GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF PLANNING

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Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: January 21, 2005

SUBJECT: BZA Application #17280 - **Newcomb Day Care Center**

APPLICATION

Application of Newcomb Day Care Center, pursuant to 11 DCMR § 3104.1, for a special exception to expand an existing child development center to allow 70 children, and 14 staff, under section 205, in the R-5-A District at premises 541 Newcomb Street, S.E. (Square 5985, Lot 818).

In addition, based on the off-street parking requirement referenced in Section 205.4 and the zone requirements outlined in Section 2101, OP believes that the applicant would require variance relief from the parking requirement based on the proposed expansion of the number of employees from 9 to 14.

RECOMMENDATION

OP recommends **approval** of the special exception request under Section 205 for the expansion of the Newcomb Day Care Center for up to 70 children and 14 staff subject to the following conditions:

- Approval shall be for a period of **five (5) years**.
- The days and hours of operation shall be Monday through Friday, between 7:00 a.m. and 6:00 p.m.
- Enrollment shall be limited to a maximum of seventy (70) children and fourteen (14) staff persons.
- One (1) on-site parking space shall be maintained at the rear of the property.

BZA
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Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO. 17280
EXHIBIT NO. 29

- Evergreen landscaping shall be placed along the front of the fenced play area.
- All outdoor activities shall take place under staff supervision.
- Outdoor playtimes during the summer should begin no earlier than 9:00 a.m.

OP also **recommends variance relief** from the parking requirement to permit one (1) off-street parking space and three (3) on-street parking spaces.

SITE DESCRIPTION AND BACKGROUND

The existing daycare center is located in the Congress Heights neighborhood in the southeast quadrant of the District. The center occupies a converted apartment building in Square 5985. Newcomb Street binds the square on the southeast, Oakwood Street on the northwest, 6th Street on the northeast and Malcolm X Avenue on the south. A 16-foot wide alley runs along the rear of the property. The property is located in the R-5-A zone district, which is characterized by mid-rise multi-family residences. The area surrounding the property is primarily developed with small apartment buildings and single-family row homes. The subject property is improved with a two-story, (previously a four-unit apartment) brick building with apartment buildings on either side of the property.

The Newcomb Day Care Center has operated with Board approval since 1992, per BZA Orders # 15775 (Dec. 2, 1992) and #16242 (1997). The subject premises have been used as a child development center since April 1992. The 1992 application before the Board requested an increase in the number of children from 13 to 28, aged 6 weeks to 14 years and a staff increase from two to four on the first floor of the then apartment building. At that time, the Office of Planning recommended approval and the Board granted the request subject to the following conditions:

- Approval shall be for a period of FIVE YEARS.
- Operation of the facility shall be limited to the applicant.
- Enrollment shall be limited to a maximum of 28 children.
- The maximum number of employees shall not exceed four individuals.
- The hours and days of operation shall not exceed from 6:00 am to 6:00 pm, Monday through Friday.
- A staff person shall assist in the drop-off and pick-up of children by escorting the children to and from the facility when not accompanied by parents or guardians.

In 1997, the applicant requested an increase from 15 to 29 children, aged two to six and four staff on the second floor of the subject premises. The Board granted the request per BZA Order 16242, subject to the following conditions:

- Approval shall be for a period of FIVE YEARS.
- The days and hours of operation shall be Monday through Friday, between 6:00 a.m. and 6:00 p.m.
- Two (2) on-site parking space shall be maintained.
- All outdoor activities shall take place under staff supervision.

The current application before the Board requests an increase in the number of children on the first floor from 19 to 34, and on the second floor from 7 to 36, for a total of 70 children, and a staff increase from 9 to 14. The use of the property for a child development center for more than 15 children is permitted as a special exception with Board approval subject to the criteria of Section 205.

ANALYSIS

Operation of the Center

Currently, the daycare operates as follows:

- Monday through Friday, from 7:00 am to 6:00 p.m., for children ages 6 weeks to 6 years for 39 children. According to the applicant, the center currently has 32 children registered, including 15 infants/toddlers (6 weeks to 1 year old), 6- two-year olds, and 11- three to four year olds.
- It is licensed for 39 children, with an occupancy certificate for accommodations for 6 weeks to 6 year olds.
- Nine persons are currently employed at the site.
- There is a play area to the front of the building and play times are scheduled according to ages. The center owns a van, which is used to transport children to a nearby park located no further than 500 feet from the building.
- Drop-off and pick-up are curbside at the front of the building and is supervised by staff.
- According to information provided by staff, no more than 8 children arrive by car and other parents walk or use public transportation. The majority of attendees reside within the Congress Heights neighborhood.

