

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13322 of the Holy Communion Episcopal Church, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use the first floor of the subject premises as a pre-school to be operated by the D.C. Society for Crippled Children, Inc. for thirty handicapped children, fifteen children each session, and nine staff members providing educational and therapeutic services and for a variance from the parking requirements (Sub-section 7202.1) in an R-2 District at the premises 3640 Martin Luther King, Jr. Avenue, S.E., (Square 6090, Lot 810).

HEARING DATE: July 30, 1980
DECISION DATE: July 30, 1980 (Bench Decision)

FINDINGS OF FACT:

1. At its public meeting held on July 2, 1980, the Board determined to advance this application on the calendar for hearing, and to advertise the matter for hearing with less than the thirty day's notice normally provided to Advisory Neighborhood Commission 8D. Such publication is authorized by Section 1-171 i (b) of the D.C. Code. As grounds therefore, the Board cited the significant public purpose to be served, the significant public support already contained in the record of the case and a desire not to penalize the applicant for an administrative error made in the Zoning Review Branch. The Board further noted that Advisory Neighborhood Commission 8D, by letter dated July 1, 1980, waived the thirty-day notice requirement.

2. The subject property is located on the north side of Upsal Street, S.E. and is known as 3640 Martin Luther King Jr. Avenue, S.E. It is located in an R-2 District.

3. The site is developed with a church and an inter-connected educational wing. The D.C. Society for Crippled Children, Inc. proposes to establish a pre-school for thirty handicapped children in the educational wing of the church.

4. The staff, including full and part-time persons, will number nine.

5. The D.C. Society for Crippled Children offers a multi-disciplinary program and will utilize the premises as follows: (1) three large rooms will be used for classroom and therapy use, (2) a large meeting room and (3) a large kitchen to serve meals to the children. The lot will serve as play area for the children and the entire church is accessible to the handicapped.

6. The school will serve primarily those children from the Southeast Washington community. Approximately thirteen children will be from the immediate area.

7. The school will provide bus transportation to and from school each day. Thirty children will be brought into the half-day program, fifteen each session. The morning session is from 8:45 a.m. to 11:15 a.m. The afternoon session is from 12:30 p.m. to 3:00 p.m. The facility will operate Monday through Friday.

8. Under the Zoning Regulations the applicant is required to provide six on site parking spaces. The applicant seeks a variance from this requirement on the grounds that the existing church occupies most of the land site and that in meeting the zoning requirement of 1,500 square feet of play area on the site there is no room for on-site parking.

9. The applicant submitted a parking survey evidencing that there is ample on-site parking in the immediate area of the subject property.

10. The subject facility will have no articles of commerce for sale.

11. The subject property provides, indoors and outdoors, 100 square feet of play area for each child per session.

12. There was a petition, of record, of some sixty signatures in favor of the application. There were numerous letters, of record, extolling the work of the D.C. Society for Crippled Children, Inc. and for the need of the proposed services. Councilmember Wilhelmina J. Rolark recommended the Board's approval of the application.

13. There was no opposition at the public hearing, or of record, to the application.

14. Advisory Neighborhood Commission 8D recommended an expedited hearing of the application.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant is seeking a special exception and a variance. As to the special exception the Board concludes that the applicant has complied with the requirements of Paragraph 3101.41 of the Zoning Regulations. Also the proposed pre-school is not likely to become objectionable to adjoining and nearby properties because of noise, traffic, number of students or other objectionable conditions. The Board

concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations.

As to the variance the Board concludes that this is an area variance the granting of which requires a showing of a practical difficulty inherent in the property itself. The Board concludes that the subject church occupies most of the site and the remaining area will serve as play space for the children. The Board also notes the existence of on-street parking spaces in the immediate area. The Board further 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 shall be limited to a pre-school to be operated by the D.C. Society for Crippled Children, Inc.
2. There shall be a maximum enrollment of thirty children, fifteen children each at one morning and one afternoon session and nine staff members, including full and part-time persons.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, William F. McIntosh and Leonard L. McCants to grant, Walter B. Lewis not present, not voting).

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

ATTESTED BY: Steven E. Sheroff
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.