

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16413 of the National Child Day Care Association**, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 205 to establish a child development center for 100 children ages from infancy to 12 years, and 20 staff persons offering a health care and transitional living program for the children and their parents in an R-5-B District at premises 2229 M Street, N.E. (Square 4465, Lot 39).

**HEARING DATE: DECEMBER 2, 1998**

**DECISION DATE: DECEMBER 2, 1998**

**ORDER**

**PRELIMINARY MATTERS:**

1. The Board of Zoning Adjustment (the Board) found that the applicant had filed its affidavit of sign notice posting and affidavit of sign notice maintenance in a timely manner, in accordance with its (the Board's) rules.
2. The Board denied a request made by the chairman of Advisory Neighborhood Commission (ANC) 5B to postpone the public hearing. The ANC chairman testified that, in his view, the ANC did not have enough time to consider the merits of the application. After a lengthy discussion of the facts, the Board found that the ANC was afforded adequate notice of the public hearing.

**SUMMARY OF EVIDENCE:**

1. The subject property is located at 2229 M Street, N.E., in Square 4465. The triangularly-shaped Square 4465 is bounded by M Street, N.E. on the north, Maryland Avenue, N.E. on the south, and 21<sup>st</sup> Street, N.E. on the west. M Street has a 90 -foot wide right-of-way at this location, and dead ends at its intersection with Maryland Avenue one block to the east. The overgrown subject property is triangular in shape, and consists of 11,297 square feet of land area. The subject property is developed with a vacant and boarded up three-story, plus basement, brick apartment building acquired by the applicant

in August of 1996. The apartment building will be completely renovated to make way for the proposed child development center.

2. The subject property is located in the Carver Terrace neighborhood of Ward 5. North of the subject property across M Street are the grounds of the National Arboretum. East of and abutting the subject property is a 19,232 square-foot public park area owned by the Federal Government. This park area is used as a community garden. South of and abutting the subject property is a 16-foot wide public alley, followed by several three-story apartment houses in the R-5-B District. These units front on the north side of Maryland Avenue. West of the subject property are a row of three-story apartment houses in the R-5-B District. Phelps Vocational School and Brown Junior High School are located two blocks south of the subject property.

3. The applicant testified that Carver Terrace is the most disadvantaged community in the city based on its demographics. The need for a child development center has been recently multiplied by the advent of welfare reform. The instant application directly addresses this need by offering a health care and transitional living program for the children and their parents as an integral part of the child development center's operation. The Carver Terrace area has a 77 percent rate of unwed mothers, a 38 percent rate of children in poverty as well as a 20 percent infant mortality rate which is higher than the infant mortality rate of most third world countries. All of these statistics highlight the need for the proposed use.

4. The applicant testified that the health care program (clinic) which will serve the child development center is permitted as a matter-of-right in the R-5-B District. The clinic will make routine dental and health screenings available to the parents and children enrolled in the program. The transitional living program consists of four apartment units to be located on the third floor of the subject building. These units will provide transitional housing for up to two years for at least four low-income families on the list of Temporary Assistance for Needy Families (TANF) program. The apartment use is permitted as a matter-of-right, and like the health care program (clinic), is not a part of the instant application.

5. The applicant testified that the proposed child development center will occupy the basement and the first floor of a three-story apartment building. The building will be renovated under the direction of a licensed architect in the District of Columbia in strict compliance with District of Columbia building code and child care licensing requirements. The new facility will be state of the art. The child development center will operate Monday through Friday, including a before- and an after-school program. The center will be open from 7:00 a.m. to 6:00 p.m. The children attending the center will range in age from infancy to 12 years old. There will be 20 teachers and other staff. The remaining floors of the building will be devoted to the other National Child Day Care Association (NCDCA) programs, including a health care center for the parents of the children enrolled in the day care center, as well as four apartment units for low income

families, as described earlier. The apartment use and the health care center (clinic) are permitted as a matter of right, and are not a part of the instant application.

6. The applicant testified that the proposed center will be landscaped. The center will use an artistically-designed sign near the entrance of the building to identify itself. The accessory parking area is located at the rear of the subject property. Exterior lighting will be installed at strategic locations all around the building. The proposed center will be a vast improvement over the site's present vacant and boarded status. Blown trash and debris will be removed from the exterior of the property on a daily basis.

7. The applicant testified that the proposed child development center is located and designed so as not to create any objectionable traffic conditions as well as unsafe condition from picking up and dropping off of children. The center will enforce a strict safety procedure for dropping off and picking up of children by automobile. Automobile dropping off of children will occur off of M Street. There is unrestricted curb parking allowed on M Street at this location. Each child will be escorted into the center by his or her parent or guardian, received by a designated center staff person and signed in. This procedure will be reversed during pick-ups. The applicant anticipates that the majority, if not all, of the parents who would use the facility will walk their children to the center. The demographics of the population served is such that almost none of the parents using the facility own cars.

8. The applicant testified that the center has been designed to provide sufficient off-street parking spaces to meet the reasonable needs of its teachers, other employees, and visitors. The center is required by the Zoning Regulations (Section 2101), to provide five (5) off-street parking spaces for its 20 employees and visitors. The site plan shows the location of eight (8) off-street parking spaces at the rear of the subject property. The parking spaces are accessible via a 16 foot- wide public alley. There is ample unrestricted curb parking available on M Street at this location for use by staff and visitors.