The Board of Zoning Adjustment is authorized to grant special exceptions to permit the expansion of such facilities for more than 15 children in residential districts. The application must be harmony with the intent of the Zoning Regulations and Maps and should not adversely affect the use of neighboring property, subject to the criteria specified in Sections 205 as follows:

SECTION 205

205.2 The center shall be capable of meeting all applicable code and licensing requirements.

The existing daycare is a licensed facility as required by Title 29 DCMR Chapter 3 and has been in operation since April 1992. Based on the request for an increase in the number of children, OP understands that DCRA and DHS would determine whether the applicable codes would be met after the Board's determination of the requested increase. OP understands that DHS determines the size and staffing requirements and no certificate of occupancy would be issued by DCRA until all such criteria are satisfied.

205.3 The center shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off children or elderly persons.

The building fronts Newcomb Street and children are dropped-off and picked up curbside under staff supervision. There is no evidence of any adverse traffic impacts due to curbside drop-off and pick-up at the center. The applicant stated that currently only 8 attendees, who are also neighborhood residents, arrive by car. OP notes for the record that there is unrestricted parking on both sides of the street. Based on this information, OP believes that no additional vehicular traffic is generated through the neighborhood by attendees. The majority, or 23 infants and toddlers, are walked to the daycare or arrive by bus. The proposed increase would not have an impact on traffic since the majority of children and staff reside in the neighborhood. The applicant also informed OP that many of the attendees are dropped-off and picked up at staggered intervals.

205.4 The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors.

Section 2101 of the Zoning Regulations requires 1 parking space per 4 teachers and other employees. The childcare center requests an increase in staff from 9 to approximately 14 persons based on the proposed increase in the number of children. Therefore, four (4) on-site parking spaces would be required. Based on OP's site visit, any available parking would have to be placed at the rear of the building, to be accessed via the 16-foot wide alley. According to past BZA orders, the site was conditioned to accommodate up to 2 parking spaces. However, due to the building's recent physical expansion, OP believes that the existing rear yard could only accommodate one, 9'x19' vehicular space. Therefore, the applicant would need variance relief from the off-street parking requirements for at least 3 vehicles.

The center currently owns a van, which is used to transport children to neighborhood play areas. Currently, only one (1) staff person drives to work and others reside in the immediate neighborhood. OP has no objection to a waiver from the parking requirement by the Board, or grant of variance relief from the requirement, since the site cannot physically accommodate more than 1 vehicle. Additionally, there is unrestricted on-street parking available for use by visitors to the center. The application was forwarded to DDOT for review and recommendation. The variance relief is subsequently reviewed on page 6 of this report.

205.5 The center, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise or activity, or visual or other objectionable conditions.

The play area of the facility is located at the front of the building and is not visually objectionable. All play activities are currently supervised and are scheduled by age group. There is no evidence on record to suggest that the center has had an adverse impact on the neighborhood due to noise, which may affect residents of apartment buildings, located on either side of the subject property. Since the play times are staggered and grouped according to children's ages, OP believes the impact of noise or activity from the center due to an increase in the number of infants and toddlers would have minimal impact on adjacent properties.

OP recommends that the applicant restrict the hours of outdoor play to begin no earlier than 9:00 a.m. during the summer program to minimize the noise impact of the play area on residents.

205.6 The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirement as it shall deem necessary to protect adjacent and nearby properties.

Currently, the front of the property is fenced with a chain link fence, a six-foot tall aluminum siding fence to the left and a six-foot tall wooden fence to the right. Based on a site visit and the applicant's photos depicting the view of the building from the street frontage, OP recommends that additional screening be provided by evergreen landscaping shrubbery to minimize the view of the play area from the street. The plantings would also provide additional protection for children during play times.

205.7 Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.



