

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Appeal No. 12343 of Christian Embassy, Inc., d/b/a Christian Embassy Church, pursuant to Sections 8102 and 8206 of the Zoning Regulations, from the decision of the Zoning Administrator that applicant does not qualify as a church or other place of worship within the meaning of the Zoning Regulations, subject premises being at 2000 - 24th Street, N.W., (Square 2503, Lot 13).

HEARING DATE: March 16, 1977

DECISION DATE: May 17, 1977 (Executive Session)

FINDINGS OF FACT:

1. This appeal involves property located in an R-1-B District at 2000 - 24th Street, N.W.

2. The property is improved by a three story and cellar building on a lot which is 9,563 square feet.

3. The Zoning Regulations permit a one-family detached dwelling, church or other place of worship, and an embassy residence among other uses, as a matter-of-right in an R-1-B District.

4. On February 13, 1976, the Sheridan-Kalorama Neighborhood Council instituted action before the Superior Court to restrain and enjoin the applicant from using the property in violation of previous Zoning Administrator's rulings. This is Civil Action No. 1411-76.

5. The Superior Court has made no ruling since that time granting the Sheridan-Kalorama Neighborhood Council a restraining order or injunction. However, the Court has ordered Christian Embassy church to restrict its activities at the premises to one Sunday vesper service per week limited to 15 to 20 persons. This order was pursuant to a stipulation made by counsel for the appellant and the Neighborhood Council pending the outcome of the administrative remedies available to appellant.

6. On February 18, 1976, the Christian Embassy, Inc., filed an application for a certificate of occupancy for a church for the subject premises.

7. On June 18, 1976, this Board ruled on appeal #12142 involving the same property and same parties. That ruling dismissed the appeal of Christian Embassy, Inc., to a previous denial of a Certificate of Occupancy as not filed in a timely manner.

8. The subject appeal has been taken pursuant to a ruling rendered December 8, 1976, by James F. Fahey, the Acting Chief of the Zoning Regulation Division, which ruling denied the Christian Embassy's application for a Certificate of Occupancy as a church filed September 1, 1976. This appeal was lodged December 9, 1976.

9. The sole issue presented by this appeal is whether the appellant, Christian Embassy, Inc., is a church or other place of worship within the meaning of Section 3101.32 of the R-1-B Regulations.

10. Article III(a) of the Articles of Incorporation of Christian Embassy, Inc., provides the purposes for which this non-profit corporation was organized:

"The specific and primary purposes are to provide an evangelical, interdenomination, nonsectarian, and religious organization as a church or churches to provide a place including buildings and structures reasonably necessary and usual in the performance of activities of the church or churches for public religious worship of God, and for the interchange of communications between Christians from all the countries of the world."

11. Article II of the By-Laws of Christian Embassy, Inc., is a detailed Statement of Faith to which each member of the Board of Directors and each employee who serves in a ministerial capacity must subscribe their assent to in writing once each year for the purpose of assuring the purity and integrity of the organization.

12. The Board takes judicial notice of the December 10, 1975, ruling of the District Director of the Internal Revenue Service granting the appellant tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

13. The Board also takes judicial notice of the April 19, 1976, order of the Honorable Fred B. Ugast, Judge, Tax Division, of the Superior Court of the District of Columbia, exempting partially the appellant's property from real estate property taxation as a "church building" within the meaning of the D.C. Code, 1973, Section 47-801(a)m.

14. The Board finds that the relevant substance of appellant's definition of what appellant calls "church worship service" is quoted below from appellant's own text which was before the Zoning Administrator when he issued his December 8, 1976, ruling:

". . . the office for our Christian Embassy Ministry will be in the office building across the street from the Washington Hilton Hotel. There will be no business matters handled at the Hall." [McCollister to Fitzgerald April 25, 1975].

