

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16446** of DRM and Associates, Inc. pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 205 to allow a child development center for 50 children, infant through 12 years and 9 staff, and a variance from the off-street parking requirement (Subsection 2101.1) in an R-4 District at premises 728 F Street, N.E. (Square 981, Lot 49).

**HEARING DATE:** April 7, 1999

**DECISION DATE:** June 2, 1999

**SUMMARY ORDER**

The total number children to be enrolled at the center would be 50. At the time of the hearing, 36 children were enrolled. The Board determined that each year the city inspects the facility and, depending on the ages of the children, a new child care license is issued. As such, if infants were to enroll at the center, the total number of children would decrease significantly.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 6A and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 6A. ANC 6A, which is automatically a party to this application, submitted a written statement in opposition to the application. The ANC stated that the proposed facility would cause adverse impacts on the community because the center's staff would use scarce on-street parking spaces; that there are safety issues associated with dropping-off and picking-up the children; and, the proposal would cause substantial detriment to the neighborhood.

The Board received correspondence from a resident who asked that the application be denied. The neighbor stated that the quiet residential community has been made less desirable by the automobile traffic associated with the existing child development center; that there are too many non-residential uses in the neighborhood; and, that patrons who use the commercial and institutional facilities park their vehicles on the sidewalks, thereby causing safety problems and degradation of the neighborhood.

By BZA Order 15456, dated August 16, 1991, the Board approved the use of the site for a child development center. The center has been in operation for over seven years. The Board finds that most of the issues identified by the community in 1991 were similar to those currently

identified. The Board indicated in 1991 that the facility would not likely have an adverse impact on adjoining and nearby properties, if the applicant complied with the conditions that were established. Similar zoning-related on-site conditions exist at the site today and in 1991. The Board's rationale for approving the application currently and in 1991 is:

- the applicant agreed to provide the requisite number of parking spaces on a nearby site;
- the applicant agreed to provide appropriate fencing to minimize any visual or audible impacts of the on-site play area;
- the center is capable of meeting all applicable District of Columbia code and licensing requirements;
- no objectionable or unsafe traffic conditions would result from the use of available curbside space for parents who temporarily stop their vehicles while dropping-off and picking-up the children; and,
- the subject building occupies 100 percent of the lot.

By letter dated April 5, 1999, the Capitol Hill Restoration Society recommended approval of the application, with conditions. The applicant submitted a petition and letters of support for the child development center.

The Board heard testimony about a parking lot that the applicant owns at 704 17<sup>th</sup> Street, N.E. that was approved under BZA Order No. 16230 and which was of concern to the community. The Board determined that the issues related to the parking lot were separate from those of the child development center.

As directed by 11 DCMR 3324.2, the Board required the applicant to satisfy the burden of proving the elements, which are necessary to establish the case for a variance and special exception from the strict application of the requirements of 11 DCMR. Most of the conditions previously established for the use of the site by the child development center will continue. Therefore, the child development center would not have adverse impacts on nearby or adjoining properties.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108 and 3107. Existing on the property is an exceptional situation or condition, which creates a practical difficulty for the owner in complying with the Zoning Regulations and Map. The Board further concludes that the requested relief can be granted in harmony with the general purpose and intent of the Zoning Regulations and Map, and would not tend to affect adversely the use of neighboring property. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of **10 TEN YEARS**.
2. The number of children at the facility shall not exceed 50. The number of staff shall not exceed nine.
3. The hours and days of operation shall be 7:00 a.m. to 7:00 p.m., Monday through Friday.
4. Drop-off and pick-up of children shall be from the street in front of the main entrance of the facility.
5. Staff or volunteers shall escort children between the facility and vehicles during all hours that drop-off and pick-up of children occurs.
6. The applicant shall provide two leased parking spaces for staff use at 600 9<sup>th</sup> Street, N.E.
7. The applicant shall provide a solid or baffled-wood fence around the deck play area to minimize the noise created by the on-site outdoor play area.
8. Trash shall be stored in a covered container under the existing stair landing. Trash pick-up shall occur during hours the facility is not in operation.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

**VOTE: 3-1-0** (Betty King, Sheila Cross Reid and Jerry Gilreath to grant; John G. Parsons having head the case, not voting.)

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

ATTESTED BY:



**SHERI M. PRUITT-WILLIAMS**

**Interim Director**

**FINAL DATE OF ORDER:**         JUN 23 1999

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 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.

BAB/5.7.99

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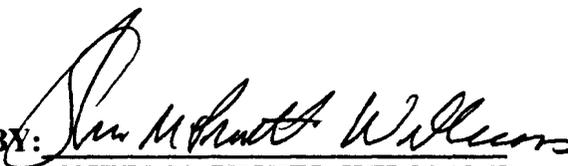
**BZA APPLICATION NO. 16446**

As Interim Director of the Office of Zoning, I hereby certify and attest that on JUN 23 1999 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who participated in the public hearing concerning the matter, and who is listed below:

Donald R. Madden  
243 K Street, NE, #2  
Washington, DC 20002

Daniel M. Pernell, Chairperson  
Advisory Neighborhood Commission 6A  
St. James Parish  
1132 4<sup>th</sup> Street, NE  
Washington, DC 20002

Lyle R. Schauer  
Chair, Zoning Committee  
Capitol Hill Restoration Society  
P.O. Box 15264  
Washington, DC 20003-0264

ATTESTED BY:   
SHERI M. PRUITT-WILLIAMS  
Interim Director