The center also transports children to a nearby park located on Malcolm X Avenue, south (or rear) of the subject property. The property is located approximately 250 feet to the signalized intersection of Malcolm X Avenue and Newcomb Street. There are sidewalks to access the park area, which is well maintained and equipped with a tot-lot and play equipment. However, the applicant stated that children rarely walk, since the center owns and operates a van, which is used to transport children to this off-site play area. Play times at this park are supervised by staff and typically occur between the hours of 10:30 a.m. to 11:30 a.m., which are non-peak traffic times. Therefore, OP believes that the center will continue its current operations in a safe manner with respect to transportation of children to and from the play area.

205.8 ***The Board may approve more than one (1) child/elderly development center in a square or within one thousand feet (1,000 ft.) of another child/elderly development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.***

There is another daycare center located in the same square at the rear of the subject site, at 554 Malcolm X Avenue. According to public records, this is a licensed center, which operates between the hours of 7:00 am and 6:00 p.m. with a capacity to accommodate 27 children (12 years and under). The center's order (#16344) stated that the majority of the children who attend this daycare are also residents of the immediate neighborhood and are dropped-off and picked up via public transportation or by walking. The adjacent center has been in operation since 1997 and OP has no evidence to suggest that there has been an adverse cumulative impact on the neighborhood due to both centers.

Based on conditions of approval outlined in the order for the adjacent daycare, OP believes that the Newcomb Daycare Center could continue its operations without an adverse cumulative effect of similar facilities in the neighborhood due to noise, traffic and their operations.

Section 3104.1

The standard by which the BZA should approve a special exception is set forth in Section 3104.1 of the Zoning Regulations. The following demonstrates how the proposed child development center has met these standards:

> ***. . . special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.***

According to statements provided by the applicant and supported in reviews of testimony in past transcripts, the center has provided a much-needed service for residents of the neighborhood. OP has no reason to believe that the current operation would change due to the increase in the number of children and staff, if all other relevant code requirements were met.

The intent of the R-5-A zone as mapped in this area will not be jeopardized, as the child development center is a use permitted by special exception, subject to review approval by the BZA. Similarly, its requested expansion has met the requirements of Section 205 of the Zone Regulations and OP believes therefore, that the intent, purpose, and integrity of the Zoning Regulations and Map will be maintained.

VARIANCE RELIEF

Parking

Section 205.4 reiterates the parking requirement for a child development center stipulated in Section 2101 of the Zone Regulations, which requires the provision of off-street parking in a

ratio of 1 space per every four employees. Previous orders conditioned the site to maintain two (2), on-site spaces. However, due to the building's recent expansion, only one space could be provided and the applicant would need variance relief to meet the requirements for up to 14 employees.

The request must show evidence that the property is unique due to exceptional narrowness, shallowness, topographical conditions or extraordinary situation, whereby the uniqueness, in combination with the zoning regulations would result in peculiar and exceptional practical difficulty to the owner and the variance should not substantially impair the intent, purpose and integrity of the zone plan.

The subject property is an irregularly shaped lot with a rear yard boundary that is much narrower than the front of the property. Along Newcomb Street, it is 34 feet wide with a depth of 100 feet along its northern property line and 86 feet along the southern property line. The adjacent property at 549 Newcomb Street encroaches over a triangular portion of the subject property at its southeast corner adjacent to a 16-foot wide alley at the rear.

The applicant informed OP that the existing building was legally expanded to permit a two-story addition at the rear of the property for additional play and sleep areas, an office and a computer room. Based on submitted floor plans, and the surveyor's plat, it was deduced that the rear addition of the building reduced the rear yard to 21 feet along the northern property line and 7.5 feet along the south property line, with the angled encroachment remaining which measures 22.07 feet.

