GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14646 of B.A. and Barbara Schriever Allan, pursuant to Section 3108.1 of the Zoning Regulations, for a special exception under Section 205 to continue use as a child development center for twenty children, ages two through four years, in an R-1-B District at premises 2828 Hurst Terrace, N.W. (Square 1420, Lot 12).

HEARING DATE: July 29, 1987
DECISION DATE: July 29, 1987 (Bench Decision)

FINDINGS OF FACT

1. The subject property is located on the southwest side of Hurst Terrace between Garfield Street to the north and Fulton Street to the south. The subject property is zoned R-1-B.

2. The property is improved with a two story plus basement brick detached single-family dwelling with a one-story rear addition which is used as a child development center.

3. The site consists of 9,912 square feet of land area having fifty feet of street frontage along Hurst Terrace.

4. The immediate neighborhood is predominantly developed with single-family detached houses on large lots. Directly across Hurst Terrace is the Key Elementary School.

5. By BZA Order No. 14121, dated June 7, 1984, the Board granted special exception approval to use the subject premises for a child development center for a period of three years subject to four additional conditions.

6. Ms. Barbara Allan, the co-owner and applicant, resides at the subject premises and operates a Montessori school at the site pursuant to Board approval.

7. The center serves children two to four years old. It operates from 9:30 A.M. to 12:30 P.M., Monday

BZA
Case No. 16915
Exhibit No. 9

Board of Zoning Adjustment
District of Columbia
CASE NO.16915
EXHIBIT NO.9

through Friday, during the months of September through May.

8. There is a maximum of twenty children, one teacher and two aides.

9. The center is only operated as a pre-school during the hours indicated. No day care for other children is provided.

10. The rear yard of the dwelling is used as a play area. The rear yard is extremely deep and large, and is presently equipped with swings and a sandbox. The yard is fenced and landscaped.

11. The subject dwelling has a garage in the basement accommodating one car. Two other cars can be parked in the driveway in front of the garage.

12. The applicant has complied with all the conditions imposed by BZA Order No. 14121.

13. The site is located on a local street, having a minimum volume of through traffic and primarily serving as access to the properties fronting on it. The street is lightly traversed, and experiences its greatest traffic volumes during arrival and departure time at the Key Elementary School.

14. The center's proposed hours of operation are different from normal rush hour travel periods and also do not coincide with the hours of the Key School.

15. The pick-up and discharge of children occurs at the front of the site. A staff member escorts children to and from the parents' vehicles.

16. Ms. Allan testified that the majority of children live within walking distance of the site. No more than five children reside outside the immediate area and they are dropped off and picked up by parents who work in the area.

17. On-street parking is widely available and there is sufficient space available on-street to accommodate traffic movements to and from the site.

18. The size of the yard, the existing fencing and screening of the yard, and the distance of adjoining houses from the play area combine to prevent adverse effect on adjoining properties because of noise.

19. The single-family appearance of the dwelling will be preserved. There will be no sign on the property indicating the presence of the school use.

20. There will be no off-site play area for children at the center.

21. There are no other child development centers located in the same square or within 1,000 feet of the subject property.

22. The application was referred to the Services Facility Regulation Administration of the District of Columbia Department of Consumer and Regulatory Affairs as required by the Zoning Regulations. By memorandum dated July 9, 1987, that Department acknowledged receipt of the referral but did not address the merits of the case or make a recommendation on the application.

23. The Office of Planning, by memorandum dated July 21, 1987, recommended that the application be approved. The OP was of the opinion that the existing facility provided a needed service with out creating adverse impacts on the neighborhood. The OP recommended that the application be approved for a period of three to five years with the same conditions as imposed by BZA Order No. 14121. The Board concurs with the recommendation of the OP.

24. The Department of Public Works, by memo dated July 8, 1987, indicated that it had no objection to the continued operation of the facility subject to the condition that a staff person aid in the discharge and pick-up of children. The Board concurs with the recommendation of the Department of Public Works.

25. Advisory Neighborhood Commission 3D, by letter dated July 21, 1987, indicated that the Commission voted unanimously to support the granting of the application. The ANC did not specify any issues and concerns regarding the continuation of the use as required by Section 3307.1 of the Zoning Regulations. The Board is therefore not required to afford "great weight" to the ANC report.

26. There was no opposition to the application at the public hearing or of record.

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. In order to be granted such an exception, the applicant must demonstrate that she has complied with the requirements of Section 205 and 3108.1 of the Zoning Regulations. The Board concludes that the applicant has so complied. The use is capable of meeting all code and licensing requirements. There will be no adverse effects or unsafe conditions created because of traffic, parking, noise or off-site travel. There are no other child development centers within 1,000 feet. Appropriate referrals to District of Columbia agencies were made, and all agency recommendations were favorable. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS from the date of expiration of the previous approval, namely until June 7, 1992.

2. Operation of the facility shall be limited to Barbara Schriever Allan.

3. Enrollment shall be limited to a maximum of twenty children.

4. The maximum number of employees shall not exceed three, consisting of one teacher and two aides.

5. The hours of operation shall not exceed from 9:30 A.M. to 12:30 P.M., Monday through Friday, during the months of September through May.

6. A staff person shall assist in the discharge and pick-up of children to the facility by escorting the children to and from vehicles and the facility.

VOTE: 4-0 (Lindsley Williams, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

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

ATTESTED BY: _____
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: AUG 1 1 1987

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.

order14646/DEE2