

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15456 of D.R. Madden, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sections 206 and 332 to allow a child development center of 50 children and 9 staff, and a variance from the off-street parking requirements (Sub-section 2101.1) for the conversion of a dwelling into a child development center in an R-4 District at premises 728 F Street, N.E., (Square 981, Lot 49

**HEARING DATE:** February 27, 1991  
**DECISION DATE:** April 3, 1991

**FINDINGS OF FACT:**

1. The property is located at the northwest corner of the intersection of 8th and F Streets and is known as premises 728 F Street, N.E. It is zoned R-4.

2. The property is rectangular in shape with a frontage of 19 feet along F Street and a depth of 80 feet for a total lot area of 1,520 square feet.

3. The property is located within the Capitol Hill District and is currently improved with a two-story plus basement brick row dwelling which was constructed in approximately 1900. The existing structure occupies 100 percent of the lot. The property abuts an open public space area measuring approximately 18 feet by 90 feet to its east along 8th Street.

4. The area surrounding the site is predominantly developed with single-family row dwellings, interspersed with small apartment buildings and several small commercially used structures along F Street.

5. The applicant proposes to establish a child development center for fifty children and nine staff at the subject site. The Board may approve the establishment of a child development center in the R-4 District subject to the following provisions:

- 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.

Before taking final action on an application for a child development center, the Board shall refer the case to the D.C. Department of Public Works and Office of Planning for review and report and to the Department of Human Services to determine whether the proposed child development center can meet all applicable licensing requirements.

6. The applicant proposes to renovate the existing structure and use the entire premises as a child development center for 50 children with nine staff. The structure previously contained retail use on the ground floor, but has been vacant for approximately 16 years and is in a somewhat deteriorated condition.

7. The subject site has frontage on both 8th Street and F Street, N.E. There is no alley access to the site. There is currently a designated loading space in front of the site along F Street. The applicant proposes to use the F Street loading zone for the vehicular pick-up and drop-off of children at the facility. A staff member or volunteer would be assigned to escort the children between vehicles and the facility. Arrival and departure times are expected to be staggered over a period of approximately 2 1/2 hours in the morning and afternoon.

8. The applicant is required to provide two on-site parking spaces for the teachers and other employees of the facility. The existing structure occupies 100 percent of the site, therefore, no on-site parking can be provided. In response to concerns expressed by the ANC and the OP, the applicant and the operator of

the facility have entered into an agreement whereby the two required parking spaces will be provided at another property owned by the applicant approximately one-block from the subject site at 600 9th Street, N.E. The subject site is convenient to public transportation with a Metrobus stop immediately adjacent the site on 8th Street and the Union Station Metro rail station approximately six blocks away. The proximity of the site to public transportation will help minimize the need for vehicular traffic to the site.

9. The facility would serve up to fifty children ranging in age from two to four years, the majority of which are expected to come from the immediate area. The hours of operation of the facility would be from 7:00 A.M. to 7:00 P.M., Monday through Friday. No food will be prepared on-site. Trash will be stored under the existing stairway and will be picked up approximately twice per week.

10. The applicant proposes to use the existing roof top terrace which measures approximately 480 square feet at the rear of the property for outdoor play space for the children. The applicant testified that there were three schools with play space within walking distance of the site which could be used for outdoor recreation purposes. The children will be restricted to small groups and strictly supervised when playing outdoors or traveling to nearby recreational areas.

11. There is no other child development center within the same square or within 1,000 feet of the subject site.

12. The applicant testified that a child development center for a maximum of 15 children could be established at the subject site as a matter-of-right, however, the operation of a child development center serving fewer than 50 children would not be operationally efficient or economically viable.

13. The Service Facility Regulation Administration of the Department of Consumer and Regulatory Affairs has indicated that, when all deficiencies have been corrected, the proposed facility would be capable of meeting all the licensing requirements set forth in DCMT 29, Public Welfare.

14. The Office of Planning (OP), by memorandum dated February 20, 1991, recommended conditional approval of the application. The OP was of the opinion that the applicant had met the requisite burden of proof to permit the establishment of the proposed child development center. The OP was further of the opinion that the proposed center would not have negative impacts on the immediate area provided that the public space adjoining the site is not used for parking spaces or for outdoor play purposes.

15. The D.C. Fire Department, by memorandum dated January 18, 1991, offered no objection to the establishment of the proposed child development center at the subject site.

16. The D.C. Department of Recreation and Parks, by memorandum dated December 13, 1990, indicated that the proposal would have no impact on recreation facilities, programs, or on the reservation of open space.

17. The Department of Human Services, by memorandum dated January 29, 1991, recommended approval of the application due to the critical need for child development centers in the District. The DHS recommended that applications for such facilities include information regarding proposed programmatic and staffing structures in order to adequately assess the services provided by such facilities.

18. The D.C. Department of Public Works, by memorandum dated February 12, 1991, recommended that all of the patrons of the facility use F Street when dropping off and picking up children during the A.M. and P.M. peak periods to avoid disruption of the traffic flow along 8th Street.

19. Advisory Neighborhood Commission (ANC) 6A, by letter dated February 25, 1991, opposed the granting of the application for variance from the parking requirements for the following reasons:

- a. The ANC does not support projects which involve for-profit, commercial-like activities in residential areas.
- b. The area near the subject site already contains a substantial number of nonconforming uses, sapping the ability of the immediate area to absorb the parking, traffic and other consequences of additional commercial-like activities in the area.
- c. The existing parking problems experienced by residents of the area will be exacerbated by the parking demand generated by the proposed facility if a parking variance is granted.
- d. The Board should not change the long standing government policy of never authorizing the use of public space for parking purposes.