"This property will not be used for any type of regular meetings. It will be used as any other fine residence for entertaining and having guests at dinner and so forth. When the home has been renovated and furnished, only a single family will have its residence in the home. The home will be used as a place of worship in a unique manner. For instance, if Dr. Billy Graham were able to spend a few days in Washington, we would hope that he would be a guest of the home and breakfasts, luncheons or dinners would be arranged to which the members of the Supreme Court would be invited as well as other groups such as Congressional leaders, some White House staff members, some leaders at the Pentagon and so forth. These would be comparable to dinners or receptions that other families in the neighborhood have in their own home." [McCollister to Fahey May 15, 1975].

". . . (I)n the typical . . . week . . . there would be two such evangelical dinners. . . . During the weeks in which an out-of-town host is involved with the church, there could be as many as three such dinners." [McCollister to Fahey May 29, 1976].

". . . [S]uch dinners are an act of worship. Not worship in the ritualistic sense, but in the sense of worshipping by obedience and by doing those things which will be pleasant to God. That is true worship!" [McCollister to Fahey May 29, 1976].

"The two principal changes that have taken place in the plans for utilizing the property since your May, 1975, letters, are the addition of regular worship services and the modification of our use for the second floor so that only those persons who are directly and currently involved in church business would be using the second floor facilities. Furthermore, a formal church has been legally organized." [McCollister to Fahey May 29, 1976].

The appellant also informed the Zoning Administrator that it proposes to continue to use the residence for Sunday vespers and anticipates that the attendance will not exceed 75 persons. The vespers include hymns, prayer, scripture reading, a sermon, voluntary congregational activity, and periodically the sacrament of communion.

15. No major alterations have been made to the interior or exterior of the premises which would give the impression of any use other than a single-family dwelling. The second floor is completely occupied by bedrooms with the exception of a small room which can be used for office space. The appellant proposes to use the third floor as living quarters for a couple responsible for maintenance of the structure. The room designated by appellant's agents as that used for vesper services was not identifiable by design as a room devoted to that use. The first floor of the house is occupied by a living room, library, family room, dining room and kitchen-pantry. Mr. Fahey inspected the residence.

16. The Board finds that the primary use proposed by appellant for the residence is the maintenance of private bedrooms for persons visiting on behalf of appellant, and the use of the public rooms such as living room, library, dining room and kitchen, for the entertainment at seated dinners by invitation of persons in high official positions. The Board finds that this primary proposed use is not a primary use within the meaning of D.C. Zoning Regulation 3101.32:

"Church or other place of worship, but not including rescue mission or temporary revival tents."

As the word "church" is not expressly defined in the Zoning Regulations, pursuant to Section 1201.2 the Board finds the definition, according to Webster's Third New International Dictionary of the English Language Unabridged (1966) p. 404, to be in pertinent part as follows:

- "1. a building set apart for public esp. Christian worship.
- "2. a place of worship of any religion."

The reference to "building" and to "place" in the definition signifies that for the purpose of the Zoning Regulations "church" refers to a place rather than to a body of worshippers which wherever they gather constitute a church. Otherwise, a prayer group meeting in the Capitol would convert that public structure into a church. Private bedrooms of the type proposed to be maintained by the appellant are not places set apart for public worship within the contemplation of the Zoning Regulations. The giving of small seated dinner parties by invitation for high government officials does not constitute public worship within the meaning of the D.C. Zoning Regulations. The fact that appellant has given assurances that no one would be turned away does not convert the use of the private bedrooms and the dinners by invitation to the type of public worship contemplated by the D.C. Zoning Regulations. Though appellant uses the name "Christian Embassy Church", by its By-laws church membership is limited to five. None of the five members of the church live in the District of Columbia. Only one member lives in the Washington metropolitan area. The "church" corporation since its formation on June 9, 1975, has not modified its By-laws to permit any increase in church membership. The limitation of church membership to such a small number--none of whom live in the District, and who, through the tight control which a membership limited to five persons can exercise over such an organization in their determination of who would be invited from official Washington to attend the seated dinner parties and to stay in the private bedrooms of the residence--is a further indication that the proposed primary use of the residence is not as a place of "public worship" under the Zoning Regulations, even though the public is welcome to attend the vesper service.

