

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- November 8, 1972

Appeal No. 11147      Presbyterian Home of the District of Columbia, applicant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried, with Messrs. Hatton and Mackey absent, the following Order was entered at the meeting of the Board on December 12, 1972.

EFFECTIVE DATE OF ORDER -- January 10, 1973

ORDERED:

That the appeal for permission to construct an addition to the existing Presbyterian Home of the District of Columbia located at 3050 Military Road, N.W., Parcel 60/57 (near Square 2287), be granted.

FINDINGS OF FACT:

1. The existing Presbyterian Home for the Aged at 3050 Military Road, N.W., was established pursuant to Board of Zoning Adjustment Appeal No. 5205. In Appeal No. 5205, this Board found that the proposed use qualified as a philanthropic or eleemosynary institution within the meaning of the Zoning Regulations and that the establishment of the institution would be 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.
2. In Appeal No. 9232, the Board approved additions to the Home, which additions, due to market conditions, were never constructed. In that appeal, the Board approved a site development plan which would provide for 300 occupants at the Home, of which approximately 64 would be housed in convalescent facilities. Also in Appeal No. 9232, the Board found that the proposed addition was part of the philanthropic or eleemosynary institution and the convalescent facilities were appropriate accessory uses to the institution so long as such convalescent facilities did not exceed 20% of the total occupancy.
3. The subject appeal requests approval of a three-story addition and basement with a two-story connection wing which would provide a total of 103 additional beds and 37 convalescent bed accommodations. This addition will make a combined total for the Home of 220 beds, of which 37 are infirmary beds.
4. The subject site is a 12.4-acre site located in an R-1-A zoning district. The uses to the west and south are institutional in character and

size and, more specifically, are the Temple Sinai, the Carnegie Institute facilities and two embassies. There is one adjoining single-family home to the south located on 1.62 acres, which lot is removed substantially from the proposed addition. To the north and east of this large site are single-family detached homes, the majority of which are nonconforming as to lot areas under the R-1-B zoning classification.

5. The Home facilities including the proposed addition will have a lot coverage of approximately 8%. The average lot coverage of the surrounding single-family development is approximately 25%. The proposed addition will have a maximum height of 40 feet, which is the height limitation imposed on single-family dwellings, although institutional uses such as the Home may be constructed to a height of 90 feet pursuant to Section 3201.27. The new parking area proposed will be constructed between the existing and proposed wings and will accommodate 42 parking spaces in addition to waiting and driveway areas.

6. The National Capital Planning Commission has recommended approval of this appeal.

7. The Presbyterian Home is a philanthropic or eleemosynary institution within the definition of the Zoning Regulations. The proposed addition, in keeping with the existing facilities, is not of a correctional nature and no goods, chattel, wares or merchandise will be commercially created, exchanged or sold therein. The Board also finds that the proposed use will not adversely affect the use of neighboring property.

8. At the public hearing and in the record, there was opposition to the granting of this appeal based upon numerous factors. The Board does not find that any of the opposition's contentions have sufficient merit to require the denial of the requested relief. The following particular findings are made on the issues presented:

a. The proposed three-story addition to the Home is approximately 90 feet removed from the nearest adjoining private property to the south. However, property owners to the south requested the Board to impose an additional 9-foot setback from a private access road on the southern portion of the site and based their request upon a letter filed on behalf of the Home in B.Z.A. Appeal No. 5205. The Board did not impose a condition pertaining to said setback in Appeal No. 5205. From the testimony presented, the Board finds that it would be a design hardship and difficulty and would decrease the efficiency of the proposed addition to impose the 9-foot additional setback as a condition. It should be noted that side yards in the R-1-A District may be as little as 8 feet and rear

yards in said district may be as little as 25 feet. Thus, the proposed setbacks from the adjoining private properties are far in excess of those required for buildings 40 feet in height.

b. The opposition states that the proposed addition may not be constructed on the site since there are highway planned streets over the site. Such a contention has no merit since the owner of land over which a highway has been projected as a paper street has the right to construct a building thereon until the condemnation of the land for the streets has begun. The condemnation of said streets has not begun. Moreover, the National Capital Planning Commission, the agency which has final authority over the Highway Plan of the District of Columbia, has recommended approval of this particular case. There is no evidence in any way to establish that there is a need for the highway planned streets over the property.

