

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15670 of Chevrah Tifereth Israel, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to increase a child development center from 48 to 65 students and eight to 13 staff in an R-1-B District at premises 7701 16th Street, N.W. (Square 2739; Lots 36, 37 and 38).

HEARING DATE: June 24, 1992
DECISION DATE: July 29, 1992

ORDER

EVIDENCE OF RECORD:

1. The subject site is located on the northeast corner of the intersection of 16th and Juniper Streets N.W. and is known as 7701 16th Street, N.W. The site is located in an R-1-B District.

2. The site is rectangular in shape with a frontage of 165 feet along 16th Street and 148.89 feet along Juniper Street. The site's total area is 24,566.85 square feet. A 15-foot wide public alley abuts the site on the east side.

3. The site is currently improved with a two-story "L" - shaped brick synagogue building known as Congregation Tifereth Israel. A paved, six-space parking area is at the rear of the building and is accessible from the alley.

4. The R-1-B District extends to the north, east and south of the site. Most of the buildings in the area are single-family detached houses, but a few are devoted to institutional use. No private dwelling faces the synagogue building. The Hanafi Moslem house and another synagogue are directly across 16th Street from the building and are located in an R-1-A District.

5. A child development center for 48 children, operating from 8:30 a.m. to 1:00 p.m., was established at the subject site in 1986 pursuant to BZA Order No. 14422. By its Order No. 14791, dated August 2, 1988, the Board amended Condition No. 2 of BZA Order No. 14422 to allow the applicant to extend the hours of operation of the facility for 48 children from 8:30 a.m. to 4:00 p.m.

6. The applicant proposes to increase the number of students from 48 to 65, and to increase the number of staff from eight to 13. In addition, the applicant proposes to change the hours of operation to 8:00 a.m. to 6:00 p.m. The applicant testified that only 35 students would be at the facility during the extended hours from 4:00 p.m. to 6:00 p.m.

7. Children will arrive and leave the school through the entrance to the building on Juniper Street. Children are dropped off and picked up on Juniper Street and are escorted to the facility by parents. A school staff member will meet each child at the curb and escort the child to the classroom.

8. Most children will arrive between 8:30 a.m. and 9:15 a.m. and depart at staggered hours during the afternoon. Few vehicles travel or park on Juniper Street at these times.

9. The parking area has room for nine automobiles, and the Zoning Regulations require one space for every four employees. The applicant agreed to mark three spaces as reserved exclusively for use by the child development center.

10. The proposed change would have little impact on local traffic or parking because few children would remain at the center during the extended hours. Most of these children will walk home.

11. The on-site playspace is located in the notch of the "L" shaped building, which shields it to the north and east. The playspace is bounded on the west and south by 16th and Juniper Streets, respectively, but is shielded from the road by two existing mature trees. The playspace is not adjacent to any residence and is surrounded by a black coated chain link fence. Students at the center will spend the great majority of time indoors, and no more than 32 children will be outside at one time.

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

13. On February 25, 1992, the Board referred the case for review and report to the Office of Planning, the Department of Public Works, and the Department of Consumer and Regulatory Affairs.

14. By memorandum dated June 16, 1992, the Office of Planning recommended approval of the application. The OP noted that a child development center facility has existed at the site for six years. The OP was of the opinion that the proposal would not have an adverse impact on noise or traffic and would create no objectionable or unsafe condition. The OP also found that the center meets all applicable code and licensing requirements, provides adequate off-street parking and a shielded play area, and is not within 1,000 feet of any other child development center.

15. By memorandum dated June 16, 1992, the District of Columbia Department of Public Works (DPW) offered no objection to the applicant's request. The DPW was of the opinion that the proposal would have only a minor transportation impact due to the

number of unrestricted parking spaces on adjacent streets and the availability of Metrobus at the subject location.

16. By memorandum received on March 17, 1992, the Service Facility Regulations Administrator of District of Columbia Department of Consumer and Regulatory Affairs indicated that the plan meets the requirements of DCMR 29, Chapter 3, Public Welfare.

17. By letter dated April 8, 1992, Advisory Neighborhood Commission 4A supported the granting of the application. The ANC noted that it had issues and concerns with respect to parking for additional staff members and the traffic impact on the neighborhood but that those concerns were adequately addressed by the applicant.

18. By letter dated April 8, 1992, Neighbors, Inc. supported the granting of the application. The support was based on the high-quality service provided by the facility to parents of all backgrounds in the neighborhood. Neighbors, Inc. was of the opinion that the availability of the services offered are essential to attract new families and keep the area demographically and economically viable. Neighbors, Inc. indicated that many of its members live in close proximity to the center and it is unaware of any complaints about the operation or impacts of the facility.

19. Several nearby property owners testified at the public hearing in opposition to the application. The opposition is summarized as follows:

- a. The increased capacity of the facility will attract more people into the area, creating parking problems and problems with the provision of fire service due to illegal parking by fire hydrants, and the blocking of alleys during pickup and dropoff of children.
- b. On-street parking in the area is adversely affected by the parking of school buses on the surrounding streets during the day.
- c. Pickup and drop off of children creates a safety problem because children must cross Juniper Street.
- d. The on-site play area is too small and could pose a danger to children due to its close proximity to 16th Street.
- e. Noise from the play area, debris and traffic would have an adverse impact on nearby property owners, many of whom are elderly and do not have a need for the facility.

20. Charlene Drew Jarvis, Councilmember for Ward 4, testified at the public hearing in support of the nearby residents in opposition to the application.

