

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15559 of Mr. L. Stover, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to establish a child development center of seven children, ages three months to one year and three staff on the first floor in an R-3 District at premises 2505 North Capitol Street, N.E., (Square 3503, Lot 32).

HEARING DATE: October 9, 1991
DECISION DATE: October 9, 1991 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the east side of North Capitol Street between Channing and Douglas Streets, N.E. and is known as 2505 North Capitol Street, N.E. The site is in an R-3 District.

2. The subject site is rectangular in shape, measuring approximately 49 feet by 16.5 feet with an area of approximately 808 square feet. The site abuts a 15-foot wide public alley at the rear connecting Channing and Douglas Streets.

3. The site is improved with a one-story commercial structure built prior to 1958 before the current Zoning Regulations were in effect. The structure had been used as a pick up and drop off dry cleaning establishment.

4. The area surrounding the subject site is characterized primarily by single-family row dwellings interspersed with small stores and commercial establishments. The adjacent structure to the south of the subject property on the corner of North Capitol and Channing Streets, N.E. contains a small neighborhood grocery store. The McMillan Reservoir and Filtration Plant is located directly across North Capitol Street while the Glenwood Cemetery is situated behind the site across the public alley.

5. The R-3 District permits matter-of-right development of single-family residential uses including detached, semi-detached and row dwellings with a minimum lot area of 2,000 square feet, a minimum lot width of 20 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet. A child development center is permitted in an R-3 District provided it is approved by the Board under the provisions of Sections 3108 and 206 of the Zoning Regulations. Section 206 provides the following:

- 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.

6. The applicant proposes to use the subject premises as a child development center for seven children ages four weeks to 15 months and a staff of three. A teacher and an assistant will operate the facility full-time with the applicant as director. The applicant originally requested approval for eight children, but has since learned that the D.C. Department of Consumer and Regulatory Affairs will license the facility for only seven children.

7. The hours of operation are from 6:30 a.m. to 6:00 p.m., Monday through Friday, with no weekend operation.

8. The children would be dropped-off and picked-up by their parents, some of whom would drive to and from the facility. Other parents would use public transportation. No on-site parking is provided and none are required under the Zoning Regulations. One parking space for each four teachers and other employees is required by the Zoning Regulations, whereas only three staff are proposed. Therefore, no off-street parking is required.

9. North Capitol Street is a principal arterial. Parking and standing is prohibited from 4:30 p.m. through 6:30 p.m., Monday through Friday on the east side of North Capitol Street. Standing is prohibited on the west side of North Capitol Street at all times. Channing Street, N.E. is a side street with a neighborhood residential parking program in effect.

10. No outdoor play area is planned. All children would be kept in-doors throughout the day at the center. Supervised play may occasionally be conducted in the front or rear yard of the property.

11. No cooking will be done on the premises. Any food that would be consumed on the premises would be brought in. All refuse would be stored in an appropriate trash receptacle at the rear of the property on the alley and would be picked up once a week.

12. There is no other child development center located within 1,000 feet of the proposed facility.

13. Some interior renovations have occurred, however, no exterior renovation to the building is anticipated. A small sign would be placed in the front window indicating the name of the center.

14. The Office of Planning (OP) by report dated October 2, 1991, recommended approval of the application. The OP was of the opinion that the applicant has met the burden of proof under Section 206 of 11 DCMR to allow the operation of the proposed child development center. Although no on-site parking would be provided for the center, the OP is confident that because of the very small size of the facility, any parking demand generated could be adequately met with available on-street parking. Section 2101.1 of 11 DCMR does not require off-street parking for a child development center of the size proposed in this application. Because of the small size of the center and the small number of very young children it would service, no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions are anticipated. Accordingly, the Office of Planning recommended approval of the application contingent upon the proposed facility meeting all applicable D.C. Code and licensing requirements.

15. No report was received from the Department of Consumer and Regulatory Affairs regarding the licensing process.

16. The Department of Public Works (DPW) by report dated July 19, 1991 indicated that the child development center will have a minimal transportation impact in the area, and therefore, DPW has no objection to the application.

