

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15311 of James Haynes, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to continue to operate and increase a child development center from 45 to 75 children, ages infants to fourteen years and 5 to 12 staff in the basement through the second floors in an R-1-B District at premises 5601 16th Street, N.W., (Square 2721, Lots 47 and 48).

HEARING DATE: JUNE 13, 1990
DECISION DATE: JULY 11, 1990

FINDINGS OF FACT:

1. The site is located at the northeast corner of the intersection of 16th and Longfellow Streets and is known as premises 5601 16th Street, N.W. It is zoned R-1-B.

2. The site is rectangular in shape and is relatively flat. The site contains 8,114 square feet of lot area.

3. The site is currently improved with a large three story plus basement single-family dwelling and a three-car garage.

4. The site abuts 16th Street to the west, Longfellow Street to the south and a fifteen foot wide public alley to the east. To the north is a large single-family dwelling which has been converted to the Tibetan Meditation Center. The surrounding area is generally characterized by large single-family dwellings in the R-1-B District. Two structures in the same square as the subject premises have been converted for church use.

5. The property is currently occupied by a child development center for forty-five children pursuant to BZA Order No. 14593, dated August 11, 1987. The applicant proposes to continue the child development center and to increase the enrollment to seventy-five children, infants to eight years of age.

6. The proposed hours of operation of the facility would be from 7:00 A.M. to 6:00 P. M., Monday through Friday. The fenced-in rear yard will be used for play area. No off-site recreation area will be used. Outdoor play hours will be staggered so that all children will not be outdoors at one time.

7. Access to the subject site is via a public alley to the rear of the site that is accessible from both Madison and Longfellow Streets. The children are dropped off at the property and escorted from the car by a staff person to the enclosed play area. The cars then depart through the alley to Madison or Longfellow Street.

8. Drop-off of children occurs between the hours of 7:00 A.M. and 12:00 noon. Pick-up of children occurs between 2:00 P.M. and 6:00 P.M. The applicant presently encourages carpooling of staff and parents and several children arrive and depart in one vehicle. Several children live nearby and are expected to continue to be walked to the site by their parents. The applicant testified that approximately 45 percent of the children enrolled at the center arrive by carpool, walk to the site, or use public transportation.

9. The subject site is directly accessible to Metrobus routes S-2 and S-4 which serve the 16th Street corridor. There is unrestricted parking on both sides of Longfellow Street except along the northern section on Longfellow Street next to the center, no parking is allowed between the hours of 7:00 A.M. to 9:30 A.M. and 4:00 P.M. to 6:30 P.M. The applicant testified that on-street parking spaces are generally available on Longfellow Street. Three on-site parking spaces are provided in the garage at the rear of the site.

10. There is one child development center located within 1,000 feet of the subject site. The Lowell School is located approximately 600 feet from the subject site. The Lowell School does not provide day care services and operates during different hours than the proposed facility.

11. The play area contains permanent climbing equipment and portable play and sports equipment. The play area is buffered from adjoining properties by a six-foot stockade fence and the garage. Since hours of outdoor play are staggered and the play area is buffered from nearby properties by the fence, the garage, the public alley to the east and Longfellow Street to the south, the proposed facility should not have an adverse impact in terms of noise.

12. The Office of Planning (OP), by memorandum dated June 13, 1990, recommended that the application be approved within the limits and scope of the Board's prior approval in Order No. 14593. The OP was of the opinion that the proposed expanded use for 75 children is excessively intense and likely to impact the character of the area adversely. The Office of Planning was advised by the Service Facility Regulation Administration (SFRA), Department of Consumer and Regulatory Affairs, that the proposed center could provide adequate facilities for 75 children. By correspondence dated April 30, 1990 and May 18, 1990, respectively, the Department of Recreation and the Metropolitan Police Department offered no objection to the application.

