

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16005 of Robert M. Andrews, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to establish a child development center of 30 children, ages six months to three years and six staff on the basement level in an R-2 District at premises 832 Rittenhouse Street, N.W. (Square 2981, Lot 84).

HEARING DATE: November 16, 1994
DECISION DATE: December 8, 1995

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 832 Rittenhouse Street, N.W. in the northwest section of the Brightwood neighborhood in Ward 4.

2. The subject site, located in Square 2981, is bounded by Rittenhouse Street to the north, 8th Street to the east, Quintana Street to the south, and 9th Street to the west.

3. The rectangular-shaped site contains 3,990 square feet of land area and is 57 feet wide and 70 feet deep. A three-story plus basement, six-unit apartment house that was constructed in 1912 is located on the site. A 15-foot wide public alley abuts the rear of the property.

4. The site is surrounded by low-density residential development that consists of detached and semi-detached single-family dwellings. The subject apartment building is not characteristic of the area's single-family pattern of development. Commercial development consisting of neighborhood-oriented establishments is located one block to the west of the site along Georgia Avenue.

5. The site is zoned R-2. The R-2 District permits matter of right development of single-family detached and semi-detached dwelling units with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of 3 stories/40 feet. A child development center is a permitted use in an R-2 District if approved by the Board of Zoning Adjustment.

6. The applicant requests a special exception zoning relief under Section 205 and Subsection 3108.1 of 11 DCMR to establish the child development center.

7. The proposed child development center would provide day care for 30 children, ages six months to three years. Six full-time staff, including an administrator and three part-time staff would be employed. The center would open Monday through Friday between 6:00 a.m. and 6:00 p.m.

8. On January 30, 1995, 32 neighboring residents signed a petition in opposition to the application.

9. A resident at 810 Rittenhouse Street, N.W., submitted a letter dated November 13, 1994, to the record of the case opposing the subject application on the grounds that it would increase the volume of litter on her Street, and bring too many strangers into the neighborhood.

10. A resident at 808 Rittenhouse Street, N.W., by a letter to the Board dated November 9, 1994, opposed the application indicating that the basement level of the subject property was inappropriate for the child development center; that the apartment building had been a continuing source of problems, e.g., drug dealing, homicide, noise and unruly tenants; that there would be no safe loading area or play area for the children, and here are at least two other child development centers within close proximity to the proposed site.

11. A resident of 810 Rittenhouse Street, N.W. opposed the subject application in a letter she submitted to the Board on November 3, 1994.

12. Residents of Single Member District (SMD) 4B04 in which the property is located, unanimously voted on October 25, 1994, to oppose the application citing the following concerns:

- (a) The safety and welfare of 30 children at that residence;
- (b) The inappropriate use of this residential apartment house, which is already a problem on the street of all single family "detached homes";
- (c) No place to have 30 plus parents dropping off and picking up their children in peak, rush hour traffic.
- (d) There is no safe play area for 30 children;
- (e) There are already sufficient child care facilities in the immediate neighborhood; and

- (f) 832 has a negative history; drug use, crime and a murder.

13. Charlene Drew Jarvis, Councilmember for Ward 4, by letter dated January 20, 1995, voiced the concerns of neighborhood residents regarding crime, illegal drug sales and lack of safety for children in the subject property area. She supported the residents' opposition to the application.

14. The Department of Fire and Emergency Medical Services (Fire and EMS), by its memorandum of October 25, 1994, had no objection to the application. The Fire and EMS indicated however, that fire and life safety features required by the city's codes (such as fire alarms and extinguishers, sprinkler systems, standpipe systems, exits and fire rated separations, etc.) would be determined during the review for certification.

15. The Office of Planning (OP), by its memorandum dated January 31, 1995, recommended denial of the application. The OP said that the proposed child development center would be in disharmony with the general purpose and intent of the Zoning Regulations and Map and would adversely affect the use of neighboring properties. The increase in the site's density would result in increased vehicular and pedestrian traffic, and increased noise.

16. No persons testified at the hearing in support of the application.

17. Advisory Neighborhood Commission (ANC) 4B, in a report signed by its chairperson, Mr. Anthony Muhammad, and received by the Board on December 14, 1994, supported the community's decision that the facility at 832 Rittenhouse Street, N.W. be denied use for day care purposes.

FINDINGS OF FACTS:

Based on the evidence of record, the Board finds the following:

1. There are about four day care centers located in SMD4B04 in proximity to the subject site.
2. The 800 and 900 blocks of Rittenhouse Street, N.W. cannot handle the increased traffic a day care facility would bring.
3. The applicant is required to provide at least two parking spaces to meet the needs of six full-time and three part-time employees. The applicant presented no evidence of on-site parking.

4. The operation of the facility as proposed would adversely affect the neighboring and the adjacent properties. The increase in the site's density would result in increased vehicular and pedestrian traffic, and increased noise.

CONCLUSIONS 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 to establish a child development center of 30 children, ages six month's to three years in an R-2 District. In order to be granted such an exception, the applicant must demonstrate substantial compliance with the requirements of Sections 205 and 3108.1 of the Zoning Regulations.

The Board concludes that the proposed facility is not capable of meeting all code and licensing requirements. Use of the facility as a child development center will cause adverse effects and unsafe conditions created by traffic, parking and noise.

The Board further concludes that the special exception cannot be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and would affect adversely the use of neighboring properties in violation of the Zoning Regulations and Map.

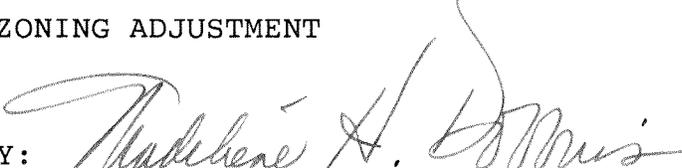
The Board concludes that it has accorded ANC-4B the "great weight" to which it is entitled.

In the light of the foregoing, the Board **ORDERS DENIAL** of the application.

VOTE: 4-0 (Craig Ellis, Maybelle Taylor Bennett, Laura M. Richards and Susan Morgan Hinton to deny; Angel F. Clarens not present, not voting).

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

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

MAR 5 1997

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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."

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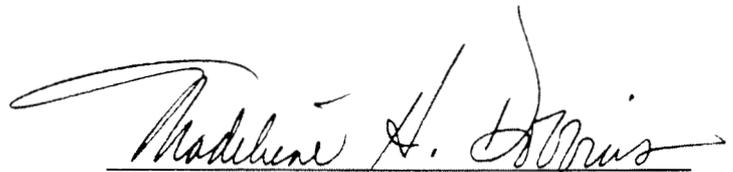


BZA APPLICATION NO. 16005

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 5 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Alice L. Ryan
Robert M. Andrews
5701 Kansas Avenue, N.W.
Washington, D.C. 20011

Mr. Vannie Taylor, III., Chairperson
Advisory Neighborhood Commission 4B
5615 1st Street, N.W.
Washington, D.C. 20011


MADELIENE H. DOBBINS
Director

Date: MAR 5 1997