

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14493, of Bethany Baptist Church, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 for Star of Bethlehem Church of God in Christ, the contract purchaser, to use the basement through the third floor of the church as a child development center for 150 children, ages 2 through 5 years, and 15 to 17 staff persons in a R-1-B District at premises 5331 Colorado Avenue, N.W., (Square 2716, Lot 84).

HEARING DATE: September 24, 1986
DECISION DATE: November 5, 1986

FINDINGS OF FACT:

1. The application appeared on the preliminary calendar for the public hearing of September 24, 1986, since the applicant did not comply with Rule 302.3 of the Supplemental Rules of Practice and Procedure before the BZA which requires that the property be posted with notice of the hearing at least fifteen days in advance of the hearing. Upon hearing the testimony of the applicant and the opposition, the Board determined that sufficient notice had been given to the public. The Board waived the Rules and the application proceeded on the merits.

2. Initially the applicant was also seeking a variance from the on-site parking requirements. The parking has been provided and this relief is no longer requested.

3. The site is located on the southwest corner of the intersection of Colorado Avenue and 14th Street and is known as premises 5331 Colorado Avenue, N.W. The site is located in a R-1-B District.

4. The site has 181.51 feet of frontage on Colorado Avenue and 289.40 of frontage on 14th Street. The site consists of 21,340 square feet of land area and is developed with a large church building.

5. Surrounding land uses and zone districts include: north and west of the site across Colorado Avenue there are single family dwellings and nonconforming apartment houses in the R-1-B District. South and southeast of the site there are single family dwellings in the R-1-B District. Northeast of the site across 14th Street there is a C-2-A zoned strip of land developed with a Metro bus terminal,

small grocery store and single family dwelling converted to an office. Sixteenth and 14th Streets are classified by the Department of Public Works as principal arterials and collector streets, respectively. Both streets serve as bus routes.

6. Star of Bethlehem Church, the contract purchaser, is requesting special exception approval to operate a child development center on the subject site. The center is proposed to have a maximum enrollment of 150 children ranging from 2 to 5 years old, and 15 and 17 staff members. The applicant expects that 50 and 60 children will start at the center if the application is approved. The hours of operation will be from 6:30 A.M. to 6:30 P.M., Monday through Friday.

7. The D.C. Department of Consumer and Regulatory Affairs, Service Facility Regulations Administration (SFRA) has inspected the subject premises and determined that the church building and site are capable of handling the 150 student enrollment once all of the licensing requirements are satisfied. The pastor of the Church advised that all of the code and screening requirements will be met, including fencing the outside play area.

8. The children will be dropped-off and picked-up in the morning and evening by parents via Colorado Avenue, and the rear alley adjacent to the church parking lot. This arrangement is more desirable from a safety standpoint than using 14th Street. Fourteenth Street carries a high volume of traffic and offers less of an opportunity for curb parking.

9. The Zoning Regulations require that one off-street parking space be provided for every four teachers and other employees. The applicant is required to provide four feet by 19 feet parking spaces for the 15 to 17 staff persons proposed. The church presently has two newly constructed concrete parking spaces on its west side adjacent to the alley. There is additional room on the site at this location to install approximately five more regulation sized spaces. The pastor of the church will pave the area to comply with the Zoning Regulations, thus eliminate the need for the advertised variance.

10. The applicant plans to use a large (3,500 square feet) level and grassed side yard on the south side of the church for its outside play area. This area is well removed from the residential properties to the west and east by a ten foot wide public alley and 14th Street, respectively. The residential property to the south is buffered by dense landscaping along the property line. The applicant intends to fence in the play area in accordance with the licensing requirements. Only small groups of supervised children will

use the play area so as to minimize the noise effects of children at play on nearby properties.

11. Occasionally the children will walk to a nearby park or playground in the neighborhood. In those instances, the children will be escorted by staff members who will supervise crossing streets. Rock Creek Park is two blocks west of the church site.

12. There are no other child development centers located in the same Square or within 1,000 feet of the subject site.

13. The Office of Planning (OP) by memorandum dated September 7, 1986, recommended approval of the application with conditions. It was the opinion of the OP that the applicant had met its burden of proof for the special exception relief. The OP recommended that:

1. The applicant submit plans to the Board of Zoning Adjustment showing the location of the proposed on-site parking spaces; and
2. Only small groups of children be allowed to use the on-site play area at a time to reduce noise impacts on nearby properties. The Board concurs with the reasoning and recommendation of the OP.

14. The Department of Public Works (DPW), by memorandum dated September 7, 1986, reported that the proposed child development center would have a negligible impact on the surrounding street system. The DPW reported that as to the transportation system Colorado Avenue is a 40 foot wide collector street with an average daily traffic (ADT) volume of 3600 vehicles near the site. Parking is unrestricted on the north side of the street with the south side having unrestricted parking except for a small portion of curb space in front of the church which has no parking except on Sunday from 9:00 A.M. until 1:00 P.M. and that 14th Street is a two foot wide minor arterial width and ADT of 14,400 vehicles near the site. Parking is unrestricted on this street. The DPW further reported that the site is well served by the transit system as the 50,52 and 54 Metrobus routes run on 14th Street.

15. The DPW recommended that the parking spaces provided be delineated and marked. The DPW noted the concern of many local residents near the Center that the Center's operation will cause an increase in the demand for parking spaces as Center parents drop-off and pick-up their children. To alleviate this problem the DPW recommended that the Center institute a policy in which Center teachers and/or teacher's aides aid in the discharge and pickup of children. Assigned supervisory adults should be stationed at the entrance of

the Center to escort children to and from waiting cars. Implementing this policy will diminish the need for Center traffic to park and double park on the surrounding local streets and thereby adversely impact the local street system.

