

twenty children, and is served by a director, teacher and one aid. While the Zoning Regulations permit such use as a matter-of-right subject to two conditions, no certificate of occupancy for the day care center use could be found. The center is licensed by the Department of Human Services. The center may have been started at a time when the Zoning Administrator would permit such a use as accessory to a church and not require a separate certificate of occupancy. The center now should have a separate certificate of occupancy.

7. The applicant Church now proposes to establish an elementary school for grades one and two. The school would be run by the Church, and would have an enrollment of twenty children, to be taught by one teacher and two aides.

8. The school would operate from 9:00 A.M. to 3:15 P.M., Monday through Friday. The school would operate in a large classroom located in the basement of the building. It would not conflict with the day care center, which operates primarily on the first floor. Since the school is to be operated and directed by the same person, the activities in the building can be scheduled so that facilities are shared and activities do not conflict.

9. There is a fenced in area located to the south of the building adjacent to a fifteen foot public alley and toward the 13th Street side of the lot that is used for play area. Its distance from adjoining residences tends to minimize any adverse impact due to noise.

10. The applicant is required to provide two off-street parking spaces. Four spaces can be provided at the south side of the lot adjacent to the public alley.

11. There is likely to be no adverse impact due to parking or traffic. Students will be dropped off and picked up on the Farragut Street side of the building, so as not to impede traffic on 13th Street, which is a commuter traffic artery. Parking is generally freely available on surrounding streets. The staff of both the day care center and proposed school live in the neighborhood and can walk. The size of the school, at only twenty students, is so small as to result in no negligible increase in traffic.

12. The Office of Planning and Development, by memorandum dated October 22, 1981 and by testimony at the hearing, recommended that the application be approved. The OPD reported that the addition of the proposed school to the Church and day care activities already on the site will not overcrowd the site or cause adverse impacts on the surrounding properties. The OPD advised that the outdoor play area is so located that noise will not adversely impact on adjoining residences. The OPD advised that due to the

location of the school, the nature of enrollment and the use of Farragut Street for pick-up and drop-off, the school should not measurably change the traffic situation in the area. The Board concurs with the findings and recommendation of the OPD.

13. There is a petition in the record in support of the application signed by residents of Emerson, Farragut and 13th Streets in the vicinity of the subject site. The signers of the petition did "not feel that the operation of such a school will create any traffic congestion or objectionable noises that would be distracting to the people of the neighborhood."

14. There was no report from Advisory Neighborhood Commission 4C on the application. The Single Member District Commissioner from ANC 4C02 submitted a letter supporting the application as an asset to the community.

15. There was no opposition to the application at the hearing or in the record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such an exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 3101.42 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The noise and traffic that the twenty students and associated staff would generate will not adversely effect adjoining property. Adequate parking spaces to meet the requirements of the Zoning Regulations is provided on-site, and additional on-street parking is available in the neighborhood if needed.

The Board notes that the applicant is operating a day care center in the subject premises. There is no certificate of occupancy on record authorizing such use, even though the center is licensed and is normally permitted as a matter-of-right in an R-4 District. The Board is aware that the use was probably instituted at a time when the Zoning Administrator may have ruled that a separate Certificate of Occupancy for a church-operated day care center was not necessary. Current interretation of the regulations would require that a seperate certificate of occupancy be obtained for the day care center. The applicant is directed to apply to the Department of Licenses, Investigation and Inspection for a certificate of occupancy to operate the day care center on the subject premises.

The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The use shall be limited to twenty students, one teacher and two aides.
2. The hours of operation shall not exceed from 9:00 A.M. to 3:15 P.M.
3. Approval shall be limited to a period of THREE YEARS from the date of this Order.
4. Approval shall be limited to operation of the private school by the Maranatha Gospel Hall.

VOTE:5-0 (Walter B. Lewis, William F. McIntosh, Douglas J. Patton, Connie Fortune and Charles R. Norris to GRANT).

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

ATTESTED BY: 
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAY 24 1982

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.