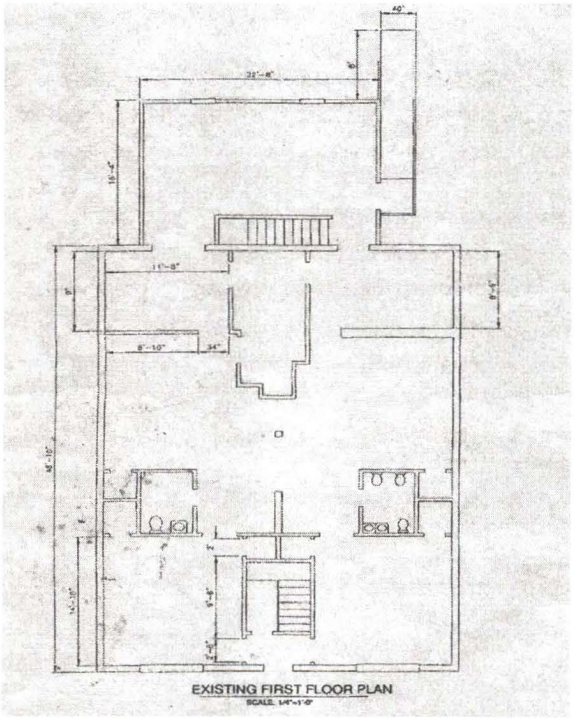


Figure 1 – Existing Floor Plan

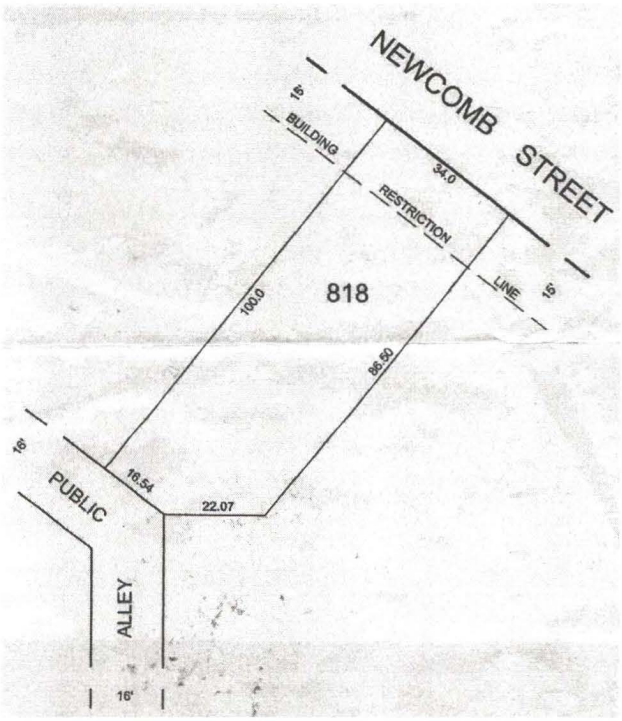


Figure 2 – Surveyor's Plat

This smaller irregularly shaped rear yard can now only practically accommodate one 9'x19' parking space. There is a practical difficulty in providing three spaces if the area at the rear is to be maintained as a secured fenced area.

OP does not believe that grant of variance relief to permit 3 on-street parking spaces would impair the intent of the zone plan, since there is sufficient available unrestricted parking in the immediate neighborhood and square. In addition, the majority of employees would reside in the neighborhood and use public transportation. As previously stated, OP requested DDOT's recommendation on the impact of the proposed expansion and variance relief from the parking requirement.

AGENCY COMMENTS

The application has been referred to DDOT, and a modal split on the number of attendees was requested, including the number of children who are driven to the center, arrive by public transportation and walked to the center. DDOT informed OP that based on recent site visits, no significant impacts were anticipated due to the proposed increase in the number of staff and children. DDOT supports OP's opinion that at least one (1) parking space is maintained on-site at the rear of the property.

COMMUNITY COMMENTS

OP requested and received no information from the ANC regarding the applicant's proposal. The Ward 8 representative in the Neighborhood Planning Division submitted that no community objection has been raised concerning the proposed expansion of the daycare center.