16. Advisory Neighborhood Commission (ANC) 4C, by letter dated September 17, 1986, recommended that the application be denied. The ANC reported that the issues in the application which concerned ANC-4C were, first, the large number of children, 150, to be permitted to utilize the child development center and the traffic that would cause. Second, was the parking problem around the church which would be increased by the need for parking by those of the center staff who would not have space on the church parking lot. The ANC voted unanimously in support of the opposition voiced by the residents of the affected area. Discussion indicated that a considerable reduction in the number of children to utilize the center would be less of a traffic problem and would thus be more amenable. The Board does not concur with the recommendation of the ANC.

17. The Board is required by statute to give "great weight" to the issues and concerns of the ANC reduced to a formal written recommendation. The Board notes that at the time of the ANC meeting the applicant had not provided any on-site parking on the site. The Board is also aware that the initial attendance will not be 150 children but sixty. Also, the Board in granting the application will limit the grant to a period of three years so that the BZA and the community can evaluate the traffic impact, if any, on the neighborhood.

18. There was opposition to the application by individual property owners in the immediate area and by community groups. The grounds of the opposition were that there was no need for the proposed facility since it did not serve the neighborhood whose citizens did not have children in the proposed age group; there were already in existence other day care centers; the site location was dangerous for the drop-off and pick-up of the children because of the heavy traffic situation; the proposal would acerbate the existing traffic issue with its many services and its hours of operation and insufficient notice of the proposal to the neighborhood residents.

19. The Board, in responding to the concerns of the opposition, finds that the relief sought under Paragraph 3101.41 of the Zoning Regulations, does not require that there be a need for the day care center in the immediate neighborhood and that the proposal serve that particular neighborhood. The Board also finds that the existence of the proposed center will not produce a cumulative effect of day care facilities, the existence and nature of which the

opposition has failed to establish having an adverse impact on the neighborhood. As to the safety and traffic issues, the Board finds that the grant, as conditioned below, will address these concerns. The Board also notes the contents of the report of the DPW and the lack of any persuasive traffic study submitted by the opposition. Lastly, as to the question of notice, the Board finds that the applicant has met the notice requirements as reflected in the interest generated in this application and the many capable witnesses the opposition produced at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the finds 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 3101.41 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 Public Works and the D.C. Office of Planning 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.

Based on Findings Nos. 7 through 15, the Board concludes that 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 and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps.

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.
2. Operation of the facility shall be limited to the Star of Bethlehem Church of God in Christ.
3. The number of children shall not exceed 150. The number of staff shall not exceed seventeen.
4. The hours of operation shall not exceed from 6:30 A.M. to 6:30 P.M., Monday through Friday.
5. On-site parking shall be provided as shown on the plat marked as Exhibit No. 32A of the record, except that the spaces marked Nos. 1, 2 and 3 shall be eliminated unless approved by the Public Space Committee.
6. Discharge and pick-up of children shall occur along Colorado Avenue and the alley adjacent to the church.

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Paula L. Jewell to grant; John G. Parsons opposed by proxy; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: DEC 4 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."

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.

14493order/LJPO

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14493, of Bethany Baptist Church, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 for Star of Bethlehem Church of God in Christ, the contract purchaser, to use the basement through the third floor of the church as a child development center for 150 children, ages 2 through 5 years, and 15 to 17 staff persons in an R-1-B District at premises 5331 Colorado Avenue, N.W., (Square 2716, Lot 84).

HEARING DATE: September 24, 1986
DECISION DATE: November 5, 1986

DISPOSITION: The Board GRANTED the application with CONDITIONS by a vote of 3-1 (Charles R. Norris, William F. McIntosh, and Paula Jewell to grant; John G. Parsons opposed by proxy; Carrie L. Thornhill not voting, not having heard the case).

FINAL DATE OF ORDER: December 4, 1986

ORDER

By Order dated December 4, 1986, the Board granted permission to operate a child development center for 150 children, ages two through five years, at the subject premises subject to six conditions. By letter dated December 22, 1986, the applicant requested permission to modify its request to include infants ages two months through children five years old. The applicant conducted a survey which indicated that infant child care is in great demand by its prospective clients and requests the modification in order to meet that demand. There was no opposition to the proposed modification of the order.

Upon consideration of the applicant's request, the record in the subject case and its final order, the Board concludes that the proposed modification to the order is minor in nature and does not represent a substantial change to the originally approved facility. The material facts relied upon by the Board relative to the original application are unaffected. No additional zoning relief is required.

It is therefore ORDERED that the requested MODIFICATION is APPROVED and the original order is hereby AMENDED to

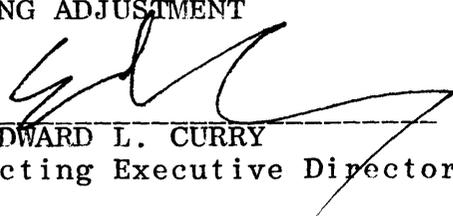
permit a child development for infants aged two months through children aged five years. In all other respects, the order dated December 4, 1986 shall remain in full force and effect.

DECISION DATE: January 7, 1987

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, and Paula L. Jewell to grant; John G. Parsons to grant by proxy; Carrie L. Thornhill not voting not having heard the case).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FEB 6 1987

FINAL DATE OF ORDER: _____

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.

14493order/BJW19