GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14121, of Bernard A. Schriever, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use the ground floor of the subject premises as a child development center for twenty children, ages two through four years, one teacher and one aide in an R-1-B District at premises 2828 Hurst Terrace, N.W., (Square 1420, Lot 12).

HEARING DATE: April 18, 1984
DECISION DATE: April 18, 1984 (Bench Decision)

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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 subject property is improved with a two story plus basement brick detached single family dwelling.

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

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

5. The applicant proposes to erect a one story rear addition measuring twenty-six feet wide by thirty feet deep. The addition would be for the purpose of accommodating a child development center at the subject premises.

6. The addition would be designed in such a way that it could be used as part of the dwelling in the future. It is also to be designed such that a second story could be added at a later date.

7. The dwelling with the addition complies with all the applicable height, area and bulk requirements of the Zoning Regulations. No variances are required for the addition.

8. Ms. Barbara Estes, daughter of the owner of the property, resides in the dwelling and proposes to operate a

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Montessori School at the site. Such a use qualifies as a child development center under the Zoning Regulations.

9. The center would serve children two to four years old. It would operate from 9:30 A.M. to 12:30 P.M., Monday through Friday, during the months of September through May.

10. There would be a maximum of twenty children, one teacher and two aides.

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

12. The rear yard of the dwelling will be 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.

13. 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.

14. The Service Facility Regulation Administration of the Department of Consumer and Regulatory Affairs, by memorandum received on April 9, 1984, advised the Board that the proposed center meets the requirements of the Child Development Facilities Regulation 74-34 and D.C. Law 2-29. The Board finds that the proposed center is capable of meeting all applicable code and licensing requirements.

15. The site is located on a local street, having a minimum volume of trough 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.

16. 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.

17. The picking-up and dropping-off of children brought by car to the center would occur from the street directly in front of the site.

18. Ms. Estes testified that she already has a waiting list of potential enrollees at the center. The majority of those children live within walking distance of the site, with the remainder within a ten block radius.

19. Photographs submitted to the record, the testimony of the applicant, the report of the Office of Planning and the report of the Department of Public Works all evidenced

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

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

21. The single family appearance of the dwelling will be preserved. There will be no sign on the property indicating the presence of the proposed use.

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

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

24. The Office of Planning, by memorandum dated April 11, 1984, and by testimony at the hearing, recommended approval of the application. The Office of Planning determined that the proposed child development center conforms with the provisions of Paragraph 3101.41 and Sub-section 8207.2 of the Zoning Regulations. The Office of Planning was of the opinion that the use as proposed would protect children attending the center and neighborhood residents from any objectionable impacts. The Office of Planning recommended approval of the application. The Board concurs with the findings and recommendation of the Office of Planning.

25. The Department of Public Works (DPW), by memorandum dated April 11, 1984, reported that Hurst Terrace is a two-way, thirty foot wide local street. Parking is unrestricted on the west side of Hurst Terrace. On the east side, near the Key School, which is located just south of the site, parking is prohibited between 7:00 A.M. and 6:30 P.M. on school days. North of this school zone, parking is unrestricted on the east side of the street. The DPW was of the opinion that the proposed child development center would not have a significant effect on transportation conditions in the surrounding area. The Board concurs with the findings of the DPW.

26. Advisory Neighborhood Commission 3D, by letter dated April 8, 1984, advised the Board that it supported the application and recommended approval by the BZA. The ANC noted the substantial neighborhood support, the compatibility of the location across from Key School, the availability of parking and drop-off space, the expansion of the structure within the R-1-B regulations, and the record of Ms. Estes as a long time resident of the area. The ANC also had

considered the limited hours, the normal school year proposed and the fact that the exception would not run with the land but only to Ms. Estes. The Board concurs with the recommendation of the ANC.

27. The Palisades Citizens Association, by letter dated April 11, 1984, recommended to the BZA that the special exception, if granted, be granted to Barbara Estes as a tenant applicant, not to run with the property, and be non-transferable to any other party or tenant. The Association further recommended the following limitations: (A) twenty children maximum; (B) school term to run from September to May; and (C) school hours to be from 9:30 A.M. to 12:30 P.M. only. The Board will so condition the grant of this application.

28. The applicant submitted a petition in support of the application containing the signatures of twenty-two residents of Hurst Terrace and other adjoining streets. The residents of the two immediately adjoining dwellings signed the petition.

29. One area resident appeared at the hearing and supported the application on the grounds that no neighborhood resident opposed it, it would be convenient to the area and that Ms. Estes would operate a superior facility. The Board concurs.

30. One other person appeared in support of the application, on the grounds that the applicant has complied with the requirement of Paragraph 3101.41. This person submitted photographs to the record demonstrating the width of Hurst Terrace and the availability of parking.

31. Two persons, not residents of the area, appeared in opposition to the application, on the grounds that the center would be objectionable because of traffic and unsafe because of drop-off conditions. The opposition also argued that the area was of high density for single family homes, and that noise would be a problem. The opposition also submitted photographs which allegedly demonstrated the parking problem.

32. As to the issues raised in opposition, the Board finds as follows:

A. The weight of the evidence in the record leads to the conclusion that parking and traffic are not problems. As set forth in Finding No. 19, and as demonstrated by the opposition's own photographs, there is adequate space on Hurst Terrace to accommodate any traffic and parking demand for the proposed use.

B. The subject site is not a high density single family area. As set forth in Finding No. 4, the lots in the area are relatively large. The subject lot contains almost twice the minimum area required for an R-1-B District.

C. Noise generated from the facility will not be a problem, for the reasons set forth in Finding No. 20.

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 Paragraph 3101.41 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The proposed use is capable of meeting all code and licensing requirements. There will be no adverse effects or unsafe condition created because of traffic, parking, noise or off-site travel. There are no other child development center within 1,000 feet. Appropriate referrals to D.C. agencies were made, and all agency reports recommended favorably.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. 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 three years from the date of this Order.

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

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.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Douglas J. Patton and Carrie L. Thornhill to grant;

Walter B. Lewis not voting, having recused himself).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN - 7 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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.

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