

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14481 of First Rock Baptist Church, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to continue to use the basement of the church to operate a child development center for sixty children and eleven staff and for a variance from the on-site parking requirements (Sub-section 7202.1) in an R-2 District at premises 4630 Alabama Avenue, S.E., (Square 5390, Lot 122).

HEARING DATE: September 24, 1986

DECISION DATE: September 24, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The site known as premises 4630 Alabama Avenue, S.E. is located at the southwest corner of the intersection of Alabama Avenue and G Street. It is in a R-2 District.

2. The site is irregularly shaped with a frontage of 116.0 feet along Alabama Avenue and 159.46 feet along G Street. A 16 foot wide public alley is adjacent to the rear of the site. The alley leads out to G Street and Hilltop Terrace.

3. The site is improved with a red brick church building housing the First Rock Baptist Church. The building consists of a modern two-story wing which faces Alabama Avenue connected to an older church building which faces G Street.

4. The R-2 District extends to the east, west and south of the site. An R-5-A District is located to the north of the site.

5. By BZA order No. 13625, dated March 17, 1982, the Board granted the church's application for a special exception under Paragraph 3101.41 to operate a child development center in the basement of the church for sixty children and a variance from the on-site parking requirements (Sub-section 7202.1).

6. The applicant is seeking a special exception and variance under the above sited sections to continue the operation of the child development center.

7. The center has been operated continuously by the applicant since 1982.

8. The center is located in the basement of the newer wing of the church. Access to the basement is from the G Street side of the church.

9. The overall hours of operation for the center are from 6:30 A.M. to 6:00 P.M., Monday through Friday.

10. The center currently has 60 children and eleven staff members (the director, three teachers, five aides, a cook and a custodian).

11. The center operates a pre-school program all day for children between the ages of two and six. The center would also operate a before and after school day care program for children between the ages of six and ten.

12. The center would use a large basement area of the building for indoor play space. That area contains approximately 3,350 square feet, and would be reserved exclusively for use by the day care center during those hours that the center is open. The center would not conflict with other activities of the church.

13. The center would use a large grassed area to the south of the building for outdoor play area. That area is accessible from the building by a door on the south side of the church. The outdoor play area is enclosed on the north side by the church building, on the west by a six foot fence and on the south by a chain link fence on the neighboring property.

14. The center would serve the Benning Heights area, bounded roughly by Ridge Road on the south, Minnesota Avenue on the west, Benning Road on the north and southern Avenue on the east. The enrollment for the center will come primarily from children residing in that neighborhood. With the number of existing children in the area and the need for day care, the center is reasonably necessary and convenient for that neighborhood.

15. The center proposes to operate with 11 staff persons. The Zoning Regulations require that for this number of staff three 9 feet by 19 feet parking spaces be provided on the same site as the child development center. There is no space on the church site to provide for the required parking spaces.

16. Twelve cars can be parked on the curb immediately adjacent to the church. The center has had no difficulty with this parking situation in the past.

17. The Service Facility Regulation Administration (SFRA) in a memorandum dated August 19, 1986, states that when all of the deficiencies have been corrected, the facility (subject church) can meet all licensing requirements of the Child Development Facilities Regulation 74-34 and D.C. Law 2-98.

18. By memorandum date September 17, 1986 the Office of Planning (OP) recommended approval of the application. The OP reported that the facts in this case remain virtually unchanged from those present in the applicant's first appearance before the Board. As such, the Conclusions of Law and Opinion addressing the special exception and variance request are still relevant and valid in the present case. The OP has not found any new evidence which would suggest that the applicant has not operated in strict compliance with the conditions of the previous Board order. The four year time limitation imposed by the Board in 1982 was to enable the Board to assess the impacts of the center and resultant parking demand on the community. OP is of the opinion that the operation of the center over this time period has had marginal effect on the neighborhood and as such recommends that such a limitation be waived from its decision in this case.

19. There was no opposition to the application at the public hearing or of 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 and a variance. In order to be granted such an exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 3101.41 and Sub-section 8207.2 of the Zoning Regulations. Sub-section 3101.41 permits a child development center provided that:

- 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-street 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 D.C. Department of Human Services, D.C. Department of Transportation and the D.C. Office of Planning and Development for review and written reports. The referral to the D.C. Department of Human Service 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.

The center will be capable of meeting all applicable code and licensing requirements. No objectionable traffic conditions will result. The site is so located that the center will have no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. There is sufficient play area on site. There will be no cumulative effects of other centers on the neighborhood due to traffic, noise, operations or other similar factors.

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 will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps.

As to the requested variance from the parking requirements, the Board concludes that such a variance is an area variance, the granting of which requires the showing of an exceptional or extroarding condition of the property which creates a practical difficulty for the owner. The Board concludes that there is no reasonable location on the property to provide legal sized parking spaces to meet the requirements of the Zoning Regulations. The Board further notes that twelve cars can be parked at the curb immediately adjacent to the church. The Board concludes that there is a practical difficulty inherent in the property and the strict application of the Regulations would preclude the operation of what otherwise is a valuable addition to the neighborhood. The Board concludes that the requested variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Operation of the day care center shall be restricted to the applicant.
2. The maximum enrollment of children shall be sixty.

VOTE: 3-0 (Paula L. Jewell, William F. McIntosh, Charles R. Norris, to grant; John G. Parsons and Carrie L. Thornhill not present; not voting).

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

ATTESTED BY: 
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: OCT 28 1986

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."

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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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