

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13869, of Church of Jesus Christ, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use the first floor and basement of the subject premises as a pre-school consisting of twenty-four children, two teachers and two aides in an R-1-B District at the premises 3458 Pennsylvania Avenue, S.E., (Square 5528, Lot 813).

HEARING DATE: November 17, 1982
DECISION DATE: December 1, 1982

FINDINGS OF FACT:

1. The application was originally filed on August 19, 1982, and requested a special exception under Paragraph 3101.41 to operate a private school serving a pre-school group. On October 18, 1982, the Zoning Commission adopted Order No. 377, amending the Zoning Regulations concerning the location of child development centers. That order became effective on November 5, 1982. The order deleted the then existing Paragraph 3101.41 and replaced it with a new Paragraph 3101.41 for child development centers. The subject application must be judged in accordance with the standards of the new regulations.

2. The subject property is located on the northwest corner of the intersection of Pennsylvania Avenue and 38th Street, S.E. and is known as 3458 Pennsylvania Avenue, S.E. It is zoned R-1-B.

3. The subject property is improved with a two-story plus basement brick single family dwelling which serves as a parish house for the Church of Jesus Christ which is located at 3456 Pennsylvania Avenue, S.E.

4. The applicant proposes to operate a pre-school for twenty-four children, ages two to five years, on the first floor and basement level of the premises. The applicant proposes to employ two teachers and two aides.

5. The property abuts the Church of Jesus Christ, which is located to the immediate west. There are single family dwellings to the north and northeast. To the east is 38th Street, a one-way, southbound local street. Fort Davis Park is located to the east across 38th Street and to the south across Pennsylvania Avenue.

6. The applicant testified that the facility is located so as not to create any objectionable traffic conditions or unsafe conditions for the dropping-off and picking-up of the children. Parents will be instructed to enter the driveway of the church off of Pennsylvania Avenue, park in the Church parking lot and escort the children to the rear door of the facility. Vehicular exit is to be via 38th Street. The proposed circulation plan is marked as Exhibit Nos. 31A and B of the record.

7. Two parking spaces located on the Church's parking lot have been reserved for the exclusive use of teachers, employees and visitors to the facility.

8. The applicant proposes to use the rear yard of the subject premises as play area for the students. The rear yard is approximately 2,500 square feet in area and is enclosed with a three and one-half foot high chain link fence. The applicant testified further that all twenty-five children will not utilize the play area at the same time and that all play groups will be supervised at all times. The play area is separated from the nearest residence to the north, 1801 38th Street, by a driveway and abuts church property to the west and 38th Street to the east.

9. The applicant does not intend to use any off-site play area.

10. There are no other child development centers located in the same square as the subject premises nor within 1,000 feet of the subject site.

11. The application was referred to the D.C. Department of Human Services, D.C. Department of Transportation and the D.C. Office of Planning and Development for review.

12. By memorandum dated November 19, 1982, the D.C. Department of Human Services indicated that, upon correction of certain deficiencies, the facility will be able to meet all the licensing requirements set forth in the Child Development Facilities Regulation 74-34 and D.C. Law 2-98. The Board so finds.

13. By memorandum dated November 23, 1982, the D.C. Department of Transportation indicated that the Department has no objection to the proposed facility because the facility can provide sufficient off-street parking and will not create a negative impact on the area's traffic flow. The Board so finds.

14. By memorandum dated November 9, 1982, the Office of Planning and Development recommended that the application be conditionally approved. It was OPD's opinion that the application meets the requirements of Paragraph 3101.41 and

Sub-section 8207.2. The OPD recommended that approval be limited to three years to allow the Board to monitor the facility's impact on the neighborhood, that any signs used to advertise the facility be limited to 144 square inches in size, and that all twenty-five students not be allowed to use the outdoor play area at the same time to minimize noise impacts on nearby residential properties. The Board concurs with the findings of the OPD.

15. Advisory Neighborhood Commission 7B, by letter dated October 15, 1982, supported the application for a two year period provided that the reservations expressed by adjoining neighbors as to noise and trash be addressed. The Board notes that no such reservations were expressed to the Board at the hearing or in the record. As to the two-year period, the Board finds that a three year period, as recommended by the OPD, provides a better time frame to monitor and assess the activities of the proposed center.

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 which requires that the applicant prove through substantial evidence that it complies with the requirements of Sub-section 8207.2 and Paragraph 3101.41 of the Zoning Regulations. The Board concludes that the application so complies. The proposed facility is capable of meeting applicable code and licensing requirements. The facility will not create objectionable traffic conditions or unsafe conditions for picking-up or dropping-off children. The facility provides sufficient off-street parking spaces and is so located that it will not have objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other conditions. No off-site play area is proposed. There are no other child development centers in the same square or within 1,000 feet of the facility.

The Board further concludes that approval of the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property in accordance with said regulations and map. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

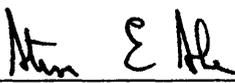
1. Approval shall be limited to a period of THREE YEARS from the date of this Order.
2. Approval shall be limited to operation of the facility by the Noah's Ark Learning Center.

3. There shall be a maximum of twenty-four students, two teachers and two teacher's aides.
4. The hours of operation shall not exceed from 7 A.M. to 6:30 P.M., Monday through Friday.
5. All pick-up and drop-off of students shall occur on the parking lot as shown on Exhibit Nos. 31A and 31B of the record. No pick-up or drop-off shall occur on Pennsylvania Avenue or 38th Street, S.E.
6. The applicant shall comply with all applicable code and licensing requirements.

VOTE: 5-0 (Carrie L. Thornhill, Walter B. Lewis, William F. McIntosh, Douglas J. Patton 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: FEB - 4 1983

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.

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