21. In rebuttal to the concerns expressed by the opposition, the applicant's representative testified that:

- a. No buses are operated by the child development center facility.
- b. The child development center is closed during the summer.
- c. Hebrew School is conducted on the site during the summer months for between 150 and 200 students. Buses are used to transport children to Hebrew School.
- d. The applicant would be willing to work with the community to ease any impacts created by use of the premises for any purpose.

22. By letters dated July 27, 1992, ANC-1A and Councilmember Jarvis submitted a post-hearing request for the Board to delay consideration of the application for 30 days to afford the ANC an opportunity to reconsider its position based on concerns expressed by area residents.

23. At its public meeting of July 29, 1992, the Board denied the request to delay its decision. The Board notes that the issues and concerns of area residents were adequately presented at the public hearing on the case.

FINDINGS OF FACT:

1. The Board finds that the proposed facility is capable of meeting all applicable code and licensing requirements. The facility is not likely to create objectionable traffic conditions or an unsafe condition for picking up and dropping off children. The facility provides the requisite number of on-site parking spaces. The outdoor play area is located and designed to prevent objectionable impacts due to noise or activity, or visual or otherwise objectionable conditions.

2. The Board finds that the facility is capable of meeting all applicable code and licensing requirements for the proposed capacity of 65 children. With respect to the play area, the Board notes that the DCRA determines the requisite size, staffing requirements, and child safety measures and further that no certificate of occupancy would be issued for the proposed facility until all such criteria have been satisfied.

3. The Board finds that the applicant proposes to provide three on-site parking spaces at the rear of the site for the exclusive use of the facility, and therefore, is in compliance with the requirements of the Zoning Regulations.

4. The Board finds that there are no other community child development centers located within the subject square or within 1,000 feet of the site.

5. The Board finds that the facility has existed at the subject site for some time without any evidence of adverse conditions related to noise or traffic. The proposed increase in the number of children will not have a major impact on traffic generation. Drop off and pickup of children arriving by automobile would have minimal impacts on traffic patterns because parents utilize existing on-street parking areas and children are escorted to and from the facility by parents or staff members. The use of buses and the number of children attending Hebrew School at the subject site is not before the Board.

6. The establishment of a child development center for more than 15 children is permitted as a special exception in an R-5-A District. The Zoning Commission has determined that such use is appropriate for residentially zoned areas provided the applicant complies with the criteria set forth in Section 206 of the Zoning Regulations. The Board finds that the applicant has demonstrated such compliance and the facility will not be out of character with the surrounding residential area. The Board further notes that, as hereinafter conditioned, the applicant must establish a liaison to work with the community to alleviate any impacts caused by activities at the subject site.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires that the proposal meets the requirements set forth in 11 DCMR 206 and 3108.1, that the relief requested can be granted as being in harmony with the general purpose and intent of the Zoning Regulations. The Board further concludes that the relief granted will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met the requisite burden of proof.

The Board further concludes that the special exception will be in harmony with the general intent and purpose of the Zoning Regulations and Map and, as herein after conditioned, will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that it has accorded the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is

hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

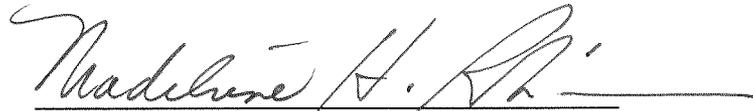
1. Approval shall be for a period of THREE YEARS.
2. The number of students shall not exceed 65 children during a 24-hour period.
3. The number of staff shall not exceed 13 full and part-time employees.
4. The hours of operation shall be from 8:00 a.m. to 6:30 p.m., Monday through Friday.
5. A minimum of three parking spaces shall be provided on the site for the exclusive use of the facility during its hours of operation.
6. All dropping off and picking up of children shall occur from Juniper Street.
7. The on-site play area shall be located at the southwest corner of the site.
8. The applicant shall establish and maintain a Community Liaison/Advisory Council which shall provide a forum for addressing issues and concerns of the day care facility and the community. The council shall meet no less than quarterly and more often if necessary. Items to be addressed shall include, but not be limited to, issues relative to fire safety measures; recruitment of children from the immediate community; problems with traffic and parking during drop off and pickup of children; and, the impact on the community of activities at the site, such as summer camp. Notice of the meetings of the advisory council shall be mailed to all property owners within 200 feet of the site at least one week in advance of all council meetings.

VOTE: 4-0 (Angel F. Clarens, Maybelle Taylor Bennett, Paula L. Jewell and Carrie L. Thornhill to grant; Sheri M. Pruitt not voting, not having heard the case).

BZA APPLICATION NO. 15670
PAGE NO. 7

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: MAR 7 1994

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, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15670/SS/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15670

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 7 1994 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:

Mathew S. Watson
Morris Deutch
1233 20th Street, N.W. Suite 501
Washington, D.C. 20036

David Posner, Asst. Exe. Director
D.C. Jewish Community Center
Chevrah Tifereth Israel
7701 16th Street, N.W.
Washington, D.C. 20012

Leonard Thornton
1433 Juniper Street, N.W.
Washington, D.C. 20012

Charlene Drew Jarvis
D.C. Councilmember - Ward 4
District Building, 2nd Floor
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Joseph H. Hairston, Chairperson
Advisory Neighborhood Commission 4-A
7600 Georgia Avenue, N.W., #205
Washington, D.C. 20012

Geraldine S. Beard
1429 Juniper Street, N.W.
Washington, D.C. 20012

Larry Smith
1434 Juniper Street, N.W.
Washington, D.C. 20012

Frances Lewis
1446 Jonquil Street, N.W.
Washington, D.C. 20012

Nansie Word
1430 Jonquil Street, N.W.
Washington, D.C. 20012


MADELIENE H. ROBINSON
Director

DATE: MAR 7 1994