SUMMARY AND RECOMMENDATION

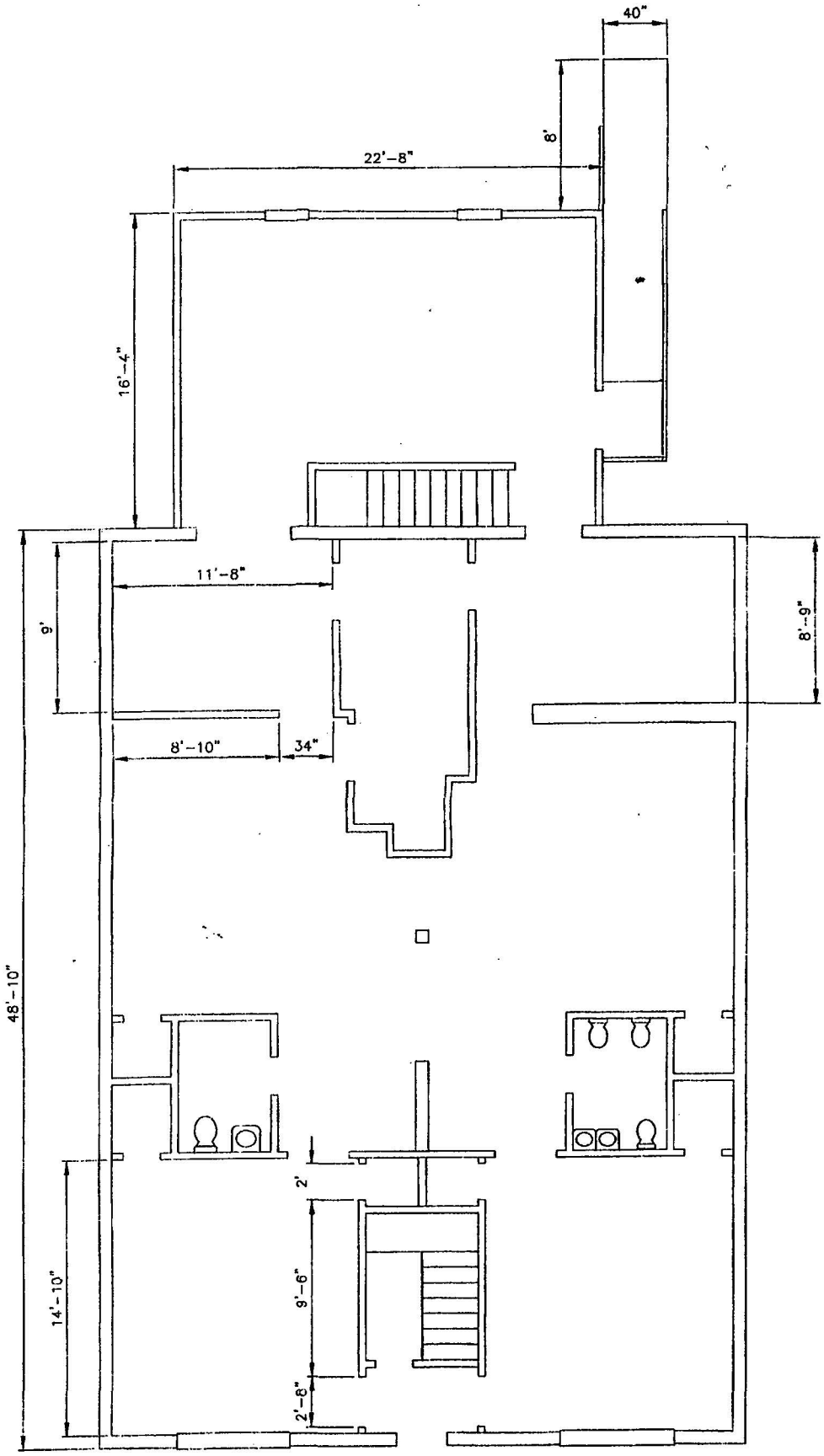
The proposed special exception for the childcare center's expansion will be an asset, as it currently provides a needed service to parents in the growing community. The location and hours of operation have not had a negative impact on the neighborhood due to additional noise or traffic since its inception. OP has no evidence to suggest that the proposed expansion would have an adverse impact on the neighborhood. As demonstrated above, the application meets the standards outlined in Section 205 for approval of the special exception. Additionally, if the Board accepts the inclusion of the request for a parking variance as part of the application, OP believes that granting the variance relief would not tend to adversely affect the intent, and purpose of the zone plan.

Therefore, the Office of Planning recommends approval of the requested special exception conditioned as follows:

- Approval shall be for a period of **five (5) years**.

- The days and hours of operation shall be Monday through Friday, between 7:00 a.m. and 6:00 p.m.
- Enrollment shall be limited to a maximum of seventy (70) children and fourteen (14) staff persons.
- One (1) on-site parking space shall be maintained at the rear of the property.
- Evergreen landscaping shall be placed along the front of the fenced play area.
- All outdoor activities shall take place under staff supervision.
- Outdoor playtimes during the summer should begin no earlier than 9:00 a.m.

OP also **recommends variance relief** from the parking requirement to permit one (1) off-street parking space and three (3) on-street parking spaces.



EXISTING FIRST FLOOR PLAN

SCALE: 1/4"=1'-0"