

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15180 of Delores T. Conrad, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to establish a child development center of thirty students, ages 2 to 5 years, five teachers and one aide, on the first and second floors, in an R-2 District at premises 3940 Pennsylvania Avenue, S.E., (Square 5520, Lot 11).

HEARING DATE: November 29, 1989  
DECISION DATE: December 6, 1989

FINDINGS OF FACT:

1. The subject site is located on the north side of Pennsylvania Avenue, S.E. between 40th Street on the east and Fort Davis Street on the west. The site is in an R-2 District and is known as premises 3940 Pennsylvania Avenue, S.E.

2. The subject lot is rectangular in shape. Its dimensions are fifty feet on the north and south sides and 105 feet on the east and west sides. It has an area of approximately 5,250 square feet.

3. The site is improved with a single-family detached residential structure that is currently in use as a child development center. The building is a two-story brick structure with a basement. A one story garage adjoins the subject structure on its west and opens onto the south or front of the site.

4. The subject site has been used as a child development center since March 11, 1971, when the use was established pursuant to BZA Order No. 10643. The continuance of the use has subsequently been approved by the Board in 1974, 1977, 1980 and 1984.

5. There is access to and from the subject site through Pennsylvania Avenue on the south. There is no alley access.

6. The subject square is zoned R-2 and is developed with medium-density residential uses. A two-story apartment building is located adjacent to the subject site on the west, a single-family dwelling is adjacent to the subject site on the east, and semi-detached dwellings adjoin the subject site on its north with their rear yards abutting the rear yard of the subject site.

7. The subject neighborhood is zoned R-2 on the north side of Pennsylvania Avenue, and R-5-A on the south side of Pennsylvania

Avenue. The north side is developed primarily with detached and semi-detached dwellings while the south side is developed with apartment buildings. A C-2-A shopping district is located one block west of the subject site at the intersection of Pennsylvania and Alabama Avenues. West of Alabama Avenue is an R-1-B District. Five major public parks are located within a ten-block radius of the subject site.

8. The subject property is owned by the applicant who uses the entire premises as a child development center known as the "Little People's Paradise Nursery." The subject center has a capacity of thirty children, ages two through five. The hours of operation are from 6:30 A.M. to 6:30 P.M., Monday through Friday. The staff consists of a maximum of five teachers and one teacher's aide.

9. The majority of the children who attend the center reside within walking distance of the subject center. Those who do not walk to the center are transported to and from the center by their parents using automobiles. There is a walkway to guide the children into the center when their parents drop them off on Pennsylvania Avenue. There is adequate curb-side standing area for the safe pick-up and drop-off of children. The majority of the staff travels to and from the center by public transportation. The applicant and one other staff member arrive by car but encounter no traffic or parking problems since they arrive before the rush hour. Parking is permitted on one side or the other of Pennsylvania Avenue at all times.

10. The rear yard of the subject site is used as a play area. The play equipment includes swings, a sliding board, see-saws, a climber, a merry-go-round, benches and picnic tables. The children play in supervised groups of approximately ten at a time. The perimeter of the rear play area is planted with hedges, young trees, honeysuckle and ivy.

11. The applicant has received no complaints from the neighborhood residents. In the applicant's opinion, the center and its operations are very pleasing to the parents, most of whom are local residents. The property is clean and well-maintained. The maintenance work is done by the applicant and her husband, who work in the yard on weekends tending the plantings. The trash is stored in two large steel drums and is removed approximately three times a week by the applicant's husband.

12. The applicant proposes to continue the child development center use for a period of five years or longer, subject to the Board's approval. The existing certificate of occupancy has expired. There would be no changes in the hours of operation or in the number of staff. The maximum enrollment would remain at thirty children.