17. The Board finds that the primary use just described is not permitted under D.C. Zoning Regulation 3101.56:

"Other accessory uses customarily incidental to the uses permitted in R-1 Districts under the provisions of this Section." Italics in original.

The reference to "accessory uses" necessarily implies that the listing in the Zoning Regulations of uses permitted in the R-1 zone refers to primary uses. If this were not so, any institution which had a chapel, such as a hospital, university, prison, or hall of residence for retired persons, could be permitted in the R-1 zone; this is not the intention of the Zoning Regulations. With regard to "principal" use, Webster's Dictionary defines "principal" as "a matter or thing of primary importance; a main or most important element." The Board finds that appellant's proposed uses which are a "main or most important element" are the maintenance of the private bedrooms and the giving of seated

dinners by invitation for high officials

18. The principal use of a structure must be dominant and clearly in existence. No major alterations have been made to the interior or exterior of the premises which would give the impression of any use other than a single-family dwelling. The area used for vesper services is not identifiable by the design or furnishing of the room.

19. The appellant organization is similar to other non-profit groups that have a primary purpose of carrying out some function for a societal good and may or may not have a place for worship which, though important, is secondary to the primary mission of the organization.

20. Pursuant to the standard articulated by this Board in No. 11817, Johns Hopkins University-Community of the Whole Person, February 19, 1976, in this case the Zoning Administrator "interpreted the Zoning Regulations in a strict manner which is the Cardinal Rule of Zoning Law and his function." The Zoning Administrator properly gave consideration to the intent of the Zoning Commission when the present text of 3101.32 "church or other place of worship. . . ." was adopted in 1958. The appellant has asserted that the proposed use is "unique". Appellant's proposed use was developed only within the last three years; that is, more than 15 years after the relevant Zoning Regulation was adopted. This admittedly unique proposed use thus cannot be one within those contemplated by 3101.32 of the D.C. Zoning Regulations. The fact that the regulations refer to Sunday school in 3101.33 as a permitted R-1 use, in addition to a church use permitted in 3101.32, indicates that "church" as used in the D.C. Zoning Regulations is not to be given an embracing definition because if that had been the intention of the regulations, it would not have been necessary to permit "Sunday school building" as a separate use, as the Board takes judicial notice that almost all churches include facilities for Sunday schools or schools. Similarly, other uses familiarly associated with church uses are permitted under our Zoning Regulations only after proceedings before this Board for a special exception; for example, 3101.41 and 42 private schools; 3101.413 a program conducted by a church congregation or group of churches. In addition, our ruling in No. 10172, St. James Lutheran Church - Meals on Wheels, also compels the conclusion reached by the Zoning Administrator. There we affirmed denial of zoning permission to prepare meals and distribute them as "a part of the divine command to feed the hungry and visit the lonely and poor." Similarly, the Board agrees that applicant has properly conceded that its seated dinners by invitation for high officials are "not worship in the ritualistic sense" and that though such dinners and the maintenance of private bedrooms for visitors participating in such events may, in the eyes of the appellant's members constitute obedience to the deity, they are not acts of

worship within the contemplation of the D.C. Zoning Regulations, just as the serving of meals to the hungry and lonely and poor did not constitute worship, as found in the Meals on Wheels case. Similarly, the obedience to the divine command by nursing nuns and teaching brothers does not constitute worship for purposes of the D.C. Zoning Regulations and does not convert hospitals and church school into churches under our Zoning Regulations.

21. The fact that the Internal Revenue Service has granted an exemption under Section 501(c)(3) to appellant is not relevant to the zoning question. In the same situation is the Protestant Episcopal Cathedral Foundation of the District of Columbia which has an identical exemption which expressly includes its schools, St. Albans School for Boys, on the grounds of Washington Cathedral. Though the Cathedral Foundation holds an IRS tax exemption it was nevertheless necessary for its school to apply in BZA No. 12054 for a zoning special exception to enlarge the school use on the Cathedral grounds. This was so even though St. Albans School has its own separate chapel building called the Little Sanctuary."