17. Advisory Neighborhood Commission (ANC) 5C by report dated October 9, 1991, requested a waiver to accept its report into the record. The Board waived its rules to accept the ANC report. ANC 5C recommended disapproval of the application based on a site visit by the single member district representative, meetings with the applicant and the opposition of the Stronghold Community Association. The Stronghold Community Association identified the change in use of the site, traffic congestion and the applicant's inability to satisfactorily provide for the safe drop off and pick up of children as its concerns.

18. In response to the concerns embraced by the ANC through the Stronghold Community Association, the Board finds that the proposed use is less of a traffic generator and would have little, if any, impact on adjoining or nearby properties because of the number of the children, or operations. The previous dry cleaning use was a nonconforming use in the R-3 District. The proposed use is a permitted use in the R-3 District with the approval of the Board as a special exception. The drop off and pick up as hereinafter conditioned can function without impeding traffic or contributing to congestion already present on the streets.

19. A representative of the Stronghold Community Association appeared at the hearing and testified as to the association's opposition to the application as set forth in Finding No. 17. The representative submitted a petition with signatures of approximately 48 residents on North Capitol and Channing Streets opposing the application. The Board responded to the issues raised in a manner similar to its response to the ANC.

20. No other letters in support or opposition to the application were received into the record.

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-3 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 3108.1 and 206.

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. As hereinafter conditioned, there will be no objectionable traffic conditions and no unsafe condition for the picking up and dropping off of children. The center is located with alley access to the rear. The number of children proposed for the facility is very minimal and will not generate vehicle trips that will create any traffic or parking problems. On-street parking is available

during non-rush hours on the east side of North Capitol Street and is available all day on Channing Street with a valid Residential Parking Permit for the area. No outdoor play area is proposed, given the young ages of the children. No child development center is located within 1,000 feet of the subject site.

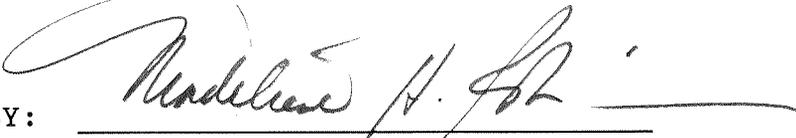
The Board further concludes that the requested relief as hereinafter conditioned will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property. The Board has accorded the ANC the "great weight" to which it is entitled. Accordingly, it is hereby **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. The applicant shall comply with all applicable D.C. Code and licensing requirements.
2. The number of children shall not exceed seven. The ages shall range from six weeks to 15 months.
3. The number of employees on-site shall not exceed three.
4. The hours of operation shall be between 6:30 a.m. and 6:00 p.m., Monday through Friday.
5. The drop off and pick up of children shall be from the alley to mitigate traffic congestion. A staff member shall assist in the dropping off and picking up of children.
6. Trash collection shall occur at least once per week.
7. The applicant shall continue to work with the community to address any concerns that arise.

VOTE: 3-0 (Sheri M. Pruitt, Paula L. Jewell, and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

DEC 4 1991

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS 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.

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APPLICATION/APPEAL NO. 15559

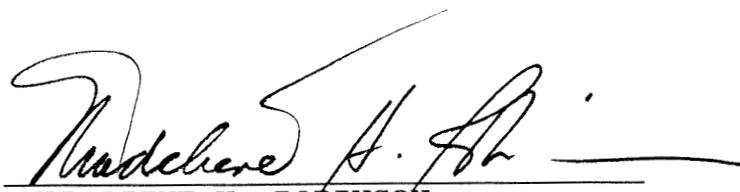
As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated Dec 4 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Mr. L. Stover
809 Massachusetts Avenue, N.E.
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Sheryl L. Gary
10 Channing Street, N.E.
Wash, D.C. 20002

James Berry, Jr., Chairperson
Advisory Neighborhood Commission 5-C
1723 - 3rd Street, N.E.
Washington, D.C. 20002

Arthur Kinhead
c/o Stronghold Comm. Assn.
2529 North Capitol Street, N.E.
Wash, D.C. 20002


MADELIENE H. ROBINSON
Acting Director

DATE OF APPROVAL: DEC 4 1991