

Before the Board of Zoning Adjustment, D. C.

Application No. 11796, of Capitol Hill Presbyterian Church for a variance from the use provisions of the R-4 Zone, to permit an office (1st floor) and a special exception to permit the establishment of a private school at the premises 201 4th Street, S. E., Lot 808, Square 789.

HEARING DATE: December 18, 1974

DECISION DATE: January 21, 1975 & August 6, 1975

FINDINGS OF FACT:

1. The applicant proposes to use a portion of the church located on the subject property (1st floor) as an office, to be rented to an unidentified non-profit or professional group.

2. An office is not permitted in the R-4 Zone unless such use is for a Doctor residing on the premises.

3. The applicant testified at public hearing, that the church on the subject property is in disrepair, and that the granting of a use variance would enable the church to rent out office space to a non-profit or business group and use the profit from such rental to repair the church building.

4. The applicant also testified that the membership of the church has decreased from 667 members in 1955 to 160 members in 1973, while salaries and expenses of the church have increased 80%.

5. The applicant further testified that because of the size of the church, and its characteristics as a church, that a practical difficulty exists to the owner in devoting the entire structure to R-4 uses. The applicant relies on the law of the D. C. Court of Appeals relating to use variances announced in Clerics of St. Viators, Inc., V. D. C. BZA , 320 A 2d 291 (D.C. App. 1974).

6. The Board finds that no evidence of record indicates that the applicant has attempted to use the property for all permitted R-4 uses, in fact, this application in part request relief in the nature of a special exception to use a part of the subject property for an R-4 use.

7. The applicant also asserted that the owner of the subject property and the property are subject to a unique circumstance, because the church was constructed as a national church with a large size and unique character, and that as a result, the building has a limited institutional use.

8. The Board finds that the applicant has not shown that it has exhausted all possibilities for using the property for permitted R-4 uses.

9. The applicant asserted that the proposed use would not have an adverse effect upon the neighborhood because it abuts a C-2-A Zone and is located one-half ($\frac{1}{2}$) block north of Pennsylvania Avenue, S. E., which is a C-2-A Zone.

10. The Board finds that the church is also in close proximity to a residential zone, a fact to which the applicant testified.

11. The applicant also request a special exception to permit a pre-school and private school on the subject property, to be located in the 1st and 2nd floors of the church chapel.

12. The proposed school would be operated by the Capitol Hill Arts Workshop, a non-profit corporation, whose purpose is to provide educational instruction in artistic disciplines that includes, dramatics, piano, puppetry, dance, tumbling and yoga.

13. The total gross floor area of the 1st and 2nd floors of the chapel is 2,100 square feet.

14. The school would operate six (6) days per week and have sessions from 9:00 a.m. to 12:00 p.m., 3:00 p.m. to 5:00 P.M. and 6:00 p.m. to 8:00 p.m.

15. The maximum number of students per day would be 72, with 10 instructors, however, only two teachers would be present to teach a maximum of twelve students at one time.

16. Students will range from $3\frac{1}{2}$ years of age to 60 years of age.

17. The applicant can provide for the three (3) parking

spaces required by the regulations.

18. No opposition was registered at the public hearing.

OPINION AND CONCLUSIONS OF LAW:

Based upon the above Findings, the Board is of the opinion that the applicant has complied with Section 3101.42 of the regulations, and that the proposed use of the subject property for a private school is in harmony with the neighborhood and the regulations as a special exception.

The Board is of the opinion that the applicant has not met its burden of proving a hardship to warrant the granting of a use variance as provided by Section 8207.11 of the regulations. The alleged financial hardship is not a basis for a hardship, and the applicant has not demonstrated that the church building in question cannot be used for church purposes or other uses permitted in the R-4 Zone. There has been no showing by the applicant that the use for which the building was constructed has become obsolete as in the case of the Clerics of St. Viator, BZA Case No. 11000. Accordingly, the Board concludes that a variance for office use of the subject property cannot be granted without impairing the meaning and intent of the Zoning Regulations and Map.

ORDERED: That the above application for a use variance be DENIED and the special exception GRANTED.

VOTE: Variance 5-0
Special Exception 5-0

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

ATTESTED By: James E. Miller
JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: 8/26/75

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 DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.