9. The applicant testified that the proposed center, including the outdoor play space, will not be objectionable to adjacent and nearby properties owing to noise, activity, or visual conditions. The center is designed to include a large fenced outdoor play area. Supervised classroom-sized groups of children will use the outdoor play area during scheduled shifts. The building in which the center will be located, including the play area, will be attractively landscaped for the betterment of the neighborhood.

10. The applicant's written submission states that the final working drawings for the child development center will be carefully reviewed by the applicable District licensing agencies before a building permit will be issued for the renovation of the building. Prior to receiving a certificate of occupancy for the child development center, the new building will be inspected by relevant District agencies (day care licensing, fire, electrical, plumbing, sewer, water, etc.) to assure compliance with all code and licensing requirements.

11. The applicant's urban planning expert testified that he had visited the site on several occasions and had evaluated the proposed operation of the Community Development Center. The urban planning expert stated that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map and that the child development center will not affect adversely the use of neighboring property.

12. The applicant's urban planning expert also testified that there are no other child development centers located in the same square or within 1,000 feet of the subject center. The nearest child development center to the proposed center is located at 15<sup>th</sup> Street and Benning Road, N.E. This center is operated by the applicant. The Office of Zoning made referrals to government agencies on August 26, 1998. No agencies submitted comments in the record at the time of the public hearing.

13. The Director of the District of Columbia Public Schools Head Start Programs testified in support of the application. The witness testified that the community, including representatives of Advisory Neighborhood Commission 5B, had been working together since 1993, in an effort to make this important project a reality.

14. The Board acknowledged the receipt of a letter dated November 10, 1998, from the chairman of Advisory Neighborhood Commission 5B. The ANC chairman testified that the hearing should be postponed to allow the ANC to meet and discuss the application. The chairman stated that he was not opposed to the concept of the application.

15. The Board acknowledged the receipt of a letter dated November 30, 1998, from the vice chairman of Advisory Neighborhood Commission 5B in support of the application. The vice chairman testified that the applicant had been involving the community in the planning process for the proposed child development center since 1993.

16. The Board acknowledged the receipt of a letter in support of the application, dated November 30, 1998, from the Carver Terrace Tenants and Civic Association.

17. The owner of 2209 M Street, N.E. testified that he was not opposed to the concept of the application. The property owner expressed concern for the safety of the children being dropped off by car at the center, given the lack of sidewalks on the north side of M Street, and around the area used as a community garden. The property owner also expressed his concern that the public space located along the north side of M Street is an eyesore. This property fronts on property owned by the National Arboretum.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds as follows:

1. The application complies with the provisions of 11 DCMR Section 205 and 3108.1 of the Zoning Regulations.
2. No person or party appeared in opposition to the application.

**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 to establish a child development center, health clinic, and transitional living program in an existing apartment building in an R-5-B District. The granting of such special exception relief requires that the applicant demonstrate that it has complied with the requirements of Section 205 and Subsection 3108.1 of the Zoning Regulations.

The Board concludes that the applicant has met the applicable burden of proof. The Board concludes that the proposed project will not be a detriment to the public good, and the operation of the child development center is not likely to become objectionable to adjoining or nearby property. Further, the center will be in harmony with existing uses on neighboring properties. The Board concludes that the operational characteristics, location and physical description of the proposed child development center will not impair the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board further concludes that it could not accord the Advisory Neighborhood Commission 5B the "great weight" to which it is normally entitled as its (ANC5B) written submission and testimony were not in accordance with Section 3307 of the Zoning Regulations. Accordingly, it is hereby ORDERED that the application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. The child development center shall operate Monday through Friday, including the before and after school program, from 7:00 p.m. to 6:00 p.m.
2. The children at the child development center shall range in age from infancy to 12 years.
3. The number of staff shall not exceed 20.
4. Each child will be escorted into the center by his or her parent or guardian during drop off and pick up periods.
5. Automobile dropping off and picking up of children shall either occur on

M Street opposite the main entrance to the center or from off-street parking area located at the rear of the site.

6. Trash pick-up shall occur on a daily basis.
7. The applicant shall meet with Advisory Neighborhood Commission 5B on a quarterly basis.

**VOTE:**       **3-0** (Betty King, Jerry Gilreath and Sheila Cross Reid to approve).

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTIONN 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 15 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OFF APPLCANT 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 FINALL PURSUANT OT THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

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

Attested By: *Shacey W. Rose*  
for **SHERI M. FRUITT-WILLIAMS**  
Interim Director

**FINAL DATE OF ORDER:** JAN 14 1999

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16413**

As Interim Director of the Office of Zoning, I hereby certify and attest that on JAN 14 1999 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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The Chairperson  
Advisory Neighborhood Commission 5B  
1355-57 New York Ave., N.E.  
Washington, D.C. 20002

ATTESTED BY:

*Tracey H. Rose*  
for **SHERI M. PRUITT-WILLIAMS**  
Interim Director

Date of Approval: JAN 14 1999

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