

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13244, of Delores T. Conrad, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to continue the operation of a day care center in an R-2 District at the premises 3940 Pennsylvania Avenue, S.E. (Square 5520, Lot 11).

HEARING DATE: June 11, 1980

DECISION DATE: June 11, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the north side of Pennsylvania Avenue between Fort Davis Street and 40th Street, S.E. and is known as 3940 Pennsylvania Avenue, S.E. It is in an R-2 District.
2. The subject site is 5,250 square feet in area and is improved with a two story and basement single family dwelling. The basement had previously been used as a dental's office. There is a garage.
3. The subject day care center was first established by BZA Order No. 10643, dated March 11, 1971. Its continuance has subsequently been approved by the BZA for three years terms.
4. The day care center accommodates thirty children, ages two through four, from 6:30 a.m. to 6:30 p.m., Monday through Friday. The children reside within walking distance of the site. The staff consists of five teachers and one teacher's aide.
5. Three of the teachers use cars to reach the center. The applicant testified that there was ample parking space in front of the site. There are no residential parking permits in existence in the subject neighborhood.
6. No articles of commerce are for sale on the site.
7. The applicant testified that she has received no complaints as to the operation of the school.

8. There was one letter, of record, in opposition to the application on the grounds that the subject center was big business in a residential zone and that its existence created parking problems in the neighborhood. In addressing these concerns, the Board finds that the relief sought by the applicant is through a special exception. It is sufficient that the applicant comply with the requirements of Paragraph 3101.41 of the Zoning Regulations to grant the application. The applicant need not establish that the site could or should be used for residential purposes. In reference to the traffic issue, the Board does not find the allegations persuasive in light of the sworn testimony at the public hearing.

9. Advisory Neighborhood Commission - 7B made no recommendation on the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing that the applicant has complied with the requirements of Paragraph 3101.41 of the Zoning Regulations. The Board concludes that there is substantial compliance in that the relief requested is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students or other objectionable conditions and that the proposed use is reasonably necessary or convenient to the neighborhood which it is proposed to serve. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of THREE YEARS.
2. Approval shall be limited to a school to be operated by this applicant only.
3. There shall be a maximum enrollment of thirty children.
4. The hours of operation shall not exceed from 6:30 a.m. to 6:30 p.m.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, William F. McIntosh and Leonard L. McCants to GRANT; Ruby B. McZier not present, not voting).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 25 AUG 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.