

Before the Board of Zoning Adjustment, D. C.

Application No. 12088, of Faith Baptist Church, pursuant to Sub-section 8207.11 of the Zoning Regulations, for a variance from the parking requirements (Sub-section 7202.1) for three (3) off-street parking spaces for a day care nursery with three (3) teachers and three (3) aides in the R-4 District, at the premises 901 South Carolina Avenue, S. E., (Square 946, Lot 81).

HEARING DATE: March 17, 1976

DECISION DATE: March 23, 1976

FINDINGS OF FACT:

1. The property is located in an R-4 District.
2. The property is improved with the Faith Baptist Church, a structure which was built prior to the enactment of the Zoning Regulations for the District of Columbia, and which occupies 100 per cent of the lot.
3. The Capitol Hill Montessori school proposes to use part of the church to serve as space for 77 children, three teachers, three aides and one administrator for pre-school age group.
4. The Zoning Regulations permit such a school as a matter-of-right in R-4 Districts, provided there is no goods, chattel, wares or merchandise offered for sale and that there is a minimum of 100 square feet of play area per child.
5. There will be no goods, chattel, wares or merchandise offered for sale.
6. In other areas of the church, there is approximately 7,800 square feet of play area available, enough to serve for 77 children.
7. The Zoning Regulations require that four (4) parking spaces be provided for a total of 7 teachers and other employees. The application form requested a variance with no specific number. The notice for the public hearing stated three parking spaces. The applicant clearly requested a variance of four (4) spaces at the public hearing.

8. The Municipal Planning Office, by report dated March 12, 1976, recommended approval of the application.

9. The Capitol Hill Restoration Society recommended approval of the application.

10. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variance is an area variance, the granting of which require the showing of a practical difficulty. The Board concludes that the total occupancy of the lot by the structure provides such a practical difficulty. The Board concludes that the granting of the variance would not have any adverse impact on the area. It is therefore ordered that the application be GRANTED.

VOTE: 4-0 (Leonard L. McCants, William F. McIntosh, Lilla Burt Cummings, Esq., and William S. Harps to grant, Ruby B. McZier not present, not voting).

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

ATTESTED By: _____

STEVEN E. SHER

Acting Secretary to the Board

FINAL DATE OF ORDER: **APR 20 1976**

THIS ORDER SHALL BE VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 12089, of the Estate of John B. Harry, pursuant to Section 8207.11 of the Zoning Regulations, for a variance from the use provisions of the R-2 zone to permit temporary storage of building materials incidental to a construction site not located on the same lot, at the premises 4230 Ellicott Street, N.W. (Square 1672, Lot 804.)

HEARING DATE: March 17, 1976
DECISION DATE: March 23, 1976

FINDINGS OF FACT:

1. The property is located in an R-2 District.
2. The property has been leased to the Gates and Fox Company, Inc., which wishes to use the property for temporary storage of building material and equipment incidental to the construction of vertical shaft for a portion of the Rockville Subway Route of the Washington Metropolitan Area Transit Authority.
3. The application form requested to store only "building materials" while the supporting statement submitted with the application states the applicant's intention to store "construction material and equipment". At the meeting on March 23, 1976, on a motion made by Leonard L. McCants, seconded by Ruby B. McZier, the Board amended the application to include a request to store equipment as well as material by a vote of 4-0 (Leonard L. McCants, Ruby B. McZier, Lilla Burt Cummings, & William F. McIntosh to amend, William S. Harps not present, not voting.)
4. The subject site is immediately adjacent to the metro construction site, which is located at 4852 - 42nd Street, N. W.
5. Access to the subject site is by way of a twenty (20) foot alley opening to Ellicott Street. A wooden construction fence screens the property as seen from the Ellicott Street frontage.
6. The property is bounded by an open undeveloped property on the south, a twenty (20) foot alley on the east, Ellicott Street on the north and a single family dwelling on the west.
7. The use of the property is proposed as temporary. The lease for the property runs through May 1, 1976, but may be continued beyond that on a month-to-month basis. The representative of Gates and Fox indicated that the primary contract work for metro is finished, but that some additional work items could take approximately 40 construction days.

8. There is no other available land within a reasonable distance of the construction site which is available for storage of the necessary materials and equipment which is zoned to permit the use.

9. The constructor maintains a security patrol on a 24 hour basis. The guard visits the property on a random basis during that time.

10. The Municipal Planning Office, by report dated March 12, 1976, recommended that the application be denied, on the basis that no showing was made that reasonable use cannot be made of the property. The MPO Report does state "a building placed on this lot would bring this application in compliance with the regulations"

11. The Friendship Citizens Association recommended approval of the application with the following conditions:

- A. Due to the dangerous nature of materials and work involved in the area - that the enclosure be maintained and security be continually exercised;
- B. That the metro personnel using the storage area minimize those actions adversely affecting neighboring residential homes - noise levels, litter, etc;
- C. That the time of permitted use under the application extend only for the period of the temporary, emergency Metro need which presently exists; that a definite time frame be established defining the duration of this use; that a new BZA application must be filed and sufficient cause found to continue this storage use beyond the time limit;
- D. That the Metro storage materials be completely removed immediately upon completion and the lot be restored to its original condition; that only storage of Metro equipment for construction work in the immediate neighborhood be permitted.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that if the requested use variance were not granted, the applicant, the specific neighborhood and the community as a whole would suffer a hardship. The requirement that another site be found more distant from the construction site would cause additional time and money delays to the applicant, and would directly impact the neighborhood by increasing the amount of noise and congestion on the area's streets to bring building material and equipment to and from the site. The community as a whole would suffer from any further delays in construction and completion of the Metro system, which is a regional undertaking and will have area wide effects.

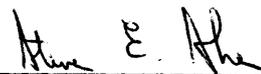
The Board notes that the constructor has taken positive steps to avoid significant long-term adverse effects to the area. The Board concludes that while some negative effects may be unavoidable, such minor effects must be shouldered by the neighborhood to serve the overall general welfare of the community. The Board further concludes that the temporary nature of the use even further limits the possible negative effect which may occur. The Board concludes that it would be in the best interest of all that the contractor be allowed to finish his operations as quickly as possible. It is therefore Ordered that the application be, GRANTED subject to the following conditions:

- A. The applicant shall continue to maintain security on the property on a twenty-four (24) hour basis, with random visits by security guards during that period.
- B. The use of the property authorized by this Order shall not continue beyond June 1, 1976.

VOTE: 4-0 (Ruby B. McZier, Leonard L. McCants, Lilla Burt Cummings and William F. McIntosh to Grant, William S. Harps not present, not voting.)

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

ATTESTED BY:



STEVEN E. SHER

Acting Secretary to the Board

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FINAL DATE OF THIS ORDER: APR 7 1976

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