13. At its public hearing of June 13, 1990, the Board waived its seven day filing requirement to accept the report of ANC 4A into the record. Advisory Neighborhood Commission (ANC) 4A opposed the granting of the application to permit 75 children and

recommended that the proposed number of students be reduced to sixty children, ages infants to 8 years, with a maximum staff of five. The ANC expressed concern that the maximum increase requested by the applicant could adversely impact the immediate area in terms of traffic and noise. The ANC further expressed concern about the lack of a liaison through which the applicant and the community could address any issues related to the operation of the facility. The ANC noted the need for quality day care in the area and the absence of complaints relative to the operation of the child development center over the past three years.

14. The record contains letters and petitions in support of the application. Several persons testified at the public hearing in support of the application. The support was generally based on the existing quality of service provided by the facility and the continuing need for day care services in the community.

15. The record contains several letters in opposition to the application and several persons appeared at the public hearing in opposition to the application. The opposition was generally based on the following:

- a. The proposed facility is not compatible with the designation of the area for low and moderate density residential use as set forth in the Comprehensive Plan.
- b. The expansion of a non-residential institution is not appropriate for a residential area and there is no need for a day care facility in the area.
- c. The subject site was developed for single-family use and is not large enough to accommodate the proposed operation of a child development center for seventy-five children.
- d. Drop-off and pick-up of children at the site blocks traffic in the public alley at the rear of the site.

16. In addressing the issues and concerns of the ANC and the opposition, the Board finds that the proposed facility is permitted in a residential neighborhood as a special exception provided that the applicant meets the criteria set forth in the Zoning Regulations. The Board is persuaded that the applicant has generally met those criteria and that the facility, as hereinafter conditioned, will not have an adverse impact on the immediate area. The Board notes the absence of complaints regarding the facility during the three year period during which it has been allowed to operate. The Board further notes that it is the responsibility of the Service Facility Regulation Administration of the D.C. Department of Consumer and Regulatory Affairs to determine whether the premises may adequately accommodate the proposed number of children. The Board notes that non-compliance with the conditions

of its approval should be directed to the enforcement branch of the D.C. Department of Consumer and Regulatory Affairs for investigation and resolution.

CONSLUSIONS 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. In order to be granted such an exception, the applicant must demonstrate substantial compliance with the requirements of Sections 206 and 3108.1 of the Zoning Regulations. The Board concludes that the applicant has so complied. The proposed facility is capable of meeting all code and licensing requirements. There will be no adverse cumulative impacts as a result of the location of the Lowell School within 1,000 feet of the subject site. As hereinafter conditioned, the use will not cause adverse effects or unsafe conditions created by traffic, parking, or noise.

The Board concludes that it has given the ANC the "great weight" to which it is entitled. 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 Map and, as hereinafter conditioned, will not tend to affect adversely the use of neighboring property in accordance with said regulations and map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS.
2. The number of children at the facility shall not exceed seventy-five.
3. The applicant shall provide three parking spaces in the on-site garage reserved for the exclusive use of the child development center.
4. The hours of operation shall not exceed from 7:00 A.M. to 6:00 P.M., Monday through Friday.
5. The traffic circulation plan for discharging and boarding of students shall be from Longfellow Street and the public alley to the rear of the site. All children shall be escorted to and from vehicles by staff of the child development center. Staggered hours of arrival and departure and carpooling shall be strongly encouraged. The applicant shall inform all parents in writing of the child development center's policies related to the proposed traffic procedures.
6. The applicant shall meet quarterly with the Advisory

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Neighborhood Commission and affected civic associations to ensure on-going dialogue between the child development center and the community designed to resolve any problems which may arise as a result of the proposed facility.

VOTE: 3-1 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh opposed to the motion).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAR 8 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 ORORDER 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL NO. 15311

As Executive Director of the Board of Zoning Adjustment Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated MAR 8 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

James R. Haynes
1511 K Street, N.W.
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Joyce A. Rogers
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Wash, D.C. 20011

E. Ned Sloan, Chairperson
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Dianna R. Robinson
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James Blackwell
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A handwritten signature in black ink, appearing to read "E. Curry", written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: MAR 8 1991