug traffic. A further hearing was scheduled on these issues on July 16, 1980. The record was left open for the applicant to supplement the record prior to the Board's decision on September 3, 1980. The Board finds that no substantive program was evidenced in the record from the applicant to meet the concerns expressed above.

13. Advisory Neighborhood Commission - 2C made no recommendation on the application. Single Member District ANC2C01 by letter of April 2, 1980 recommended that the application be GRANTED. The Board is required by statute to give great weight to the issues and concerns of the ANC when the recommendation is in writing and is the recommendation of the ANC itself, not a single member district.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing of a practical difficulty inherent in the property itself. The variances arise from the size of the proposed facility, which appears to be too large for the subject site. The Board finds that the applicant has not met the burden of proof. Little probative evidence is contained in the record to sustain the granting of the relief sought. The Board finds that the proposed use appears to be premature since no adequate program for the center has yet been promulgated. The director and staff have still to be appointed. The concerns of traffic, play area and drug traffic have not been addressed. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 3-1 (Walter B. Lewis, Connie Fortune and Charles R. Norris to DENY; William F. McIntosh OPPOSED by PROXY; Leonard L. McCants not present, not voting).

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

ATTESTED BY: _____
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 31 OCT 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."