

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14272 of the First Baptist Church of Deanwood, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 3101.41 to continue to use the basement of the Church for a child development center for seventy-five children, ages two through six years, and eight staff members in the R-2 and C-1 Districts at premises 1008 45th Street, N.E., (Square 5157, Lot 825) and under Sub-section 7205.4 to provide accessory off-street parking on a lot other than that on which the church is located in the R-2 District on the west side of 45th Place, N.E., (Square 5157, Lot 829).

HEARING DATES: April 24 and May 1, 1985

DECISION DATE: May 1, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject application was originally scheduled for the public hearing of April 24, 1985. Due to the length of time required to hear the applications scheduled for the morning session of that public hearing, and because of pending electrical testing in the District Building, the subject case was continued to the public hearing of May 1, 1985.

2. The subject site is located on the north side of Sheriff Road between 45th Place and 45th Street and is known as premises 1008 45th Street, N.E. The property is split-zoned, with C-1 at the southern portion of the property and R-2 at the northern portion of the property.

3. The subject property is currently developed with a large brick church building occupied by the applicant.

4. The applicant currently operates a child development center for seventy-five children with eight staff pursuant to Board Order No. 13114, dated March 17, 1980. The applicant is seeking permission to continue to operate the facility for an unlimited period of time.

5. A child development center is permitted as a matter-of-right in the C-1 District and as a special exception in the R-2 District. The applicant is seeking special exception relief to permit the continuation of the child development center on the R-2 zoned portion of the subject property.

6. Paragraph 3101.41 provides that the Board may approve the requested relief in accordance with the following requirements:

- A. The center shall be capable of meeting all applicable code and licensing requirements.
- B. The center shall be so located and designed as to create no objectionable traffic condition and no unsafe condition for picking-up and dropping-off children.
- C. The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors.
- D. The center, including any outdoor play space provided, is so located and designed that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. The Board may require such special treatment in the way of design, screening of buildings, planting and parking areas, signs or other requirements as it shall deem necessary to protect adjacent and nearby properties.
- E. Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between such play area and the center itself.
- F. The Board may approve more than one child development center in a square or within 1,000 feet of another child development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise operations or other similar factors.
- G. Before taking final action on an application for such use, the Board shall submit the application to the Departments of Consumer and Regulatory (DCRA) Affairs and Public Works and the Office of Planning for review and written reports. The referral to the DCRA shall request advice as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District of Columbia.

7. By memorandum dated February 21, 1985, the Service Facility Regulation Administration of the Department of Consumer and Regulatory Affairs indicated that the subject facility is in compliance with all licensing requirements

set forth in the Child Development Facilities Regulation 74-34 and D.C. Law 2-98.

8. The subject facility is located in the basement of the church building, which contains approximately 5,576 square feet of area.

9. The child development center has a current enrollment of sixty-two children and eight staff members. The applicant does not expect the enrollment to exceed the maximum of seventy-five children set forth in BZA Order No. 13114.

10. The child development center operates from 6:30 A.M. to 6:00 P.M., Monday through Friday.

11. The applicant provides approximately 4,000 square feet of outdoor play area on an adjacent lot owned by the church. Additional outdoor play area is available on the Carver Elementary School playground across 45th Street to the east, from 3:00 P.M. to 5:45 P.M. The children are attended at all times when playing outdoor.

12. There are no other children development centers within 1,000 feet of the subject site.

13. The entrance to the child development center is off of 45th Place. There have been no complaints regarding any adverse impact caused by the pick-up or drop-off of children.

14. The applicant proposes to provide parking for staff and visitors on a large parking lot owned by the applicant and located on the west side of 45th Place, directly across the street from the entrance to the subject child development center. Sub-section 7202.1 requires that the applicant provide two parking spaces.

15. The Board is authorized, pursuant to Sub-section 7205.4, to approve accessory parking spaces located elsewhere than on the lot upon which the building they are intended to serve is located.

16. The parking spaces proposed to be used by the applicant are located on the west side of 45th Place approximately forty feet from the entrance to the subject child development center.

17. The parking area is paved with an all-weather impervious surface, striped and fenced.

18. The church building occupies most of the lot upon which it is located. Therefore, it is not practical to locate the required parking spaces on the same lot as the church.

19. The Department of Public Works, by memorandum dated April 17, 1985, indicated that the continuation of the subject facility would not have a significant effect on the surrounding street system. The DPW recommended that the spaces required for the child development center be clearly marked as reserved for the use of the center's personnel and that the lot meet all applicable requirements of the parking and loading requirements of the Zoning Regulations effective March 1, 1985. The Board concurs with the recommendation of the DPW.

20. The Office of Planning and Advisory Neighborhood Commission 7C made no recommendation on the subject application.

21. There was no opposition to the granting of the requested relief at the public hearing or of record.

22. The record contains several letters from adjacent and nearby property owners in support of the application. The letters indicate that the subject facility serves a community need and has had no adverse impacts on the immediate area as to noise, traffic or other objectionable impacts.

23. In light of the lack of opposition to the application and the satisfactory way in which the center has operated, the Board finds that approval of the application can be for an unlimited period of time if approval is limited to this applicant.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking two special exceptions. In order to be granted such relief, the applicant must demonstrate substantial compliance with the requirements of Paragraph 3101.41 and Sub-section 7205.4. The Board concludes that the applicant so complies. The child development center meets all applicable licensing and code requirements. The facility is so located and designed as to create no objectionable traffic impacts or unsafe condition for dropping off or picking up children. The outdoor play space has had no objectionable impacts on adjacent or nearby properties. Off-site play space is located nearby, across the street to the east. There are no other child development centers within 1,000 feet of the subject site. It is not practical to provide parking on the subject site. The proposed parking is conveniently located across 45th Place to the west.

The Board further concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and map and that it will not tend to affect adversely the use of adjacent on neigh-

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

- A. Approval shall be limited to operation of the facility by the applicant.
- B. The hours of operation shall not exceed from 6:00 A.M. to 6:00 P.M., Monday through Friday.
- C. The number of students shall not exceed seventy-five. The number of staff shall not exceed eight.
- D. Two parking spaces located on Lot 829 in Square 5157 shall be clearly designated as for the exclusive use of the child development center during its hours of operation.

VOTE: 4-0 (Charles R. Norris, Maybelle T. Bennett, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton 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: 29 MAY 1985

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 CONSUMER AND REGULATORY AFFAIRS.

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