

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13296, of the Episcopal Diocese of Washington, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to operate an elementary school with a maximum enrollment of fifty students, ages four to seven years, five teachers and five teachers' aides and for a variance from the off-street parking requirements (Sub-section 7202.1) in an R-4 District at the premises, first floor parish hall, 1340 Massachusetts Avenue, S.E., (Square S-1036, Lot 11).

HEARING DATES: July 23 and October 15, 1980

DECISION DATE: November 5, 1980

FINDINGS OF FACT:

1. The subject property is located on the north side of Massachusetts Avenue between 13th and 14th Streets and is known as premises 1340 Massachusetts Avenue, S.E. It is in an R-4 District. The site has frontage on A Street and Massachusetts Avenue.

2. The subject site is irregular in shape. Its frontage on Massachusetts Avenue measures 124.67 feet and its frontage on A Street measures 100 feet. The west side depth is forty feet and the east side depth is sixty-three feet. There is a ten foot wide public alley to the north-east side of the site. The site is improved with a Church which is situated on the wider or eastern side of the site. The narrow portion of the lot on the western side is open space and constitutes a large side yard, having approximately 1,800 square feet which would be used as an outdoor recreational space for children.

3. The applicant proposes to allow the Rust Christian Academy to operate an elementary school on the first floor of the parish hall of the Church. The area of the space, excluding kitchen and storage space, is approximately 1700 square feet.

4. By BZA Order No. 12217, dated May 27, 1977, the Board Granted a special exception for the use of the subject premises by the Capitol Hill Montessori Elementary school for a period of three years, with an enrollment of thirty-five children, two teachers and one teacher's aide.

5. The present operator of the school, the Rust Christian Academy, has been conducting its business at the subject site since September, 1978. It has no Certificate of Occupancy and has been operating under the permit granted to the Capitol Hill Montessori school.

6. At the public hearing of July 23, 1980 the Board heard the testimony of the applicant and the opposition. The application was continued to the public hearing of October 15, 1980 since the Director of the Rust School was unable to be present. The basic opposition to the application was to the increase in enrollment and staff which would lead to more noise and parking and traffic problems in the neighborhood. The opposition comprised the ANC and neighborhood residents. A petition of some sixty signatures was submitted in opposition.

7. At the public hearing of October 15, 1980, the Rust School, through the applicant, requested to amend its application to conform to the enrollment granted in BZA Order No. 12217. The Rust school reported that it had reviewed its plans in light of the strong opposition. It had also met in the interim with the ANC. The Board granted the amendment.

8. The hours of operation of the school will be from 7:00 a.m. to 5:30 p.m. The enrollment will be limited to thirty-five children, two teachers and one teacher's aide.

9. Most of the students come from the immediate neighborhood or their parents work in the immediate neighborhood. The school no longer provides bus transportation. There are approximately sixteen pre-school students. Those children who cannot walk to the school are dropped off by their parents. The older students use public transportation. The ages of the students range from two and one-half years to eleven years. Both the teachers, one of whom is the Director, drive to work. There are no parking facilities on the site. The teachers use on-street parking.

10. The Capitol Hill Restoration Society approved the application as unamended. In its report dated July 22, 1980 it stated that the Zoning Committee and the Board of the Capitol Hill Restoration Society voted to support the requested special exceptions. The CHRS noted that the Society supported the 1977 grant of exceptions for the use of this property for school purposes, that this property has been used for related purposes since 1960 without any substantial complaint of which it was aware, and that its very limited survey failed to reveal any neighborhood opposition to the application. The use of this property for pre-school and elementary school purposes has helped to fill a significant need in the surrounding community. Under these circumstances, it appears that these special exceptions should be granted.

11. Advisory Neighborhood Commission - 6B, in its report dated July 23, 1980, reported as follows:

"Applicant wishes to renew a Certificate of Occupancy for a day school and at the same time increase the number of students, teachers, and teacher's aides. This also increases the off-street parking requirement.

Applicant wishes to increase enrollment from the old certificate of occupancy by 15 children to a total of 50; teachers by 3 to a total of 5; and aides by 4 to a total of 5. With this increase applicant is required to supply a total of 8 off-street parking spaces.

Many neighbors appeared at both the Planning and Zoning Committee meeting and the ANC meeting to oppose this increase. Their concern was that this increase would only add to an existing traffic and parking problem in this block and that the church building itself might not be able to support this increase.

A representative from St. Monica's appeared at the ANC meeting and stated that the only reason for the requested increase was possible future expansion plans. No immediate plans to expand exist now.

The neighbors and the ANC have no difficulty with a renewal of the old certificate of occupancy for a day school for 35 children, ages 3-10 years, two teachers and one teacher's aide and a variance from the required two off-street parking spaces.

The ANC urges the Board to DENY Application No. 13296 as advertised. However, ANC 6B does support and asks the Board to GRANT a renewal of the old certificate of occupancy by special exception and a variance from the required two parking spaces."

The Board concurs with the ANC recommendation.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant has met the requirements of Paragraph 3101.42 of the Zoning Regulations and that the special exception can be granted. The Board notes the cooperation of the applicant with the ANC and other opposition in working out a solution to certain conflicts. The Board further concludes that because of this meeting of the mind the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

The applicant also seeks an area variance the granting of which requires a showing of a practical difficulty inherent in the property. The present site provides no on site parking. The Church and its auxiliary buildings in its landscaped setting preclude on site parking spaces. The Board concludes that the physical setup of the site establishes the practical difficulty. The Board further notes that a school of the same nature has been on this site since 1960 without causing substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The Board also notes that the opposition was only to an increased enrollment and additional staff and not to the status quo. Accordingly, it is ORDERED that the application is GRANTED in its entirety SUBJECT to the following CONDITIONS:

- a. Permission is GRANTED for a period of THREE YEARS.
- b. Permission is GRANTED only to the Rust Christian Academy to operate the school.
- c. The enrollment shall be limited to thirty-five children, and the staff to two teachers and one teacher's aide.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, Douglas J. Patton and William F. McIntosh to grant, Walter B. Lewis not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER

Executive Director

FINAL DATE OF ORDER: _____

11 DEC 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.