c. The protestants stated that the addition violates the Zoning Regulations as to height. This conclusion has no merit. The existing facility is a three-story building and the maximum height as determined from the point of measurement will be 40 feet. Applicant seeks no variance with regard to height.

d. Protestants argue that the Home has not complied with the Shipstead-Luce Act, 40 U.S.C. §121. This statutory question is not to be determined by the Board but is a determination which must be made by the Building Department. Based on the representation of the applicant, who has submitted a plat confirmed by the Chief of the Permit Branch of the District of Columbia, the proposed addition does not front on or abut Rock Creek Park.

e. The opposition inaccurately deems the subject request a variance requiring proof of hardship. The application is not a request for a variance but a request for a special exception, which use is predeemed compatible with other uses in the R-1-A zone and must be approved if the Board makes the requisite findings under Section 3101.49, which the Board makes in this case.

f. The protestants state that this application and the proposed building changes the character of the area and

adversely affects the neighborhood. As previously indicated, the facilities of the Home including the proposed addition will occupy only 8% of the site, far below the lot coverage of other uses in the area. Other uses in the area include similar institutional-type uses.

While "future expansion" is indicated on the site plan presented to the Board, no approval of the future expansion is sought in this appeal and the Board specifically withholds such approval until an appropriate appeal is filed for such future expansion. The subject application seeks merely the three-story addition on the western portion of the site and does not seek any approval for buildings on the eastern side of the site where a significant topographical indentation exists. The element entitled "Land Use Objectives" of the Comprehensive Plan of the National Capital Planning Commission calls for a maximum density of under 30 dwelling units per acre. The subject application is approximately one-half of that density. Under said Land Use Objectives, the property would be entitled to development of over 300 dwelling units although, by virtue of the R-1-A restrictions, approximately 100 could be constructed.

g. Protestants state that the Board should deny the application because many property owners oppose it. We first find that there are property owners in the area who support the application as well. Also, the Board is obligated to follow the regulation criteria of the Zoning Regulations and may not grant or deny an appeal on the basis of number of persons for or against an application. The petition that is contained in the file has questionable weight since it appears that the petition may have been based upon inaccurate factual representations, which are substantially the same contentions made by the opposition.

h. The Board finds that the proposed addition is purely local in character and that the report of the National Capital Planning Commission is not subject to the National Environmental Policy Act of 1969. Moreover, this Board finds that there is sufficient evidence of record to establish the right to the approval of this request even if no report had been submitted by the Planning Commission.

OPINION:

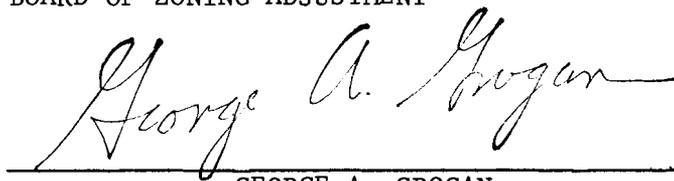
The Board is of the opinion that the applicant, through the evidence submitted at public hearing and contained in the record, has met all the criteria of Sections 3101.49 and 8207.2 of the Zoning Regulations. The grant of this application to permit the construction of the proposed addition is in harmony with the general purpose and intent of the Zoning Regulations and Maps. We believe that the approval of the addition will not tend to adversely affect the use of neighboring property in accordance with the Regulations and Maps. In the opinion of the Board, the convalescent facilities constitute an accessory use to the philanthropic or eleemosynary institution within the meaning of Section 1202 of the Regulations and such use is permitted in an R-1 District under Section 3101.56. This Order shall be subject to the following conditions:

- (a) No goods, chattel, wares or merchandise shall be commercially created, exchanged or sold therein.
- (b) The ratio of convalescent facilities to residence facilities shall not exceed 20%.

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

ATTESTED:

By:



GEORGE A. GROGAN  
Secretary of the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.