13. The Board of Zoning Adjustment has the authority to grant a special exception to continue a child development center under Sub-sections 3108.1 and 206 of the D.C. Zoning Regulations provided the center meets the following criteria:

- a. The center shall be capable of meeting all applicable code and licensing requirements.
- b. The center shall be located and designed 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, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise or activity, or visual or other objectionable conditions.
- e. The Board may require 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.
- f. 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 the play area and the center itself.
- g. The Board may approve more than one (1) child development center in a square or within one thousand feet (1,000) 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.

14. The Office of Planning (OP), by memorandum dated November 22, 1989, recommended conditional approval of the application. The OP was of the opinion that the center complies with the criteria set forth in Section 206 and provides an important service to the Fort Davis Community. The OP recommended that approval of the project be conditional as follows:

- a. Approval shall be for a period of five years.
- b. The number of children enrolled shall not exceed 30. The number of staff shall not exceed five teachers and one aide.

- c. Approval shall be limited to the operation of the child development center by this applicant only.
- d. The hours and days of operation shall not exceed 6:30 A.M. to 6:30 P.M., Monday through Friday.
- e. Trash containers shall be stored inside the premises.
- f. At least one parking space should be available on the premises.
- g. The grounds of the facility should be adequately maintained on a regular basis.

15. The D.C. Department of Recreation, by memorandum dated October 26, 1989, and the D.C. Fire Department by memorandum dated November 3, 1989, offered no objection to the subject application.

16. The D.C. Department of Public Works (DPW), by memorandum dated November 9, 1989, was of the opinion that the project does not adversely impact the parking supply in the area. The Department of Public Works was further of the opinion that vehicles dropping off children on Pennsylvania Avenue during the A.M. peak period have a great potential to disrupt the traffic flow. The DPW, therefore, recommended that the applicant encourage their patrons to park on Ft. Davis Street and walk their children to the site during the morning drop-off period.

17. Advisory Neighborhood Commission (ANC) 7B, by letter dated November 25, 1989, recommended that the application be approved with the condition that the applicant correct the items of concern addressed in the "neighbors report to the ANC" marked as Exhibit No. 25B of the record.

18. The record contains no opposition to the granting of the application.

**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 to continue to operate a child development center in an R-2 District. The granting of such a special exception requires a showing through substantial evidence that the proposed use satisfies all requirements of 11 DCMR 3108.1 and 206.

The Board concludes that the applicant has met the burden of proof. The facility is capable of meeting all applicable code and licensing requirements. As hereinafter conditioned there will be objectionable traffic condition and no unsafe condition for the

picking-up and dropping-off of children. The center is so located and designed available curbside space on Ft. Davis Street is available for parents who may park their cars while delivering or picking-up their children. Although on-street parking in the neighborhood is adequate, there is also a garage available on the subject premises. The center and its outdoor play space are 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. No off-site play area is proposed. No other child development center exists within 1,000 feet of the subject center. The application has been submitted to all applicable D.C. agencies and the Board was received positive replies.

The Board further concludes that the requested relief as herein after conditioned will be 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. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS.
2. The applicant shall provide one on-site parking space for the exclusive use of the center in the existing garage.
3. The number of children shall not exceed thirty. The number of staff shall not exceed six.
4. The hours of operation shall not exceed from 6:30 A.M. to 6:30 P.M., Monday through Friday.
5. Trash containers shall be stored inside the premises.
6. All pick-up and drop-off of children shall occur from Ft. Davis Street. The applicant shall direct parents not to stop their vehicles on Pennsylvania Avenue in front of the premises.
7. The center shall be maintained in compliance with all applicable code requirements.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant).

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

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ATTESTED BY:

  
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EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: SEP 10 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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.

15180Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15180

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 10 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Delores T. Conrad  
550 N Street, S.W., #S-901  
Washington, D.C. 20024

Bill O'Field, Chairperson  
Advisory Neighborhood Commission 7-B  
3200 S Street, S.E.  
Washington, D.C. 20020

A handwritten signature in black ink, appearing to read "E. L. Curry", written over a horizontal line.

EDWARD L. CURRY  
Executive Director

DATE: SEP 10 1991

15180/bhs