

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15598 of Deborah A. Shields, as further amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a a variance from the off-street parking requirements (Sub-section 2101) and a special exception under Section 206 to establish a child development center of 50 children ages infant to four years and nine staff in the basement through the second floor in an R-2 District at premises 1027 51st Street, N.E., (Square 5200, Lot 75).

HEARING DATE: November 20, 1991 and April 22, 1992
DECISION DATES: November 20, 1991 (Bench Decision),
January 8, and March 4, 1992, and
April 22, 1992 (Bench Decision)

SUMMARY ORDER

The subject application was originally heard by the Board at its public hearing of November 20, 1991. At that public hearing, the applicant indicated that two on-site parking spaces could be accommodated at the subject premises. Therefore, the application was amended to delete the request for a variance from the parking requirements. The Board granted the application from the bench and subsequently approved a modification of its conditions by orders dated November 26, 1991 and January 30, 1992.

By letter dated February 7, 1992, the applicant requested that the Board reopen the record and hold a further hearing in the case limited to the issue of the parking requirements. The basis for the request was that an inspection of the site by city officials revealed that the proposed on-site parking proffered by the applicant was located within the public space and not on the subject site. A variance from the parking requirements set forth in Section 2101 was therefore required as originally advertised. The Board granted the applicant's request at its public meeting of March 4, 1992, and a further public hearing was properly advertised and scheduled for April 22, 1992.

The Board duly provided timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7C and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 7C. ANC 7C, which is automatically a party to the application, did not submit written issues and concerns relative to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 2101 and a special exception pursuant to 206. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3107 and 3108, and that the requested relief can be granted without substantial detriment to the public good and as in harmony with the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The number of children shall not exceed 50. The number of staff shall not exceed nine.
2. The hours of operation shall be between 6:30 a.m. and 6:00 p.m., Monday through Friday.
3. The facility may occupy the entire premises in compliance with the criteria of the Child Care Licensing Division.
4. Trash pick-up shall occur a minimum of twice per week.
5. The recreation area in the rear yard shall be fenced.
6. One staff member shall assist in the drop-off and pick-up of children.

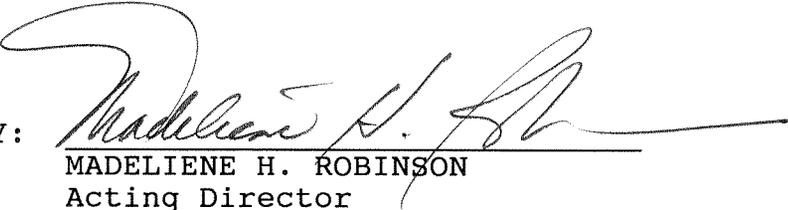
Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 3-0 (Carrie L. Thornhill, Paula L. Jewell and Angel F. Clarens to grant; Sheri M. Pruitt and John G. Parsons not present, not voting).

BZA APPLICATION NO. 15598
PAGE NO. 3

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER:

MAY 12 1992

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.

ord15598/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15598

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 12 1992 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:

Deborah A. Shields
4209 Kinmount Road
Lanham, Maryland 20706

Eva M. Jones, Chairperson
Advisory Neighborhood Commission 7-C
4651 Nannie Helen Burroughs Avenue, N.E.
Washington, D.C. 20019


MADELIENE H. ROBINSON
Acting Director

DATE: MAY 12 1992