22. The fact that Christian Embassy, Inc., styles itself as "trading as" Christian Embassy Church is not determinative for purposes of applying the D.C. Zoning Regulations. The D.C. Court of Appeals has approved this principle in Legislative Study Club, Inc. v. D.C. Board of Zoning Adjustment, No. 8756, June 16, 1976, in which the Court said:

"To hold that an organization such as petitioner may, by the mere affixing of the word 'club' to its name, change its status from that of a non-profit 'vocational' organization to that of a social club, so as to qualify for an occupancy permit in an R-4 district, would make a mockery of the Zoning Regulations and would destroy the careful distinctions drawn by the Zoning Commission. . . ."

23. We find that more than one-half of the total floor area for which a "church" use certificate of occupancy is sought by appellant would be, under appellant's proposed use of that space, devoted to uses which do not qualify as "church" uses under the D.C. Zoning Regulations, namely, the private bedrooms for invited guests and the public reception space for seated dinner parties by invitation.

24. Christian Embassy has a staff of 20 people, 18 of whom pursue relations with Congress, the Executive, the Judiciary, and the Pentagon. These workers conduct Bible study in the Capitol, the White House and the Pentagon.

25. The Board admits the Sheridan-Kalorama Neighborhood Council, which is the citizens association having responsibility for the neighborhood in which the subject residence is located, as an affected party in opposition to the appeal of Christian Embassy and in support of the Zoning Administrator's December 8th ruling.

26. The Board admits as affected parties in opposition to the appeal of Christian Embassy and in support of the Zoning Administrator's December 8th ruling the owners and residents of the abutting single-family home, Dr. and Mrs. Vsevolod Blinoff, 2409 Wyoming Avenue, N.W., and the following next-door neighbors, Mr. and Mrs. Edward H. Foley, 2340 Wyoming Avenue, N.W.; Mrs. Ethel Shields Garrett (Mrs. George A. Garrett), 2030 - 24th St.; and Mr. and Mrs. Albert J. Redway, Jr., 2400 Wyoming Avenue, N.W., and finds that each of them would be adversely affected if the Zoning Administrator's ruling be reversed. The Advisory Neighborhood Commissioners oppose the appeal and support the December 8, 1976 ruling.

CONCLUSIONS OF LAW:

The Board concludes that the December 12, 1976, ruling of the Acting Chief, Zoning Regulation Division, constitutes a determination made by an administrative officer in the administration and enforcement of the Zoning Regulations.

The proposed standard for this Board to apply in considering this appeal is that the Zoning Administrator's "administrative interpretation . . . ought not to be disregarded unless clearly wrong. . . ." Cook v. Griffith, 193 A.2d 427 (D.C. App. 1963).

The Board concludes that the Zoning Administrator's ruling is not clearly wrong and is in fact clearly right for each of the conclusions set out below, each conclusion being an independent reason for affirming the Zoning Administrator's ruling:

- The appellant's proposed primary use of the property does not qualify as a church use under 3101.32 of the D.C. Zoning Regulations.

- The appellant's proposed use of more than half the total floor area of the space for which the "church" use is sought does not qualify as a permitted "church" use under the D.C. Zoning Regulations.

- The proposed principal use of the property as a church is not dominant and clearly in existence, and in order to be permitted under the D.C. Zoning Regulations a principal use must be dominant and clearly in existence.

- The worship aspect (as worship is defined for purposes of the D.C. Zoning Regulations) of the appellant's proposed use is only a secondary feature of the numerous activities outlined, and does not have the effect of qualifying the proposed primary use as a "church" use under the D.C. Zoning Regulations.

As the Christian Embassy Church has 20 employees actively engaged in the District of Columbia, the denial of the proposed use for the subject residence will not have the effect of abridging the appellant's constitutional rights. Accordingly, it is ORDERED that the Decision of the Zoning Administrator is UPHELD and the appeal is DENIED.

VOTE: 3-0 (Lilla Burt Cummings, William F. McIntosh and Leonard L. McCants)

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

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

FINAL DATE OF ORDER: 28 MAR 1978