The ANC recommended that approval of the special exception be limited to a maximum of 40 children; be limited to a period of three years; and require the provision of the required parking spaces on another lot in the immediate area.

20. The Capitol Hill Restoration Society by letter dated February 13, 1991, supported the granting of the application because the proposed facility would provide a valuable service to the community and because the CHRS opposes curb cuts and parking on public space.

21. The Stanton Park Neighborhood Association, by letter dated February 26, 1991, opposed the granting of the application. The SPNA was of the opinion that the size of the proposed facility would exacerbate traffic and parking problems already present at the subject location. The SPNA recommended that if the requested relief were granted, that the Board limit its approval to no more than three years so that the community would have an opportunity to review and comment on the impacts of the facility at a future date.

21. Two nearby property owners testified at the public hearing in opposition to the application. The opposition was generally based on the following:

- a. The number of employees of the proposed facility will increase the demand for on-street parking in the area.
- b. The drop-off and pick-up of fifty children will adversely impact traffic flow on the adjacent streets.
- c. The applicant has not adequately addressed the issue of trash storage and collection.
- d. The proposed play area is surrounded by building walls on three sides which creates a "canyon" effect and would cause the noise of children playing to reverberate throughout the immediate area.
- e. The upper floor space is inappropriate for the proposed facility because its use requires that very young children negotiate stairs to reach the upper floors and the outdoor play area. The upper floors of the structure are more suitable for residential use.
- f. The on-site outdoor play area is inadequate for the proposed number of children. The use of off-site recreation space would require escorting the children at least two blocks from the site and would require the children to cross heavily trafficked streets.

22. At the conclusion of the public hearing, the Board left the record open to receive further information regarding the specifics of the program offered by the proposed facility; a plan for a liaison program between the applicant and the community; a trash storage and collection plan; provisions for pick-up and drop-off of children; use of on-site and off-site play area; and the

specific regulation for indoor and outdoor play area requirements for chil development centers.

23. In addressing the issues and concerns of the opposition, the Board finds that the applicant proposes to address the concerns of the opposition by providing the requisite number of parking spaces on a nearby site, and that the applicant has agreed to provide appropriate fencing to minimize any visual or audial impacts of the on-site play area. The Board finds that, as hereinafter conditioned, the proposed facility is not likely to adversely impact on adjoining and nearby properties. The Board believes it appropriate to limit its approval to a period of three years to afford the Board and the community an opportunity to assess the impacts of the actual operation of the facility on the neighborhood.

**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 a special exception to operate a child development center in the R-4 District. The granting of such special exception relief requires a showing through substantial evidence that the proposed use satisfies the criteria set forth in 11 DCMR 206, 332 and 3108.1.

The Board concludes that the applicant has met the requisite burden of proof. The proposed child development center is capable of meeting all applicable code and licensing requirements. No objectionable or unsafe traffic conditions will result from the use of available curbside space for parents who temporarily stop their cars while delivering or picking-up children to staff or volunteers who escort the children between the facility and vehicles. No on-site parking is available, however, the applicant will lease two parking spaces nearby. The on-site play area will be screened to minimize any visual or noise impacts on nearby properties. No other child development center exists within 1,000 feet of the subject site. The application was referred to all applicable D.C. agencies for review and report.

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, as hereinafter conditioned, will not tend to adversely affect, neighboring property. Accordingly, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITION:**

1. The number of children at the facility shall not exceed fifty. The number of staff shall not exceed nine.
2. Drop-off and pick-up of children shall be from the street in front of the main entrance to the facility. The

applicant shall explore the possibility of creating a "loading zone" in this area in conjunction with the Department of Public Works.

3. Staff or volunteers shall escort children between the facility and vehicles during all hours that drop-off and pick-up of children occurs.
4. The applicant shall provide two leased parking spaces for staff use at 600 - 9th Street, N.E.
5. The applicant shall provide a solid or baffled-wood fence around the deck play area to minimize the noise created by the on-site outdoor play area.
6. Trash shall be stored in a covered container under the existing stair landing. Trash pick-up shall occur during hours the facility is not in operation.
7. The hours of operation shall not exceed from 7:00 A.M. to 7:00 P.M., Monday through Friday.
8. The applicant shall establish a community liaison program to address any problems or concerns related to the facility as outlined in Exhibit No. 29, Item 3(a).
9. Approval shall be for a period of THREE YEARS.

VOTE: 5-0 (Sheri M. Pruitt, Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to grant; William L. Ensign to grant by proxy).

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

ATTESTED BY:

  
\_\_\_\_\_  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER:

AUG 16 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

BZA APPLICATION NO. 15456  
PAGE NO. 8

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.

15456ord/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**APPLICATION/APPEAL NO. 15456**

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated AUG 16 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:

D.R. Madden  
243 K Street, N.E. #2  
Wash, D.C. 20002

Diana Offen  
721 10th Street, N.E.  
Wash, D.C. 20002

Helen A. Buckley  
701 F Street, N.E.  
Wash, D.C. 20002

David Jones  
712 F Street, N.E.  
Wash, D.C. 20002

Craig Lisk, Chairperson  
Advisory Neighborhood Commission 6-A  
Maury School  
13th & Const. Avenue, N.E., #10  
Washington, D.C. 20002

  
EDWARD L. CURRY  
Executive Director

DATE: AUG 16 1991